



NEW YORK AUTOMOTIVE AND DIESEL INSTITUTE

**TITLE IX POLICY AGAINST DISCRIMINATION, HARASSMENT, SEXUAL
ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL
EXPLOITATION, AND STALKING**

Effective September 2020

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**POLICY AGAINST DISCRIMINATION, HARASSMENT, SEXUAL ASSAULT, DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL EXPLOITATION AND STALKING**

STATEMENT OF EQUAL OPPORTUNITY

The New York Automotive and Diesel Institute (NYADI) is committed to providing a working, learning, and living environment free from unlawful discrimination and harassment and to fostering a nurturing and vibrant community founded upon the fundamental dignity and worth of all of its members. The NYADI does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin, military status, marital status, partnership status or any other legally protected characteristic, in admissions, financial aid, or employment, or in the administration of any NYADI program or activity, including athletics.

Consistent with its commitment and with applicable laws, the NYADI prohibits discrimination on the basis of membership in a protected class, discriminatory harassment, sexual harassment, sexual assault, sexual exploitation, domestic violence, dating violence and stalking and further prohibits knowingly assisting another in committing such an act. The NYADI is committed to provide those who feel that they have been subjected to conduct in violation of this policy with mechanisms for seeking redress and resources for support. Accordingly, the NYADI 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.

Community members are protected from sexual misconduct regardless of their sex, sexual orientation, immigration status, citizenship status or national origin, or any other protected characteristic.

EQUAL OPPORTUNITY OFFICER AND TITLE IX COORDINATOR

The NYADI's Equal Opportunity Officer and Title IX Coordinator 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 VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act.

The NYADI's Equal Opportunity Officer and Title IX Coordinator is:

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

The NYADI Equal Opportunity Officer and Title IX Coordinator is:

Patrick Hart, College President 178-18 Liberty
Avenue, Jamaica, NY 11433 Email:
pjhart@nyadi.edu; Phone: 718-658-0006

External inquires may be made to the Office for Civil Rights (OCR).

Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: 800.421.3481
Facsimile: 202.453.6012
TDD#: 877.521.2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Equal Employment Opportunity Commission (EEOC)
New York District Office
33 Whitehall Street, 5th Floor
New York, NY 10004
Phone: 800.669.4000
Fax: 212.336.3790
TTY: 800.669.6820
Web: <http://www.eeoc.gov/contact/>

ACADEMIC FREEDOM

Nothing in this policy shall abridge academic freedom or the NYADI's educational mission or prohibit genuine contributions to the marketplace of ideas. 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.

PROHIBITED CONDUCT

All members of the NYADI community, including applicants, students, employees (both faculty and staff) and third parties doing business with the NYADI are prohibited from engaging in discrimination, discriminatory harassment, sexual or sex-based harassment, sexual assault, dating violence, domestic violence, sexual exploitation, stalking, and retaliation 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.

Definitions

For purposes of these policies and procedures, the following definitions apply:

Discrimination is defined as:

- Treating individuals or groups less favorably because of their protected characteristic(s);
or
- Having a policy or practice that has a disproportionately adverse impact on individuals or groups based upon a protected characteristic.

Protected Characteristic refers to any personal trait or category that is protected by law, including an individual's race, religion, color, ethnicity, national origin, age, sex, gender identity or expression, sexual orientation, pregnancy, marital status, partnership status, creed, genetic predisposition and carrier status, alienage, citizenship status, veteran status, disability, or any other characteristic protected by law.

Discriminatory Harassment is defined as substantially interfering with an individual's living, learning or working environment by subjecting him or her to severe or threatening conduct or to repeated humiliating or abusive conduct, based on his or her membership in a protected characteristic(s). Under this policy, harassment is verbal or physical conduct that belittles or shows hostility or aversion toward an individual because of his or her membership in a protected characteristic(s), or that of his or her relatives, friends, or associates, and that:

- Has the purpose or effect of creating an intimidating, hostile, or offensive living, learning or working environment;
- Has the purpose or effect of unreasonably interfering with an individual's academic or job performance or limiting or depriving someone of the ability to participate in or benefit from the NYADI's educational programs, activities and/or employment; or

- Otherwise adversely affects an individual's academic or employment experience.

Harassing conduct includes, but is not limited to: epithets, slurs, or negative stereotyping; threatening, intimidating, or hostile acts, the circulation or display of written or graphic material that belittles or shows hostility or aversion toward an individual or group (including through e-mail and other electronic media).

Sexual or Sex-based Harassment is defined as unwelcome sex-based verbal, visual or physical conduct:

- Has the purpose or effect of creating an intimidating, hostile, or offensive living, learning or working environment;
- Has the purpose or effect of unreasonably interfering with an individual's academic or job performance or limiting or depriving someone of the ability to participate in or benefit from the NYADI's educational programs, activities and/or employment; or
- where submission to the conduct is explicitly or implicitly made a term or condition of an individual's education, employment, or participation in other activities sponsored by the NYADI; or
- where submission to or rejection of the conduct is used as the basis for academic or employment decisions.

Examples of sex-based harassment that may cause a hostile environment include, but are not limited to:

- subtle or persistent pressure for sexual activity;
- unnecessary touching, or brushing against a person;
- requesting or demanding sexual favors concerning employment, academic activities or other NYADI activities;
- unwelcome 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 males or females.

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

Sexual Assault--Non-consensual Sexual Contact includes any intentional sexual touching, 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. Intentional sexual contact includes contact with the breasts, buttocks or groin, or touching another with any of these body parts; making another person touch any of these body parts; and any intentional bodily contact in a sexual manner.

Sexual Assault--Non-consensual Sexual Intercourse includes any form of sexual penetration or intercourse (vaginal, anal or oral), however slight, with any object or body part by a person against other 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.

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

Domestic Violence 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; or (iii) 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.

Dating Violence 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 would be determined based on the reporting party'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. For the purposes of this definition, dating violence would include, but would not be 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".

Sexual Exploitation includes but is not limited to:

- invasion of sexual privacy and voyeurism (in-person or through audio or video recording);
- knowingly transmitting a sexually transmitted infection;

¹ **Violations of Law.** Although the NYADI only enforces its own Policy, some of the conduct prohibited by this policy may also be prohibited by New York state law and subject the perpetrator to criminal prosecution. New York State Penal Code describes prohibited Sex Offenses in §§ 130.00 to 130.91 and 130.95 to 130.96 and prohibited Stalking Offenses in §§ 120.45 – 120.60. Those interested in filing a complaint with the police are encouraged to do so, and the NYADI will assist any complainant in contacting law enforcement.

- exposing of a person's body or genitals;
- prostituting or soliciting another community member.

Stalking is a course of conduct directed at a specific person that would cause a reasonable person to feel fear for her, his, or others' safety, or to suffer substantial emotional distress.

Examples of 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.

Sexual Misconduct includes sexual assault, sexual exploitation, sexual or sex-based harassment, dating violence, domestic violence, and stalking.

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 or participation in a school or government investigation or proceedings related to an alleged violation of this Policy or related civil rights law. 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.

Intimidation means unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Affirmative 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. Coercion, force, or threat of either 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 of the legal age of consent, which is 17 in New York. A person who is incapacitated for any reason 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.

Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation and coercion to overcome resistance.

Coercion is unreasonable pressure. The use of emotional manipulation to persuade someone to do something they may not want to do, such as being sexual or performing certain sexual acts, constitutes coercion. Coercing someone into having sex or performing sexual acts does not constitute obtaining consent and is considered sexual misconduct.

Reporting Party is the person(s) who allege(s) that this policy has been violated.

Responding Party is the person who is accused of violating this policy.

