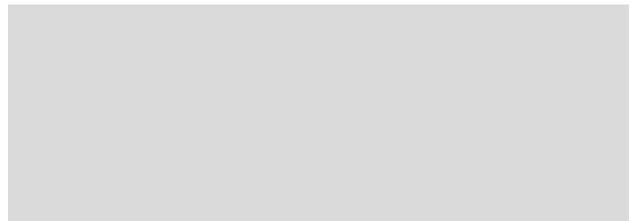


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# TITLE IX HANDBOOK

National Aviation Academy  
July 2020



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## **NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

### Policy Statement

National Aviation Academy (“NAA”) is committed to providing a learning, working, and living environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of sex. NAA considers sex discrimination in all its forms to be a serious offense. Sex discrimination constitutes a violation of this policy, is unacceptable, and will not be tolerated.

Sexual harassment (as defined on page 3), whether verbal, physical, or visual is inconsistent with the expectations of NAA and may constitute a form of sex discrimination prohibited by this policy. Sexual harassment also includes Sexual Violence/Assault (as defined on page 4). Examples of specific conduct that constitutes Sexual Harassment and Sexual Violence/Assault are set forth herein.

### Title IX Statement

As a recipient of federal funds, National Aviation Academy and National Aviation Academy of New England is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. (“Title IX”), which prohibits discrimination on the basis of sex in educational programs or activities, admissions, and employment. Title IX states that:

*No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.*

Questions regarding the application of Title IX may be referred to National Aviation Academy’s Title IX Coordinator or to the U.S. Department of Education’s Office for Civil Rights.

Title IX Coordinator:  
Nannette Worlinsky  
Vice President of  
Compliance and Regulatory  
Affairs  
6225 Ulmerton Road  
Clearwater FL 33760  
727.531.2080  
[nworlinsky@naa.edu](mailto:nworlinsky@naa.edu)

Office of Civil Rights:  
Atlanta Office for Civil Rights  
61 Forsyth St. SW, suite 19T10  
Atlanta GA 30303-8927  
Phone: 404 974 9406  
Fax: 404 974 9471  
800 877 8399  
Email: [OCR.Atlanta@ed.gov](mailto:OCR.Atlanta@ed.gov)

NAA encourages students, faculty, staff and third parties to file complaints of sex discrimination with the Title IX Coordinator.

A person may also file a complaint of sex discrimination with the United States Department of Education’s Office for Civil Rights regarding an alleged violation of Title IX by visiting [www2.ed.gov/about/offices/list/ocr/complaintintro.html](http://www2.ed.gov/about/offices/list/ocr/complaintintro.html) What is Title IX?

Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance. Title IX prohibits sexual misconduct, including sexual harassment which is a form of gender discrimination. Programs and activities that receive funds from the United States Department of Education (ED) must operate in a nondiscriminatory manner. Title IX prohibits discrimination on the basis of sex in: admissions, recruitment, financial aid, academic programs, student treatment and services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, housing and employment. Additionally, Title IX prohibits retaliation against any person because he or she opposed an unlawful educational practice or policy, or made charges, testified or participated in any complaint action under Title IX. An act of retaliation in any manner is considered a violation of Title IX. For a more detailed understanding of these protections please see ED Title IX regulations ([Volume 34, Code of Federal Regulations, Part 106](#)).

### What is the role of the Title IX Coordinator?

The Title IX Coordinator is:

- Responsible for oversight of the investigation and resolution of all reports of sexual harassment, sexual assault, stalking and relationship violence involving students, staff and faculty;
- Knowledgeable and trained in NAA policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a complainant, a respondent or a third party, about the courses of action available at NAA, both informally and formally, and in the community;
- Available to provide assistance to any NAA employee regarding how to respond appropriately to a report of sexual harassment, sexual assault, or relationship violence;
- Responsible for monitoring compliance with all procedural requirements, record keeping and time frames outlined in this policy; and
- Responsible for overseeing training, prevention and education efforts, and regular reviews of climate and culture.

## Sexual Harassment

### Definition of Sexual Harassment

Title IX Sexual Harassment is defined as conduct:

1. On the basis of sex,
2. That occurs within National Aviation Academy's Education Program or Activity,
3. Within the United States, and
4. Involves
  - (a) a Academy Employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct; or
  - (b) unwelcome conduct that is determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the Academy's Education Program or Activity; or
  - (c) **Sexual Assault**; or
  - (d) **Dating Violence**; or
  - (e) **Domestic Violence**; or
  - (f) **Stalking**.

### The Definition of Sexual Violence/Assault

Sexual violence/assault is a form of prohibited sexual harassment. Sexual violence/assault includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity or because of his or her youth.

**Examples of Sexual Violence/Assault** Some examples of sexual violence/assault include:

- Sexual intercourse (anal, oral, or vaginal) by a man or woman upon a man or woman without consent
- Unwilling sexual penetration (anal, vaginal, or oral) with any object or body part that is committed by force, threat, or intimidation
- Sexual touching with an object or body part, by a man or woman upon a man or woman, without consent
- Sexual touching with an object or body part, by a man or woman upon a man or woman, committed by force, threat, or intimidation
- Prostituting another student
- Non-consensual video or audio-taping of sexual activity
- Knowingly transmitting a sexually transmitted disease to another

Further examples of sexual violence may be found in the Frequently Asked Questions.

### Definition of Consent

Lack of consent is a critical factor in determining whether sexual violence/assault has

occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
- If a person is asleep or unconscious, there is no consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.

## Domestic Violence, Dating Violence, and Stalking

The crimes of domestic violence, dating violence, and stalking can also constitute sexual harassment when motivated by a person's sex. These crimes, no matter the motivation behind them, are a violation of this policy.

"Domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of a victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse or the victim under the domestic or family violence laws of the jurisdiction [...], or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- For state law definitions covering domestic violence see:
  - [Florida Statutes §741.28](#)
  - [Massachusetts Law §MGLc.209A](#)

"Dating violence" means violence committed by a person:

- a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - I. The length of the relationship.
    - II. The type of the relationship.
    - III. The frequency of interaction between the persons involved in the relationship.
- For state law definitions covering dating violence see:
    - [Florida Statutes §784.06](#)
    - [Massachusetts Law §MGLc.209A](#)

"Stalking" means engaging in a course of conduct directed at a specific person

that would cause a reasonable person to:

- a. Fear for his or her safety or the safety of others; or
  - b. Suffer substantial emotional distress.
- For state law definitions of stalking see:
    - [Florida Statutes §784.048](#)
    - [Massachusetts Law §MGLc.209A](#)

Other state law definitions can be found at <http://victimsofcrime.org/our-programs/stalking-resource-center/stalking-laws/criminal-stalking-laws-by-state>.

## Title IX Requirements Regarding Pregnant and Parenting Students

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Under Title IX, it is illegal for schools to exclude a pregnant student from participating in any part of an educational program.

### Frequently Asked Questions

*Does a school have to excuse a student's absences due to pregnancy or childbirth?*

Yes. Title IX requires a school to excuse a student's absences due to pregnancy or related conditions, including recovery from childbirth, for as long as the student's doctor deems the absences to be medically necessary. When the student returns to school, she must be reinstated to the status she held when the leave began, which should include giving her the opportunity to make up any work missed. A school may offer the student alternatives to making up missed work, such as retaking a semester, taking part in an online course credit recovery program, or allowing the student additional time in a program to continue at the same pace and finish at a later date, especially after longer periods of leave. The student should be allowed to choose how to make up the work.

*What types of assistance must a school provide to a pregnant student at school?*

To ensure a pregnant student's access to its educational program, when necessary, a school must make adjustments to the regular program that are reasonable and responsive to the student's temporary pregnancy status. For example, a school might be required to provide a larger desk, allow frequent trips to the bathroom, or permit temporary access to elevators.

In addition, a school must excuse a student's absences because of pregnancy or childbirth for as long as the student's doctor deems the absences medically necessary. When a student returns to school, she must be allowed to return to the same academic and extracurricular status as before her medical leave began.

