

SCHOOL OF VISUAL ARTS 2021 CAMPUS SAFETY AND SECURITY REPORT

OCTOBER 1, 2021

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

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

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

SECURITY SERVICES

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

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

SECURITY POLICIES AND PROCEDURES

SVA's security procedures have been established to protect you and your personal property, as well as the property of the College. Although all reasonable precautions are taken to safeguard property, it is the responsibility of each member of the SVA community to assist in that effort by not leaving valuable personal articles — wallets or handbags, for example, unattended or in open view at any time. If you see any strangers

or suspicious-looking activities, alert the Security Desk in your building immediately. A security officer is on duty 24-hours a day.

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

DAILY SECURITY LOG

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

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

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

SECURITY SERVICES
209 East 23rd Street, lower level
Tel: 212.592.2025
Fax: 212.592.2519
Email: security@sva.edu

BUILDING SECURITY PROCEDURES

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

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

FIRE DRILLS

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

THE FACILITIES AND PHYSICAL PLANT DEPARTMENTS

The Facilities and Physical Plant Departments oversee the operation, maintenance and capital construction of all campus facilities which includes academic, administrative and residential. These departments are also linked to the Security and

Environmental Health and Safety Departments. We work closely with each as well as meet regularly with our Residence Life staff to maintain communication on a daily basis and to review upcoming activities and events throughout each semester. The Physical Plant Department implements scheduled preventative maintenance programs at each location to ensure that students, faculty and staff can enjoy a safe and comfortable environment.

ENVIRONMENTAL HEALTH AND SAFETY

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

PARKING

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

IN AN EMERGENCY

Call 911 when you are in immediate danger or witness a crime in progress. Call 911 if you have a serious injury or life-threatening medical condition.

CONTACTING THE CITY

311 (212-639-9675 for Video Relay Service, or TTY: 212-504-4115)

or visit nyc.gov when you need access to non-emergency services or information about City government programs.

Do not call 311 for emergencies. 311 outside of New York City is 212-NEW-YORK (212-639-9675).

CONTACTING THE NEW YORK POLICE DEPARTMENT

Call 911 when you are in immediate danger or witness a crime in progress.

NYPD General Inquiries: 646-610-5000

NYC victim hotline number: 866-689-4357

Sex Crimes Report Line: 212-267-RAPE

Crime Stoppers: 800-577-TIPS

Crime Stoppers (Spanish): 888-57-PISTA

Missing Persons Case Status: 212-694-7781

Terrorism Hot-Line: 888-NYC-SAFE

Gun Stop Program: 866-GUN-STOP

Cop Shot: 800-COP-SHOT

TO REPORT A UTILITY OUTAGE

Con Edison 24-hour hotline: 1-800-752-6633 (TTY: 800-642-2308)

PSEG Long Island 24-hour hotline: 1-800-490-0025 (TTY: 631-755-6660)

National Grid 24-hour hotline: 718-643-4050 (TTY: 718-237-2857)

GET INFORMED

NYC Emergency Management on Facebook and Twitter

www.facebook.com/NYCEmergencymanagement | @nycemergencymgt

Notify NYC

Register for free emergency notifications by getting the free mobile application, visiting NYC.gov/notifynyc, calling 311, or following @NotifyNYC on Twitter.

MANHATTAN PRECINCTS:

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

EMERGENCY PREPAREDNESS AND NOTIFICATION

SVA has an Emergency Response Plan that includes information about operating status parameters, incident priorities and performance expectations, shelter-in-place and evacuation guidelines, and contingency and continuity plans. Detailed information about responding to emergency incidents on campus is available at sva.edu/students/life-at-sva/health-and-safety/campus-safety.

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

- The College's website: Emergency notices, including unscheduled closings and facilities evacuations, are posted as banners on the home page of sva.edu. Status updates are published as new information becomes available.
- Main telephone line: Emergency notices, including unscheduled closings and facilities evacuations, are the subject of recorded announcements at 212.592.2000.
- All Concerned emails: Bulk messages sent to current students, faculty and staff at their SVA email addresses are used to provide more detailed information in an emergency.
- SVAAlert: SVA maintains an electronic notification system that allows members of the College community to receive messages directly to a designated cell phone (as a text or voice message), email address and/or landline phone. Current students, faculty and staff are automatically enrolled in SVAAlert. Select your preferences and verify your contact information through the SVAAlert tile on MyID (myid.sva.edu), the College's internal web platform.

In the event that either the College's website or the main telephone line is temporarily out of service, the College community will be directed to an alternate website and telephone number via All Concerned email and SVAAlert.

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

EMERGENCY PROCEDURES ON CAMPUS

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

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

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

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

NOTIFY SVA SECURITY

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

- 132/136 West 21st Street: 646.336.6252
- 133/141 West 21st Street: 212.675.7993
- 209 East 23rd Street: 212.696.4632
- 214 East 21st Street: 212.475.1659
- 335 West 16th Street: 212.929.0296
- 380 Second Avenue: 212.614.8026
- 23rd Street Residence: 212.889.2797
- 24th Street Residence: 212.592.2768
- Gramercy Women's Residence: 212.777.2843
- Ludlow Residence: 212.254.3730
- SVA Theatre: 212.675.1314
- 24-Hour Security (209 East 23rd Street): 212.696.4632

TIMELY WARNINGS

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

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

EMERGENCY RESPONSE GUIDELINES

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

MEDICAL EMERGENCY

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

What to do when you call 911:

1. State that medical care is needed.
2. Provide your campus location, including the building and room number if known.

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

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

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

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

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

SEVERE WEATHER

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

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

SVAAlert and other communication means, depending on the scope of the impact.

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

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

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

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

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

FLOODING

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

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

FIRE, EXPLOSION OR SMOKE EMERGENCIES

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

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

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

1. Evacuate the area immediately and proceed via the stairs to the ground floor exits. When leaving a room, please close the door behind you. This will slow the spread of smoke through the building.
2. Never use the elevator during an emergency.
3. Persons that are injured or cannot descend the stairs on their own should wait in the stairwell for assistance from the FDNY.
4. Never ignore an alarm.
5. Follow the directions of the floor wardens or the fire safety director.
6. If you smell smoke or see fire, don't hesitate, activate the nearest alarm pull station and get everyone out of the area.
7. The security officer who knows the area involved should meet the fire and police departments and give specifics.
8. Notify police and/or firefighters on the scene if you suspect someone may be trapped inside the building.
9. Report potential hazards or address fire prevention questions to SVA Security at 212.592.2001.

Operating fire extinguishers:

1. Never enter a room that is full of smoke.
2. Before opening doors, check to ensure that they are not hot to the touch. If hot, do not open. If warm, open slowly to check room/hallway conditions.
3. Portable fire extinguishers can be used for small fires. However, this is at the employee's discretion and an immediate readiness to evacuate is essential.

4. Never use water on an electrical or flammable liquid fire. Use a dry chemical or carbon dioxide extinguisher only.
5. When using a dry chemical extinguisher on a flammable liquid fire, stay back a minimum of 10 feet from the fire.
6. Before approaching the fire, determine an evacuation route safe of flames, excessive heat and smoke. Do not allow evacuation route to become blocked.
7. Start at the leading edge of the fire and use a side-to-side sweeping motion to extinguish the fire.

P.A.S.S.

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

BEHAVIORAL CONCERNS OR POTENTIAL VIOLENCE

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

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

- Increased use of alcohol and/or illegal drugs
- Unexplained increase in absenteeism; vague physical complaints
- Noticeable decrease in attention to appearance and hygiene
- Depression / withdrawal
- Resistance and overreaction to changes in policy and procedures
- Repeated violations of company policies
- Increased severe mood swings
- Noticeably unstable, emotional responses
- Explosive outbursts of anger or rage without provocation
- Suicidal; comments about "putting things in order"
- Behavior which is suspect of paranoia, ("everybody is against me")
- Increasingly talks of problems at home or school
- Escalation of domestic problems into the workplace; talk of severe financial problems
- Talk of previous incidents of violence
- Empathy with individuals committing violence
- Increase in unsolicited comments about firearms, other dangerous weapons and violent crimes.

CRIME IN PROGRESS

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

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

SUSPICIOUS PACKAGES

What constitutes a “suspicious package”?

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

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

Should you receive or come upon a suspicious package, do not touch or open it. Isolate the package and evacuate yourself and others at least 2000 feet (around, above and below) from the area. Do not put the package in water or make any attempt to render it harmless. Use a telephone in another area (not a mobile phone) and report it immediately to 911.

Information for the 911 operators:

- Your name

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

BOMB THREATS

Bomb threats usually come from one of two sources:

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

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

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

You should note:

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

Questions to Ask the Caller:

1. When is the bomb going to explode?
2. Where is it right now?
3. What does it look like?
4. What kind of bomb is it?
5. What will cause it to explode?

6. Did you place the bomb?
7. Why?
8. What is your address?
9. What is your name?

Description of the caller's voice:

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

*If familiar, who did the caller sound like?

Background sounds:

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

ACTIVE SHOOTER

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

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

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

Good preparatory practices for coping with an active shooter situation:

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

CALL 911 WHEN IT IS SAFE TO DO SO!

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

- Your location
- Location of the active shooter
- Number of shooters, if more than one
- Physical description of shooter/s
- Number and type of weapons held by the shooter/s
- Number of potential victims at the location
- Whether you saw them use explosive devices or plant any explosive devices

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

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

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

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

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

To prevent an active shooter from entering your hiding place:

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

- Remain quiet

If evacuation and hiding out are not possible:

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

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

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

HOW TO RESPOND WHEN LAW ENFORCEMENT ARRIVES:

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

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

How to react when law enforcement arrives:

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

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

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

SHELTER-IN-PLACE PROCEDURES

What it means to "shelter-in-place"

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

Basic "shelter-in-place" guidance

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

How you will know to "shelter-in-place"

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

How to "shelter-in-place"

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

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

6. Turn on a radio or TV and listen for further instructions.
7. Make yourself comfortable.

RESIDENCE HALL SECURITY

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

DELIVERIES

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

DRUG AND ALCOHOL EDUCATION PROGRAMS

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

EXTERMINATION/PEST CONTROL SERVICES

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

FIRE ALARM EVACUATION PROCEDURES

Evacuation plans are posted throughout residence hall buildings, and fire extinguishers and alarms are located on every floor. Every resident should be familiar with the evacuation procedures and the location of fire extinguishers. Students are responsible for informing their guests of fire evacuation procedures. Anyone concerned or confused about a safety precaution or procedure should consult the Residence Life staff.