WHEN AND TO WHOM DOES THIS POLICY APPLY

This policy applies to the conduct of NYADI applicants, students and employees, including faculty and non-faculty, as well as third parties doing business with The NYADI or attending NYADI sponsored programs or activities.

This policy shall apply to conduct that occurs on the NYADI's campus, on NYADI technological systems, at NYADI sponsored programs, activities and events, as well as off-campus when the accused is a matriculated NYADI student or when the conduct has a continuing adverse impact upon the NYADI work or school environment. 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.

ROMANTIC RELATIONSHIPS

While truly consensual romantic relationships are not sexual harassment, romantic relationships are susceptible to being determined after the fact to have been nonconsensual, and even coercive, whenever there is an inherent power differential between the parties. Therefore, any such relationship between a faculty or staff member and a student or between a supervisor and subordinate is prohibited.

REASONABLE ACCOMMODATION OF DISABILITY, PREGNANCY AND RELIGION

DISABILITY

The NYADI is committed to fostering a learning, living, and working environment that is accessible for individuals with disabilities in compliance with federal, state and local law.

It is the NYADI's policy not to discriminate against any qualified applicant, student or employee because of such individual's disability or perceived disability so long as the applicant or student can meet the essential requirements of the course or degree or the employee or applicant can perform the essential functions of the job. Consistent with this policy of nondiscrimination, the NYADI will provide reasonable accommodations to a qualified individual with a disability who has made the NYADI aware of his or her disability. The individual may be asked to present medical documentation of the need for accommodation. NYADI personnel will work with the individual to identify and provide reasonable and appropriate accommodations as needed.

Upon request, individuals with disabilities will be provided with reasonable accommodations to permit them to avail themselves of the complaint procedures relating to claims of prohibited conduct.

An employee, applicant, or student who has questions regarding this Policy or believes that he or she has been discriminated against based on a disability or that an accommodation request has not been appropriately addressed should notify the Title IX Coordinator. No individual will be retaliated against for requesting an accommodation.

Procedures for Requesting Reasonable Disability Accommodations

Students

Students seeking reasonable accommodations, modifications of policies, practices or procedures, and/or auxiliary aids and services for a disability should contact the Director of Student Services. When the need for accommodation can be anticipated, students should request accommodations in advance of the need and ideally at least six weeks before the beginning of the semester. In the event the Director of Student Services is unavailable, such requests should be directed to Title IX Coordinator. Contact information for the Director of Student Services is:

Eileen Smith, Dean of Student Affairs
178-18 Liberty Avenue, Jamaica, NY 11433
Email: esmith@nyadi.edu Phone: 718-658-0006

Employees

Employees seeking reasonable accommodations for a disability should contact Director of Operations & Security:

Susan Sanchez, Bursar/HR
178-18 Liberty Avenue, Jamaica, NY 11433
Email: ssanchez@nyadi.edu Phone: 718-658-0006

PREGNANCY

The NYADI will provide reasonable accommodations based on the needs of pregnancy, child birth or related medical conditions consistent with applicable federal, state and local law. The individual may be asked to provide medical documentation of the need for accommodation. No individual will be retaliated against for requesting an accommodation.

Students

Students who require accommodations for pregnancy, child birth or related medical conditions should contact the Dean of Academic Affairs.

Employees

Employees needing an accommodation based on pregnancy, child birth or related medical conditions should contact the Director of Human Resources.

RELIGION***Students***

Consistent with the NYADI's policy of supporting cultural diversity, no student shall be refused admission to or be dismissed from the NYADI solely because he/she is unable to participate in any examination, study, or work requirement due to his/her religious observances and practices. It is the intent of the NYADI to reasonably accommodate an individual student's religious obligations and practices without penalty, based on good faith, effort and due notice to those concerned of the anticipated religious observance date. It is the student's obligation to provide prior notice of anticipated absences. Students absent due to religious observances and practices will be given an opportunity to make up any examination, study, or work requirement missed, without penalty. Students who require an accommodation for religious observance should contact the Dean of Academic Affairs.

Employees

The NYADI will provide reasonable accommodations of religious practices and beliefs consistent with applicable federal, state and local law. Employees needing a religious accommodation should contact the Director of Human Resources.

No individual will be retaliated against for requesting an accommodation.

REPORTING TO LAW ENFORCEMENT

If you are in immediate danger, dial 911 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:

NYPD 103rd Precinct
168-02 91st Ave,
Jamaica, NY, 11432-5229
Phone (718) 657-8181

If you would like someone to assist you in contacting the police or go with you to the police department, either the Title IX Coordinator or Dean of Academic Affairs can assist you.

The NYADI will investigate a violation of this Policy regardless of whether a criminal investigation is being conducted. In the event a criminal investigation is conducted into events that are the subject of an investigation under this Policy, the NYADI will not delay its investigation unless specifically requested by law enforcement. Even then, the investigation will not be delayed more than ten days, absent extraordinary circumstances.

Victims may report an incident to law enforcement regardless of whether they choose to report the incident to the NYADI. Conversely, reporting an incident to the NYADI does not require the reporting party to report the incident to law enforcement. The NYADI 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 misconduct without the reporting party'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 protective measures that the NYADI may take, law enforcement may be able to provide additional protections, such as a restraining order. The NYADI can assist students in contacting law enforcement and legal services organizations to learn about additional remedies that may be available.

COMPLAINT PROCEDURES

COMPLAINTS OF SEXUAL MISCONDUCT INVOLVING STUDENTS

(This procedure is used to investigate and adjudicate complaints of sexual misconduct by students against students; by students against faculty, staff or third-parties doing business with the NYADI, or by faculty, staff or third-parties doing business with the NYADI against a student.)

Filing a Complaint

It is in the best interest of the entire NYADI community for individuals to report incidents of sexual misconduct. The Title IX Coordinator (or his or her designee) is designated to investigate reported incidents, address inquiries and coordinate the NYADI's compliance efforts. Any member of the NYADI community who believes he or she has been subjected to sexual misconduct should submit a complaint, if possible in writing, to the Title IX Coordinator or the Dean of Academic Affairs. Individuals who observe or become aware of an incident of sexual misconduct are encouraged to report the incident as well. Responsible employees are required to report any incident involving a student of which they become aware. Responsible employees will refer any complaints received to the Title IX Coordinator.

Anonymous Reporting and Reports from Individuals other than the Victim. If the NYADI receives a report of an incident of sexual misconduct anonymously or from a third party, the alleged victim will be informed of the report promptly. The policy and procedures will be applied in the same manner as if the alleged victim reported the incident.

Alcohol and drug use. The health and safety of every student at the NYADI is of utmost importance. The NYADI recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that 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. The NYADI strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A 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 NYADI officials or law enforcement will not be subject to the NYADI'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.

Seeking Help. Regardless of whether a community member decides to file a complaint with the NYADI, the NYADI encourages the community member to seek out available medical and mental health resources.

Passage of Time. Community members who wish to make a complaint at a later date may contact any responsible employee. Please note that a delay in reporting could weaken the information, or the NYADI's ability to gather information, used to determine whether a person is responsible for sexual misconduct. Furthermore, the ability of the NYADI to take action may be limited by the matriculation or employment status of the respondent.

Unknown or Unaffiliated Assailant. If the responding party is unknown or is not a member of the NYADI community, the Title IX Coordinator will assist the reporting party in identifying appropriate resources and contacting local law enforcement if the reporting party would like to file a report. In addition, the NYADI may take other steps to protect the reporting party and the community.

Contents of Complaint. Although individuals are encouraged to submit complaints in writing (electronically or by hard copy), complaints can be submitted to the Title IX Coordinator orally as well. The complaint should clearly describe the alleged incident, when and where it occurred, and the desired remedy, if known.