If the school requires students with other medical conditions to submit a doctor's note, it may require the same from a pregnant student.

## **Roles and Responsibilities**

### **Title IX Coordinator**

It is the responsibility of the Title IX Coordinator to coordinate dissemination of information and education and training programs to: (1) assist members of NAA community in understanding that sex discrimination and sexual harassment are prohibited by this policy; (2) ensure that investigators are trained to respond to and investigate complaints of sex discrimination and sexual harassment; and (3) ensure that faculty, staff, and students are aware of the procedures for reporting and addressing complaints of sex discrimination and sexual harassment. The appropriate deputy Title IX Coordinator is also responsible for implementing the Complaint Resolution Procedures for the campus to which the complaint pertains.

#### **B. Directors of Education, Deans, Department Chairs, and Managers**

It is the responsibility of deans, department chairs, and managers (i.e., those that formally supervise other employees) to:

- Inform employees under their direction or supervision of this policy,
- Notify the Title IX Coordinator or appropriate deputy Title IX Coordinator for their campus promptly if they receive reports, witness, or otherwise learn of complaints of sex discrimination and sexual harassment,
- Implement any corrective actions that are imposed as a result of findings of a violation of this policy.

#### **C. Employees**

It is the responsibility of all employees to review this policy and comply with it.

#### **D. Students**

It is the responsibility of all students to review this policy and comply with it.

#### **NAA**

When NAA is aware that a member of NAA community may have been subjected to or affected by conduct that violates this policy, NAA will take prompt action, including a review of the matter and, if necessary, an investigation and appropriate steps to stop and remedy the sex discrimination or sexual harassment. NAA will act in accordance with its Complaint Resolution Procedures.

## **Complaints**

### Making a Complaint

#### Employees and Staff

National Aviation Academy strongly encourages anyone who has information about a potential violation of this Policy to provide a Report to the Title IX Coordinator or the Department of Campus Safety. Any person may provide a Report of a potential violation to the Title IX Coordinator. Reports by mail, telephone or electronic mail may be made at any time, including outside of regular business hours.

A Report is defined as a disclosure, and does not constitute a Formal Complaint. The procedure for filing a Formal Complaint is described later in this Policy.

#### Responsible Administrators

NAA has designated Responsible Administrators to whom a person may report an incident and expect the information will be acted upon. A Responsible Administrator is required to share all reported information, including personally identifiable information, with Title IX Coordinator. Any Staff of Faculty sought out will be considered a responsible administrator.

*If a report is made to anyone other than the Title IX Coordinator, or anyone **not** considered a Responsible Administrator, the reporting party assumes NAA has not received actual knowledge, and the information may not be acted upon.*

#### Content of the Complaint

So that NAA has sufficient information to investigate a complaint, the complaint should include: (1) the date(s) and time(s) of the alleged conduct; (2) the names of all person(s) involved in the alleged conduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the complainant so that NAA may follow up appropriately.

A complainant will be given a copy of the document titled "Explanation of Rights and Options after Filing a Complaint under the Title IX: Non-Discrimination and Anti-Harassment Policy."

### *INFORMAL RESOLUTION*

#### Option for Voluntary Informal Resolution

National Aviation Academy offers a voluntary process for Formal Complaints to be addressed through Informal Resolution. During the Informal Resolution process, a Facilitator will attempt to help the Parties come to an agreement about how to resolve a Formal Complaint. The Informal Resolution process is available to the Parties only after a Formal Complaint is filed and before a Determination of Responsibility or No Responsibility is issued. The Informal Resolution process is never available where a Formal Complaint alleges that a Academy Employee engaged in Title IX Sexual Harassment toward a student.

All Parties' participation in the Informal Resolution process must be voluntary. In order to initiate the Informal Resolution process, each Party must sign the "Consent to Informal Resolution Process" form and submit it to the Title IX Coordinator. When all Parties to a Formal Complaint have submitted the consent forms, the Academy will pause the Formal Complaint Process, including any ongoing investigation or hearing, for a period of fifteen (15) Business Days (unless a shorter or longer time is set by the Title IX Coordinator), to allow the Parties to proceed with the Informal Resolution Process. The time period during which the Formal Complaint Process is paused for the Informal Resolution Process shall not count toward the time periods set forth to conclude the Formal Complaint Process.

### Notice Prior to Informal Resolution

Prior to the beginning the Informal Resolution process, the Title IX Coordinator will provide notice of the allegations of the Formal Complaint and will direct the Parties' attention to the Informal Resolution provisions of this Policy.

### Role of the Facilitator

The Facilitator will decide the process and procedures to be used in the Informal Resolution process but shall not take actions inconsistent with this Policy. The Facilitator will treat the Parties fairly and equitably. Each Party may be accompanied by their Advisor during any portion of the Informal Resolution process. The Facilitator may meet with the Parties separately, may share information obtained during the course of any investigation with the Parties, may make suggestions about the terms of an Informal Resolution, and may take other reasonable steps to assist the Parties in determining if they can reach an Informal Resolution. The Facilitator shall not require the Parties to meet together, in-person, unless the Parties agree to do so.

If the Parties reach an agreement to resolve a Formal Complaint informally, the Facilitator shall create a written agreement that lists the terms of the Informal Resolution for the Parties to sign. A Party may withdraw from the Informal Resolution process at any time before they sign a written document agreeing to an Informal Resolution and within 48 hours after the Party signs the written agreement. If a Party timely withdraws from the information resolution process, then the Academy shall resume the Formal Complaint Process.

Under no circumstances may the Facilitator be called as a Witness in the Formal Complaint Process.

### Approval of Informal Resolution By Title IX Coordinator

If no Party withdraws from the written agreement within 48 hours, the agreement shall be presented to the Title IX Coordinator for final approval and implementation. The Title IX Coordinator shall give deference to the Parties' agreement but shall not approve an agreement that the Title IX Coordinator determines to be impractical, unduly burdensome, or inconsistent with the Academy's obligations under this Policy, Title IX, or another applicable law or policy. If the Title IX Coordinator disapproves the Parties' written agreement, the Facilitator and the Parties may agree to modify and resubmit the agreement. If they do not agree to do so and/or do not submit a modified written agreement, then the Title IX Coordinator shall resume the Formal Complaint Process.

## *RETALIATION*

Neither the Academy nor any other person may retaliate against an individual who has participated or refused to participate in any matter addressed under this Policy. Retaliation includes any action to intimidate, threaten, coerce, or discriminate against an individual (a) for the propose of interfering with any right or privilege secured by Title IX or its implementing regulations; or (b) because the individual has made a Report or Formal Complaint, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding, or hearing under this Policy. Retaliation is also prohibited against individuals involved in matters that do not arise under this policy but arise out of the same facts or circumstances as a Report or Formal Complaint of sex discrimination or sexual harassment. Retaliation is a violation of Academy Policy. Any allegations of retaliation related to a Report or Formal Complaint Process will be referred to the appropriate process of resolution, even if such process runs concurrent with a Formal Complaint Process under Title IX. The outcome of any proceedings called to resolve retaliation in relationship to a Report or Formal Complaint Process must be reported back to the Title IX Coordinator.

## *OTHER INFORMATION*

### *Training and Prevention Programming*

In an effort to reduce the risk of gender-based discrimination and sexual misconduct occurring among its students, National Aviation Academy utilizes a range of campaigns, strategies and initiatives to provide awareness, educational, risk reduction and prevention programming.

It is the policy of the Academy to offer programming to prevent domestic violence, dating violence, sexual assault (including stranger and known offender assaults) and stalking each year. Educational programs are offered to raise awareness for all incoming students and employees and are often conducted during new student and new employee orientation and throughout an incoming student's first semester. These programs and others offered throughout the year include strong messages regarding not just awareness, but also primary prevention (including normative messaging, environmental management and bystander intervention), and discuss institutional policies on gender-based discrimination and sexual misconduct as well as the definitions of domestic violence, dating violence, sexual assault, stalking and consent in reference to sexual activity. Bystander engagement is encouraged through safe and positive intervention techniques and by empowering third-party intervention and prevention such as calling for help, using intervention-based apps, identifying allies and/or creating distractions.