FIRE DRILLS

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

FIRE SAFETY

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

GUEST POLICY

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

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

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

OVERNIGHT GUEST PRIVILEGE

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

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

KEYS

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

SMOKING POLICY

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

ROOM INSPECTION AND ENTRY POLICIES

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

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

ROOM OCCUPANCY POLICIES

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

NAVIGATING YOUR NEIGHBORHOOD

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

SAFETY IN THE CITY

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

RESIDENCE HALL VIOLATIONS AND DISCIPLINARY PROCEDURES

Residents who violate SVA residence hall policies are subject to disciplinary action. The disciplinary process is described in the following pages. This process does not follow the rules of procedure used in court proceedings, and legal representation is not

permitted in any hearing. Additional policies may be communicated to students by written notices posted in the residence halls.

Important: Residents will be held responsible for any policy violations by their guests. Any resident or student who was present when a violation occurred may be subject to disciplinary action even though they did not actively participate in the offense. Prohibited items described in this section will be confiscated.

SVA RESIDENCE HALL VIOLATIONS

1. Tampering with fire extinguishers, alarms, sprinkler systems, smoke detectors, emergency exits or other safety equipment.
2. Possession and/or use of extension cords to power multiple appliances (as opposed to power strips, which are permitted).
3. Possession and/or use of flammable decorations, appliances or other property that may be deemed a fire hazard, including but not limited to candles, incense and evergreens.
4. Possession and/or use of cooking and other household appliances in the 24th Street and Ludlow Residences, including, but not limited to heating coils, hot plates, microwave ovens, open faced electrical appliances, space heaters and toaster ovens.
5. Possession and/or use of spray paint, spray adhesive and spray glue.
6. Possession of unauthorized furniture.
7. Use, possession or storage of any weapon, including but not limited to knives, self-defense spray devices, firearms or ammunition, dangerous chemicals, fireworks or explosives, regardless of the presence of a state or federal license to possess same.
8. Possession or storage of a gas engine or any form of combustible fuel in the residence halls.
9. Possession or use of a hoverboard or similar self-balancing scooter.
10. Possession or use of drones or other unmanned aerial vehicles (UAV).
11. Keeping pets or animals in any residence hall.
12. Possession, use or distribution of an alcoholic beverage or alcoholic beverage containers, including empty containers or entering the residence hall in a severe state of intoxication.
13. Possession, use or distribution of an illegal or controlled substance and/or related paraphernalia.
14. Smoking in the residence halls, or possession of smoking devices such as bongs and hookahs.
15. Throwing or allowing to fall from residence hall windows, doors, terraces, ledges, roofs or other areas, any object or substance.
16. Unauthorized solicitation or recruitment of any kind.
17. Failure to maintain acceptable standards of personal hygiene or room cleanliness to the extent that such failure interferes with the general comfort, safety, security, health or welfare of a member of the residence hall community.

18. Disorderly, disruptive, or aggressive behavior that interferes with the general comfort, safety, security, health or welfare of a member of the residence hall community or the regular operation of the College.
19. Any harassment or abusive behavior toward another individual.
20. Physical violence, actual or threatened, against any individual or group of persons.
21. Engaging in, or threatening to engage in, any behavior that endangers the health or safety of another person, property or oneself.
22. Unauthorized access to or use of restricted areas in or about a residence hall, including but not limited to vacant rooms, roofs, ledges, terraces, basements, storage areas or emergency exits.
23. Violation of the SVA Residence Life Guest Policy.
24. Participating in or contributing to the unauthorized entry of another individual, including fraudulent misrepresentation, using false identification, etc., into any part of an SVA residence hall.
25. Theft, vandalism or damage to another resident's property or SVA property.
26. Excessive noise as defined by any New York City ordinance or a residence hall policy on noise.
27. Failure to present a valid ID card or properly identify oneself when entering a residence hall or when requested to do so by an authorized SVA staff member.
28. Unauthorized possession, use or duplication of a residence hall room key.
29. Unauthorized residence hall room change or room occupancy violation.
30. Installing an unauthorized lock on a bedroom, bathroom or suite door.
31. Failure to lock room doors.
32. Exhibiting or affixing any unauthorized sign, advertisement, notice or other lettering, flags or banners, that are inscribed, painted or affixed to any part of the inside or outside of a residence building (other than items affixed entirely inside a resident's room in a non-damaging manner).
33. Violation of the SVA Electronic Code of Conduct.
34. Failure to comply with a request from an SVA staff member.
35. Failure to successfully complete the terms of a judicial sanction.

COMPLAINT REPORT

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

JUDICIAL MEETING/HEARING

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

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

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

SANCTIONS

Sanctions include, but are not limited to:

- Written warning
- Community service
- Probation
- Restitution to the College
- Educational project or research
- Mandatory health referral
- Residence hall or room reassignment
- Restriction of privileges
- Residence hall entry restriction
- Suspension from housing
- Dismissal from housing
- Referral to the director of Student Affairs for the matter to be handled as a student code of conduct violation.

REVIEW OF A DISCIPLINARY DECISION

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

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

A review may be considered if the reviewer believes that: (1) a significant departure has occurred from the procedures described in this handbook that adversely

affected the decision; (2) new information, unavailable at the time of the hearing, has become available and such information is reasonably likely to have substantially affected the decision; (3) the sanctions issued were too severe in relation to the student's record or nature of the violation.

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

STUDENT HEALTH AND COUNSELING SERVICES

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

Services are free and confidential. Students may call 212.592.2246 or email health@sva.edu to schedule an appointment during office hours. A map of local medical and urgent care facilities is available at security desks, through the GoSVA app and at sva.edu/health. While medical services are not available on-site at SVA, a registered nurse can assist you in connecting with healthcare providers, specialists, and a variety of community-based resources.

Student Health and Counseling Services does not write medical excuse notes. Students who are not able to attend classes due to illness should notify their instructors, and, for conditions requiring an extended absence from classes, their academic advisor. For academic accommodations due to a physical or mental health condition, please see Disability Resources on page 25 of the SVA Handbook.

COUNSELING

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

Students who need confidential emotional support when the office is closed are encouraged to contact NYC Well (text "WELL" to 65173, chat online at

nycwell.cityofnewyork.us or call 888. NYC.WELL). Students can also text "HOME" to 741741 (Crisis Text Line) or call the Samaritans (a 24-hour crisis-response hotline) at 212.673.3000.

ALCOHOL AND DRUG POLICY

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

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

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

SVA TAKES A FIRM STANCE AGAINST DRUGS AND ALCOHOL

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

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

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

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

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

DRUG AND ALCOHOL PROGRAMS AVAILABLE TO EMPLOYEES AND STUDENTS

SVA encourages individuals with alcohol or other drug-related problems to seek assistance through one of the drugs and alcohol programs listed in this section. Students seeking assistance are encouraged to speak with a staff member at SVA's Student Health and Counseling Services (340 East 24th Street, ground floor, 212.592.2246, Monday–Friday, 9:00 AM–5:00 PM) for support. Short-term confidential services are provided free of charge. Staff and faculty seeking assistance are encouraged to speak with their health care professional for support.

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

- **Alcoholics Anonymous**
aa.org • 212.870.3400
- **Inter-Group Association of Alcoholics Anonymous of New York**
nyintergroup.org • 212.647.1680
- **New York City Area of Narcotics Anonymous**
nycna.org • 212.929.6262
- **The Addiction Institute of New York**
mountsinai.org/locations/addiction-institute • 212.420.4220

POSSIBLE DISCIPLINARY SANCTIONS IMPOSED BY SVA

Any student or employee found to be in violation of this policy will be subject to sanctions, including, but not limited to, expulsion from SVA or termination of employment, suspension, referral to law enforcement authorities, parental notification (as permitted by the federal Family Education Rights and Privacy Act (FERPA)), and/or mandatory referral for counseling and/ or treatment. For a list of student-specific disciplinary consequences for violations of this policy, see "Student Code of Conduct Sanctions" on page 81 of the 2021 SVA Handbook.

POSSIBLE SANCTIONS AND PENALTIES IMPOSED BY STATE AND FEDERAL LAWS
A student or employee who violates this policy is subject not only to disciplinary

sanctions by SVA but may be subject to criminal sanctions under federal and/or state law. Conviction for illegal possession, use, manufacture, and/or distribution of drugs can lead to imprisonment, fines, mandatory community service and loss of eligibility for some financial aid programs, among other sanctions and penalties.

FEDERAL PENALTIES: CONTROLLED SUBSTANCES

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

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

- First conviction: Up to one-year imprisonment and a fine of at least \$1,000
- After one prior drug conviction: Up to two years imprisonment and a fine of at least \$2,500
- After two or more prior drug convictions: Up to three years imprisonment and a fine of at least \$5,000
- Federal trafficking convictions are much more serious, with penalties ranging from five years to life in prison, and fines of up to \$5 million. For a schedule of penalties for trafficking offenses, see dea.gov.

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

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

NEW YORK STATE PENALTIES: CONTROLLED SUBSTANCES

Additional penalties may apply under various New York State drug laws. As under federal law, the actual sanctions and penalties imposed are determined by the seriousness of the offense, the quantity of illegal substances involved in the

commission of the offense and the criminal background of the person convicted of the offense. The New York State Penal Law characterizes more minor drug offenses as “misdemeanors” (offenses punishable by imprisonment for more than 15 days but no more than one year) and more serious drug offenses as “felonies” (crimes punishable by imprisonment ranging from one year to life). Felonies are further classified from A to E, with varying degrees of minimum and maximum sentences; class A felonies carry the longest jail sentences, while class E felonies carry the shortest.

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

- Sale of a controlled substance on or near school grounds (N.Y. Penal Law § 220.44), or to a person less than 21 years of age (N.Y. Penal Law § 220.39), are Class B felonies;
- Possession of a hypodermic instrument without a doctor’s prescription (N.Y. Penal Law § 220.45), or possession or sale of drug paraphernalia (which includes a wide category of items that are considered drug preparation materials) (N.Y. Penal Law § 220.50), are Class A misdemeanors;
- Injection of another person with a narcotic drug with the consent of that person is a Class E felony (N.Y. Penal Law § 220.46). The full text of the New York Penal Law, including classifications and penalties for all controlled substances offenses (Article 220), is available via the New York Senate website: <https://www.nysenate.gov/legislation/laws/PEN/P3TMA220>.

NEW YORK STATE PENALTIES: ALCOHOL

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

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

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

ALCOHOLIC BEVERAGES: EMPLOYEES

Employees should not consume alcoholic beverages during business hours. This applies particularly to business lunches. In the event an employee consumes alcoholic

beverages in connection with a business function where SVA management has approved the serving of alcohol, SVA expects that employees will act responsibly and avoid excess. If an employee has any concerns that they are not capable of safely driving after such events, SVA will reimburse the cost of alternative transportation to ensure that the employee does not place themselves or others in danger. An employee who is arrested and convicted for driving under the influence while in the performance of company business, or when returning from a business function, is subject to disciplinary action up to and including termination.