Processing of Complaint

Upon receipt of a complaint, the Title IX Coordinator will review the complaint to determine whether the facts as alleged would constitute a violation of NYADI policy. If so, the Title IX Coordinator will open a formal investigation.

As soon as possible and no later than three business days after receiving the complaint, the Title IX Coordinator or his or her designee will meet with the reporting party, gather additional information about the allegations, as necessary, provide a written copy of this Policy and Procedure to the reporting party, explain the process, and identify available interim protective measures and support resources (as described below).

Within two business days of meeting with the reporting party, the Title IX Coordinator will meet with the respondent, provide a written copy of this Policy and Procedure to the respondent, explain the process, identify and explain any interim protective measures imposed that impact the respondent, identify the provision of this policy the responding party has been accused of violating, and identify available support resources.

The Title IX Coordinator or a trained investigator appointed by the Coordinator will lead the investigation. The investigation and adjudication process, including any appeal, should be complete within 60 days of the receipt of the complaint, if not sooner. Should this process last longer than 60 days, the Coordinator will communicate the reasons and expected timeline to all parties.

Remedial Action

After reviewing the complaint, the Title IX Coordinator, his or her designee, or the lead investigator in consultation with the Title IX Coordinator, may take interim protective measures to protect the safety and well-being of the individuals involved and the New York Automotive and Diesel Institute community.

Available interim measures are listed below. The NYADI will determine which measures are appropriate for a particular reporting party on a case-by-case basis. Not all of the measures listed below will be necessary in every case to keep victims safe and ensure their equal access to educational programs and activities. If the reporting party identifies an interim measure that is not already provided, the NYADI will consider whether the request can be granted. In those instances where interim measures affect both the reporting party and the respondent, the NYADI will minimize the burden on the reporting party wherever appropriate.

Interim protective action is preliminary and only in effect until the investigation process is complete and a decision is rendered. Available interim protective measures include:

- Referral to counseling and health services;
- education to the community;
- Implementing contact limitations between the parties ;
- changes in on-campus studio accommodations;
- studio usage suspensions;
- changes in housing accommodations;
- housing suspensions;
- changes in academic schedule or other academic accommodations;
- changes in NYADI work schedule, location or reporting line;
- transportation accommodations;
- campus restrictions;
- providing campus escorts;

- interim suspension.

These actions may be instituted at any point during the investigation process. Reporting parties and respondents are encouraged to request interim protective measures when needed.

Protective 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 the individual requests a change in work schedule, the individual's supervisor(s) will need to be informed in order to effectuate the change.

The reporting party or the responding party may request review and modification of any protective measure(s) that directly impacts him or her, including review of the need for and terms of the protective measure(s), by submitting a letter to the Title IX Coordinator along with any evidence he or she wishes to present. In the event the measure impacts the other party, he or she will be given an opportunity to state his or her position and present evidence as appropriate. The Title IX Coordinator or his designee will review the submissions and make a determination.

Depending upon the circumstances, some or all of the protective measures may be lifted once the process is complete and a decision is rendered or they may be continued to assist the reporting party after a determination has been made, even if it is determined that some or all of the allegations have not been substantiated.

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

In addition to the measures that the NYADI may take, law enforcement may be able to provide additional protections, such as a restraining order. The NYADI can assist students in contacting law enforcement and legal services organizations to learn about additional remedies that may be available.

Mediated Resolution

Where appropriate and with the consent of the reporting party, the Title IX Coordinator or investigator may attempt to mediate a resolution of the matter as amicably and privately as possible. If a satisfactory resolution is reached, the matter will be considered closed. If it becomes clear that a mediated resolution will not be possible, the matter will be investigated. Complaints of sexual assault, however, will not be mediated under any circumstances.

Formal Investigation

Within seven days of receiving the complaint, the Title IX Coordinator will commence an investigation or will designate an investigator who has been trained regarding the investigation of claims of sexual misconduct.

The investigator will conduct a prompt, fair, impartial, and thorough investigation. During the investigation, the appointed investigator will:

- interview the reporting party, the responding party, and any material witnesses (the investigator will not interview witnesses whose sole purpose is to provide character information);
- gather all relevant documentary and/or physical evidence (this may include, but is not limited to, texts, emails, photos, Facebook posts, voicemail messages, etc.) from the reporting party, responding party, and witnesses;

- give the responding party proper notice of the complaint and investigation and provide an opportunity for the responding party to provide information;
- complete the investigation in a timely manner, without unnecessary deviation from the intended timeline; and
- maintain communication with the reporting party and the responding party on the status of the investigation and overall process.

Information Regarding Romantic and Sexual History

The investigator will not consider information concerning the romantic or sexual history of either the reporting party or the respondent, except as provided by the reporting party or responding party relating to their shared sexual history. If either offers such information, the other will have the right to respond.

Information re Mental Health Diagnosis or Treatment History

Each party shall have the right to object to the investigator's consideration of his or her own mental health history or treatment. In the event such an objection is raised, the investigator will neither gather nor consider information regarding mental health diagnosis or treatment.

Prior Conduct Violations

The investigator will not consider prior alleged misconduct.

Notification of Specific Allegations

Prior to the conclusion of the investigation, the responding party will be given written notice of the date, time, location and factual allegations concerning the alleged violation as well as the specific policy provisions he or she is alleged to have violated. The responding party will then have an opportunity to provide any additional evidence or information, he or she may think is relevant.

Review of Statement

Prior to the conclusion of the investigation, the reporting party and responding party will each have an opportunity to review the investigator's written recitation of the statements he or she presented during his or her own interview(s) and to provide the investigator with any corrections or clarifications that may be necessary.

Impact Statement

Within two days of reviewing the investigator's recitation of his or her statements, the reporting party may submit a statement of impact to the Title IX Coordinator, which will be considered by the Dean of Academic Affairs in connection with determining an appropriate sanction in the event there is a finding of responsibility.

Investigation Report

At the conclusion of the investigation, the investigator will prepare a written investigation report. The report will clearly set forth the prohibited conduct alleged and will include summaries of all witness interviews and any documentary or physical evidence identified. The report will further provide the investigator's assessment of whether it is more likely than not that the prohibited conduct occurred and the evidentiary basis for that assessment.

Declining to Participate

If the reporting Party or the student responding party chooses not to cooperate in the investigation, the investigator will still complete the investigation and prepare a report based solely upon the information available. No adverse inference will be made as a result of a party's decision not to participate in the investigation, but a determination will be made based upon the information available. Employee

respondents who refuse to cooperate in the investigation may be subject to disciplinary action, up to and including dismissal.

If the reporting party chooses to withdraw the complaint prior to the completion of the investigation, the Title IX Coordinator will determine whether to continue to pursue the complaint employing the factors outlined above.

Confidentiality

Even NYADI officers and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide 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 the NYADI 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.

Determination of Responsibility and Discipline

The Investigator's fact-finding report and recommendations will be submitted to the Title IX Coordinator within four weeks of the Title IX Coordinator's receipt of the complaint, absent unanticipated circumstances. The Title IX Coordinator will provide that information to the Dean of Academic Affairs who will assess the information contained in the Investigator's report, conduct any further inquiry he or she may deem necessary and then make a determination using the preponderance of the evidence standard; in other words, the Dean of Academic Affairs will determine whether it is more likely than not that a policy violation occurred.