Programs also offer information on risk reduction that strives to empower victims, how to recognize warning signals and how to avoid potential attacks, doing so without victim-blaming approaches. Throughout the year, ongoing awareness and prevention campaigns are directed to students, faculty and staff, often taking the form of campaigns, guest speakers, events, and programs sponsored by student clubs and organizations. In addition, the Academy requires all first year students to complete Sexual Assault Prevention for First Year Students, an online educational platform offered by EverFi.

### *Written Notification of Available Resources*

The Academy will provide to students and employees information about support and assistance granted to victims of sexual assault, stalking, dating violence or domestic violence. The support and assistance the Academy can provide includes accessing advocacy

resources; academic support; counseling, disability, health or mental health services; legal assistance; visa/immigration assistance (both within the Academy and in the community); transportation and will provide other security and support measures as appropriate, including by issuing a no-contact order, arranging a change of living or work assignment or class schedules (including for the Respondent pending the outcome of an investigation), or making adjustments for assignments or tests, etc. and assisting with reporting crimes to local law enforcement if the victim chooses. This information is available on the National Aviation Academy Title IX webpage and in informational brochures available in Human Resources, the Office of the Sr. Vice President for Academic Affairs, Community Living, Campus Security, Office of the Vice President for Student Life, Disability Services and Student Wellness.

### Recordkeeping

National Aviation Academy will maintain the records identified in this section of this Policy for a period of seven (7) years. The records maintained shall be kept confidential and not disclosed, except as permitted or required by law. The records may be maintained in paper or digital files.

In connection with each Report and each Formal Complaint, the Academy will maintain the following records, to the extent they exist:

- documentation of any Report of alleged Title IX Sexual Harassment;
- documentation of any Supportive Measures or if no Supportive Measures are provided, the reasons why and an explanation of how the Academy's response was not clearly unreasonable;
- the Formal Complaint;
- documentary evidence gathered in the course of an investigation and photographs or descriptions of nondocumentary evidence gathered in the course of an investigation;
- written responses of the parties provided prior the finalization of the investigation report;
- the Investigation Report;
- the audio recording, audiovisual recording, or transcript of any Live Hearing;
- the Written Determination;
- any Appeal and Written Appeal Decision;
- records of the sanctions and/or remedies;
- records of any other steps taken to restore or preserve equal access to the Academy's Education Program or Activity,
- any written agreement of an informal resolution; and
- a statement documenting the basis for the Academy's conclusion that its response to a report or formal complaint was not deliberately indifferent.

The Academy shall also maintain all materials used to train its Title IX Coordinators, Investigators, Decision-makers, and Facilitators and a copy of each version of its Title IX Policy on Sex Discrimination.

#### Modifications to this Policy

This Policy may be modified from time-to-time, during an academic year or otherwise, in the Academy's discretion and as may be required by law. Academy Employees and Students will be notified whenever this Policy is modified. The policy and procedures posted on the website are the most current.

#### Disclosure of Results of Disciplinary Proceedings to Next of Kin

Upon request, the Academy will disclose the results of any disciplinary proceeding conducted by the institution against a student who is the alleged perpetrator of any crime of violence or non-forcible sex offense (incest or statutory rape) to the alleged victim's next of kin if the victim is deceased as a result of the offense.

#### Federal Timely Warning Reporting Obligations

Victims of sexual assault, dating or domestic violence or stalking should be aware that the Academy must issue timely warnings for reported incidents that represent a serious or continuing threat to members of the campus community. In such circumstances, no personally identifiable information of the Complainant will be disclosed.

### FORMAL COMPLAINT PROCESS

All entitlements established in this section apply equally to the Parties. The Formal Complaint Process applies when a Formal Complaint is signed and submitted, whether by a Complainant or by the Title IX Coordinator on behalf of the Academy. This process is grounded in a presumption that a Respondent is not responsible unless and until a Determination of Responsibility at the conclusion of this process. The standard of review for determinations regarding responsibility is preponderance of the evidence. The preponderance of evidence standard of proof is met when the evidence shows that it is more likely than not that an allegation is true.

#### Filing of Formal Complaint

The Formal Complaint Process begins with the filing of a Formal Complaint which alleges that a Respondent has engaged in Title IX Sexual Harassment, is signed by the Complainant or the Title IX Coordinator, and requests that National Aviation Academy investigate the allegation of Title IX Sexual Harassment. A Formal Complaint must be filed in electronic format. A link to the complaint form will be provided to the Complainant by the Title IX Coordinator.

#### Dismissal or Withdrawal of Formal Complaint

If, at any time during the Formal Complaint Process, the Title IX Coordinator determines that the alleged misconduct does not fall within this Policy because the conduct did not occur within the NAA's Education Program or Activity, or the conduct did not occur within the United States, the Title IX Coordinator will dismiss the Formal Complaint by issuing a Notice of Dismissal.

If at any time during the Formal Complaint Process the respondent is no longer enrolled or employed by the NAA or the Title IX Coordinator determines that specific circumstances prevent NAA from gathering evidence sufficient to reach a determination of

the allegations of the Formal Complaint, the Title IX Coordinator may dismiss the Formal Complaint by issuing a Notice of Dismissal.

The Notice of Dismissal, which will be issued to the Complainant within five (5) Business Days of the Title IX Coordinator's determination, will include the reasons for the dismissal. A dismissal of a Formal Complaint from the Formal Complaint Process shall not prevent NAA from addressing the allegations in the Formal Complaint under another applicable policy of National Aviation Academy. Any Party has the right to submit an Appeal from dismissal of a Formal Complaint.

If, at any time during the Formal Complaint Process, the Complainant notifies the Title IX Coordinator in writing that they wish to withdraw the Formal Complaint or any allegations in the Formal Complaint, the Title IX Coordinator may dismiss the Formal Complaint. Alternatively, the Title IX Coordinator may decide that proceeding with the Formal Complaint Process is necessary. In making that determination, the Title IX Coordinator must weigh the Complainant's wishes and NAA's obligations to eliminate Title IX Sexual Harassment, prevent its recurrence, and remedy its effects.

### Conduct that Constitutes a Crime

Any person who wishes to make a complaint of sex discrimination or sexual harassment that also constitutes a crime—including sexual violence/assault, domestic violence, dating violence, or stalking—is encouraged to make a complaint to local law enforcement. If requested, NAA will assist the complainant in notifying the appropriate law enforcement authorities. A victim may decline to notify such authorities.

### Special Guidance Concerning Complaints of Sexual Violence/Assault, Domestic Violence, Dating Violence, and Stalking

If you are the victim of sexual violence/assault, domestic violence, dating violence, or stalking, do not blame yourself. These crimes are never the victim's fault. NAA recommends that you immediately go to the emergency room of a local hospital and contact local law enforcement, in addition to making a prompt complaint under this policy. If you are the victim of sexual violence/assault, domestic violence, or dating violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of sexual violence/assault, domestic violence, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.

It is also important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence.

Once a complaint of sexual violence/assault, domestic violence, dating violence, or stalking is made, the complainant has several options such as, but not

limited to:

- contacting parents or a relative,
- seeking legal advice,
- seeking personal counseling (always recommended),
- pursuing legal action against the perpetrator,
- pursuing disciplinary action,
- requesting no further action be taken.

### Protecting the Complainant

Pending final outcome of an investigation, NAA will take steps to protect the complainant from any further harassment or retaliation. This may include assisting and allowing the complainant to change his or her academic, transportation, work, or living situation if options to do so are reasonably available. Such changes may be available regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

If a complainant has obtained a temporary restraining order or other no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the complainant should provide such information to the Title IX Coordinator or appropriate deputy Title IX Coordinator for their campus. NAA will take all reasonable and legal action to implement the order.