ALCOHOLIC BEVERAGES: STUDENTS

Undergraduate Students:

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

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

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

EMPLOYEE USE OF LEGAL DRUGS

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

SMOKING REGULATIONS

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

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

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

HELPING A STUDENT IN DISTRESS

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

WORKING WITH THE STAR TEAM:

STAR assesses students of concern and reviews reports regarding student behavior provided by SVA faculty, staff and students. STAR provides guidance and support to faculty, staff and students who are faced with challenging and sensitive student issues. STAR provides case management for the College while connecting students to available support and resources.

STAR members include the Director of Student Affairs, the Associate Director of Student Health and Counseling Services, the Associate Director of Disability Resources, the Associate Director of Student Affairs and the Associate Director of Residence Life, as well as additional representatives from Student Health and Counseling Services and Residence Life.

When completing a STAR report, include the student's name (and ID number, if known), a factual and detailed account of the situation and your contact information.

REQUIRED REPORTING:

All faculty, administrators and staff are required to report student concerns to the STAR team when:

- Concerns are about physical and/or mental health including, but not limited to, depression, self-harm and suicide, that impacts a student's level of functioning
- A student is transported by ambulance from SVA's campus
- The College is notified or a student discloses that they currently are or were recently hospitalized

WHAT TO EXPECT ONCE A STAR REPORT IS COMPLETED:

When a STAR report is submitted, the reporter will receive confirmation that their report was received. A case manager may contact the reporter and ask for additional information which will guide what steps can be taken to offer support and/or resources to a student in distress. Response time varies from same-day to several business days, depending on the nature of the concerns for the student's well-being. The case manager will devise a support plan for the student that may include guidance to the reporter about speaking with the student and offering resources.

For faculty concerned about academic matters, including attendance issues, please file an Academic Unsatisfactory Progress Report on your MyID dashboard.

SOME COMMON SIGNS THAT A STUDENT MAY BE IN DISTRESS:

- Preoccupation with or references to death or suicide in conversation, jokes, writings or in their artwork
- Withdrawal from friends and social activities
- Loss of interest in schoolwork, work and other activities
- Abrupt changes in behavior, mood or appearance
- Pursuit of dangerous activities
- Concerns about drug or alcohol use
- Signs of depression: crying, hopelessness, sleeping or eating problems, low energy, low self-esteem, excessive guilt

HOW YOU CAN HELP WHEN A STUDENT SHOWS SIGNS OF DISTRESS:

- Take the signs seriously.
- Talk to the student.
- Say you are concerned. Point out the signs you've noticed.
- Be willing to listen. Don't judge or give advice or try to cheer up the person. (You don't need to solve their issues alone.)
- If it's unclear that the student is suicidal, ask, "Have things gotten so bad that you're thinking of hurting yourself?" Asking about suicide is a sign of caring.
- Don't be sworn to secrecy. Say that you need to talk with someone in Student Affairs to get help and provide the necessary resources. (See the section on confidentiality vs. privacy.)
- If you have any concerns about the student's safety, do not leave them alone. Call 911 and SVA Security at 212.696.4632. Then, complete a STAR report at star.sva.edu.

- In addition to completing a STAR report, consider referring the student to Student Health and Counseling Services, reachable at 212.592.2246 or email at health@sva.edu. Additional information on the office can be found here and on page 40 of the SVA Handbook.

If you have any questions about how you can support a student in distress, complete a STAR report at sva.sva.edu.

CONFIDENTIALITY VS. PRIVACY

When a student approaches a faculty or staff member with a concern, they may ask that the conversation remains confidential. It is important to note that we cannot guarantee confidentiality, but we can assure privacy will be respected.

Confidentiality is something that can be guaranteed in certain settings, for example by an attorney, a physician or therapist, or a clergy member. Even if an SVA employee has those credentials, they are not acting in that capacity at SVA. At SVA, all employees other than those working within the Office of Student Health and Counseling Services, are considered mandatory reporters and may not guarantee confidentiality to a student. Instead, employees can assure the student that they understand their wish for confidentiality, but depending on what is shared, they may have an obligation to report the information. Employees can assure the student that the conversation will remain private, and that it will only be shared with designated staff members on campus.

RESPONDING TO A STUDENT WHO APPEARS TO BE IN DISTRESS:

When you meet with the student, please follow these guidelines:

- Gather as much relevant information as possible, including the student's ID number, contact information, place of residence, etc.
- Assure the student that the conversation will be private; however, you will need to let the appropriate administrators know what is discussed, and you cannot promise confidentiality. You should advise the student that Student Health and Counseling Services staff can provide confidential support.
- Use first person, "I," to address the specific concerns and behavior you have observed (e.g., "I've noticed that ..." or "I'm concerned that ..., " etc.)
- Listen to the student carefully, without judgment.
- If a student speaks about being depressed and is expressing life-threatening behavior to self or others, call 911 and notify SVA Security.
- If you feel the student would benefit from counseling, suggest that they meet with a therapist at SVA. Students can schedule an appointment by calling 212.592.2246, by email at health@sva.edu or by visiting Student Health and Counseling Services at 340 East 24th Street, ground floor. The office is open from 9:00 AM to 5:00 PM, Monday through Friday.

HOW DO I FOLLOW UP WITH THE STUDENT AND OFFER CONTINUED SUPPORT?

Reporter follow-up is an integral step in the reporting process. We encourage the reporter to follow up privately and inquire about the student's well-being. See the student support resources listed.

RESPONDING TO DISRUPTIVE STUDENT BEHAVIOR

What is considered disruptive behavior in class?

- Violence or threats of violence toward a member of the SVA community
- Destroying property
- Hostile or confrontational statements
- Physical or verbal intimidation
- Using inappropriate language in class
- Using inappropriate material or content on projects

HOW SHOULD I RESPOND TO A STUDENT EXHIBITING DISRUPTIVE BEHAVIOR?

- Address the behavior immediately (e.g., “I need you to lower your voice”) and caution the student that it is unacceptable and will not be tolerated
- Unless there is a concern for the student’s immediate safety, ask the student to leave if the behavior continues
- If the student refuses to leave, contact SVA Security for assistance by calling 212.696.4632
- Following the resolution of the incident, complete a STAR report at star.sva.edu

STUDENT SUPPORT RESOURCES

24/7 at SVA

24-hour Security: 212.696.4632

Monday-Friday 9:00 AM–5:00 PM

- Academic Advisement: 212.592.2540
- Disability Resources: 212.592.2396
- Financial Aid: 212.592.2030
- Residence Life: 212.592.2140
- Student Affairs: 212.592.2214
- Student Health and Counseling Services: 212.592.2246

24/7 (non-SVA)

NYC WELL provides free mental health support in English, Spanish and Mandarin and has access for translators in about 200 languages. Call 1.888.NYC.WELL (1.888.692.9355) or text WELL to 65173.

Crisis Text Line offers free, around-the-clock support. Text HOME to 741741.

The Samaritans, a 24-hour crisis hotline, offers free confidential emotional support: 212.673.3000.

STUDENT RESPONSIBILITY AND COVID-19

In light of the COVID-19 pandemic and to support the safety of our community, all members of the SVA community will need to take additional steps to stay well and protect one another on campus and in the community.

The standards listed are a temporary addition to the published Student Code of Conduct and SVA Residence Hall Violations found in this handbook. They are designed to provide the safest living-learning environment possible and are reliant on each member of the community upholding them not only for their safety but the safety of others. Students who jeopardize the safety of others and/or fail to meet the standards will face College and/or Residence Life judicial action.

All students must adhere to the following.

Health Monitoring and Testing

- Observe all daily self-assessment, temperature screening, reporting of symptoms and COVID-19 diagnostic testing as required.
- Not to attend any classes or college functions if they are ill.
- If a student tests positive for COVID-19, they will notify Student Health and Counseling Services at student-covid-alert@sva.edu immediately and follow their guidance to either leave campus/residence halls or relocate to an isolation area on campus. They will only return to the residence halls or campus if/ when they are medically cleared.

Protective Face Coverings and Personal Hygiene

- Wear an appropriate face covering or mask, which covers the nose and mouth at all times while on campus, when not in one's own residence hall room.
- Pay close attention to personal hygiene including frequent handwashing with soap and water and/or use of alcohol-based hand sanitizer.
- Avoid sharing personal items such as phones or assigned studio/lab items.

COMPLIANCE WITH ALL COVID-19 POLICIES

Violation of these policies may put the health and safety of other members of the SVA community at risk. While we acknowledge that these restrictions are difficult to follow, they are necessary to lower the risk of COVID-19 spreading within the community. Even small deviations from these policies can jeopardize your health and the health of other members of the entire SVA community. Your adherence to these policies is essential to the health and well-being of the community. Students who violate these policies will be subject to College judicial sanctioning up to suspension.

RESIDENTIAL POLICIES: RESIDENT RESPONSIBILITY AND COVID-19

In addition to COVID-19-related student responsibilities outlined previously, all resident students are required to adhere to additional policies outlined in the Residence Life section of this handbook.

HAZARDOUS AND/OR DANGEROUS MATERIALS POLICY

SVA prohibits the presence or use of hazardous or dangerous materials, including dangerous artists' materials, on campus. If you need more information on the use, handling and disposal of the products or materials, please contact Environmental Health and Safety at ehs@sva.edu.

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

HOVERBOARDS

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

MISSING STUDENT POLICY AND PROCEDURE

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

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

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

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

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

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

SEX-BASED DISCRIMINATION, HARASSMENT, TITLE IX AND SEXUAL MISCONDUCT POLICY

SVA is committed to complying with Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in employment, academic, student admission and/ or financial aid decisions, or in any other programs or activities. Accordingly, all members of the School of Visual Arts community, including applicants, students, employees (both faculty and staff) and third parties doing business with SVA, are strictly prohibited from engaging in sex-based discrimination and harassment and sexual misconduct. Individuals with questions or concerns that pertain to sex discrimination, harassment or misconduct are encouraged to review SVA's Title IX and Sexual Misconduct policies and procedures, which can be found at sva.edu/sexualmisconduct, and to speak with SVA's Title IX Coordinator.

Key Resources for Reporting

Important Information:

Note: This information is provided in greater detail within this handbook.

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

SVA's Title IX Coordinator is:

Laurel Christy

Business Office: 340 E. 24th St., Ground Floor, New York, NY 10010

Email: lchristy@sva.edu

Phone: 212-592-2153

Website: www.sva.edu/sexualmisconduct

Reporting to Law Enforcement

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

Acts of violence, including sexual assault, domestic violence, dating violence, and stalking, are against the law. If you are not in immediate danger and would like to report an incident to the police, you can do so by contacting the NYPD as follows. A staff member from SVA can accompany you to make a report with the police.