If the investigation concludes the responding party responsible for violating the policy, the Dean of Academic Affairs shall determine the appropriate disciplinary sanction after considering the relevant factors, which include the severity of the violation, in cases of sexual assault, 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 reporting party, the ongoing impact on the campus environment, and any ongoing threat to the campus community. In determining the appropriate sanction, the Dean of Academic Affairs may consult with the Title IX Coordinator and/or, if the responding party is a student, the student's faculty advisor, if the responding party is a faculty member, the Director of Human Resources, and/or, if the responding party is a staff member, the respondent's supervisor. Sanctions may include:

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

In addition to or in place of the above sanctions, the NYADI may assign any other sanctions as deemed appropriate.

The Title IX Coordinator will provide both the reporting party and the responding party with written notice of the determination and the rationale for such determination simultaneously and within five calendar days of receipt of the investigator's report and recommendation. In cases of sexual assault, dating violence, domestic violence and/or stalking, the reporting party and the responding party will be informed simultaneously and in writing of any sanctions imposed and the rationale for such sanction. In other cases of sexual misconduct, the reporting party will only be informed of discipline to the extent such sanctions relate to the reporting party.

For instance, if the responding party has been restricted from being present in the reporting party's housing accommodation, the reporting party would be informed of that restriction.

Appeals

Appeals are permitted in cases of alleged sexual assault, dating violence, domestic violence and stalking. After receiving written notification of the Dean of Academic Affairs' decision, both the reporting party and the responding party have 14 days to appeal the decision. During that time, both the reporting party and the responding party will have an opportunity to review the investigation report (redacted to remove the names and personally identifying information of other students as required by law) thoroughly, but copies of the report 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, explaining how those grounds materially affected the outcome, and providing supporting information to the Title IX Coordinator, Patrick Hart, College President, either by email at pjhart@nyadi.edu or by mail at 178-18 Liberty Avenue, Jamaica, NY 11433. The Title IX Coordinator will forward the request(s) for appeal to the NYADI's Appeal Officer within one day. The letter of appeal must be delivered to the Title IX Coordinator within 14 days of the issuance of the determination. Sanction(s) imposed by the Dean of Academic Affairs will remain in effect while the appeal is pending.

The only accepted grounds for an appeal are:

- new evidence, which was unknown or unavailable during the original investigation, has come to light;
- a procedural error, as outlined by this Policy, which materially impacted the outcome;
- the ultimate finding of the investigation was not supported by the facts; or
- the sanctions, if any, were not appropriate in light of the evidence presented.

Disagreement with the finding or sanctions is not, by itself, grounds for appeal.

If the appeal letter does not bring forward sufficient grounds for appeal, 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, the Appeal Officer will (i) appoint two other trained NYADI employees to serve on the appeal panel with the Appeal Officer and (ii) provide the other party with an opportunity to review the appeal. The other party and the investigator will have five calendar days thereafter to submit materials in response to the appeal.

A party's decision not to participate in the investigatory process does not preclude him or her from appealing, but, 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.

After reviewing the Investigator's Report, Conclusions and Recommendations, the Dean of Academic Affairs's Determination and Sanctions, and the materials submitted by the parties, the Appeal Panel may decide to:

- affirm the decision of the Dean of Academic Affairs. In this case, the initial decision is final.
- remand the matter back to the Dean of Academic Affairs to:
 - reevaluate his/her decision in light of the Appeal Panel's findings or
 - reopen the investigation; or
- modify the sanctions imposed by the Dean of Academic Affairs.

The Appeal Panel's decision will be transmitted in writing to the reporting party, the respondent, the Dean of Academic Affairs and the Title IX Coordinator simultaneously within five calendar days of the non-appealing party's submission.

If neither party files an appeal within two weeks of the determination's rendering, the Title IX Coordinator will provide both parties with written notice that the determination is final.

Advisors

Student reporting parties and responding parties have a right to be accompanied by an advisor of his or her choice at all meetings, interviews and hearings related to an allegation of sexual misconduct. In cases involving allegations of domestic violence, dating violence, sexual assault or stalking, the advisor may be an attorney. Reporting parties and responding parties choosing to bring an attorney must notify the Title IX Coordinator at least two days prior to the meeting, interview or hearing.

Employees are entitled to be accompanied by an advisor of their choice, who may be an attorney, in cases involving allegations of dating violence, domestic violence, sexual assault or stalking.

Advisors are not permitted to advocate on behalf of the individual or to address the investigator, the Title IX Coordinator, the Dean of Academic Affairs or the Appeal Panel directly. The party may confer with the advisor, and the advisor may pass notes to the party. If the advisor is disruptive or otherwise fails to comply with these parameters, he or she may be asked to leave.

Conflict of Interest

Both the reporting party and the responding party have the right to have a fair and impartial investigation, determination and appeal. If either the reporting party or responding party has any reason to believe that the investigator, the Title IX Coordinator, the Dean of Academic Affairs or any of the Appeal Panel members has a conflict of interest or would otherwise be unable to be fair and impartial, the concerned party should submit a letter explaining the basis for his or her concern. Concerns regarding the investigator or the Appeal Panel should be submitted to the Title IX Coordinator. Concerns regarding the Title IX Coordinator or Dean of Academic Affairs should be submitted to the Appeal Officer. The other party will be provided with a copy of the letter and will have an opportunity to respond. If based upon those submissions and any independent inquiry the decision-maker may choose to make, the decision-maker determines that there is a conflict of interest, another individual will be appointed to take on the role. If it is found that there is no such conflict, the individual will continue in his or her role. Concerns regarding conflicts of interest should be raised as soon as they are identified and prior to the individual with the alleged conflict's rendering of his or her determination, e.g. prior to the submission of the investigation report, the determination, or the appeal decision.

Notice

Each party will receive reasonable and advance written or electronic notice of any meeting he or she is required or eligible to attend. Each party will be given prompt notice of any meeting relating to the proceeding at which either the reporting party or the responding party will be present, except that the responding party will not be notified of meetings with the reporting party relating solely to interim protective measures and other supportive accommodations.

Timelines

The entire process from receipt of complaint until determination on appeal should be completed within 60 days. If circumstances arise that require the extension of certain deadlines (including but not limited to unavailability of witnesses due to winter or summer break), the parties will be informed of the change and of the anticipated date of completion of that stage of the process.

Within three (3) calendar days of receipt of complaint	Title IX Coordinator or designee meets with the Reporting Party
Within two (2) calendar days of meeting with Reporting Party	Title IX Coordinator or designee meets with respondent
Within seven (7) calendar days of receipt of complaint	Investigator is appointed
At any time during the process, but no later than two (2) calendar days after reviewing the recitation of his or statement to investigators	Reporting Party may submit an impact statement to the Title IX Coordinator
Within four (4) weeks of receipt of complaint	Investigation is completed and report and recommendation are submitted
Within five (5) days of receipt of report and recommendation	Title IX Coordinator notifies parties of determination.
Within 14 days of notification of determination	Appealing party files letter of appeal
Within three (3) business days of receipt of appeal letter from appealing party	Appeal officer will determine whether letter of appeal identifies arguable grounds for appeal. If so, the appeal officer will provide a copy of the letter of appeal to the non-appealing party and appoint two other individuals to serve with him on an appeal panel.
Within five (5) calendar days of receipt of letter of appeal from appeal officer	Non-appealing party submits response to appeal
Within five (5) calendar days of receipt of non-appealing party's submission	Appeal panel notifies parties of decision on appeal

Compliance with Sanctions and Accommodations

At the conclusion of the investigation and adjudication process, 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 sexual misconduct and assisting the reporting party.

Ongoing Accommodations for the Reporting Party

Regardless of the determination, the reporting party 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 Dean of Academic Affairs and/or the appropriate Faculty Director. Ongoing accommodations may include: moving the reporting party's residence, changing the reporting party's academic schedule, allowing the reporting party to withdraw from or retake a class without penalty, providing the reporting party with access to additional academic support.