### Response to Potential Violations of this Policy

When the Title IX Coordinator receives a Report, the Academy will respond by: (A) equitably offering Supportive Measures to the Complainant and Respondent (as outlined under “Supportive Measures” below), whether or not a Formal Complaint is filed; and (B) imposing disciplinary sanctions or other actions that are not Supportive Measures upon the Respondent only when the Respondent is found responsible for a violation of this Policy through a completed Formal Complaint Process. However, the NAA may impose an emergency removal or administrative leave as provided in this Policy.

### SUPPORTIVE MEASURES

Supportive Measures are available with or without the filing of a Formal Complaint. Promptly after receipt of a Report, the Title IX Coordinator will contact the Complainant to discuss the availability of Supportive Measures. The Title IX Coordinator will also contact a Respondent to offer Supportive Measures promptly after a Formal Complaint is filed, whether or not a Formal Complaint Process actually proceeds. In determining the Supportive Measures to be provided, the Title IX Coordinator will make an individualized determination, considering the Complainant’s wishes and other relevant factors, of the non-disciplinary, non-punitive measures that will be provided to the Complainant and Respondent to restore or preserve equal access to the Academy’s Education programs or Activities, to protect the safety of the Parties, and/or to deter Title IX Sexual Harassment.

All Supportive Measures will be provided without fee or charge and without unreasonably burdening the other Party. Supportive Measures will be maintained as confidential by the

Academy to the extent that confidentiality will not impair the ability to provide the Supportive Measures.

Examples of Supportive Measures that may be implemented by the Academy include:

- Academic extensions or adjustments
- Changes in on campus work schedules or locations
- Counseling
- Increased security or monitoring of certain areas of the campus
- Modifications of class or activity schedules
- Mutual restrictions on contact between the Parties

All Employees who have experienced Title IX Sexual Harassment, who have provided a Report alleging Title IX Sexual Harassment, or have been alleged to have engaged in Title IX Sexual Harassment can seek confidential assistance through the Employee Assistance Program.

### **Investigation and Confidentiality**

All complaints of sex discrimination and sexual harassment will be promptly and thoroughly investigated in accordance with the Complaint Resolution Procedures ([see page 19](#)). NAA will make reasonable and appropriate efforts to preserve an individual's privacy and protect the confidentiality of information when investigating and resolving a complaint. However, because of laws relating to reporting and other state and federal laws, NAA cannot guarantee confidentiality to those who make complaints.

In the event a complainant requests confidentiality or asks that a complaint not be investigated, NAA will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, NAA's ability to respond may be limited. NAA reserves the right to initiate an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to NAA community.

### **SANCTIONS**

#### **Possible Sanctions**

The following sanctions and/or conditions may be imposed following a Determination of Responsibility for a violation of this Policy. The described range of sanctions is required by Federal law under Title IX and that the published range is purely for purposes of notice as to the possibility of a range of Remedies and disciplinary sanctions and does not reflect the probability that any particular outcome will occur.

#### **a. Students**

- Formal Warning is a written notice to the student that he/she has violated Academy policy and that continued behavior may lead to more significant disciplinary action.
- Disciplinary Notice is a written notice to the student that rises above a warning and carries additional educational sanctions and notifications. A student on Disciplinary

Notice should be aware that subsequent violations of the Student Code of Conduct may jeopardize the student's good standing with the Academy.

- Disciplinary Probation is written notice to the student that the student is not in good standing. The duration of the probation is determined by the Vice President of Education. Disciplinary Probation status may negatively impact the student's ability to participate in certain campus clubs and organizations. It may also impact campus leadership programs and positions.
- Disciplinary Suspension is a written notice to the student that the student is separated from the Academy for one or more semesters. When a student is placed on Disciplinary Suspension, the student is not permitted to be on campus.
- Disciplinary Expulsion is a written notice to the student that the student is permanently separated from the Academy for disciplinary reasons. An individual who has been expelled from the Academy is not permitted on campus for any reason without permission of the Vice President of Education.

#### b. Employees

- Termination of employment
- Suspension
- Demotion
- Progressive discipline
- Warning
- Job transfer
- Change or restrictions in work location and/or job responsibilities
- Title IX Sexual Harassment education
- Restrictions on the Employee's communications

#### c. Factors in Determining Sanctions

In considering the appropriate sanction within the recommended outcomes, the Hearing Board may consider the following factors:

- Respondent's prior discipline history;
- how the Academy has sanctioned similar incidents in the past;
- the nature of the conduct at issue, including whether there was violence;
- the impact of the conduct on the Complainant;
- the impact of the conduct on the Academy's community, its members or property;
- whether the Respondent accepted responsibility;
- whether the Respondent is reasonably likely to engage in the conduct in the future;
- any other mitigating or aggravating circumstances, including the Academy's values and
- the Academy's obligation to eliminate Title IX Sexual Harassment, prevent its recurrence, remedy its effects, and to maintain an environment free from Title IX Sexual Harassment.
- Respondent's lack of comprehension that conduct constituting Title IX Sexual Harassment violates the bodily or emotional autonomy and dignity of a victim

does not excuse the misconduct, though genuine lack of understanding may, in the Hearing Board's discretion, factor into the sanction decision.

### Bad Faith Complaints

While NAA encourages all good faith complaints of sex discrimination and sexual harassment, NAA has the responsibility to balance the rights of all parties. Therefore, if NAA's investigation reveals that a complaint was knowingly false, the complaint will be dismissed and the person who filed the knowingly false complaint is subject to discipline.

It is a violation of this policy to retaliate against any person for making a good faith complaint of sex discrimination or sexual harassment and/or cooperating in the investigation of (including testifying as a witness to) such complaint.

## Vendors, Contractors, and Third Parties

This policy and the Complaint Resolution Procedures apply to the conduct of vendors, contractors, and third parties. If a member of NAA community believes that he or she has been subjected to sex discrimination or sexual harassment by a vendor, contractor, or third party, the person should make a complaint in the manner set forth on page 8. NAA will respond to the complaint as appropriate, given the nature of its relationship to the vendor, contractor, or third party.

### **Academic Freedom**

While NAA is committed to the principles of free inquiry and free expression, sex discrimination and sexual harassment are neither legally protected expression nor the proper exercise of academic freedom.

### **Education**

Because NAA recognizes that the prevention of sex discrimination, sexual harassment, sexual violence/assault, domestic violence, dating violence, and stalking is important, it offers educational programming to a variety of groups such as: campus personnel; incoming students and new employees participating in orientation; and members of student organizations. Among other elements, such training will cover relevant definitions, procedures, and sanctions; will provide safe and positive options for bystander intervention and will provide risk reduction information, including recognizing warning signs of abusive behavior and how to avoid potential attacks. To learn more about education resources, please contact the Title IX Coordinator or appropriate deputy Title IX Coordinator for your campus.

## **FREQUENTLY ASKED QUESTIONS**

1. What are some additional examples of sexual harassment?
2. What should I do if I have been sexually harassed?
3. What are some additional examples of sexual violence/assault?
4. What constitutes “consent” for purposes of sexual violence/assault?
5. What should I do if I am a victim of sexual violence/assault, domestic violence, dating violence, or stalking?
6. Can I make a complaint of sexual violence/assault against my boyfriend or girlfriend?
7. What should I do if I am sexually harassed by someone who is not an Academy student or employee?
8. What should I do if I am sexually harassed by a student but we are off campus?
9. What should I do if I observe sex discrimination or sexual harassment, but it is not directed at me?
10. What is the role of the Title IX Coordinator?
11. If I make a complaint of sex discrimination or sexual harassment, will it be treated confidentially?
12. Who is typically involved in investigating a complaint of sex discrimination or sexual harassment?
13. What are the possible outcomes of an investigation into a complaint?
14. May I have a support person with me in the investigation process?
15. What should I do if I am retaliated against for making a complaint of sex discrimination or sexual harassment?
16. How does NAA handle false allegations of sex discrimination and sexual harassment?