- The New York City Police Department Sex Crimes Unit at 212.267.7273 or
- NYPD 13th Precinct at 230 East 21st Street, New York, NY, 10010 (212) 477-7411

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

Students' Bill of Rights

All students have the right to:

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

Rights of All Reporting Parties:

- The right to request interim measures to ensure his or her safety during the complaint process.
- The right to a prompt, thorough, fair and impartial investigation and appropriate resolution of all credible complaints of sexual misconduct.
- The right to be treated with respect by SVA staff throughout the process.
- The right to be notified of available counseling, mental and physical health services on and off campus.
- The right to identify witnesses and to request that the Investigator contact those individuals as part of the investigation.

- The right to have an advisor present in a support or advisory role during the complaint, investigation, hearing and appeal process.
- The right to report the incident to off-campus authorities and/or law enforcement and to be assisted by SVA staff in doing so.
- The right to know what provisions of this policy the responding party is charged with violating.
- The right to be informed of the final determination and sanctions, if any, in writing to the extent permissible by law.
- The right to privacy and the assurance that information regarding the complaint will be shared only with those necessary.
- The right to receive timely notice of any meeting relating to the complaint process at which the both the reporting and responding party will be present.

Rights of the Responding Party

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

Privacy

SVA employees who cannot guarantee confidentiality will maintain the reporting party's privacy to the greatest extent possible. The information the reporting party provides to a non-confidential resource will be relayed only as necessary for the Title

IX Coordinator and/or designated Investigator to investigate and/or seek a resolution. Only people who have a need to know about the incident will be informed, and information will be shared only as necessary with investigators, the complainant, witnesses and the responding party to ensure an effective and thorough investigation. While SVA will take all appropriate steps to safeguard the privacy of the parties, the information collected during the investigation process may be subpoenaed in civil or criminal proceedings.

Statement of Equal Opportunity

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

The School of Visual Arts is committed to providing equal treatment and opportunity for its students, to maintaining an environment that is free of bias, prejudice, discrimination and harassment, and to establishing fair complaint procedures. The School of Visual Arts does not discriminate on the basis of race, color, religion, creed, sex, sexual orientation, gender (including gender identity or expression), pregnancy, age, disability, national origin, military or veteran status, marital status, parental or familial status, alienage or citizenship status, domestic violence status, genetic predisposition or carrier status, partnership status or any other legally protected characteristic ("protected characteristics") in employment, student admission, or any other programs or activities. The College is firmly committed to the rights of all members of its community— students, faculty and staff—who must interact through mutual respect and trust to ensure that the campus remains a center of learning. Any student, faculty or staff member who violates College policy by subjecting another to discrimination or harassment of any kind will be subject to appropriate disciplinary action, including potential expulsion from the College or termination of employment, in accordance with the policies and procedures outlined in this Policy and/or SVA's Code of Conduct.

What is Title IX

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access our educational programs and opportunities.

SVA is committed to complying with Title IX of the Higher Education Amendments Act of 1972 and "Enough is Enough" (New York Education Law Article 129-B). Individuals with questions or concerns that pertain to Title IX are encouraged to speak with SVA's Title IX Coordinator. Students can also seek guidance from the State Education

Department and the New York State Office of Campus Safety as well as the U.S. Department of Education's Office of Civil Rights.

The safety and well-being of every member of the College is of primary importance. SVA is committed to providing programs, activities and an educational environment free from sex discrimination and harassment. To do that, SVA has created the enclosed policies to foster a community that promotes prompt reporting and timely and fair resolution of all complaints of gender-based discrimination and sexual harassment, which includes sexual misconduct.

What This Policy Covers:

This Policy applies to all incidents of gender-based discrimination and sexual harassment (defined below). Any incident of discrimination or harassment that does not fall under this policy, will be addressed under SVA's Code of Conduct [insert hyperlink].

SVA's policies regarding gender-based discrimination and sexual harassment reflect its responsibility as an educational institution to foster an environment that is conducive to learning and mutual trust. SVA's policies have been crafted with concern for all members of its community—students, faculty and staff, alike. The procedures contained herein are designed to promptly address incidents of gender based discrimination and sexual harassment with equity to all involved. In doing so, SVA is committed to maintaining privacy to the greatest extent possible and providing support resources for those involved. SVA prohibits retaliation against any person for complaining of a violation of this policy or for participating in any investigation or proceedings related to an alleged violation.

Prohibited Conduct:

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

Policy Application:

When and to whom does this policy apply?

This policy applies to School of Visual Arts' applicants, students and employees, including faculty and staff, as well as third parties doing business with SVA, at the time he/she/they are applying to, a student of, employed by or doing business with the School. This Policy applies to any allegation of sex-based discrimination or sexual harassment that occurs within the context of an education program or activity sponsored by SVA. This Policy applies to conduct that occurs on SVA's campus, in a

building or facility controlled by SVA, over SVA's technological systems, as well as off-campus when the conduct occurs in connection with an SVA sponsored program, event or activity. SVA's policy does not cover incidents that occur outside of SVA's programs and/or outside of the USA.

While the College will take all necessary remedial measures related to policy violations committed by third parties, the College's disciplinary authority, however, may not extend to third parties who are not students or employees of the College. Additionally, while this policy is not limited to on-campus conduct, SVA's ability to investigate off-campus conduct may be more limited.

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

TITLE IX COORDINATOR

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

The School of Visual Arts Title IX Coordinator is:

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

SVA's Title IX Coordinator is:

Laurel Christy

Business Office: 340 E. 24th St., Ground Floor, New York, NY 10010

Email: lchristy@sva.edu

Phone: 212.592.2153

Website: sva.edu/sexualmisconduct

Key Recourses for Reporting Sex-Based Discrimination, Harassment and Sexual Misconduct

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

To file an online report, please refer to:

Sexual Assault Disclosure Guidelines

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

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

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

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

The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:

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

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

If SVA cannot ensure confidentiality, the reporting party will be so informed prior to the start of an investigation. To the extent possible, SVA will only share information with people responsible for handling SVA's response. Even if SVA chooses not to take disciplinary action against the alleged perpetrator because the reporting party insists on confidentiality, it may pursue other steps to limit the effects of the alleged conduct and prevent its recurrence.

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

SVA will also:

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

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

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

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

The Family Educational Rights and Privacy Act (FERPA) Guidelines

FERPA allows the School of Visual Arts to share information with parents when (i) there is a health or safety emergency or (ii) where the student is a dependent on the parent's

prior year federal tax return. Generally speaking, SVA will not disclose a report of domestic violence, dating violence, sexual assault or stalking to a student's parents without the student's permission.

Reporting Statistics and Timely Warnings

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

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

Campus Climate Survey

In April 2019, SVA conducted the Campus Climate for Sexual Misconduct Survey. A summary of results from the survey are available in the downloads section of this page.

The next Campus Climate for Sexual Misconduct Survey will be conducted in the Fall Semester of 2021.

Training Materials

Section 106.45(b) of the 2020 Final Title IX Rules require the sharing of "*All materials used to train Title IX Coordinators, investigators, decision-makers and any person who facilitates an informal resolution process. A recipient must make these training materials publicly available on its website, or if the recipient does not maintain a website the recipient must make these materials available upon request for inspection by members of the public.*"

SVA is an Institutional Member of the SUNY Student Conduct Institute. Please refer to the following site:

<https://system.suny.edu/sci/postedtraining/>

Academic Freedom and Freedom of Speech

Nothing in this policy shall prohibit an individual from making genuine contributions to the marketplace of ideas nor abridge their right to academic freedom, free speech or the College's educational mission. SVA's prohibitions against discrimination and harassment do not extend to statements or written materials that are germane to the classroom subject matter and circulated in the context of legitimate classroom discourse.

SVA retains the right to change, amend or modify this policy as necessary, in its sole discretion and without warning. Should SVA's Title IX policy be revised during the pendency of a matter, the policy in effect at the time the Formal Complaint is made shall govern the investigation, hearing and any appeal.

Consensual Romantic Relationships

Students and Faculty:

The integrity of the teacher-student relationship is the foundation of the SVA educational mission. As mentor, educator and evaluator, the teacher is entrusted with considerable and disproportionate power. This can heighten the vulnerability of the student and the potential for coercion. Whenever a teacher is responsible for directly supervising a student, a romantic or sexual relationship between them is inappropriate. Any such relationship jeopardizes the integrity of the education process by creating a conflict of interest, and may lead to an environment not conducive to learning. Therefore, SVA policy prohibits faculty from having a romantic and/or sexual relationship with students, particularly those for whom they have or are likely to have future supervisory responsibility. Likewise, faculty must not directly supervise any student with whom they have had a past romantic or sexual relationship.

For purposes of this policy, "direct supervision" includes the following activities (on or off campus): course teaching; evaluations; grading; advising for a formal project such as a thesis or research; preparing recommendations for employment, fellowship or awards. "Teachers" include faculty members as well as graduate and professional students serving as teaching fellows or in similar institutional roles. "Student" refers to those enrolled in any academic program of the College.

Students and Staff Members:

Romantic and/or sexual relationships between students and staff are likewise prohibited. Such personal relationships can form the basis for misunderstandings, complaints of favoritism, and even claims of sexual harassment.

Exceptions to the application of this policy with regard to staff will only be granted in extraordinary circumstances. It is the responsibility of any staff member seeking an exception to this policy to contact the Human Resources Department. It is also the responsibility of any staff member contemplating activities that might be covered by this policy to consult the Human Resources Department to obtain any desired clarification of whether this policy applies to the activity under consideration.

Violations of, or failure to correct violations of these conflict-of-interest principles by the faculty or staff member will be grounds for disciplinary action, up to and including termination of employment.

Definitions

For purposes of this policy and the procedures contain herein, the following definitions apply:

Complainant: any individual who has reported being or is alleged to be the victim of conduct that could constitute covered gender-based discrimination or sexual harassment as defined under this policy.

Respondent: any individual who has been reported to be the perpetrator of conduct that could constitute covered gender-based discrimination or sexual harassment as defined under this policy.

Decision-maker: An individual trained in SVA's Title IX policy and procedure and will preside over the Grievance Hearing and determine whether a violation of SVA's policy has occurred based on the evidence collected. The Decision-maker will have no other involvement in the matter.

Gender-Based Discrimination: treating individuals or groups less favorably because of their sex, sexual orientation, gender identity or expression, or having a policy or practice that has a disproportionately adverse impact on individuals based on their sex, sexual orientation, gender identity or expression.

