

NewSchool of Architecture and Design Title IX Grievance and Sexual Misconduct Reporting Policy and Procedures

The United States Department of Education (DOE) mandates that institutions comply with specific requirements under Title IX of the Educational Amendments of 1972. Title IX is a federal civil rights law that prohibits discrimination on the basis of sex. NewSchool of Architecture and Design is committed to providing a safe educational and working environment for its students, faculty, staff, and other members of the university community.

NewSchool of Architecture and Design believes that all members of the University community should be free from all acts of sexual misconduct, including sexual assault, sexual harassment and discrimination, sexual exploitation, relationship violence, and stalking. All members of the NewSchool community and all visitors, regardless of sex, gender, sexual orientation, gender identity, or gender expression are advised that any sexual misconduct by any student, employee, or third party is prohibited. Any attempt to commit sexual misconduct, or to assist or willfully encourage any such act, is a violation of this Policy. Sexual misconduct is contrary to the basic values of NewSchool, which include promoting a sense of community, fostering learning, instilling integrity, and achieving excellence. NewSchool is committed to providing for the prompt and equitable resolution of all complaints of sexual misconduct.

This Policy applies to all complaints of sexual misconduct in NewSchool's education programs and activities. It prohibits conduct that: occurs on campus or other University property; occurs in connection with NewSchool's educational programs or activities, whether on or off-campus; or otherwise affects the University community. This Policy prohibits sexual misconduct by all third parties (including but not limited to visitors, guests, volunteers and contractors) on NewSchool's campuses and during university activities. It also applies to applicants for admission to, or employment with, NewSchool.

Violations of this policy may result in disciplinary action up to and including removal from the University for students and termination of employment for faculty and staff. When used in this Policy the term "complainant" refers to a person claiming that a violation of this Policy occurred, and the term "respondent" refers to a person accused of violating this Policy.

1. Definitions

Consent: Consent is defined at NewSchool as a clear and unambiguous agreement expressed in mutually understandable words or actions to voluntarily engage in specific sexual or intimate activity or conduct. Conduct will be considered "without consent" if no clear affirmative consent, verbal or otherwise, is given. Consent is not present (1) if obtained through the use of force, threat, coercion, or intimidation; or (2) when an individual is incapacitated, such as by consumption of drugs or alcohol or being unconscious or asleep; or (3) if given by someone who is not able to effectively communicate or to understand the nature of the conduct being engaged in.

Silence or an absence of resistance on the part of the individual does not imply or constitute consent. Past consent does not imply future consent. Consent can be withdrawn at any time. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

Relationship violence: Relationship violence means a violent act committed by a person who is or has been in a social relationship of a romantic nature or intimate nature with the complainant, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Relationship violence includes dating violence and domestic violence.

Retaliation: Retaliation means intimidating, threatening, coercing, or in any way discriminating against an individual because the individual made a report of a claim of sexual misconduct or participated in any way in the investigation or resolution of such a report or complaint, or exercised any right or responsibility under this Policy.

Sexual Discrimination: Sexual discrimination for the purpose of this policy is defined as including, but not limited to, treating individuals differently because of their gender or sexual orientation, in connection with the terms and conditions of employment or educational opportunities. Discrimination does not occur, however, when an individual is treated differently than another individual for legitimate reasons.

Sexual Assault: Sexual assault is non-consensual physical contact of a sexual nature. Sexual assault includes rape and any other acts using force, threat, intimidation, or coercion, or taking advantage of a victim's inability to make reasoned decisions about sexual activity. This includes:

- a. *Non-Consensual Sexual Intercourse:* Non-consensual sexual intercourse is any sexual intercourse, however slight, with any object, by one person upon another, which is without consent and/or by force. It includes vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.
- b. *Non-Consensual Sexual Contact:* Non-consensual sexual contact is any intentional sexual touching, however slight, with any object by a person upon another person that is without consent and/or by force, threat or intimidation. It includes intentional contact with the genitals, breasts, thighs, buttocks, anus, or groin, touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts, any intentional bodily contact in a sexual manner, though not involving contact with/of/by genitals, breasts, thighs, buttock, anus, groin, mouth or other orifice. It also includes attempted non-consensual intercourse.
- c. *Statutory rape:* Sexual intercourse with a person who is under the statutory age of consent in the applicable jurisdiction.