## **Responses to Frequently Asked Questions**

### **1. What are some additional examples of sexual harassment?**

Sexual harassment is a form of prohibited sex discrimination. NAA's policies protect men and women equally from sexual harassment, including harassment by members of the same sex. Staff, faculty, and students are protected from sexual harassment by any other staff, faculty, student, or contractor. Examples of kinds of conduct that constitute sexual harassment include, but are not limited to, the following:

- Engaging in unwelcome sexual advances
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
- Sending sexually explicit emails or text messages
- Telling unwelcome, sexually explicit jokes
- Displaying sexually suggestive or lewd photographs, videos, or graffiti
- Making unwelcome and unwanted physical contact, such as rubbing, touching, pinching, or patting
- Making unwelcome and suggestive sounds, such as "cat calls" or whistling
- Commenting on a person's dress in a sexual manner
- Making sexual gestures
- Repeatedly asking someone for a date after the person has expressed disinterest
- Giving unwelcome personal gifts, such as flowers, chocolates, or lingerie, that suggest the desire for a romantic relationship
- Telling another person of one's sexual fantasies, sexual preferences, or sexual activities
- Commenting on a person's body, gender, sexual relationships, or sexual activities
- Using sexually explicit profanity

### **2. What should I do if I have been sexually harassed?**

NAA encourages you to report sexual harassment as soon as possible. Ignoring sexual harassment does not make it go away. And delayed reporting may limit NAA's ability to investigate and remedy the sexual harassment.

If you are a student, you may report sexual harassment to the Title IX Coordinator or appropriate deputy Title IX Coordinator for your campus. If you are the victim of sexual harassment that constitutes a crime, NAA encourages you to also file a complaint with local law enforcement and to press charges.

You always have the option to directly confront the person who is harassing you. Sometimes, individuals are not aware that their behavior is offensive and quickly apologize and change their behavior once it is brought to their attention. However, you are not required or expected to confront your harasser prior to filing a complaint.

### 3. What are some additional examples of sexual violence/assault?

Sexual violence/assault is a form of prohibited sexual harassment. Sexual violence/assault includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to use of drugs and/or alcohol or to an intellectual or other disability. Examples of kinds of conduct that constitute sexual violence/assault include, but are not limited to, the following:

- The use of force or coercion to effect sexual intercourse or some other form of sexual contact with a person who has not given consent
- Having sexual intercourse with a person who is unconscious because of drug or alcohol use
- Hazing that involves penetrating a person's vagina or anus with an object
- Use of a "date rape drug" to effect sexual intercourse or some other form of sexual contact with a person
- One partner in a romantic relationship forcing the other to have sexual intercourse without the partner's consent
- Exceeding the scope of consent by engaging in a different form of sexual activity than a person has consented to
- Groping a person's breasts or groin on a dance floor or at a bar
- Knowingly transmitting a sexually transmitted disease such as HIV to another person through sexual activity
- Coercing someone into having sexual intercourse by threatening to expose their secrets
- Secretly videotaping sexual activity where the other party has not consented

### 4. What constitutes "consent" for purposes of sexual violence/assault?

Lack of consent is a critical factor in determining whether sexual violence/assault has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
- If a person is asleep or unconscious, there is no consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.

## 5. What should I do if I am a victim of sexual violence/assault, domestic violence, dating violence, or stalking?

Don't blame yourself. These crimes are never the victim's fault. Please contact the Title IX Coordinator or appropriate deputy Title IX Coordinator for your campus as soon as possible for information on options and resources available to you. You may also wish to call local law enforcement (911 if emergency), or the National Sexual Assault Hotline at 800-656-HOPE.

If you are the victim of sexual violence/assault, domestic violence, or dating violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of sexual violence/assault, domestic violence, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.

It is also important to take steps to preserve evidence in cases of stalking; to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence.

## 6. Can I make a complaint of sexual violence/assault against my boyfriend or girlfriend?

Anyone can commit sexual violence/assault, even if you and that person are in a romantic relationship. The critical factor is consent. If your boyfriend or girlfriend perpetrates a sexual act against you without your consent, such conduct constitutes sexual violence/assault, and you may make a complaint. This type of conduct and other types of conduct perpetrated by your boyfriend or girlfriend may also be classified as domestic violence or dating violence.

## 7. What should I do if I am sexually harassed by someone who is not an Academy student or employee?

NAA's policies protect you from sexual harassment by vendors, contractors, and other third parties that you encounter in your Academy learning, living, and employment environment. If you believe that you have been subject to conduct that violates these policies, you should report the sexual harassment just as if it were committed by an Academy student or employee.

## **8. What should I do if I am sexually harassed by a student but we are off campus?**

It is possible for off-campus conduct between Academy employees or students to contribute to a hostile working or academic environment or otherwise violate NAA's policies. You may make a complaint of sexual harassment even if the conduct occurs off-campus.

## **9. What should I do if I observe sex discrimination or sexual harassment, but it is not directed at me?**

Anyone who witnesses sex discrimination or sexual harassment, even if it is directed at someone else, can still feel uncomfortable and harassed. If you are a student and witness conduct that you believe constitutes sex discrimination or sexual harassment, please make a complaint in the same manner as if the conduct was directed against you. If you are an employee or staff member of NAA, it is your duty to report conduct that constitutes sex discrimination or sexual harassment.

## **10. What is the role of the Title IX Coordinator?**

The Title IX Coordinator oversees NAA's compliance with Title IX and receives inquiries regarding Title IX, including complaints of sex discrimination and sexual harassment. The Title IX Coordinator has received special training on NAA's policies and procedures pertaining to sex discrimination and sexual harassment, and is available to answer questions about those policies and procedures, respond to complaints, and assist you in identifying other resources to aid in your situation. The Title IX Coordinator is assisted by several deputy Title IX Coordinators, who are assigned to particular campuses. The deputy Title IX Coordinators are responsible for implementing the Complaint Resolution Procedures for complaints pertaining to the campuses to which they are assigned.

## **11. If I make a complaint of sex discrimination or sexual harassment, will it be treated confidentially?**

NAA will take reasonable and appropriate steps to preserve the confidentiality of the parties to the complaint and to protect the confidentiality of information gathered during the investigation. However, NAA has an obligation to provide a safe and non-discriminatory environment for all students and employees. Therefore, no unconditional promises of confidentiality can be provided.

## **12. Who is typically involved in investigating a complaint of sex discrimination or sexual harassment?**

NAA's deputy Title IX Coordinator for the campus pertaining to the complaint will be involved in investigating these complaints. Also, the deputy Title IX Coordinator may appoint another member of the faculty or staff to gather, investigate,

and resolve the complaint. The process of gathering evidence will necessarily require the involvement of the complainant, the respondent, and any witnesses to the incident that gave rise to the complaint. In sum, it will involve those persons necessary to fairly and completely investigate the complaint and resolve it.

### **13. What are the possible outcomes of an investigation into a complaint?**

The outcome will be determined based on the totality of the evidence using a preponderance of the evidence standard. If the preponderance of the evidence does not support a finding that the incident occurred, then the complaint is resolved in favor of the accused. If, however, the preponderance of the evidence supports that sex discrimination or sexual harassment occurred, the actions taken by NAA will include those necessary to maintain an environment free from discrimination and harassment and to protect the safety and well-being of the complainant and other members of NAA community. Such actions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of discrimination, harassment, and retaliation. Examples of such action include: no-contact orders, classroom reassignment, the provision of counseling or other support services, training, and discipline for the perpetrator, up to termination, expulsion, or other appropriate institutional sanctions.

### **14. May I have a support person with me in the investigation process?**

During the investigation of a complaint, both the complainant and the accused may have a friend or colleague present with them during the investigatory interview. The support person cannot be a potential witness in the matter. In cases involving multiple complainants or respondents, the support person cannot be another complainant or respondent. The support person does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and he or she must agree to maintain the confidentiality of the process. Witnesses to sex discrimination or sexual harassment and others involved in the investigation are not entitled to have a support person present during investigatory interviews.