Sexual Harassment: substantially interfering with an individual's living, learning or working environment by subjecting him/her/they to severe or threatening conduct or to repeated humiliating or abusive conduct, based on his/her/their sex, sexual orientation, gender identity or expression. Under this policy, sexual harassment is verbal or physical conduct that belittles or shows hostility or aversion toward an individual because of his/her/their sex, sexual orientation, gender identity or expression, and that has the purpose or effect of creating an intimidating, hostile, or offensive living, learning or working environment.

The following behaviors all qualify as Sexual Harassment for purposes of this policy:

- (1) Unwelcome sex-based verbal, visual or physical conduct that a reasonable person would find so severe, pervasive and objectively offensive that it effectively denies a person equal access to SVA's education program or activity.
- (2) Quid pro quo harassment by an employee of the School of Visual Arts, where submission to the conduct is explicitly or implicitly made a term or condition of an individual's education, employment, or participation in activities sponsored by SVA.
- (3) Any instance of Sexual Assault, Dating Violence, Domestic Violence or Stalking (as defined below).

Examples of Sexual Harassment include, but are not limited to:

- sexual assault
- persistent pressure for sexual activity;
- unwanted or unnecessary touching or brushing against a person;
- requesting or demanding sexual favors in connection with admission, employment, academics, or participation in SVA activities;

- persistent unwelcome offensive comments or communications (verbal, written, electronic, etc.) of a sexual nature;
- failure to accept the termination of a consensual relationship with repeated and persistent requests and behavior;
- verbal and/or physical aggression toward another based upon a perception that the other fails to conform to stereotypical notions of expected characteristics for masculinity or femininity;
- offensive or suggestive comments, jokes, teasing, threats, name calling or other remarks that put someone down or make them uncomfortable based on gender, gender identity, gender expression or sexual orientation;
- Making obscene or rude gestures, or ogling or leering at someone;

Sexual Assault (as defined in the Clery Act) includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

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

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

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

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

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

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

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

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

Dating Violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), includes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship is determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship, and will be re-evaluated as necessary. For the purposes of this definition, Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts that meet the definition of "Domestic Violence."

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

Stalking (as defined in the VAWA amendments to the Clery Act) is a course of conduct directed at a specific person that would cause a reasonable person to fear for his, her or their own safety or the safety of others, or to suffer substantial emotional distress.

Examples of behavior that could constitute stalking include but are not limited to:

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

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

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

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

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

Complaint Procedure

Regardless of whether a community member decides to file a complaint with SVA, SVA strongly encourages anyone who believes they may have been the victim of sexual violence to seek immediate assistance. Resources are available to assist victims both on and off campus. In the event of an assault or other act of sexual violence, contact Security Services at 212-592-2025, New York City Police at 911, or the New York City Police sexual crimes unit at 212.267.7273. It is extremely important that victims of physical assault receive comprehensive medical attention promptly, both to ensure their health and safety and to preserve physical evidence. In the case of sexual assault, in particular, victims should go immediately to a hospital emergency room.

Making A Formal Complaint

It is in the best interest of the entire SVA community for individuals to report incidents of discrimination, harassment and sexual misconduct. The Title IX Coordinator as well as the Assistant Title IX Coordinators and designated Investigators, are trained to

investigate reported incidents, address inquiries and coordinate SVA's compliance efforts.

By Who: Complaints under this policy can be made by any person. If SVA receives a complaint of discrimination or harassment, including sexual misconduct, from a third party, the Complainant will be promptly informed of the complaint and their right to request supportive measures. This policy and the procedures contained herein will be applied in the same manner as if the Complainant reported the incident. When someone other than the alleged victim files a complaint, SVA will take into account the alleged victim's wishes when proceeding with the investigation.

To Who: All Complaints made under this policy can be reported to a Responsible Employee, which includes any one of the following individuals:

- Title IX Coordinator
- Assistant Title IX Coordinator
- Title IX Officer
- Senior Administrators
- Department Chairs
- Department Coordinators
- Faculty
- Program Directors
- Administrative Staff of the College
- Program Staff, including but not limited to:
 - Student Affairs Staff
 - Residential Life Staff (including RAs)
 - Admissions Staff
 - Security Services Staff
 - Human Resources Staff

Any individual who falls within one of the above-enumerated categories is considered a Responsible Employee who has a mandatory obligation to report any incident of sexual harassment involving a student and of which they become aware, to the Title IX Coordinator.

Students who wish to speak to someone at SVA who does not have a mandatory reporting obligation, should contact the Counseling and Health Services Office wherein they will be directed to a resource who can maintain both privacy and confidentiality.

Privacy: SVA employees who cannot guarantee confidentiality will maintain the Complainant's and/or Respondent's privacy to the greatest extent possible. The information the Complainant and/or Respondent provides to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator and/or designated Investigator to investigate and/or seek a resolution. Only people who

have a need to know about the incident will be informed, and information will be shared only as necessary with investigators, witnesses and amongst the parties to ensure an effective and thorough investigation. While SVA will take all appropriate steps to safeguard the privacy of the parties, the information collected during the investigation process may be subpoenaed in civil or criminal proceedings.

When: Any Complaint brought forth under this policy must be made while the Complainant is participating in (or attempting to participate in) an SVA education program or activity. Once a Complainant is no longer associated with SVA either because he/she/they have graduated, are no longer employed with the College, and/or were denied admission, SVA no longer retains jurisdiction to commence an investigation under this policy. While community members are encouraged to make complaints of discrimination and harassment at any time during the Complainant's time at SVA, please note that a delay in reporting could weaken SVA's ability to gather information that will be used to determine whether a violation of this policy occurred. Furthermore, the ability of SVA to take action may be limited by the matriculation or employment status of the Respondent.

How: An initial complaint may be made in person, by mail, by telephone, or by e-mail, using the contact information listed herein for the Title IX Coordinator on page 1, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours.

What Should Be Included: Complaints made under this Policy should provide as much detail as possible, ideally including a clear description of the alleged incident, when and where it occurred, who was involved, if known, and any witnesses, if known. Additionally, the initiator of a complaint should submit any supporting materials as quickly as possible.

Alcohol and/or Drug Use Amnesty: The health and safety of every student at SVA is of utmost importance. SVA strongly encourages students to report instances of sexual harassment to SVA officials. However, SVA recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that harassment or violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Any victim or bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual assault to SVA or law enforcement will not be subject to SVA's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

Unknown or Unaffiliated Respondent: If the Respondent is unknown or is not a member of the SVA community, SVA's ability to carry-out the investigation and remediation process may be adversely affected. The Title IX Coordinator will assist the

Complainant in identifying appropriate resources and contacting local law enforcement if he/she/they would like to file a report. SVA will take appropriate steps as necessary to protect the Complainant and the community from future policy violations or misconduct.

Reporting to Law Enforcement

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

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

- The New York City Police Department Sex Crimes Unit at 212.267.7273 or
- NYPD 13th Precinct at 230 East 21st Street, New York, NY, 10010

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

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

SVA will investigate alleged violations of this policy regardless of whether a criminal investigation is being conducted. SVA will not delay its investigation because of a concurrent law enforcement investigation. However, SVA may coordinate with law enforcement, as appropriate, to avoid compromising the criminal investigation.

A Complainant may report an incident to law enforcement regardless of whether she/he/they chooses to report the incident to SVA. Conversely, reporting an incident to SVA does not require the Complainant to report the incident to law enforcement. The School of Visual Arts reserves the right to report any crime to law enforcement, but, as a general rule, will not alert law enforcement to an incident of sexual harassment without the Complainant's permission, except where there is a serious and immediate threat to the campus community, when a minor is involved, or as otherwise required by law.

In addition to the interim measures that SVA has available for Complainants (identified below), law enforcement may be able to provide additional protections, such as a restraining order.

Differences Between College Procedures and Criminal Procedures

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

College fact-finding proceedings are conducted privately and are not open to the public. Every effort is made to preserve the confidentiality of both informal and formal proceedings, and the records produced by them.

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

Processing a Complaint, Supportive Measures, Investigation

Title IX requires that SVA investigate acts of gender-based discrimination and sexual harassment, as defined in this policy, about which it knows or has reason to know in order to protect the safety of the SVA community. Upon receipt of a complaint, the Title IX Coordinator will review the allegations to make an initial assessment of whether the facts as alleged would constitute a violation of this policy, which includes collecting information that shows:

- the conduct is alleged to have occurred while the Complainant was a student, employee or applicant of SVA;
- the Complainant is still associated with SVA as a current student, employee or applicant;
- the conduct is alleged to have occurred in the United States;
- the conduct is alleged to have occurred in SVA's education program or activity; and
- the alleged conduct, if true, would constitute covered gender-based discrimination and/or sexual harassment as defined in this policy.

If additional information is necessary to make this determination, the Title IX Coordinator will meet with the Complainant to gather additional, preliminary information.

If any one of these elements are not met, the Title IX Coordinator will notify the parties that the complaint is being dismissed for failure to assert conduct covered by SVA's Title IX Policy. Each party may appeal this dismissal using the procedure outlined in the "Appeals" section below.

Formal Complaint: Once the Title IX Coordinator determines that allegations presented by either a Complainant or Reporting Party may constitute a violation of SVA policy, the allegations must then be memorialized in a document – including an electronic submission – filed by the Complainant with a signature or other indication that the Complainant is the person filing the Formal Complaint, or signed by the Title IX Coordinator. The Formal Complaint must include a clear description of the alleged incident, when and where it occurred, who was involved, if known, and any witnesses, if known, and specific allegations of sexual harassment or gender-based discrimination that occurred within SVA’s education program or activity. The Formal Complaint must include a statement that the Complainant is requesting initiation of an investigation consistent with these procedures, or, alternatively, a statement by SVA’s Title IX Coordinator that an investigation is necessary in the best interests of the community. Without a signed Formal Complaint, no further action will be taken under this Policy.

Discretionary Dismissal:

The Title IX Coordinator may dismiss a Formal Complaint brought under this policy, or any specific allegations raised within the Formal Complaint, at any time during the investigation or hearing, if:

- A Complainant notifies the Title IX Coordinator in writing that he/she/they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- The Respondent is no longer enrolled in, employed by or associated with SVA; or,
- If specific circumstances prevent SVA from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.
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If the Title IX Coordinator determines that a Formal Complaint will be dismissed for one of the enumerated reasons, written notice of the dismissal will promptly and simultaneously be sent to all parties. The notice will identify the reason for the dismissal. Any party may appeal a discretionary dismissal using the process set forth in the “Appeals” section below.