Sexual Exploitation: Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples include but are not limited to: invasion of sexual privacy, prostituting another student, non-consensual video or audio-taping or photography of sexual activity, distributing sexual or intimate information, images or recordings of another without that individual's consent, going beyond the boundaries of consent (such as allowing friends to hide in the closet watching consensual sex), voyeurism, knowingly transmitting an STD or HIV to another student, exposing one's genitals in non-consensual circumstances or inducing another to expose his/her genitals, and sexually-based bullying, including, but not limited to, through social media.

Sexual Harassment: Sexual harassment can include, but is not limited to, unwelcome sexual advances; requests for sexual favors; unwelcome physical contact of a sexual nature; e-mails containing inappropriate sexual content; obscene or harassing phone calls or jokes of a sexual nature; suggestive gestures, sounds, stares, or other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of a student's academic progress;
2. Submission to or rejection of such conduct by an individual is used as a basis for decisions affecting assessment of academic progress; or
3. Such conduct, by instructors, staff, or students, including between students, has the purpose or effect of interfering with academic performance or creating an intimidating, hostile, or offensive environment.

Sexual Misconduct: Sexual misconduct includes, but is not limited to, sexual discrimination, sexual exploitation, sexual harassment, sexual assault, relationship violence, and stalking. While NewSchool may use different standards and definitions than state criminal codes, sexual misconduct often overlaps with crimes under applicable criminal codes.

Stalking: Stalking is engaging in a course of conduct that would cause a reasonable person to suffer substantial emotional distress or to fear for his or her safety or the safety of others. A course of conduct means two or more acts in which a person follows, monitors, observes, surveils, communicates with another person, threatens, intimidates or communicates with or about another person, or vandalizes another person's property.

2. Reporting Violations of This Policy

Students, faculty, or staff members who believe that they are a victim of sexual misconduct should contact the Title IX Coordinator. The Title IX Coordinator is responsible for receiving and processing, in a timely manner, reports from students, faculty, staff, and administrators regarding rights and responsibilities concerning sexual misconduct in violation of Title IX.

Any questions or complaints regarding Title IX may be referred to the NewSchool's Title IX Coordinator or to the Department of Education's Office of Civil Rights.

NewSchool's Title IX Coordinator

Prisca Bermudez

Telephone: 619.684.8876

Email: pbermudez@newschoolarch.edu

NewSchool's Deputy Title IX Coordinators

Marcy Madix

Telephone: 619.684.8813

Email: mmadix@newschoolarch.edu

Allison Riley

Telephone: 619.684.8765

Email: ariley@newschoolarch.edu

U.S. Department of Education

50 Beale Street, room 9700

San Francisco, CA 94105

Telephone: 415.486.5700

Fax: 415.486.5719 Email: OCR@ed.gov

Filing a Criminal Complaint: Students, faculty, and staff members have the right to file both a criminal complaint and a Title IX complaint simultaneously.

To file a criminal complaint please contact the San Diego Police Department, Central Division:

San Diego Police Department

Central Division

2501 Imperial Avenue

San Diego, CA 92102

Telephone: 619.744.9500

Email: sdpcentral@pdsandiego.gov

Students, faculty, and staff members must report an incident of alleged discrimination to a "Responsible Employee." For the purposes of this policy, the "Responsible Employees" are the Title IX Coordinator, Executive Director of Student Affairs, and the Manager of Student Life. For complaints where both the complainant and respondent are employees, "Responsible Employees" include the Director of Human Resources.

NewSchool takes all reports of sexual misconduct seriously and, upon receiving notice of any alleged violation of this Policy, shall take immediate steps to conduct a thorough, prompt, and appropriate investigation of the complaint.

A complainant who contacts the Title IX Coordinator or Responsible Employee with an allegation of Sexual Misconduct will be notified of his or her right to confidentiality and his or her right to remain

anonymous and how that may affect NewSchool's ability to conduct an investigation. Please note that there are certain situations where NewSchool may not be able to guarantee confidentiality or anonymity. If the complainant wishes to move forward with the process, he or she will be asked a series of questions to provide information. If the complainant prefers, he or she may complete the information from the form and submit it to the Title IX Coordinator. The *Sexual Misconduct or Discrimination Complaint Incident Report* is available from the Title IX Coordinator or by downloading here <http://newschoolarch.edu/student-life/title-ix/>. In certain circumstances, it may be necessary for the complaint to go forward even if the complainant does not consent to that course of action.