### **15. What should I do if I am retaliated against for making a complaint of sex discrimination or sexual harassment?**

NAA's Title IX: Non-Discrimination and Anti-Harassment Policy prohibits retaliation against any person for making a good faith complaint of sex discrimination or sexual harassment and/or cooperating in the investigation of (including testifying as a witness to) such complaint. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the underlying allegation of sex discrimination or sexual harassment. If you feel you are the victim of retaliation in violation of this policy, you should report the retaliation just as you would a complaint of sex discrimination or sexual harassment.

**16. How does NAA handle a bad faith allegation of sex discrimination and sexual harassment?**

A bad faith allegation of sexual discrimination or sexual harassment occurs when the accuser intentionally reports information or incidents that he or she knows to be untrue. Failure to prove a complaint of sex discrimination or sexual harassment is not equivalent to a bad faith allegation. NAA may impose sanctions against an individual who knowingly makes false allegations of sex discrimination or sexual harassment.

# **TITLE IX COMPLAINT RESOLUTION PROCEDURES**

## 1. General Principles

### A. Administration

For purposes of these complaint resolution procedures, “Title IX Coordinator” means the deputy Title IX Coordinator for the campus to which the complaint pertains and/or his or her designee. The Title IX Coordinator shall have responsibility for administering these complaint resolution procedures.

### B. Promptness, Fairness and Impartiality

These procedures provide for prompt, fair, and impartial investigations and resolutions. The Title IX Coordinator shall discharge his or her obligations under these complaint resolution procedures fairly and impartially. If the Title IX Coordinator determines that he or she cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, or due to any other conflict of interest, the Title IX Coordinator shall designate another individual to administer these procedures.

### C. Training

These procedures will be implemented by officials who receive annual training on the issues related to sex discrimination, sexual harassment, sexual violence/assault, domestic violence, dating violence, and stalking and how to conduct an investigation and implement a process that protects the safety of victims and promotes accountability.

## 2. Investigation and Resolution of the Complaint

### A. Commencement of the Investigation

The Title IX Coordinator will initiate an investigation, unless the Formal Complaint is proceeding through the Informal Resolution Process. The Title IX Coordinator will issue a Notice of Investigation to known Parties sufficiently in advance of any request to meet with the Investigator. This Notice of Investigation will include:

- Notice of these grievance procedures, including the Informal Resolution process, and a copy of this Policy.
- The conduct alleged to violate this Policy, and the date and location of the alleged incident, if known.
- Known Parties involved in the alleged incident
- A statement that the Respondent is presumed not responsible for the alleged misconduct and that a Determination of Responsibility will be made at the conclusion of the process.
- Notice of the Parties’ right to an Advisor of choice, who will be permitted to accompany them to investigation meetings, interviews, and any hearing and to review materials provided to their advisee throughout the process.

- Notice of and citation to the NAA’s prohibition on knowingly making false Statements or submitting false information during this process.

If during the course of an investigation, new or additional allegations arise that require investigation, the Title IX Coordinator will send the Parties an updated Notice of Investigation revising the scope of the investigation.

#### B. Option of Informal Resolution

If the Parties voluntarily agree to proceed with the Informal Resolution Process, the Title IX Coordinator may refrain from initiating the Formal Complaint Process or may pause an ongoing Formal Complaint Process.

#### C. The Content of the Investigation

During the investigation, the complainant will have the opportunity to describe his or her allegations and present supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and present supporting witnesses or other evidence. The Title IX Coordinator will review the evidence presented and, depending upon the circumstances, may interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

#### D. Parties’ Review of/Response to Information

At the conclusion of the investigation, the Investigator will assemble all inculpatory and exculpatory information gathered during the investigation that is directly related to the allegations of the Formal Complaint, including information upon which the Academy does not intend to rely in reaching a determination regarding responsibility. The Investigator will redact information that is unrelated to the allegations of the Formal Complaint or otherwise not admissible in the Formal Complaint Process (i.e., because it is subject to an unwaived legally recognized privilege or constitutes prior sexual history not offered to establish Consent or that Respondent did not engage in the alleged misconduct). The Investigator will create a list describing information it has redacted or removed as irrelevant, inadmissible, or not directly related to the allegations of the Formal Complaint, which it may allow the Parties to inspect.

The assembled information will then be shared with the Parties and their Advisors in a shared electronic format. NAA will require Parties and their Advisors to agree to restrictions and/or sign a non-disclosure agreement prohibiting dissemination of any of the information provided for inspection and review or use of such evidence for any purpose unrelated to this Formal Complaint Process. The Parties will have at least ten (10) Business Days to review the assembled information and submit a written response to it.

The Investigator will review the Parties’ responses to evaluate whether further investigation may be required to ensure the investigation is thorough and complete. In consultation with the Title IX Coordinator, the Investigator will determine any further action indicated by the Parties’ responses and develop a plan to complete the investigation.

When the investigation report is complete, the Title IX Coordinator will provide a copy of it to the Parties and their Advisors in electronic format for their review and written response. The Parties shall have five (5) Business Days to review and respond to the investigation report.

#### E. Notice of Charge

If the Formal Complaint is not dismissed, the Title IX Coordinator will issue a Notice of Charge simultaneously to the Parties. The Notice of Charge shall not be issued before the Parties have had five (5) Business Days to review and respond to the investigation report and will be sent to the Parties within ten (10) Business Days of the conclusion of the investigation. The hearing shall not be scheduled sooner than ten (10) Business Days after the Notice of Charge is issued. The Notice of Charge will include the following information:

- a brief factual summary of the conduct alleged to have violated the Policy, including date, time, and location;
- the specific Policy provision(s) at issue; and
- possible sanctions associated with a finding of responsibility for the alleged Policy violation(s).
- The Notice of Charge will attach a copy of this Policy or include the website where this Policy is available.

#### F. Voluntary Participation

Parties and Witnesses are not required to participate in the Formal Complaint Process, but without their live testimony at the hearing, the Hearing Board cannot rely upon their Statements. The Academy may not threaten, coerce, or intimidate a Party or Witness into participating, nor may the Academy retaliate against a Party or Witness for declining to participate in any part of the Formal Complaint Process.

#### G. Support Person

During the investigation process, both the complainant and respondent may ask a support person to accompany him or her. The support person cannot be a potential witness. In cases involving multiple complainants or respondents, the support person cannot be another complainant or respondent. The support person does not serve as an advocate on behalf of the complainant or respondent, may not actively participate in any proceedings, and he or she must agree to maintain the confidentiality of the process.

#### H. Interim Measures

At any time during the investigation, the Title IX Coordinator may determine that interim remedies or protections for the parties involved or witnesses are appropriate.

These interim remedies may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative class-placement or workplace arrangements. Failure to comply with the terms of these interim remedies or protections may constitute a separate violation of the Title IX: Non-Discrimination and Anti-Harassment Policy.

#### I. Pending Criminal Investigation

Some instances of sexual harassment or sexual violence/assault may also constitute criminal conduct. In such instances, the complainant is also encouraged to file a report with the appropriate law enforcement authorities and, if requested, NAA will assist the complainant in doing so. The pendency of a criminal investigation, however, does not relieve NAA of its responsibilities under Title IX. Therefore, to the extent doing so does not interfere with any criminal investigation, NAA will proceed with its own investigation and resolution of the complaint.

J. Notice of Live Hearing

The Notice of Live Hearing will be sent to the Parties simultaneously within ten (10) Business Days of the delivery of the Notice of Charge and at least five (5) Business Days before the scheduled hearing date. The Notice of Live Hearing may be, but need not be, sent with the Notice of Charge. The Notice of Live Hearing will include the following information:

- the date, time, and location of the Live Hearing;
- the Live Hearing will be recorded via an audio recording, or audiovisual recording when possible;
- the composition of the Hearing Board designated by the Title IX Coordinator; and,
- a statement that there is a presumption of No Responsibility on the part of the Respondent until a determination regarding responsibility is made at the conclusion of the Formal Complaint Process.

In addition, the Notice of Hearing will attach a copy of this Policy or include a reference to the website where this Policy is published.