Transcript Notations

Any student who is found responsible for domestic violence, dating violence, sexual assault or stalking (or any other crime of violence) and suspended will have a notation on his or her transcript indicating, "Suspended after a finding of responsibility for a policy violation".

Any student who is found responsible for domestic violence, dating violence, sexual assault or stalking (or any other crime of violence) and expelled will have a notation on his or her transcript indicating, "Expelled after a finding of responsibility for a policy violation".

Any student who withdraws from the NYADI while a complaint of 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 his or transcript indicating, "withdrew with conduct charges pending".

If a finding of responsibility is vacated for any reason, the transcript notation will be removed. 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.

Independent Investigation and Review by Trustees

The NYADI, in its discretion, may conduct an investigation independent of or in addition to the procedures outlined above, at any time. In addition, although the Board of Trustees will not typically be involved in the receipt, investigation and remediation of complaints of discrimination and harassment, the Board of Trustees or a committee authorized by the Chair of the Board of Trustees is authorized to modify the procedures herein as it deems appropriate under the circumstances, and to take remedial action as it deems appropriate.

COMPLAINTS OF SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE OR STALKING, NOT INVOLVING STUDENTS

(This procedure is used to investigate and adjudicate claims by faculty, staff, or third parties doing business with the NYADI against faculty, staff, or third parties doing business with the NYADI.)

Filing a Complaint

It is in the best interest of the entire New York Automotive and Diesel Institute community for individuals to report incidents of sexual misconduct. The Title IX Coordinator is designated to investigate reported incidents, address inquiries and coordinate the NYADI's compliance efforts. Any member of NYADI community who believes he or she has been subjected to sexual misconduct should submit a complaint, if possible in writing, to the Title IX Coordinator, his or her designee, or, if the responding parties a faculty member, the Dean of Student Affairs. Members of the community who observe or become aware of incidents of sexual misconduct are encouraged to report such incidents. Any complaints received will be referred to the Title IX Coordinator.

Anonymous Reporting and Reports from Individuals other than the Victim. If the NYADI receives a report of an incident of sexual misconduct anonymously or from a third party, the alleged victim will be informed of the report promptly. The policy and procedures will be applied in the same manner as if the alleged victim reported the incident.

Seeking Help and Passage of Time: Regardless of whether a community member decides to file a complaint with the NYADI, the NYADI encourages the community member to seek out available medical and mental health resources. Community members who wish to make a complaint at a later date may contact the Title IX Coordinator or Director of Human Resources. Please note that a delay in reporting could weaken the information, or the NYADI's ability to gather information, used to determine whether a person is responsible for sexual misconduct. Furthermore, the ability of the NYADI to take action may be limited by the employment status of the respondent.

Unknown or Unaffiliated Assailant. If the responding party is unknown or is not a member of the NYADI community, the Title IX Coordinator will assist the reporting party in identifying appropriate resources and contacting local law enforcement if the reporting party would like to file a report. In addition, the NYADI may take other steps to protect the reporting party and the community.

Contents of Complaint. Although individuals are encouraged to submit complaints in writing (electronically or by hard copy), complaints can be submitted to the designated complaint recipient orally as well. The complaint should clearly describe the alleged incident, when and where it occurred, and the desired remedy, if known. Upon receipt of a complaint, the Title IX Coordinator will review the complaint to determine whether the facts as alleged would constitute a violation of NYADI policy. If so, the Title IX Coordinator will open a formal investigation.

Processing of Complaint

As soon as possible and no later than three business days after receiving the complaint, the Title IX Coordinator or his or her designee will meet with the reporting party, gather additional information about the allegations, as necessary, provide a written copy of this Policy and Procedure to the reporting party, explain the process and identify available interim protective and support measures (as described below).

Within two business days of meeting with the reporting party, the Title IX Coordinator will meet with the responding party to provide a written copy of this Policy and Procedure, explain the process, identify and explain any interim protective measures imposed that impact the respondent, identify the provision of this Policy the responding party has been accused of violating and identify available support resources.

The Title IX Coordinator or a trained investigator appointed by the Coordinator will lead the investigation.

Interim Protective Measures

After reviewing the complaint, the Title IX Coordinator, his or her designee, or the lead investigator in consultation with the Title IX Coordinator, may take interim protective measures to protect the safety and well-being of the individuals involved and the New York Automotive and Diesel Institute community.

Available interim measures are listed below. The NYADI will determine which measures are appropriate for a particular reporting party on a case-by-case basis. Not all of the measures listed below will be necessary in every case to keep victims safe and ensure their equal access to educational programs and activities. If the reporting party identifies an interim measure that is not already provided, the NYADI will consider whether the request can be granted. In those instances where interim measures affect both the reporting party and the respondent, the NYADI will minimize the burden on the reporting party wherever appropriate.

Interim protective action is preliminary and only in effect until the investigation process is complete and a decision is rendered. Available interim protective measures include:

- An order directing the parties not to contact one another;
- changes in NYADI work schedule, location or reporting line;
- changes in NYADI provided transportation arrangements;
- campus restrictions;
- supplying reporting party with an escort to ensure she/he feels safe;
- interim suspension.

These actions may be instituted at any point during the investigation process. Reporting parties and respondents are encouraged to request interim protective measures when needed.

Protective 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 the individual requests a change in work schedule, the individual's supervisor(s) will need to be informed in order to effectuate the change.

Depending upon the circumstances, some or all of the protective measures may be lifted once the process is complete and a decision is rendered or they may be continued to assist the reporting party after a determination has been made, even if it is determined that some or all of the allegations have not been substantiated.

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

In addition to the measures that the NYADI may take, law enforcement may be able to provide additional protections, such as a restraining order. The NYADI can assist employees in contacting law enforcement and legal services organizations to learn about additional remedies that may be available.

Mediated Resolution

Where appropriate and with the consent of the reporting party, the Title IX Coordinator or investigator may attempt to mediate a resolution of the matter as amicably and privately as possible. If a satisfactory resolution is reached, the matter will be considered closed. If it becomes clear that a mediated resolution will not be possible, the matter will be investigated. Complaints of sexual assault, however, will not be mediated under any circumstances.

Formal Investigation

Within ten business days of receiving the complaint, the Title IX Coordinator will commence an investigation or will designate an investigator who has been trained regarding the investigation of claims of sexual misconduct.

The investigator will conduct a prompt, fair, impartial, and thorough investigation. During the investigation, the appointed investigator will:

- give the responding party proper notice of the complaint and investigation and provide an opportunity for the responding party to provide information;
- interview the reporting party, the respondent, and any material witnesses (the investigator will not interview witnesses whose sole purpose is to provide character information);
- gather all relevant documentary and/or physical evidence (this may include, but is not limited to, texts, emails, photos, Facebook posts, voicemail messages, etc.) from the reporting party, respondent, and witnesses;
- complete the investigation in a timely manner, without unnecessary deviation from the intended timeline; and
- maintain communication with the reporting party and the responding party on the status of the investigation and overall process.

Information Regarding Romantic and Sexual History

The investigator will not consider information concerning the romantic or sexual history of either the reporting party or the respondent, except as provided by the reporting party or responding party relating to their shared sexual history. If either offers such information, the other will have the right to respond.

Prior Conduct Violations

The investigator will not consider prior misconduct unless:

- a) the individual was found responsible for the alleged misconduct AND
- b) the previous misconduct was substantially similar to the misconduct presently alleged such that it may indicate a pattern of behavior.

Review of Statement

Prior to the conclusion of the investigation, the reporting party and responding party will each have an opportunity to review the investigator's written recitation of the statements he or she presented during his or her own interview(s) and to provide the investigator with any corrections or clarifications that may be necessary.