NewSchool strongly supports the complainant's right to confidentiality in cases involving sexual misconduct. Complainants have the right to ask that their names not be disclosed to the alleged perpetrators. However, there are limited situations in which the university must override a complainant's request for confidentiality in order to meet the institution's legal obligations under Title IX. In these situations, the information will only be shared with individuals who are responsible for handling the university's response to incidents of sexual violence. Given the sensitive nature of reports of sexual violence, NewSchool shall ensure that the information is maintained in a secure manner. If the complainant requests that his or her name not be revealed to the alleged perpetrator or if complainant asks the university not to investigate or seek action against the alleged perpetrator, NewSchool will be limited in its ability to respond fully to the incident, including taking disciplinary action against the alleged perpetrator. If the complainant still requests that his or her name not be disclosed to the alleged perpetrator, or that the university not investigate or seek action against the alleged perpetrator, the Title IX Coordinator will need to determine whether or not the institution can honor such a request while providing a safe and nondiscriminatory environment for all students, faculty, and staff.

3. Determination of interim measures

Upon notification of an incident of sexual misconduct, NewSchool shall take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. These measures are designed to protect the complainant and provide the complainant with options to avoid contact with the alleged perpetrator. These measures may include a change in academic activities, living, transportation, dining, and working situation as appropriate. After the initial report of alleged sexual misconduct, possible immediate interim suspension can be invoked on the accused ("respondent") if there is a reasonable cause to believe the Respondent's behavior is of such a nature as to pose a threat of harm or injury to the complainant or any other member of the campus community. The Title IX Coordinator shall work with the complainant to determine what, if any, interim measures shall be implemented.

4. Student Amnesty Policy and Bystander Intervention.

NewSchool encourages the reporting of sexual misconduct. Sometimes, students may be reluctant to come forward and report an incident of sexual misconduct, or serve as a witness, because they are concerned that they may be charged with violating other campus policies, such as NewSchool's alcohol or drug policy. In order to encourage reporting of sexual misconduct, students who report an incident of

sexual misconduct or who serve as witnesses to an incident of sexual misconduct, NewSchool will not face disciplinary sanctions for their own personal consumption of drugs or alcohol related to the incident as long as any such violations did not place the health or safety of any other person at risk.

5. Advisors.

For complaints of sexual misconduct where the complainant or respondent is a student, the complainant and the respondent may be accompanied throughout the investigation and appeal process by an advisor of their choice. Advisors should be from the University community, unless otherwise approved, and must agree to keep the matter confidential. However, the advisor may not be a witness or possible witness in the case, a person involved in the University's disciplinary process, or a complainant or a respondent in the case. The purpose of the advisor is to provide advice to the student in a manner that is not disruptive to the proceedings. The advisor may accompany the party to any meeting or hearing held pursuant to this Policy. The advisor may not provide verbal, written, or other input during the investigation or appeal process other than to the student being advised; the advisor may not speak on the party's behalf or otherwise participate or address or question the investigator, Resolution Officer, or other parties or witnesses.

6. Informal Resolution

If the complainant and respondent agree, certain cases may be resolved informally, including through mediation in appropriate cases. Cases involving allegations of sexual assault are not suitable for mediation. The Title IX Coordinator may also determine that informal resolution is not appropriate based on the facts and circumstances of the particular case. All informal resolutions will be conducted or overseen by the Title IX Coordinator or designee. Under no circumstances will a complainant be required to resolve a matter directly with the respondent.

If both parties are satisfied with a proposed informal resolution, and the Title IX Coordinator considers the resolution to satisfy NewSchool's obligations to provide a safe and non-discriminatory environment, the resolution will be implemented and the informal resolution process will be concluded. If informal resolution does not resolve the matter, the resolution process will proceed to formal investigation. At any point in the process, either the complainant or the respondent may elect to end the informal process in favor of proceeding with a formal investigation.

7. Investigations

If informal resolution is inappropriate, unsuccessful, or not desired by the complainant and the respondent, a formal investigation will be conducted. The investigation of a report of sexual misconduct will begin promptly. Notice will be provided simultaneously to the complainant and the respondent in writing that a complaint has been received by NewSchool and will be investigated under this Policy. The notice shall specify any interim measures that have been implemented.