K. Hearing Board Chair

Hearings are convened by the Title IX Coordinator. The Title IX Coordinator oversees all hearings. In rare circumstances when the Title IX Coordinator is unavailable or ineligible to do so, the Title IX Coordinator will designate the person to convene and oversee the Hearing Board process. The Title IX Coordinator will be the non-voting chair of the Hearing Board during Live Hearings, serving as a process and policy advisor to the Hearing Board. In this role, the Title IX Coordinator may be referred to as the Hearing Officer.

The Title IX Coordinator is never a Decision-maker, whether in connection with a Live Hearing or an Appeal.

L. Hearing Board Members

Prior to the Live Hearing, the Hearing Board will have read all of the information in the investigation report. The Parties will have the same information as the Hearing Board. Hearing Board members are drawn from the pool of Title IX Administrators. There will be three Hearing Board Members in addition to the non-voting chair (Title IX Coordinator).

M. Gathering Information

The Hearing Board will focus its questions on those areas where it needs clarification or more information. The Hearing Board will not necessarily need the Parties or Witnesses to repeat everything they shared during the investigation, but as the Decision-maker(s), the Hearing Board is obligated to come to its own Findings of Fact.

The Hearing Board has the right and responsibility to ask questions and elicit information from Parties and Witnesses on the Hearing Board's own initiative to aid the Hearing Board in obtaining relevant information, both inculpatory and exculpatory.

Only members of the Hearing Board may ask questions of any person testifying, except in connection with Cross-examination Questions asked by Advisors. The Hearing Board is responsible for ensuring that it has sought and probed all information necessary to make an informed decision. At times, the Hearing Board will need to ask difficult or sensitive questions in order to understand the allegations and related information and to gain a full understanding of the context. If at any time a Party does not understand a question or why the Hearing Board is asking a question, the Party should let the Hearing Board know. The Hearing Board will explain and modify its question at its discretion.

The Parties have equal rights to present information in front of the Hearing Board, which ensures that the Hearing Board has the benefit of each Party's perspectives about the evidence. This right includes calling Witnesses. Parties have no right to self-representation and may not ask questions directly of the other Party or Witnesses.

#### N. Evaluating Information

The Hearing Board must objectively evaluate all admissible, relevant evidence for weight or Credibility, including both Inculpatory Evidence and Exculpatory Evidence. The Hearing Board must focus on evidence pertinent to proving whether facts material to the allegations under investigation are more or less likely to be true. Credibility determinations may not be based upon a person's status as a Complainant, Respondent or Witness. Determinations of Credibility must be based on objective evaluation of relevant evidence, not on inferences based on Party or Witness status. Credibility determinations are based on a number of factors, including demeanor (but never only demeanor); opportunity and capacity to observe the event; contradiction or consistency with other evidence; availability of corroboration (where it should logically exist, noting that corroborating evidence is not required); level of detail in Statement or testimony; motive to be untruthful; and inherent plausibility or implausibility. The evaluation of Credibility also takes into account the normal fallibility of human memory.

A Party's answers to Cross-examination Questions will be evaluated by the Hearing Board in context, taking into account that a Party may experience stress while answering Cross-examination Questions. Parties will not be unfairly judged if they are unable to recount every specific detail in sequence, whether such inability is due to trauma, the effects of drugs or alcohol or simple fallibility of human memory.

#### O. Role and Obligations of Advisors During Hearings

1. The Advisor is present to provide support to the Party and not to serve as a proxy voice for the Party.
2. Advisors may not speak during the hearing process, except where permitted to present Cross-examination Questions. Therefore, in all instances other than Cross-examination Questions, Advisors may not speak to the Hearing Board, make statements or arguments, or answer questions.
3. Advisors conducting Cross-examination must be capable of understanding the purpose or scope of Cross-examination. Equal competency between the Parties' Advisors is not required.

4. When conducting Cross-examination, Advisors need not be advocates for Parties, but simply may be individuals who ask questions.
5. Advisors can confer quietly with their advisee as needed, but if there is a need for an extended discussion, the Party should ask for a break in the Live Hearing.
6. Advisors cannot direct the Party how to answer a question.
7. Advisors should conduct themselves quietly and professionally, must not disrupt the proceedings and must comply with any rules of decorum imposed by the Academy. An Advisor who does not do so may be removed from the Live Hearing. In that instance, the Party may select another Advisor or the Academy will appoint a substitute Advisor.

P. Hearing Location

The Title IX Coordinator will provide for the entire Live Hearing (including Cross-examination) to occur with the Parties located in separate rooms with technology enabling the Parties to see and hear each other. Unlike Parties, Witnesses do not have the right to demand to testify in a separate room, but Title IX Coordinator, in its discretion, may permit any participant to appear remotely.

Q. Recording of Live Hearing

The Academy will create an audio or audiovisual recording of the entire Live Hearing. The recording or transcript will be available to the Parties for inspection and review, but is the property of the Academy.

R. Scope of the Live Hearing

The Live Hearing will relate solely to charges set forth in the Notice of Charges issued to the Parties. If the Parties or any Witnesses share information that goes beyond these charges, the Hearing Board will redirect the speaker to the charges at hand.

Parties may be accountable for additional violations discovered through the Formal Complaint Process even if they do not appear in the Notice of Charge/Notice of Live Hearing. In this instance, a separate Complaint Process under this Policy, or under other applicable policies, may be commenced.

S. Attendance at the Hearing

The Live Hearing is closed, meaning it is not open to the public. Witnesses may be present only for their individual meeting with the Hearing Board. Advisors and Parties may be present throughout the proceeding. If a Party, after having been given notice, does not appear at the Live Hearing, the Live Hearing will be conducted in their absence, and the Party's Advisor may appear and conduct Cross-examination. In the event neither a Party nor their Advisor appear at the hearing, the Academy will provide an Advisor to appear on behalf of the non-appearing Party.

T. Honesty

Parties and other individuals who offer information at a Live Hearing are expected to respond honestly and to the best of their knowledge. The Hearing Board may recall any Party or Witness for further questions and to seek additional information as it deems necessary. A Party or Witness who intentionally provides false or misleading information may be subject to discipline under this Policy or other applicable policies.

U. Cross-examination Questions and Effect of Failure to Submit to Cross-examination

## 1. Advisors Conduct Cross-examination

Advisors are allowed, on behalf of the Party they are advising, to cross-examine the other Party and Witnesses by asking relevant questions and follow-up questions, including questions challenging Credibility.

## 2. Relevance Determination Before Answering

Before a Party or Witness answers a Cross-examination Question, the Hearing Board will determine if the question is relevant. If a question is deemed irrelevant, the Hearing Board will explain why. The requirement of Relevance applies throughout the hearing, including during Cross-examination, and will be determined by the Hearing Board. Parties should understand that the process of Cross-examination may be difficult and may feel uncomfortable because its purpose is to promote the perspective of the other Party. Cross-examination Questions may not be submitted in writing in advance of the Live Hearing or during the Live Hearing for purposes of seeking an evaluation of Relevance.

## 3. Effect of Not Submitting to Cross-examination

If a Party or Witness does not submit to Cross-examination by Advisors at the Live Hearing, the Hearing Board must not rely on any Statement of that Party or Witness in reaching a determination regarding responsibility. This rule does not apply if a Party or Witness refuses to answer questions posed by the **Hearing Board**.

a. "Submit to Cross-examination" means answering those Cross-examination Questions that are relevant, as determined by the Hearing Board in real time during the Live Hearing. If a Party or Witness disagrees with the Hearing Board's Relevance determination, they may either (a) abide by the Hearing Board's determination and answer the question or (b) refuse to answer the question. In the event the Party or Witness refuses to answer the question, unless the Hearing Board reconsiders the Relevance determination, the Hearing Board cannot rely on any Statement of that Party or Witness.

b. "Statement" has its ordinary meaning but does not include evidence (such as videos) that do not constitute a person's intent to make factual assertions, or to the extent that such evidence does not contain a person's Statements. Thus, Documents and records that contain Statements may not be relied on in making a final determination after the completion of the hearing if the Party or Witness who made the Statements has not submitted to Cross-examination. Probing the Credibility and reliability of Statements contained in such documents requires the Parties to have the opportunity to cross-examine the individual(s) making the Statements.

c. Examples

- This rule applies to law enforcement report, medical reports, and any other documents and records that contain the Statements of a Party or Witness who has not submitted to Cross-examination.
- If one Party to a text message or email exchange submits to Cross-examination and the other does not, only the messages of the individual who submits to Cross-examination may be considered.
- Where a Party refuses to answer Cross-examination Questions, but video evidence exists showing the underlying incident, the Hearing Board may still consider the available evidence and make a determination.