Notice of Formal Complaint:

Once a Formal Complaint has been filed, the Title IX Coordinator will simultaneously provide the Complainant and the Respondent with written notice that includes the following:

- A description of SVA’s investigatory and grievance process, including a hyperlink to a copy of this policy;
- Identification of the allegations that serve the basis for the Formal Complaint, including details such as the identity of the Complainant and the date/location of the alleged acts (if known);

- Availability of each party to have an advisor of his/her/their choice, including an attorney;
- Available Supportive Measures;
- 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;
- Identification of any Interim Measures put in place during the investigation and hearing process;
- The range of available remedies and sanctions;
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint;
- The Standard of Review that will be applied by the Decision-maker; and
- Notice of the Appeal Procedure.

As soon as possible but no later than three business days after issuing written notice of a Formal Complaint, the Title IX Coordinator or the Investigator will personally reach-out to the Respondent to explain the investigation and adjudication process, discuss mediated resolution if appropriate, identify and explain any interim measures imposed that impact the Respondent, identify the provision of this policy the Respondent has been accused of violating and possible sanctions, and identify available support resources.

Supportive Measures:

Complainants who report allegations that could constitute covered gender-based discrimination and/or sexual harassment under this policy, have the right to receive supportive measures from SVA regardless of whether they desire to file a Formal Complaint, which may include but are not limited to:

- counseling
- extensions of deadlines or other course-related adjustments
- modifications of work or class schedules
- campus escort services
- restrictions on contact between the parties (no contact orders)
- changes in work or housing locations
- leaves of absence
- increased security and monitoring of certain areas of the campus

Emergency Removal

School of Visual Arts retains the authority to remove a Respondent from SVA's program, campus or activity on an emergency basis after SVA has undertaken an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of a student or other individual exists in connection with the allegations of covered sexual harassment.

If SVA determines such removal is necessary, the Respondent will be provided notice and an opportunity to challenge the decision immediately following the removal by submitting a letter to the Title IX Officer detailing the basis upon which the Respondent believes the removal is not warranted and alternate proposals the Respondent would like SVA to consider.

Administrative Leave

School of Visual Arts retains the authority to place a non-student employee Respondent on administrative leave during the Title IX Grievance Process. The terms of the administrative leave will be determined by the Executive Director of Human Resources.

Interim Measures

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

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

Possible interim measures include:

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

These actions may be instituted at any point during the investigation and grievance process. Complainants and Respondents are encouraged to request interim measures when needed.

Interim measures will be kept confidential to the extent possible. Only those individuals who need to be informed in order to effectuate the measures will be informed. For instance, if a party requests a change in work schedule, the individual's supervisor(s) will need to be informed in order to effectuate the change.

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

At the conclusion of the investigative and grievance process, the Decision-maker retains the power to determine whether some or all of the interim measures will be lifted, modified or continued to assist the student, irrespective of whether the allegations identified in the Formal Complaint were substantiated.

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

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

Advisors

School of Visual Arts will provide the parties equal access to advisors and support persons. Complainants and Respondents have the right to be accompanied by an advisor of their choice at all meetings, interviews and hearings. While the advisor is generally not permitted to advocate on a party's behalf, the advisor may be an attorney.

SVA has a long-standing practice of requiring parties to participate in the process directly. With the exception of cross-examination during a hearing (addressed below), advisors are not permitted to answer questions or otherwise speak on behalf of a party during interviews or the hearing process. Parties may confer with their advisor, and the advisor may pass notes to the party during meetings or hearings. If an advisor is disruptive or otherwise fails to comply with these parameters, they may be asked to leave the room.

SVA has an obligation to investigate and adjudicate all Title IX matters in a prompt timeframe. Accordingly, SVA cannot agree to extensive delays to accommodate the schedule of an advisor. SVA will not intentionally schedule meetings or hearings on dates where the advisors of choice for all parties are not available, provided that the advisors act reasonably in providing timely, available dates and work collegially to find dates and times that meet all schedules. The determination of what is reasonable shall

be made by the Title IX Coordinator. The School of Visual Arts will not delay a meeting or hearing under this process more than five (5) business days due to the unavailability of an advisor, and may offer the party the opportunity to obtain a different advisor or utilize one provided by the School.

Notice of Meetings and Interviews

School of Visual Arts will provide written notice of the date, time, location, anticipated participants, and purpose of all hearings, investigative interviews, or other meetings to a party whose participation is invited or expected, with sufficient time for the party to prepare to participate.

In cases of sexual harassment, each party will be given prompt notice of any meeting relating to the investigation and/or adjudication process at which either the Complainant or Respondent will be present, except that the Respondent will not be notified of meetings with the Complainant relating solely to Supportive Measures and other interim accommodations, and vice versa.

Postponement Requests

Investigatory Process:

While the Title IX Coordinator will work with each party's schedule and the schedules of any identified advisors to timely collect evidence and complete the investigatory process, lengthy or repeated requests for delays are not permitted. The Title IX Coordinator shall have sole judgment to determine whether to grant or deny a postponement or adjournment request during the Investigatory Process.

Grievance Hearing:

Each party may request a one-time delay in the Grievance Hearing of up to five (5) days for good cause (as to be determined in the sole judgment of the Title IX Coordinator) provided that the requestor provides reasonable notice (at least 24 hours) and the delay does not overly inconvenience other parties.

Conflict of Interest

Both the Complainant and the Respondent have the right to have a fair and impartial investigation, determination and appeal process. If either party has any reason to believe that the Title IX Coordinator, the Title IX Investigator, the Decision-maker or the Appeal Panelists have a conflict of interest or would otherwise be unable to be fair and impartial in the investigatory, grievance or appeal process, the concerned party should submit a letter explaining the basis for his/her/their concern. Concerns should be submitted to the Title IX Officer. The other party will be provided with a copy of the letter and will have three (3) business days to respond. If based upon the submissions and any independent inquiry the Title IX Officer may choose to make, it is determined that a conflict of interest exists, another trained SVA employee will be appointed to take on the role of the conflicted individual. If it is found that there is no such conflict, the individual will continue to fulfill their appointed role. Concerns regarding conflicts of interest should be raised as soon as they are identified and prior to completion of

that stage of the grievance process, e.g. prior to the submission of the investigation report, the Notice of Determination, or the Appeal Decision.

Mediated Resolution

Where appropriate and upon the Complainant's election, the Title IX Coordinator will attempt to mediate a resolution of a claim brought under this policy. The investigatory and/or grievance process is suspended during the pendency of the mediation process. If it becomes clear that a mediated resolution will not be possible, the matter will resume. If a satisfactory resolution is reached, the matter will be considered closed and no appeals or further investigatory or grievance procedures will follow. The mediated resolution process must be consented to by all parties and is typically initiated with a meeting between both parties (and their advisors), followed by one or more separate meetings with each party (and advisor) and the mediator. Depending on the schedules of each party and the mediator, mediated resolutions are usually completed within 2-4 weeks of initiation of the process.

Investigatory Process:

Absent a conflict of interest, all investigations will be conducted by SVA's Title IX Coordinator or a trained Title IX Investigator.

Within five business days of receiving a Formal Complaint which has been determined to allege a potential violation of SVA policy, the Title IX Coordinator or a designated Title IX Investigator will commence a prompt, fair, impartial, and thorough investigation. During the investigation, the investigator will:

- interview the Complainant, the Respondent, and any witnesses identified by the parties;
- gather all relevant documentary and/or physical evidence (this may include, but is not limited to, texts, emails, photos, social media posts, voicemail messages, etc.);
- maintain communication with the Complainant and Respondent on the status of the investigation and overall process; and
- complete the investigation in a timely manner, without unnecessary deviation from the intended timeline.

It is the investigator's responsibility to collect all relevant, available evidence. However, parties are encouraged to bring forth any evidence they want considered, which includes the identification of witnesses. SVA will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

The Investigator will present each party with a written recitation of the facts and evidence the Investigator collected during their interview. Upon receipt of the Investigator's written summary, each party has four business days to correct any inaccuracies or misstatements in the written summary.

While SVA encourages all parties to participate in the investigatory process, if a party decides not to share their account of what occurred or decides not to participate in the investigation, an inference of guilt or responsibility will not be made against the non-participating party. A party's failure to participate in the investigatory process does not shift the burden of proof away from School of Visual Arts.

Inspection and Review of Evidence

Prior to the completion of the investigation, both the Complainant and the Respondent will have an equal opportunity to inspect and review the evidence obtained during the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation. The evidence that will be available for inspection and review by the parties includes any evidence that is directly related to the allegations raised in the Formal Complaint, specifically:

- (1) Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility;
- (2) Inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

All parties **must** submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins. Parties will be given at least three days advance notice of the inspection and review period.

SVA is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion to determine the format for dissemination and any restrictions or limitations on access to ensure confidentiality is maintained.

The parties and their advisors are not permitted to photograph or otherwise make a digital copy the evidence. The parties and their advisors may be asked to sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to SVA's Title IX Grievance Process.

The parties will have ten (10) calendar days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing the Investigative Report. For good cause, parties may request a reasonable extension, which is within the sole discretion of the Title IX Coordinator.

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

Information re: Romantic and Sexual History – Neither the Investigator, Decision-maker, nor any Appeal Panel Member, will consider information concerning the romantic or sexual history of either the Complainant or the Respondent, except: (i) specific incidents of the Complainant's prior sexual behavior with the Respondent and which is offered to prove consent; and/or (ii) information offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant. If the Respondent offers such information, the Complainant will have the right to respond.

Information re: Medical History - School of Visual Arts cannot access, consider, or disclose a party's medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include medical information. Each party has the right to object to the Investigator, Decision-maker and/or the Appeal Panel's consideration of their own mental health history or treatment. In the event such an objection is raised, neither the Investigator, Decision-maker, nor Appeal Panel will consider any information offered regarding mental health diagnosis or treatment.

Prior Conduct Violations - The Decision-maker will not consider prior conduct violations in assessing whether a policy violation occurred. However, once a liability determination has been made, such information may be considered to determine appropriate sanctions.

Investigative Report

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes the relevant evidence. Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations) will be referenced in the Investigative Report. The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of the relevant evidence.

The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant. The names and other identifying information of students other than the Complainant and Respondent will be redacted from such materials in accordance with the Family Educational Rights and Privacy Act (FERPA), except to the extent that doing so would interfere with the purpose of Title IX. The Title IX Coordinator will supervise this review and ensure that reasonable time is afforded for review prior to the hearing.

Withdrawal of a Complaint

Complainants have the right to withdraw a complaint at any time. If the Complainant chooses to withdraw the complaint prior to the completion of the investigation, the Title IX Coordinator will determine whether SVA will continue to pursue the complaint.