NewSchool shall determine, given the circumstances surrounding the complaint, the proper party to conduct the investigation. The proper party may or may not be the Title IX Coordinator, and shall be the person best able to conduct an impartial and fair review of the complaint. The investigation will normally include interviewing the complainant(s), respondent(s), witnesses, and other relevant parties and will include a review of any relevant documents and other information. It may include reviewing law enforcement investigation documents (if applicable) and reviewing student and personnel files. Both the complainant and the respondent may provide the investigator(s) with the names of witnesses, documents, and other information. The investigator(s) will exercise their discretion in deciding which individuals identified as witnesses during the investigation should be interviewed and which documents or other information should be reviewed. The interviews, meetings, and other proceedings are not recorded by NewSchool and may not be recorded by others. The complainant and the respondent are afforded equal procedural rights during the investigation. No expert witnesses shall be permitted.

The complainant's prior sexual relationships or conduct are neither relevant nor admissible during the investigation and will not be considered, other than the prior sexual relationship or conduct with the respondent if the respondent alleges consent. The fact that a complainant may currently have or had in the past a dating or sexual relationship with the respondent that was consensual is not sufficient by itself to constitute consent and does not preclude a determination that sexual misconduct occurred.

At any time prior to or during an investigation, the respondent may accept responsibility for some or all of the alleged violations, the matter will then proceed to the sanctioning phase and any appeal of the sanctioning decision.

8. Preparation of Investigation Report.

Upon completion of the investigation, the investigator(s) will prepare a report summarizing the interviews conducted and the evidence reviewed. The report will include the investigator's finding of fact, an assessment of the credibility of the parties and witnesses when appropriate, and a recommended determination as to whether a violation of this Policy has occurred. In reaching this conclusion, the investigator shall use the preponderance of evidence standard.

9. Resolution Procedures.

1. Cases involving allegations of employee violations

If the Respondent is a non-student employee, the Title IX Coordinator or designee will report his or her findings to University Human Resources and Leadership. If Leadership determines, based on the contents of the report, that no violation of NewSchool Policy has occurred, the incident will be closed.

If Leadership determines, based on the contents of the report that a violation of University Policy has or may have occurred, University Leadership will determine an appropriate resolution including remedial and/or disciplinary action up to and including termination of the employee. University Leadership will determine if a hearing is appropriate prior to the determination of the sanctions based on the particular facts presented, including but not limited to the identity of the complainant (student or employee), the nature and/or severity of the offense, and the evidence presented by the investigative

report. Resolution, sanctions and appeals will be governed by the procedures in NewSchool's personnel policies or Faculty Handbook, if applicable, in accordance with the requirements of Title IX.

II. Cases involving allegations of student violations

Sexual misconduct complaints involving student respondents will be governed by the following process. Upon the completion of the investigation, the Title IX Coordinator shall present the investigative report to university leadership which may include, as appropriate, the Chief Academic Officer, Executive Director of Student Affairs, or the Manager of Student Life. The individual or individuals charged with making a determination as to the resolution of the complaint, and sanction, and any remedies for the complainant shall be referred to herein as the "Resolution Officer," although more than one individual may be charged with resolving the complaint. The Resolution Officer shall then determine the appropriate resolution to the complaint, considering factors including but not limited to the identity of the complainant (student or employee), the nature and/or severity of the offense, and the evidence presented by the investigative report. The Resolution Officer shall determine whether a hearing, as outlined in the Judicial Affairs section of the Student Handbook, is appropriate prior to imposition of any sanction. Generally, a hearing will be provided if the probable sanction to be imposed is suspension or expulsion.

The Resolution Officer shall provide written notice to both the complainant and the respondent of the process to be used to resolve the complaint. If no hearing is to be held, both complainant and respondent may make a written submission to the Resolution Officer if they choose. If a hearing is held, the proceedings shall be closed. The complainant and respondent and their respective advisors may be present in the hearing room for all or any portion of the hearing; any witnesses may only be present in the hearing room when being questioned by the Resolution Officer.

If either the complainant or respondent does not wish to be present in the hearing room, he or she shall be given the opportunity to hear or view the proceedings via audio or video transmission from a separate room. Neither party shall be permitted to ask questions at the hearing, although either party may submit to the Resolution Officer requested questions for the other party or witnesses. It shall be in the discretion of the Resolution Officer whether or not to ask the submitted questions, in whole or in part.

