



Ringling College of Art and Design will not tolerate and will seek to eradicate any behavior by its employees, students, or volunteers which constitutes Sexual Misconduct. Such behavior is prohibited both by law and by College policy. The College is committed to fostering a community that promotes prompt reporting of all types of sexual misconduct and ensures timely and fair resolution of sexual misconduct complaints. It is the intention of the College to take appropriate action to end the misconduct, prevent its reoccurrence and address its effect.

The purpose of the policy is to

- define the forms of sexual misconduct that violate the policy;
- identify resources and support for members of the Ringling College community;
- identify the Title IX Coordinators and their responsibilities related to the policy;
- provide information as to where a member of the Ringling College community can obtain support or access resources confidentially;
- provide information on how a member of the Ringling College community can make a report;
- provide information on how a report against a member of the Ringling College community will be investigated and adjudicated.

This policy applies to all members of the Ringling College community, including faculty, staff and students. All faculty, staff and students are responsible for their actions and behavior, whether the conduct in question occurs on campus or in a different location. As such, this policy applies to both on-campus conduct and relevant off-campus conduct that affects the Ringling College community.

Vendors, independent contractors, volunteers, visitors and others who conduct business with Ringling College or on College owned or controlled property are also expected to comply with this policy. The College will take timely action in all allegations of sexual misconduct to ensure the safety of the community and to provide an environment free from gender and sex discrimination.

Privacy and Confidentiality

The College is committed to protecting the privacy of all individuals involved in a report of sexual misconduct, and will balance individual privacy with its obligation to conduct a thorough review of allegations to protect the parties and the broader community and maintain an environment free from sexual misconduct.

Faculty, staff and students wishing to obtain confidential assistance without making a report to the College may do so by speaking with a confidential resource listed below. A **confidential** resource for students is the College counseling staff in the Peterson Counseling Center (941) 893-2855 and the Campus Chaplain (941) 309-0200. A **confidential** resource for faculty and staff is the Employee Assistance Program (EAP). The toll-free phone number of the Employee

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Assistance Program is (877) 240-6863. When a victim seeks medical treatment for sexual assault, medical personnel are required to report to the police, but victims are not required to file formal charges unless desired.

Note that limitations of confidentiality may exist for individuals under the age of 18.

The College will respect, to the greatest extent possible, the privacy of individuals who choose to report to any other employee of the College. Except for the confidential resources identified in this policy, all other College staff and faculty who receive a report of sexual misconduct are required to elevate the report to the Title IX Coordinator or the Deputy Title IX Coordinator for investigation and response.

Information related to a report of sexual misconduct will be shared with those College employees who “need to know” to assist in the investigation and/or the resolution of the complaint.

Where the College has received a report of sexual misconduct but the complainant requests that he or she remain unidentified, and/or requests that the College not pursue an investigation, the College must balance this request with its responsibility to provide a safe and non-discriminatory environment for all members of the community. The College is required to take all reasonable steps to investigate and respond to a complaint, but its ability to do so may be limited by the complainant’s request. However, under compelling circumstances - including evidence of a pattern of repetitive behavior, the use of force or threat of force, or the use of a weapon by the respondent - the College may conduct further investigation or take another appropriate measure without the complainant’s consent.

If a report of misconduct poses an immediate threat to the community when timely notice must be given to protect the health or safety of the community, the College may not be able to maintain the same level of privacy. Immediate threatening circumstances include, but are not limited to, reported incidents of misconduct that include the use of force, a weapon, or other circumstances that represent a serious and ongoing threat to the community.

A complainant will be informed whenever possible of any action the College takes to resolve the complaint, including further investigation and correction or disciplinary steps.

Under Florida law, the College is mandated to report any abuse of a minor (under the age of 18) to the Florida Abuse Hotline at 1-(800) 962-2873.

All resolution proceedings are conducted in compliance with the requirements of FERPA, the Clery Act, Title IX, the Violence Against Women Reauthorization Act (VAWA) and College policy. No information shall be released from these proceedings except as required or permitted by law and College policy.