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

The increased risk that the Respondent will commit additional acts of sexual or other violence, such as:

- whether there have been other sexual violence complaints alleged against the same Respondent;
 - whether the Respondent has a history of violence;
 - whether the allegation indicates an escalation of unlawful conduct
 - whether the Respondent threatened further sexual violence or other violence against the Complainant or others;
 - whether the sexual violence was committed by multiple Respondents;
- the seriousness of the alleged conduct;
- whether the sexual violence was perpetrated with a weapon;
- whether the Complainant is a minor;
- whether SVA possesses other means to obtain relevant evidence of the harassment e.g., security cameras or personnel, physical evidence);
- whether the Complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead SVA to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, SVA will likely respect the Complainant's request to abstain from further pursuit of an investigation.

The Hearing:

The School of Visual Arts will not issue a disciplinary sanction arising from an allegation of sexual harassment covered by this Policy without holding a live hearing or unless otherwise resolved through an informal resolution process. In other words, the parties cannot waive the right to a live hearing and, unless the Complaint has been withdrawn, SVA will proceed with a live hearing and reach a determination in the absence of a party.

Notice and Format:

Each party will be notified in writing of the date, time and location of the Title IX Hearing with as much advance notice as possible. The scheduling and timing of hearing sessions shall be undertaken with due regard to the importance of completing the hearing in an expeditious manner and with consideration of the schedules and commitments of all participants. The hearing is a closed proceeding and nobody other than the parties and their respective advisors, the Decision-maker, the Investigator, witnesses (when called to appear) and necessary SVA personnel may be present during the hearing. The live hearing may be conducted with all parties physically present in the same geographic location, or, at SVA's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through Zoom or similar

remote conference technology. Through this technology all participants will simultaneously be able to see and hear each other.

In the event that either party cannot be physically present during the hearing, arrangements will be made to allow the individual to participate in the proceeding remotely whenever possible. Upon request, arrangements will also be made to allow the parties to participate in the hearing without being in the same room at the same time. If a party chooses not to participate in a hearing, it may still be held at the Decision-maker's discretion. At its discretion, SVA may delay or adjourn a hearing based on technological issues or errors.

All hearing proceedings will be recorded through an audio recording and transcript. The transcript will be made available to the parties for inspection and review with 10 business days of the conclusion of the hearing. Prior to obtaining access to the hearing transcripts or any evidence presented at the hearing, the parties and their advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn.

Participants:

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

- (1) Complainant and Respondent (The Parties)
- (2) The Decision-maker
- (3) Each Party's Advisor of Choice
- (4) Witnesses

School of Visual Arts will not threaten, coerce, intimidate or discriminate against a party in an attempt to secure the party's participation. Similarly, witnesses cannot be compelled to participate in the live hearing.

The Decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions.

Hearing Procedures:

For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- The Decision-maker will open the hearing and establish the rules and expectations;
- The Parties will each be given the opportunity to provide opening statements;
- The Decision-maker will ask questions of the Parties and Witnesses;
- The Parties will be given the opportunity for live cross-examination;

- The Parties will each be given the opportunity to provide closing or impact statements.

Live Cross-Examination Procedure:

Each Party's Advisor will conduct live cross-examination of the other Party or Parties and witnesses. The parties are not permitted to conduct cross-examination themselves. During this live-cross examination the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility. The questions shall be asked of the witness or party directly, orally, and in real time.

Cross examination for each party/witness will occur after the Decision-maker conducts an initial round of questioning. During cross-examination, the Decision-maker will have the authority to pause cross-examination at any time for the purposes of asking Decision-maker's own follow-up questions.

Before any cross-examination question is answered, the Decision-maker will have the opportunity to determine if the question is relevant. Cross-examination questions that are irrelevant and/or duplicative of questions already asked, including by the Decision-maker, may be deemed irrelevant, stricken from the record and do not need to be answered.

If a party does not select an advisor, SVA will select an advisor to serve in this role for the limited purpose of conducting cross-examination during the hearing at no fee or charge to the party. If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf. If neither a party nor their advisor appear at the hearing, SVA will provide an advisor to appear on behalf of the non-appearing party.

Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party must affirmatively waive cross-examination through an oral statement on the record to the Decision-maker. A Party's waiver of cross-examination does not eliminate the ability of the Decision-maker to use other statements made by the Party or Witness for whom cross examination is waived.

Evidentiary Issues:

Cross Examination: If a party does not submit to cross-examination, the decision-maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a "statement" by that party. For example, a verbal or written statement constituting part or all of the sexual harassment itself is not a "prior statement" that must be excluded if the maker of the statement does not submit to cross-examination about that statement. Similarly, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual

harassment under the Formal Complaint. Similarly, if a witness does not submit to cross-examination, the Decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing.

Expert Witnesses: Parties are permitted to call “expert witnesses.” While expert witnesses will be allowed to testify and be subject to cross examination, the Decision-maker will afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses. Testimony regarding polygraph tests (“lie detector tests”) and other similar procedures outside of standard use in academic conduct processes is permitted, however, such testimony will be afforded lower weight relative to the testimony of fact witnesses.

Character Witnesses: Parties are permitted to call character witnesses for direct and cross examination. The Decision-maker will afford low weight to any non-factual character testimony from a witness.

Review of Hearing Transcript

A transcript of the hearing will be made available for review by the parties within 10 business days, unless there are any extenuating circumstances. The audio recording of the hearing will not be provided to parties or advisors unless necessitated as a disability accommodation.

Determination Regarding Responsibility

Absent extenuating circumstances, within 10 business days of the conclusion of the hearing, the Decision-maker will simultaneously issue to both parties a written Notice of Determination. The Notice of Determination will include:

1. Identification of the allegations that were identified by the Complainant and part of the investigation;
2. A description of the procedural history of the investigation;
3. A determination of the Respondent’s guilt or innocence, including which section of SVA’s Title IX Policy was violated and the standard of proof relied upon by the Decision-maker;
4. Findings of fact and rationale supporting the determination;
5. A statement of, and rationale for, any disciplinary sanctions imposed on the Respondent; and
6. A statement of, and rationale for, any remedies that will be provided to the Complainant; and
7. Notice of SVA’s appeals process and procedure, including the permitted basis upon which a party may appeal the Notice of Determination (see Appeals section below).

Standard of Proof:

SVA uses the preponderance of the evidence standard, also referred to as the 51% standard for investigations and determinations regarding responsibility of Formal Complaints covered under this Policy. This means that the investigation and hearing determines whether it is more likely than not that a violation of the Policy occurred.

General Considerations for Reaching a Determination:

As warranted in the reasoned judgement of the Decision-maker, determinations regarding responsibility may be based in part, or entirely on any one of the following: live testimony, including cross-examination testimony, documentary, audiovisual, and digital evidence.

A Decision-maker shall not draw inferences regarding a party or witness' credibility based on their status as a Complainant, Respondent, or witness, nor shall the Decision-maker base his/her/their judgment in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence. The Decision-maker will afford higher weight to first-hand testimony.² Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Finality:

The determination regarding responsibility becomes final on: (1) if an appeal is filed consistent with the procedures and timeline outlined in "Appeals" section below, the date the result of the appeal is provided to the parties in the "Appeal Determination"; or (2) if an appeal is not filed, the date on which the opportunity to appeal expires.

Discipline:

If the Decision-maker finds the Respondent responsible for violating this Policy, the Decision-maker will propose an appropriate disciplinary sanction after considering the relevant factors, which include the severity of the violation, the circumstances surrounding the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.), the Respondent's state of mind (intentional, knowing, reckless, negligent, etc.), the Respondent's history of misconduct, including prior findings of sexual misconduct, the ongoing impact on the Complainant, the ongoing impact on the campus environment, and any ongoing threat to the campus community. In determining the appropriate sanction, the Decision-maker may consult with the Executive Director of Human Resources if the Respondent is a faculty member or staff member.

² Except where specifically barred under this Policy, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

Sanctions may include but are not limited to the following:

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

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

Appeals

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

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

- new evidence, which was not reasonably available at the time the Decision-maker made the determination, has come to light;
- an error in the process, as outlined by this policy, which materially impacted the outcome;

- the Title IX Coordinator, investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter; and/or
- the sanction(s) imposed were not appropriate in light of the evidence presented.

A party's disagreement with the Decision-maker's determination is not grounds for appeal. If the appeal letter does not identify one of the stated grounds for appeal and provide sufficient detail, the appeal will be denied and the matter will be closed.

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

The submission of an appeal stays any sanctions for the pendency of the appeal. Supportive measures and alternative learning opportunities remain available during the pendency of the appeal.

A party's decision not to participate in the investigatory process does not preclude them from appealing the Decision-maker's determination, however, except in extraordinary circumstances, a party who does not respond to the Investigator's inquiries during the investigatory process will be precluded from appealing on the ground that new evidence has come to light.

The Appeal Panel will hold a closed review session, during which time it will review the Investigator's report, the Decision-maker's Notice of Determination, including the hearing record, and any subsequent materials submitted by the parties in anticipation of the appeal. After a review of all of the information and evidence presented, the Appeal Panel may:

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

The Appeal Panel's decision will be transmitted in writing to the Complainant and the Respondent, simultaneously within fifteen business days of the non-appealing party's submission. The finding of the Appeal Panel is final.

Transcript Notations

Any student who is found responsible for sexual assault, domestic violence, dating violence, stalking or any other crime of violence and suspended will have a notation

on their transcript indicating, "suspended after a finding of responsibility for a code of conduct violation."

Any student who is found responsible for sexual assault, domestic violence, dating violence, sexual assault or stalking (or any other crime of violence) and expelled will have a notation on their transcript indicating, "expelled after a finding of responsibility for a code of conduct violation." Students who have been expelled are ineligible to attend SVA in the future.

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

The notation will be added at the time the determination becomes final. Students shall have the right to seek the removal of a notation of suspension after one year has elapsed since the end of the suspension. Students wishing to request removal should submit a letter to the Title IX Coordinator setting forth the justification for removal. Notations of expulsion cannot be removed.