The Resolution Officer shall provide both parties with written notice of its findings and the reasons for such findings. The Resolution Officer shall use the preponderance of evidence standard in making his or her findings. If a violation of this Policy is found, the notice shall provide the sanctions to the respondent and to the complainant, as appropriate under Title IX. The notice shall set forth either party's right to appeal, the identity of the Appeal Officer, and the process and time limit for such an appeal.

In addition to discipline against the respondent, resolutions may include remedies for the complainant, which may include steps such as reassignment of a course, change in housing, counseling services,

medical services, academic support services, or changes to the school's overall services or policies, including altering withdrawal penalties within courses. Any remedies offered would be separate from, and in addition to, any interim measure that may have been provided prior to the conclusion of any investigation. Resolutions may also include remedies for the broader University population, such as training or changes to policies or services.

10. Appeals.

Appeals for sexual misconduct complaints involving non-student employee respondents will be governed by the procedures in University personnel policies or Faculty Handbook, as applicable. If any right of appeal is granted through those policies, both the complainant and the respondent shall have equal rights of appeal.

In cases involving student respondents, both parties have the right to appeal the Resolution Officer's finding of responsibility and/or imposition of sanctions. Any appeal must be filed in writing within five (5) days from the notice of resolution. NewSchool will determine the appropriate individual in University leadership to hear any appeal ("Appeal Officer"), depending on the circumstances of the case, including the identity of the respondent. There is a presumption that the decision, and any sanction or discipline, were made properly, and the Appeal Officer may not substitute his or her judgment for that of the Resolution Officer. The sole grounds for appeal are: (1) a procedural error that substantially impacted the determination or sanction; (2) new information that was not available at the time of the investigation or hearing and that could reasonably have had a substantial impact on the determination or sanction; and (3) excessiveness or insufficiency of the sanction. The sanction may be increased only if the complainant appeals on the ground that the sanction was insufficient, and may only be decreased if the respondent appeals on the ground that the sanction was excessive.

The Appeal Officer shall give both parties timely notice of the receipt of an appeal. Both parties shall be provided the opportunity to make a written submission to the Appeal Officer. The Appeal Officer shall be limited to the record below, including any information that was part of the investigation or the resolution hearing. The Appeal Officer shall not conduct another hearing but may conduct interviews with the complainant, respondent, or witnesses in his or her discretion. The party appealing shall have the burden of proof in any appeal. The Appeal Officer shall use the preponderance of evidence standard in the determination of any appeal.

The Appeal Officer shall give written notice to both parties of the outcome of the appeal and the reasons for his or her decision. The decision of the Appeal Officer is final.

Retaliation: Title IX includes protections against retaliation. NewSchool will take immediate and appropriate steps to investigate or otherwise determine if retaliation due to the reporting of sexual misconduct or discrimination occurs.

Training: All individuals with responsibilities under this Policy shall have appropriate training in this Policy and in the requirements of Title IX and related laws. Training shall include training relating to sexual misconduct, including sexual assault, relationship violence, and stalking as defined in this Policy.

Sources of Counseling, Advocacy, and Support: Victims of Sexual Misconduct can receive assistance immediately by calling the local police department (911, if emergency). Students may contact the Student Assistance Program (SAP) by calling 1-866-465-8942 or TDD: 1-800-697-0353. When contacting the SAP, please reference NewSchool's ID, NEWSCHOOL. NewSchool employees may contact the Employee Assistance Program (EAP) by contacting Business Health Services (BHS) at 800-765-3277 or online: at www.bhsonline.com (user name: Laureate). Both the SAP and EAP are free, "Confidential Resources" at NewSchool which means that all conversations will remain confidential and will not initiate any type of investigation into the incident. Sexual assault reports must be made by contacting the NewSchool Title IX Coordinator who is the appropriate University Officials for receiving reports of sexual assault. Victims of sexual misconduct can also receive counseling and support services through the Center for Community Solutions ("CCS"). CCS is a member of the San Diego County Sexual Assault Response Team ("SART"). To contact, please call: 24 – Hour Toll Free Crisis Line: 1-888-DVLINKS (385-4657); Coastal Location: 858-272- 5777; La Mesa Location: 619-697-7477 North County Location: 780-747-6282.

Time Frames for Process: While each situation is different and there can be no way to determine how long an investigation will take, the Title IX Coordinator shall use her best efforts to reach resolution within 60 days from the time the complaint is reported to notice of resolution, exclusive of any appeals.