At the conclusion of the investigation, the investigator will prepare a written investigation report. The report will clearly set forth the prohibited conduct alleged and will include summaries of all witness interviews and any documentary or physical evidence identified. The report will further provide the investigator's assessment of whether it is more likely than not that the prohibited conduct occurred and the evidentiary basis for that assessment.

Declining to Participate

If the reporting party chooses not to cooperate in the investigation, the investigator may still complete the investigation and prepare a report based upon the information available. No adverse inference will be made as a result of a reporting party's decision not to participate in the investigation, but a determination

will be made based solely upon the information available. Employee respondents who refuse to cooperate in the investigation may be subject to disciplinary action, up to and including dismissal.

Privacy

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 the NYADI 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.

Determination of Responsibility and Discipline

The investigator's fact-finding report and recommendations will be submitted to the Title IX Coordinator. The Title IX Coordinator will assess the information contained in the investigator's report, conduct any further inquiry he or she may deem necessary and then make a determination using the preponderance of the evidence standard; in other words, the Title IX Coordinator will determine whether it is more likely than not that a policy violation occurred.

If the Title IX Coordinator finds the responding party responsible for violating the policy, he or she shall determine the appropriate disciplinary sanction after considering the relevant factors, which include the severity of the violation, in cases of sexual assault, 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, the ongoing impact on the reporting party, the ongoing impact on the campus environment, and any ongoing threat to the campus community. In determining the appropriate sanction, the Title IX Coordinator may consult with the Faculty Director of the respondent's school if the responding party is a faculty member, or the respondent's manager and/or the Director of Human Resources if the responding party is a staff member. Sanctions may include:

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

The Title IX Coordinator will provide both the reporting party and the responding party with written notice of the determination and any sanctions imposed simultaneously and within five calendar days of receipt of the investigator's report and recommendation. In other cases of sexual misconduct, the reporting party will only be informed of discipline to the extent such sanctions relate to the reporting party. For instance, if the responding party has been restricted from being present in the reporting party's office building, the reporting party would be informed of that restriction.

Advisors

Employees are entitled to be accompanied by an advisor of their choice, who may be an attorney, in cases involving allegations of dating violence, domestic violence, sexual assault or stalking.

Advisors are not permitted to advocate on behalf of the individual or to address the investigator, the Title IX Coordinator or the Appeal Panel directly. The party may confer with the advisor, and the advisor may pass notes to the party. If the advisor is disruptive or otherwise fails to comply with these parameters, he or she may be asked to leave.

Conflict of Interest

Both the reporting party and the responding party have the right to have a fair and impartial investigation and determination. If either the reporting party or responding party has any reason to believe that the investigator or the Title IX Coordinator has a conflict of interest or would otherwise be unable to be fair and impartial, the concerned party should submit a letter explaining the basis for his or her concern. Concerns regarding the investigator should be submitted to the Title IX Coordinator. Concerns regarding the Title IX Coordinator should be submitted to the Dean of Academic Affairs either by e-mail at jsantora@nyaa.edu or by mail at 178-18 Liberty Avenue, Jamaica, NY 11433. The other party will be provided with a copy of the letter and will have an opportunity to respond. If based upon those submissions and any independent inquiry the decision-maker may choose to make, the decision-maker determines that there is a conflict of interest, another individual will be appointed to take on the role. If it is found that there is no such conflict, the individual will continue in his or her role. Concerns regarding conflicts of interest should be raised as soon as they are identified and prior to the individual with the alleged conflict's rendering of his or her determination, e.g. prior to the submission of the investigation report or the determination.

Notice

Each party will be given prompt notice of any meeting relating to the proceeding at which either the reporting party or the responding party will be present, except that the responding party will not be notified of meetings with the reporting party relating solely to interim protective measures and other supportive accommodations.

Timelines

The entire process from receipt of complaint until determination on appeal should be completed within 60 days. If circumstances arise that require the extension of certain deadlines (including but not limited to unavailability of witnesses due to winter or summer break), the parties will be informed of the change and of the anticipated date of completion of that stage of the process.

Within five (5) business days of receipt of complaint	Title IX Coordinator or designee meets with reporting party
Within two(2) business days of meeting with reporting party	Title IX Coordinator or designee meets with respondent
Within ten (10) business days of receipt of complaint	Investigator is appointed
Within four (4) weeks of appointment of investigator	Investigation is completed and report and recommendation are submitted

Compliance with Sanctions and Accommodations

At the conclusion of the investigation and adjudication process, 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 sexual and/or sexual misconduct and assisting the reporting party.

Ongoing Accommodations for the Reporting Party

Regardless of the determination, the reporting party 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 Faculty Director, the employee's manager and the Director of Human Resources.

Independent Investigation and Review by Trustees

The NYADI, in its discretion, may conduct an investigation independent of or in addition to the procedures outlined above, at any time. In addition, although the Board of Trustees will not typically be involved in the receipt, investigation and remediation of complaints of discrimination and harassment, the Board of Trustees or a committee authorized by the Chair of the Board of Trustees is authorized to modify the procedures herein as it deems appropriate under the circumstances, and to take remedial action as it deems appropriate.

COMPLAINTS OF SEXUAL HARASSMENT, GENDER-BASED HARASSMENT OR SEXUAL EXPLOITATION, NOT INVOLVING STUDENTS

(This procedure is for claims of sexual harassment, gender based-harassment, or sexual exploitation by faculty, staff or third parties doing business with the NYADI against faculty, staff or third parties doing business with the NYADI.)

All members of the New York Automotive and Diesel Institute community are expected to adhere to the NYADI's policies and to cooperate with the procedures for responding to complaints of sexual and gender-based harassment. All are encouraged to report any conduct believed to be in violation of these policies. It is in the best interest of the entire New York Automotive and Diesel Institute community for incidents of harassment to be reported and addressed promptly.

Management and supervisory personnel in particular are responsible for taking reasonable and necessary action to prevent discrimination and harassment in the workplace and for responding promptly and thoroughly to any such claims. Those individuals include any officer, dean, chair of faculty or director having formal supervisory responsibility over employees.

Any person who believes that he or she has been subjected to sexual or gender-based harassment may initially choose to deal with the alleged offender directly through a face-to-face discussion, a personal telephone conversation, e-mail correspondence, or letters. In many cases, this may effectively resolve the situation; however, individuals are not required to address the alleged offender directly. Such an approach may be ineffective in correcting the problem, or an individual may be uncomfortable in handling the situation alone.

Any individual who believes he or she has been subjected to sexual or gender-based harassment or sexual exploitation should submit a complaint, if possible in writing. After a complaint is received it will be referred to the Equal Opportunity Officer.

To Whom Should Complaints Be Submitted

If the reporting party or responding party is a faculty member, complaints can be submitted to the Equal Opportunity Officer or Dean of Academic Affairs.

If the reporting party or responding party is a staff member, complaints can be submitted to the Equal Opportunity Officer, the Director of Human Resources, or the employee's supervisor.

If the reporting party or responding party is a third party doing business with the NYADI, complaints can be submitted to the Equal Opportunity Officer or the Director of Human Resources.

Mediated Resolution

Where appropriate and with the consent of the reporting party, the Equal Opportunity Officer or his or her designee may attempt to mediate a resolution of the matter as amicably and privately as possible. If a satisfactory resolution is reached, the matter will be considered closed. If it becomes clear that a mediated resolution will not be possible, the matter will be investigated.

Formal Investigation

In the event mediation is unsuccessful or inappropriate, the Equal Opportunity Officer or his or her designee will designate an investigator. The investigator will interview the reporting party, the responding party and any material witnesses and will review any relevant documents or other evidence. The investigator will then make a determination as to whether it is more likely than not that a policy violation has occurred.