- If the matter does not depend upon a Party’s or Witness’s Statements, but on other evidence (e.g., video evidence that does not consist of “Statements” or to the extent the video contains non-Statement evidence), the Hearing Board can still consider this other evidence and reach a determination, but without drawing any inference based upon lack of Party or Witness testimony.

V. Breaks

The Hearing Board may need to take breaks during testimony to ensure that it can confer regarding the information that has been offered and can determine whether further questions are necessary. At any time, a Party may request a break to talk with their Advisor or for another reason. In almost all instances, a break will be allowed.

W. Rape Shield Protections

All questions and evidence about Complainant’s sexual predisposition or prior sexual behavior are irrelevant unless offered to prove that someone other than the Respondent committed the alleged misconduct or offered to prove Consent.

X. Order of the Live Hearing

1. The Chair will call the Live Hearing to order and will explain the hearing process, which will include a reading of the charge(s) at issue and will provide an opportunity for all Parties to ask procedural questions prior to opening statements.
2. The Parties shall be informed that the hearing is being recorded. The recording is the sole official verbatim record of the Live Hearing and is the property of the Academy.
3. The Complainant may present an opening statement related to the charges.
4. The Respondent may present an opening statement related to the charges.
5. The Hearing Board will ask the Complainant questions relevant to the charges.
6. The Respondent’s Advisor may ask Complainant relevant questions and follow-up questions, including those challenging Credibility (Cross-examination Questions)
7. The Hearing Board will ask the Respondent questions relevant to the charges.
8. The Complainant’s Advisor may ask Respondent relevant questions and follow up questions, including those challenging Credibility
9. (Cross-examination Questions).
10. The Hearing Board may call Witnesses to provide relevant information to the Hearing Board.
11. At the conclusion of each Witness, Complainant and Respondent’s Advisors may ask each Witness relevant questions and follow up questions, including those challenging Credibility (Cross-examination Questions).
12. At the conclusion of the testimony of the Parties and the Witnesses, the Parties will be able to make a closing statement, with the Complainant going first and the Respondent going next.
13. The Chair will announce that the Live Hearing is concluded.

Y. Hearing Board Deliberations and Written Determination

When the Live hearing concludes, the Hearing Board will deliberate and make its decision in accordance with the preponderance of the evidence Standard of Evidence. The Hearing Board will issue a Written Determination, which will be sent to the Parties simultaneously within fifteen (15) Business Days of the conclusion of the Live Hearing. The Written Determination will include:

- Procedural History
- Summary of allegations in Notice of Charge/Notice of Live Hearing
- Policy provisions at issue
- Findings of Fact related to each allegation potentially constituting Title IX Sexual Harassment, made by the applicable standard of evidence
- Rationale (or evidentiary basis) for the Findings of Fact related to each allegation, which should include an evaluation of the weight or Credibility of admissible, relevant evidence
- A determination of whether the conduct found to have occurred violates this Policy (Determination of Responsibility) or not (Determination of No Responsibility)
- Rationale (or evidentiary basis) for the Determination of Responsibility or No Responsibility
- A statement of any disciplinary sanctions imposed on the Respondent and the rationale for the sanctions
- A statement of whether Remedies will be provided to the Complainant, using the phrase: "Remedies designed to restore or preserve equal access to National Aviation Academy's Education Program or Activity will be provided by the Academy to the Complainant." The nature of such Remedies will not appear in the Written Determination. Remedies that do not directly affect the Respondent will not be disclosed to the Respondent.
- Information about how to file an Appeal and how to access the transcript or recording before the time to file an Appeal lapses.

The Title IX Coordinator is responsible for the effective implementation of any Sanctions or Remedies.

#### Z. Resolution

At the conclusion of the investigation, the Title IX Coordinator will determine whether the preponderance of the evidence indicates the respondent has violated the Title IX: Non-Discrimination and Anti-Harassment Policy. The Title IX Coordinator will prepare a written report setting forth findings, conclusions, and actions to be taken, if any.

If the investigation determines that sex discrimination or sexual harassment occurred, the actions taken will include those necessary to maintain an environment free from discrimination and harassment and to protect the safety and well-being of the complainant and other members of NAA community. Such actions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of discrimination, harassment, and retaliation.

Examples of such action include: no-contact orders, classroom reassignment, the provision of counseling or other support services, training, and discipline for the perpetrator, including up to termination, expulsion, or other appropriate institutional sanctions. The complainant and the respondent will be notified in writing of the outcome of the investigation within three (3) days of its completion. The determination of the Title IX Coordinator shall be final subject only to the right of appeal set forth in Section 4. Appeals.

#### AA. Time Frames

NAA will endeavor to conclude its investigation and resolution of the complaint within sixty (60) calendar days of receiving it. Both the complainant and the respondent will be given periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather their witnesses or information, they shall notify the Title IX Coordinator in writing explaining how much additional time is needed and why it is needed. The Title IX Coordinator shall respond to any such request within three (3) days.

### 3. Rights of the Parties

During the investigation and resolution of a complaint, the complainant and respondent shall have equal rights. They include:

- Equal opportunity to present witnesses and other relevant evidence
- Similar and timely access to all information considered by the Title IX Coordinator in resolving the complaint
- Equal opportunity to review any statements or evidence provided by the other party
- Equal access to review and comment upon any information independently developed by the Title IX Coordinator

## 4. Appeals

### A. Grounds of Appeal

The complainant or respondent may appeal the resolution of a complaint only on the following grounds:

- The decision was contrary to the substantial weight of the evidence
- There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the Title IX Coordinator, would result in a different decision
- Bias or prejudice on the part of the Title IX Coordinator, or
- The punishment or the corrective action imposed is disproportionate to the offense

### B. Method of Appeal

Appeals must be filed with the appropriate appellate officials described in the next section within ten (10) days of receipt of the written notification of the resolution of the complaint. The appeal must be in writing and contain the following:

- Name of the complainant
- Name of the respondent
- A statement of the resolution of the complaint, including corrective action, if any
- A detailed statement of the basis for the appeal, including the specific facts, circumstances, and argument in support of it, and
- Requested action, if any.

The appellant may request a meeting with the appellate official, but the decision to grant a meeting is within the official's discretion. However, if a meeting is granted, then the other party will be granted a similar opportunity.

### C. Appellate Official

#### A. Appeals of Complaints Against Students

Where the complaint concerns the conduct of a student, the appeal shall be filed with the Campus President for the campus to which the complaint pertains.

#### B. Appeals of Complaints Against Academy Faculty or Staff

Where the complaint concerns the conduct of a member of NAA faculty or staff, the appeal shall be filed with the Campus President for the campus to which the complaint pertains.

#### C. Appeals of Complaints Against Third-Parties

Where the complaint concerns the conduct of a third-party, such as a vendor,

contractor, or campus visitor, the appeal shall be filed with the Campus President for the campus to which the complaint pertains.

#### D. Appeals of Complaints Against the Campus President

Where the complaint concerns the conduct of the campus president, the appeal shall be filed with the Title IX Coordinator

### 5. Resolution of the Appeal

The appellate official will resolve the appeal within fifteen (15) days of receiving it and may take any and all actions that he or she determines to be in the interest of a fair and just decision. The decision of the appellate official is final. The appellate official shall issue a short and plain written statement of the resolution of the appeal including any changes made to the previous written determination. The written statement shall be provided to the complainant, respondent, and the Title IX Coordinator within three (3) days of their solution.