Prohibited Conduct and Definitions

This policy addresses a broad spectrum of behavior, all of which fall under the broad definition of Sexual Misconduct. The term Sexual Misconduct includes: sexual assault, sexual contact, sex-based communication and sexual exploitation. Sexual Misconduct also includes means actual, attempted or alleged criminal sexual abuse as defined by the State of Florida. Complete definitions, under College policy, including what it means to give effective “consent” can be found below and in the *Student Code of Conduct*.

Sexual Misconduct does not include “Sexual Harassment” which is addressed under the College’s *Non-Harassment Policy* and the *Student Code of Conduct*. In compliance with the *Violence Against Women Reauthorization Act (VAWA)*, sexual harassment, including stalking, cyber-stalking, domestic violence and dating violence as defined by the VAWA are prohibited under the *Non-Harassment Policy*, the *Sexual Misconduct Policy* and the *Student Code of Conduct*. See *VAWA Compliance* and the *Student Code of Conduct* in the *Student Handbook* for definitions. Procedures to report and resolve complaints are found in the disciplinary procedures, the *Non-Harassment Policy* and the *Sexual Misconduct Policy*, in the *Student Handbook*.

Definitions:

Sexual Assault is having or attempting to have sexual intercourse or sexual contact with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact.

Sexual Contact includes kissing, touching the intimate parts of another, causing the other to touch one's intimate parts, or disrobing of another without permission. Intimate parts may include the breasts, genitals, buttocks, mouth or any other part of the body that is touched in a sexual manner.

Sexual-based Communication is speaking to, or directing any kind of communication, words or images of a sexual nature at another person that is not welcomed by the receiving party. If the communication is unwelcome; that is, if it occurs without the other person’s consent or participation, it may create a hostile learning and living environment. Sexual-based communication can include interactions in person, by phone, electronic messages and photos, written words or images such as graffiti and social media postings.

Sexual Exploitation is when an individual takes non-consensual or abusive sexual advantage of another, for his/her own benefit; or to benefit anyone other than the one being exploited; and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Prostituting another person (i.e. personally gaining money, privilege, or power from the sexual activities of another person)

- Non-consensual video, photography, audiotaping, or any other form of recording, of sexual activity;
- Non-consensual sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- Allowing others to observe a personal act of consensual sex without knowledge or consent of the partner;
- Engaging in voyeurism (being a “peeping tom”);
- Knowingly or recklessly transmitting an STD or HIV to another person;

Consent is the conscious affirmative agreement to voluntarily engage in sexual activity with another person. Consent cannot be given if it results from the use or threat of physical force, intimidation, or any other factor that would eliminate an individual’s ability to exercise his/her own free will to choose whether or not to have sexual contact. Consent cannot be given if an individual is incapacitated, under the influence of drugs or alcohol, mentally incompetent or in an altered state of consciousness. Consent may be withdrawn by either party at any time. Previous consent does not automatically provide consent for a current sexual activity. Failure of an individual to say “no” does not imply consent.

Retaliation

Any retaliation committed by the accused abuser by way of irresponsible, malicious or unfounded complaints will be investigated. Ringling College will discipline any individual who retaliates against any person who reports alleged Sexual Misconduct or who retaliates against any person who testifies, assists, or participates in an investigation, a proceeding, or a hearing relating to a Sexual Misconduct complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

Definition of Retaliation: Acts or attempts to retaliate or seek retribution against the complainant, respondent, or any individual or group of individuals involved in the investigation and/or resolution of an allegation of Sexual Misconduct. Retaliation can be committed by any individual or group of individuals, not just a respondent or complainant. Retaliation may include continued abuse or violence, other forms of harassment, and slander and libel.

False Complaints

Submitting a good faith complaint, concern or report of harassment will not affect the complainant’s employment, grades, academic standing, or work assignments. However, an individual found to have made a false complaint or to have knowingly and willingly given false information during an investigation will be subject to disciplinary action.