Notification of Outcome

At the conclusion of the investigation under any of the procedures set forth above, the complaining party and the accused party will be notified of the outcome of the investigation.

Discipline

If a policy violation is found, appropriate discipline will be imposed. If the responding party is a faculty member, the Equal Opportunity Officer will consult with the Dean of Academic Affairs and the Chair of Faculty to determine appropriate discipline. If the responding party is a staff member, the Equal Opportunity officer will consult with the Director of Human Resources and/or the employee's supervisor to determine the appropriate discipline.

Penalties for a violation including, but are not limited to:

- warning
- probation
- loss of privileges
- demotion
- revocation of degree
- revocation of honors or awards
- training/counseling
- withholding promotion or pay increase
- suspension
- expulsion
- termination of employment

IMPORTANT NOTICE TO ALL EMPLOYEES: Employees who have experienced conduct they believe is contrary to this Policy have an obligation to take advantage of this complaint procedure. An employee's failure to fulfill this obligation could affect his or her rights in pursuing legal action. Also, please note, federal, state and local discrimination laws establish specific time frames for initiating a legal proceeding pursuant to those laws.

Independent Investigation and Review by Trustees

The NYADI, in its discretion, may conduct an investigation independent of or in addition to the procedures outlined above at any time. In addition, although the Board of Trustees will not typically be involved in the receipt, investigation and remediation of complaints of discrimination and harassment, the Board of Trustees or a committee authorized by the Chair of the Board of Trustees is authorized to modify the procedures herein as it deems appropriate under the circumstances, and to take remedial action as it deems appropriate in certain cases.

COMPLAINTS OF DISCRIMINATION, DISCRIMINATORY HARASSMENT, AND RETALIATION INVOLVING STUDENTS, FACULTY, STAFF AND THIRD PARTIES

(Complaints of sexual or sex-based harassment, sexual assault, sexual exploitation, dating violence, domestic violence, and stalking are governed by separate procedures, which can be found elsewhere in this policy.)

All members of the New York Automotive and Diesel Institute community are expected to adhere to the NYADI's policies and to cooperate with the procedures for responding to complaints of discrimination and harassment. All are encouraged to report any conduct believed to be in violation of these policies. It is in the best interest of the entire New York Automotive and Diesel Institute community for incidents of discrimination and harassment to be reported and addressed promptly.

Management and supervisory personnel in particular are responsible for taking reasonable and necessary action to prevent discrimination and harassment in the workplace and for responding promptly and thoroughly to any such claims. Those individuals include any officer, dean or faculty director having formal supervisory responsibility over employees.

Any person who believes that he or she has been the subject of discrimination or harassment may initially choose to deal with the alleged offender directly through a face-to-face discussion, a personal telephone conversation, e-mail correspondence, or letters. In many cases, this may effectively resolve the situation; however, individuals are not required to address the alleged offender directly. Such an approach may be ineffective in correcting the problem, or an individual may be uncomfortable in handling the situation alone.

Any individual who believes he or she has been subjected to discrimination or harassment should submit a complaint, if possible in writing. After a complaint is received it will be referred to the Equal Opportunity Officer.

To Whom Should Complaints Be Submitted

If the reporting party or responding party is a student, complaints can be submitted to the Equal Opportunity Officer or Dean of Academic Affairs.

If the reporting party or responding party is a faculty member, complaints can be submitted to the Equal Opportunity Officer or Dean of Academic Affairs.

If the reporting party or responding party is a staff member, complaints can be submitted to the Equal Opportunity Officer, the Director of Human Resources, or the employee's supervisor.

If the reporting party or responding party is a third party doing business with the NYADI, complaints can be submitted to the Equal Opportunity Officer or the Director of Human Resources.

Mediated Resolution

Where appropriate and with the consent of the reporting party, the Equal Opportunity Officer or his or her designee may attempt to mediate a resolution of the matter as amicably and privately as possible. If a satisfactory resolution is reached, the matter will be considered closed. If it becomes clear that a mediated resolution will not be possible, the matter will be investigated.

Formal Investigation

In the event mediation is unsuccessful or inappropriate, the Equal Opportunity Officer or his or her designee will designate an investigator. The investigator will interview the reporting party, responding party and any material witnesses and will review any relevant documents or other evidence. The

investigator will then make a determination as to whether it is more likely than not that a policy violation has occurred.

Notification of Outcome

At the conclusion of the investigation under any of the procedures set forth above, the complaining party and the accused party will be notified of the outcome of the investigation.

Discipline

If a policy violation is found, appropriate discipline will be imposed. If the responding party is a student, the Equal Opportunity Officer will consult with the Dean of Academic Affairs and the Chair of Faculty to determine the appropriate discipline. If the responding party is a faculty member, the Equal Opportunity Officer will consult with the Dean of Academic Affairs to determine appropriate discipline. If the responding party is a staff member, the Equal Opportunity officer will consult with the Director of Human Resources and/or the employee's supervisor to determine the appropriate discipline.

Penalties for a violation include, but are not limited to:

- warning
- probation
- loss of privileges
- demotion
- revocation of degree
- revocation of honors or awards
- training/counseling
- withholding promotion or pay increase
- suspension
- expulsion
- termination of employment

IMPORTANT NOTICE TO ALL EMPLOYEES: Employees who have experienced conduct they believe is contrary to this Policy have an obligation to take advantage of this complaint procedure. An employee's failure to fulfill this obligation could affect his or her rights in pursuing legal action. Also, please note, federal, state and local discrimination laws establish specific time frames for initiating a legal proceeding pursuant to those laws.

Independent Investigation and Review by Trustees

The NYADI, in its discretion, may conduct an investigation independent of or in addition to the procedures outlined above at any time. In addition, although the Board of Trustees will not typically be involved in the receipt, investigation and remediation of complaints of discrimination and harassment, the Board of Trustees or a committee authorized by the Chair of the Board of Trustees is authorized to modify the procedures herein as it deems appropriate under the circumstances, and to take remedial action as it deems appropriate in certain cases.

RIGHTS IN CASES OF SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE AND STALKING

Students' Bill of Rights

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or responding party throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

Rights of All Reporting Parties

- The right to request interim protective 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 the NYADI 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 investigation and at any meeting relating to the complaint process.
- The right to report the incident to off-campus authorities and/or law enforcement and to be assisted by the NYADI 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 determination and sanction 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 responding party will be present.

Rights of the Respondent

- 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 NYADI 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 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 investigation and at any meeting relating to the complaint process.
- The right to receive written notice of which policy provisions he or she is alleged to have violated.
- The right to be notified of possible sanctions that may result if found responsible for violating this policy.
- The right to be informed of the determination and any sanction 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 the reporting party will be present, except meetings related solely to interim protective measures or accommodations.

COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS PROMOTING EQUAL OPPORTUNITY, PROHIBITING DISCRIMINATION AND HARASSMENT AND AUTHORIZING AFFIRMATIVE ACTION

In accordance with all applicable laws and pursuant to its own policies and operating procedures, the NYADI provides for equal opportunity, prohibits unlawful discrimination and harassment, and takes affirmative action. The applicable laws include:

- **Title VI of the Civil Rights Act of 1964**, as amended, prohibits discrimination against any person on the basis of race, color, or national origin in programs or activities receiving federal financial assistance.
- **Title VII of the Civil Rights Act of 1964**, as amended, prohibits employment discrimination against any person because of race, color, religion, sex, pregnancy, or national origin.
- **Title IX of the Education Amendments of 1972**, as amended, prohibits discrimination on the basis of sex in the conduct or operation of a school's educational programs or activities, including employment in these programs and activities.
- **The Equal Pay Act of 1963**, prohibits discrimination on the basis of sex in rates of pay. The Lily Ledbetter Act of 2009 extends this protection. Executive Order 11246, as amended, prohibits discrimination in employment because of race, color, religion, sex, or national origin and requires affirmative action to ensure equality of opportunity in all aspects of employment.
- **Sections 503 of the Rehabilitation Act of 1973**, requires a federal contractor to take affirmative action to employ and advance in employment qualified workers with disabilities.
- **Section 504 of the Rehabilitation Act of 1973**, prohibits the exclusion of any person solely on the basis of a disability from participation in or access to benefits of any federally financed program or activity; it also prohibits discrimination against any person solely on the basis of disability in any federally financed program or activity.
- **The Americans with Disabilities Act of 1990**, as amended, prohibits discrimination in public accommodations and in employment against a qualified person with a disability and requires an employer to provide qualified applicants and employees with reasonable accommodations.
- **The Age Discrimination in Employment Act of 1967**, as amended, prohibits discrimination in employment on the basis of age.
- **The Violence Against Women Act (VAWA)**, as amended and reauthorized, prohibits domestic and sexual violence against any person.
- **The Campus Sexual Violence Elimination Act ("Campus SaVE")**, a provision of the Violence Against Women Reauthorization Act of 2013 that amended the Clery Act, requires that institutes of higher education provide data regarding incidents of sexual assault, domestic violence, dating violence, and stalking; and develop policies and procedures concerning the education, awareness, and prevention of sexual assault, domestic violence, dating violence, and stalking on campus.
- **The Uniformed Services Employment and Reemployment Rights Act (USERRA)**, prohibits discrimination in employment based on past, current, or future military obligations.
- **The Vietnam Era Veterans' Readjustment Assistance Act of 1974 and the Veterans Employment Opportunities Act of 1998**, as amended, prohibit job discrimination and require affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam Era, recently separated veterans, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.
- **The Immigration Reform and Control Act of 1986**, prohibits employers from discriminating on the basis of citizenship status. The prohibition extends to employers who hire only U.S. citizens or U.S. citizens and green card holders, as well as to employers who

prefer to employ unauthorized workers or temporary visa holders rather than U.S. citizens and other workers with employment authorization.

- **The Small Business Act of 1958**, as amended, Section 15(g)(1), requires federal contractors to afford maximum practicable business opportunities to Small Business Concerns, including businesses owned by disadvantaged individuals, disabled veterans, and women.
- **The New York Executive Law, Article 15**, Section 296(1), prohibits discrimination against any person in employment because of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, genetic predisposition or carrier status, marital status, or arrest record. Section 296(4) prohibits an educational institution from denying the use of its facilities to anyone otherwise qualified or permitting harassment of a student or applicant on the basis of color, race, religion, disability, national origin, sexual orientation, military status, sex, age, and marital status.
- **The New York Labor Law, Section 194**, prohibits discrimination on the basis of sex in rates of pay.
- **The New York City Human Rights Law, Chapter 1, Section 8-107**, makes it an unlawful discriminatory practice for an employer to discriminate against any person because of his or her actual or perceived age, race, creed, color, national origin, gender (including gender identity and expression), disability, marital status, sexual orientation, alienage or citizenship status, partnership status, unemployment status or status as a perceived or actual victim of domestic violence.

RESOURCES AND SUPPORT FOR VICTIMS OF SEXUAL ASSAULT, SEXUAL HARASSMENT, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING

Referral services provided by the New York Automotive and Diesel Institute are available to all students. External agencies generally provide free consultation and crisis services, but may require use of insurance or payment of fees for other services. The Office of the Dean of Academic Affairs will work with any student to address financial issues or concerns and ensure that costs is not a barrier to support of treatment.

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 the NYADI's security guards or the Dean of Academic Affairs office. The nearest emergency rooms to the NYADI is at:

NYC Health + Hospitals/Queens

82-68 164th Street
Jamaica, New York 11432
General Information
718-883-3000

The hospital staff will do a detailed examination of the entire body, including an internal examination as appropriate, collect evidence, check for injuries, 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 the NYADI's investigation or the Title IX grievance process.

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.

The NYADI's Director of Operations & Security and other security personnel can assist you in securing the scene to preserve the 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 the NYADI or to the police.

WHO CAN I TALK TO? WILL IT BE CONFIDENTIAL?

The NYADI 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 the NYADI 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 the 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 the NYADI and generally obligates the Title IX Coordinator or his or her 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

Community members can seek assistance from an off-campus crisis center, which can provide confidentiality, sharing options and advice without any obligation to inform NYADI staff members unless requested.

Victim Advocacy Services

New York City Police Department – 103rd Precinct – Crime Victim Advocate

168-02 91st Ave.,
Jamaica, NY 11434
Mon. - Fri. 12 p.m. - 8 p.m.

Please note that the phone number listed below is for the Crime Advocate as part of Safe Horizon's Crime Victim Assistance Program (CVAP).

646-369-9057

External Resources

NYC Health + Hospitals/Queens

82-68 164th Street
Jamaica, New York 11432
General Information
718-883-3000

Queens County District Attorney's Office

Phone: (718) 286-6000

Address: 125-01 Queens Boulevard

Kew Gardens, New York 11415

National Sexual Assault Hotline

800-656-HOPE

National Domestic Violence Hotline

800-799-7233

Who Is Obligated to Report What I Tell Them to the NYADI?

A “responsible employee” is an NYADI 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 the NYADI’s response to the report. A responsible employee should not share information with law enforcement without the victim’s consent or unless the victim has also reported the incident to law enforcement.

All faculty and employees of the NYADI excluding Federal Work-study and student workers are designated as mandated reporters (responsible employees).

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 NYADI will consider the request, but cannot guarantee that the NYADI 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 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 the NYADI 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.

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 the NYADI and will not trigger an investigation under this policy.

CAN I REQUEST THAT THE NYADI NOT TAKE ACTION REGARDING AN INCIDENT?

If a victim of sexual violence 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, the NYADI must weigh that request against the NYADI's obligation to provide a safe, non-discriminatory environment for all members of the NYADI community, including the victim.

If the NYADI honors the request for confidentiality, a victim must understand that the NYADI'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 the NYADI may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for the entire NYADI 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 alleged perpetrator threatened further sexual violence or other violence against the victim or others;
 - whether the sexual violence was committed by multiple perpetrators;
- whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether the NYADI 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 the NYADI to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the NYADI will likely respect the victim's request for confidentiality.

If the NYADI determines that it cannot maintain a victim's confidentiality, the NYADI will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the NYADI's response.

The NYADI 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 NYADI employees, will not be tolerated.

The NYADI 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.

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

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

WILL INFORMATION ABOUT AN INCIDENT BE SHARED WITH MY PARENTS?

The Family Educational Rights and Privacy Act (FERPA) allows the NYADI 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, the NYADI 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 NYADI 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 the NYADI's Annual Security Report. The information to be shared includes the date, location, type (dormitory housing, public property, off-campus, etc.), and specific crime category.

The Clery Act also requires the NYADI 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. No personally identifying information about the victim will be disclosed.

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:

<http://www.notalone.gov>

U.S. Department of Education, Office for Civil Rights
<http://www.ed.gov/ocr>

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

U.S. Department of Justice, Office on Violence Against Women
<http://www.ovw.usdoj.gov>
US Department of Justice
Office on Violence Against Women
145 N Street, NE, Suite 10W.121
Washington, DC 20530
(202) 307-6026

REVISION

These policies and procedures will be reviewed and updated annually. The NYADI reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The NYADI may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The NYADI may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.