Overview of the Process and Timeline

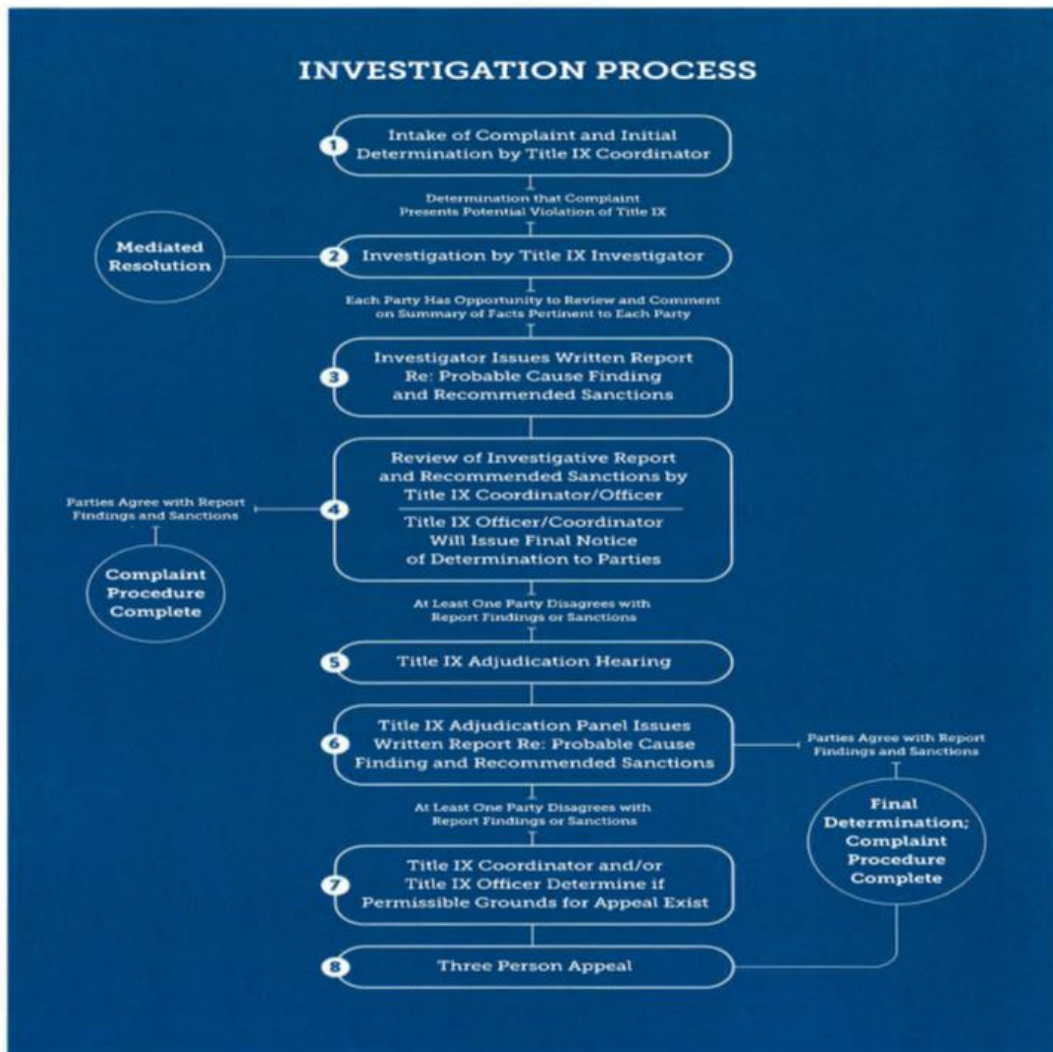
A flow chart outlining the major steps of the grievance process is included below and will be provided to both parties so that they are informed and there is transparency as to what can be expected. The Title IX Office will endeavor to complete the grievance process (excluding any appeal) within 90 days. If circumstances arise that require the extension of certain deadlines (including but not limited to the unavailability of witnesses due to winter or summer break or a simultaneous police investigation), the parties will be updated accordingly.

Compliance with Sanctions and Accommodations

At the conclusion of the grievance hearing and any appeals, the Title IX Coordinator will be responsible for ensuring compliance with all imposed sanctions and providing accommodations with the goal of preventing the recurrence of future incidents and assisting the Complainant. The Respondent's failure to comply may result in further disciplinary action.

Ongoing Accommodations

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



Resources and Support for Victims of Sexual Violence

Medical Attention and Evidence Preservation

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

Beth Israel Medical Center
First Avenue and 16th Street
212.420.2840

Bellevue Hospital
First Avenue and 27th Street

212.562.4347

NYU Langone Medical Center
550 First Avenue
212.263.7300

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

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

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

Evidence of the assault can be found in the fibers of your clothes, strands of your hair, or on other parts of your body, so it is important to try your best to preserve as much evidence as possible before seeking medical or professional help. Clothing, towels, sheets and other items should not be washed or moved, if possible. The clothing worn at the time of the assault should be brought to the hospital in a sanitary container, such as a paper bag or a clean sheet. If the clothing worn at the time of the assault is still being worn, it is advisable to bring a change of clothes to the hospital, if possible.

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

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

Frequently Asked Questions

Who Can I Talk to? Will it be Confidential?

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

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

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

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

Privileged and Confidential Communications

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

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

Who is obligated to report what I tell them to the School of Visual Arts?

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

A responsible employee must report to the Title IX Coordinator all relevant details about any incident of sexual misconduct involving a student—including the names of the victim and alleged perpetrator(s), any witnesses and any other relevant facts, including the date, time and specific location of the alleged incident.

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

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

- Student Affairs Staff
- Residential Life Staff (including RAs)
- Admissions Staff
- Security Services Staff

- Officers of the College
- Human Resources Staff
- Faculty

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

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

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

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

Public Awareness Events

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

Can I request that the School of Visual Arts not take action regarding an incident?

If a victim of sexual assault, dating violence, domestic violence or stalking discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action

taken, SVA must weigh that request against its Title IX obligations, including the obligation to provide a safe, non-discriminatory environment for all members of the SVA community, including the victim. If in making a formal complaint, the reporting party requests confidentiality or asks that the complaint not be pursued, the College still must take all reasonable steps to investigate and implement any remedial measures while being mindful of the request.

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

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

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

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

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

If SVA cannot ensure confidentiality, the reporting party will be so informed prior to the start of an investigation. To the extent possible, SVA will only share information with people responsible for handling SVA's response. Even if SVA chooses not to take disciplinary action against the alleged perpetrator because the reporting party insists on confidentiality, it may pursue other steps to limit the effects of the alleged conduct and prevent its recurrence.

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

SVA will also:

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

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

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

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

Will Information about an incident will be shared with my parents?

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

Duty to Report Statistics and Timely Warning

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

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

ADDITIONAL GOVERNMENT RESOURCES

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

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

NEW YORK STATE PENAL LAW

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

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

New York Penal Code Section:

§130.05 Sex offenses; lack of consent.

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

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

arrangement with the state department of corrections and community supervision or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or

- f. committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state department of corrections and community supervision or a local health, education or probation agency, providing direct services to inmates in the local correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the local correctional department or, in the case of such a volunteer or government employee, a written agreement with such department, provided that such person received written notice concerning the provisions of this paragraph; or
- g. committed to or placed with the office of children and family services and in residential care, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to or placed with such office of children and family services and in residential care. For purposes of this paragraph,

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

- i. the office of mental health;
- ii. the office for people with developmental disabilities; or
- iii. the office of alcoholism and substance abuse services, and the actor is an employee of the facility not married to such resident or inpatient. For purposes of this paragraph, "employee" means either: an employee of the agency operating the residential facility, who knows or reasonably should know that such person is a

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

§130.20 Sexual misconduct.

A person is guilty of sexual misconduct when:

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

Sexual misconduct is a class A misdemeanor.

§ 130.25 Rape in the third degree.

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

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

Rape in the third degree is a class E felony.

§ 130.30 Rape in the second degree.

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

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

Rape in the second degree is a class D felony.

§ 130.35 Rape in the first degree.

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

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

Rape in the first degree is a class B felony.

§ 130.40 Criminal sexual act in the third degree.

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

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

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

§130.45 Criminal sexual act in the second degree.

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

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

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

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

§130.50 Criminal sexual act in the first degree.

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

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

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

§ 130.52 Forcible touching.

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

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

Forcible touching is a class A misdemeanor.

§130.53 Persistent sexual abuse.

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

Persistent sexual abuse is a class E felony.

§130.55 Sexual abuse in the third degree.

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person.

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

§130.60 Sexual abuse in the second degree.

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

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

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

§130.65 Sexual abuse in the first degree.

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

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

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

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

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

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

§130.66 Aggravated sexual abuse in the third degree.

1. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person:
 - a. By forcible compulsion; or
 - b. When the other person is incapable of consent by reason of being physically helpless; or
 - c. When the other person is less than eleven years old.
2. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another

person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.

3. Conduct performed for a valid medical purpose does not violate the provisions of this section.

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

§130.67 Aggravated sexual abuse in the second degree.

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

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

§130.90 Facilitating a sex offense with a controlled substance.

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

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

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

§130.95 Predatory sexual assault.

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

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

3. He or she has previously been subjected to a conviction for a felony defined in this article, incest as defined in section 255.25 of this chapter or use of a child in a sexual performance as defined in section 263.05 of this chapter.

Predatory sexual assault is a class A-II felony.

§130.96 Predatory sexual assault against a child.

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

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

§120.45 Stalking in the fourth degree.

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

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

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

Stalking in the fourth degree is a class B misdemeanor.

§120.50 Stalking in the third degree.

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

1. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against three or more persons, in three or more separate transactions, for which the actor has not been previously convicted; or
2. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against any person, and has previously been convicted, within the

preceding ten years of a specified predicate crime, as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or

3. With intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or
4. Commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

Stalking in the third degree is a class A misdemeanor.

§120.55 Stalking in the second degree.

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

1. Commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 of this article and in the course of and in furtherance of the commission of such offense: (i) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, shotgun, machine gun, electronic dart gun, electronic stun gun, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slungshot, shiriken, "Kung Fu Star", dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapon; or (ii) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or
2. Commits the crime of stalking in the third degree in violation of subdivision three of section 120.50 of this article against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or
3. Commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree as defined in subdivision four of section 120.50 of this article against any person; or
4. Being twenty-one years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or
5. Commits the crime of stalking in the third degree, as defined in subdivision three of section 120.50 of this article, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

Stalking in the second degree is a class E felony.

§120.60 Stalking in the first degree.

A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 or stalking

in the second degree as defined in section 120.55 of this article and, in the course and furtherance thereof, he or she:

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

Salking in the first degree is a class D felony.

Social Services Law section 459-a provides

1. "Victim of domestic violence" means any person over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, or strangulation; and (i) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and (ii) such act or acts are or are alleged to have been committed by a family or household member.
2. "Family or household members" mean the following individuals:
 - a. persons related by consanguinity or affinity;
 - b. persons legally married to one another;
 - c. persons formerly married to one another regardless of whether they still reside in the same household;
 - d. persons who have a child in common regardless of whether such persons are married or have lived together at any time;
 - e. unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household;
 - f. persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; or

- g. any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation.
- 3. "Parent" means a natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.