Title IX Coordinators

Title IX Coordinator (Faculty and Staff):

Christine DeGeorge – Vice President for Human and Organizational Development
Office location: Verman Kimbrough Bldg, First Floor
(941) 359-7619 ccarnegi@ringling.edu

Deputy Title IX Coordinator (Students):

Dr. Tammy S. Walsh - Vice President for Student Life and Dean of Students
Office location: Ulla Searing Student Center, Second Floor
(941) 359-7510 twalsh@ringling.edu

The Title IX Coordinator and Deputy Title IX Coordinator are knowledgeable and trained in the College's policies and procedures, state and federal laws, that apply to Sexual Misconduct and Harassment, and the dynamics of sexual misconduct and Harassment. The Title IX Coordinator and Deputy Title IX Coordinator are available to meet with any individual to discuss the options for resolving a report under this policy.

The College provides resources to both the complainant and respondent in making decision, obtaining information about options under this policy, and assisting both parties in the event that a report of sexual misconduct is made.

Reporting and Investigating Procedures

Reports will be addressed according to the status of the respondent as follows:

If the respondent is a student, the Office of Student Life will utilize the student disciplinary process in the *Student Handbook* to address the report. If the respondent is a faculty or staff member, or other individual, the Office of Human Resources will utilize the procedure below to address the report.

Employees and volunteers are required to report immediately any case of known or suspected Sexual Misconduct in compliance with Florida law. They must also report incidents to the Title IX Coordinator.

As required by Florida law, upon notification of known or suspected sexual abuse, abandonment or neglect of a child under age 18, employees, students and volunteers should report as described in the Ringling College of Art and Design *Child Protection Policy*. This policy can be found in the student and employee handbooks.

Time Frames For Responding To Reports

The College will promptly investigate and respond to all reports of Sexual Misconduct. The time frames are guides and may be extended because of extraordinary circumstances. Each case is unique and the process for handling the incident will be impacted by factors such as: the complexity of the investigation, the scope of the allegation, the parties' schedules and availability, and the academic calendar. Parties will be notified in writing of the final outcomes of the hearing or other action which concludes the complaint process. The College will provide parties with periodic status updates as needed or requested.

Procedures for a Complaint

1. Student to Student Sexual Misconduct

Student to student sexual misconduct complaints are to be processed under the disciplinary procedure established and operated by the Office of Student Life. All other sexual misconduct complaints are to be processed by the procedures outlined in this policy.

2. Student complaints against faculty or staff and all other complaints

Procedures:

The Vice President for Human and Organizational Development or designee, or the contact person on the Human Rights Committee*, will prepare a written record of the individual's factual allegations which the complainant will then have the opportunity to review before signing. Complaints should be brought as soon as possible. Although the College recognizes that the sensitivity involved in certain situations may cause individuals to delay taking action, all complaints should be brought within six months if at all possible because a delay in reporting impedes the investigation.

A grievant may elect to utilize the informal process, to facilitate a solution without making a formal complaint. The informal process helps parties to reach a mutually agreed upon solution. Participation in the informal process does not mean that an individual gives up any rights to file a formal complaint, and both parties must agree to a resolution. The informal process is not an available option if the complaint is related to sexual assault. The informal process does not preclude the College from conducting an investigation of a complaint or taking disciplinary action.

Once the initial complaint is prepared, the Vice President for Human and Organizational Development will investigate the complaint, engage a third party investigator, and/or convene the Human Rights Committee to conduct an appropriate investigation of the allegations. Complaints will be given an impartial and timely investigation. The Vice President for Human and Organizational Development, the investigator, or a designated member of the Human Rights Committee will prepare a report of the investigation. Should there be a conflict, or for any reason the Vice President or a member of the committee is unable to carry out their responsibilities under this policy in an impartial manner, the College may designate an alternate official to preside over the investigation.

Both the complainant and Respondent shall have the option of assistance by an advisor of their choice from the College faculty, staff, student body or parent (students only), provided the individual is willing to participate in the process. The advisor's role is to provide support and assistance during the process but not to speak on behalf of the complainant or respondent or in any way interfere with the process.

When a complaint is filed, the Vice President for Human and Organizational Development will notify the respondent and provide him/her with the information regarding the complaint. The respondent may submit a written response to the Vice President for Human and Organizational Development within seven (7) working days.

Upon conclusion of the investigation, the Committee will make a recommendation for resolution to the Vice President over the respondent's department, or their designee, for resolution. The Vice President will consider the findings and recommendations of the investigator(s) and render a decision. The Vice President will not reopen a completed investigation unless it can be shown that the investigating individuals made specific errors in reviewing the facts or if additional credible information comes to light. The Vice President will render a decision within 20 working days. Time limits may be extended at the discretion of the Vice President for Human and Organizational Development. Decisions will be made using the preponderance of evidence standard (i.e. it is more likely than not that the alleged conduct occurred).

If the Committee determination is not acceptable to either the Complainant or Respondent, the decision may be appealed with seven (7) working days to the College's Vice Presidents, or their designees, who will serve as the appeals committee. The Appeals Committee will review the complaint, any response, any documents provided by the Complainant or Respondent, and any other documents. The Appeals Committee also has the option, but not the obligation, to schedule a hearing and/or take testimony from the parties and other witnesses. Upon conclusion of its review and/or investigation, the appeals Committee will deliberate and make a written report, including its conclusions and recommendations to the Vice President. The Vice President will then have the option of amending his/her determination based on the recommendations of the Appeals Committee. The Vice President determination will then be final.

* The Human Rights Committee is a fact-finding committee whose purpose is to respond to reports of Harassment and Sexual Misconduct. The Committee is a standing committee appointed by the President and comprised of three faculty members, two staff members, and two students. The student members of the Committee will participate only in those cases where other students are involved. The Vice President for Human and Organizational Development or designee will serve as coordinator without vote. If the complaint should be against the Vice President for Human and Organizational Development, one of the committee members is to serve as the coordinator, with vote.

Any employee or volunteer who is accused in a reported incident of sexual misconduct may be immediately relieved of responsibilities, suspended, or the College may take other actions as it determines. Reinstatement of relieved or suspended employees or volunteers shall occur at the sole discretion of Ringling College.

Disciplinary Proceedings/Action:

Students accused of sexual misconduct/sexual assault are subject to disciplinary action in accordance with the provisions of the *Code of Conduct* as contained in the Ringling College of Art and Design *Student Handbook*, whether or not formal criminal charges are filed by the victim.

Disciplinary proceedings will be conducted by College officials who receive training.

The Department of Education's Office of Civil Rights has interpreted Title IX to require schools to evaluate evidence of alleged sexual misconduct under a "preponderance of the evidence" standard, and that is the standard of evidence that is used, meaning it is more likely than not that said violation occurred.

Both the complainant and the respondent are entitled to the same opportunities to:

- a) have an advisor of their choosing accompany them during any related meeting or during any campus disciplinary proceedings – the advisor may not participate or speak for the complainant or respondent.
- b) bring witness;
- c) be notified simultaneously and in writing of the outcome of the proceeding and of appeal procedures;
- d) be notified of any change to the result before it becomes final, and when the result becomes final;
- e) have disciplinary proceedings completed within a reasonable timeframe.

A student found in violation of the *Sexual Misconduct Policy* is subject to disciplinary action, which may include suspension and/or expulsion from the College.

Any employee who is determined, after an investigation, to have engaged in sexual misconduct in violation of this policy will be subject to disciplinary action. The College will take whatever corrective action and/or disciplinary measures it considers appropriate under the circumstances, up to and including, but not limited to, probation, suspension, transfer or immediate termination of an employee in accordance with the policies and procedures outlined in the Faculty or Staff *Handbook*.

Maintenance of Records and Documents

Ringling College shall maintain all records and documentation required by law. The College will take great care with confidentiality of the victim including publicly available record-keeping (i.e. Clery Reporting) that excludes personally-identifiable information on the victims to the extent permissible by law.

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