POLICY: Gender Discrimination and Sexual Harassment: Including Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation

Interlochen Arts Group (IAG) and the associated boarding school Interlochen Arts Academy (IAA) adhere to all federal, state, and local civil rights laws prohibiting sex discrimination and sex-based harassment in employment and education. IAG does not discriminate in its admissions practices, in its employment practices, or in its educational programs or activities on the basis of sex/gender. As a recipient of federal financial assistance for education activities, IAG is required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex/gender. Sex includes: sex, sex stereotypes, gender identity, gender expression, sexual orientation, and pregnancy or parenting status. IAG also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process internal or external to the institution. Sexual harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination, which are prohibited under Title IX and by IAG policy. Any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities and/or benefits of any member of the IAG community on the basis of sex is in violation of the Gender Discrimination and Sexual Harassment Policy. Any person may report sex discrimination (whether or not the person reporting is the person alleged to have experienced the conduct), in person, by mail, by telephone, by video, or by email, using the contact information listed for the Title IX Coordinator (below). A report may be made at any time (including during non-business hours).

Questions regarding Title IX, including its application and/or concerns about noncompliance, should be directed to the Title IX Coordinator. For a complete copy of the policy or for more information, please visit https://www.interlochen.org/title-ix or contact the Title IX Coordinator.

Individuals who believe they have experienced sex discrimination, harassment, and/or retaliation in violation of IAG policy should contact the following:

Title IX Coordinator: Kristina Nichols
Office Location: Education Office/Maddy Building
Mailing Address: Education Office, PO Box 199, Interlochen MI 49643
Telephone: 231.276.7203
Email: TitleIX@interlochen.org

A person may also file a complaint with the appropriate federal, state, or local agency within the time frame required by law. Depending upon the nature of the complaint, the appropriate agency may be the federal Equal Employment Opportunity Commission (EEOC), or the Office for Civil Rights (OCR) of the U.S. Department of Education

Within any resolution process related to this policy, IAG provides reasonable accommodations to persons with disabilities and religious accommodations, when that accommodation is consistent with state and federal law.

ATIXA 2020 Interim Model Sexual Harassment Policies And Procedures

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1. GLOSSARY

- ***Advisor*** means a person chosen by a party to accompany the party to meetings, interviews, or hearings related to the resolution process and to advise the party on that process.
- ***Complainant*** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment based on a protected class; or retaliation for engaging in a protected activity.
- ***Complaint (formal)*** means a document submitted by a Complainant or their parent/guardian or signed by the Title IX Coordinator alleging sexual harassment or retaliation under this Policy and requesting that the schoolinvestigate the allegation.
- ***Confidential Resource*** means a non-school employee who is not a Mandated Reporter of notice of harassment and/or retaliation.
- ***Day*** means a business day when the IAG is in normal operation.
- ***Education program or activity*** means locations, events, or circumstances where IAG exercises substantial control over both the Respondent and the context in which the sexual harassment occurs.
- ***Final Determination****:* A conclusion by preponderance of the evidence that the alleged conduct did or did not violate policy.
- ***Finding****:* A conclusion by preponderance of the evidence that the conduct did or did not occur as alleged (as in a "finding of fact").
- ***Formal Grievance Process*** means the method of formal resolution designated by the school to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
- ***Grievance Process Pool*** includes any investigators, Decision-makers, hearing officers, appeal Decision-makers, and/or Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- ***Decision-maker*** refers to those who have decision-making and sanctioning authority within IAG's Formal Grievance process.
- ***Investigator*** means the person or persons assigned by IAG to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report and file of directly related evidence.
- ***Mandated Reporter*** means an employee of IAG who is obligated by policy to share knowledge, notice, and/or reports of harassment and/or retaliation with the Title IX Coordinator.[1]
- ***Notice*** means that an employee, student, parent/guardian, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- ***Official with Authority*** (OWA) means any school employee.
- ***Parties*** include the Complainant(s) and Respondent(s), collectively.
- ***Recipient*** means a K-12 education program that receives federal funding.
- ***Remedies*** are applied following a Resolution to the Complainant and/or the community to address safety, prevent recurrence, and restore access to the school's educational program.
- ***Respondent*** means an individual who has been reported as having engaged in conduct that could constitute sexual harassment or retaliation under this Policy.
- ***Resolution*** means the result of an informal or Formal Grievance Process.
- ***Sanction*** means a consequence imposed by IAG on a Respondent who is found to have violated this policy.

[1] Not to be confused with those mandated by state law to report child abuse, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy.

- ***Sexual Harassment*** is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence. See Section 16., for greater detail.
- ***Title IX Coordinator*** is the official(s) designated by IAG to ensure compliance with Title IX and IAG's Title IX program. References to the Title IX Coordinator throughout this policy may also include a designee of the Title IX Coordinator for specific tasks.
- ***Title IX Team*** refers to the Title IX Coordinator, and any member of the Grievance Process Pool.

2. RATIONALE FOR POLICY

IAG is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from sexual harassment and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, IAG has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation sexual harassment or retaliation. IAG values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

3. APPLICABLE SCOPE

The core purpose of this policy is to prohibit sexual harassment and retaliation. When an alleged violation of this policy is reported, the allegations are subject to resolution using the process as detailed below.

When the Respondent is a member of the IAG community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the IAG community. This community includes, but is not limited to, students[2], student organizations, teachers, administrators, staff, and third parties (such as parents/guardians, guests, visitors, volunteers, and invitees).

The procedures below may be applied to incidents, to patterns, and/or to the school climate, all of which may be addressed and investigated in accordance with this policy.

4. TITLE IX COORDINATOR

The Vice Provost of Education Operations serves as the Title IX Coordinator and oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating IAG's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment and retaliation prohibited under this policy.

[2] For the purpose of this policy, IAG defines "student" as any individual who is registered for or enrolled in a school or any individual who has accepted an offer of admission, and who maintains an ongoing relationship with IAG.

5. INDEPENDENCE AND CONFLICT-OF-INTEREST

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures.

The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case or biased for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Provost. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to theProvost or designee. Reports of misconduct committed by any other Title IX Team member should be reported to the Title IX Coordinator.

6. ADMINISTRATIVE CONTACT INFORMATION

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Vice Provost of Education Operations/Title IX Coordinator: Kristina Nichols
Education Office
PO Box 199
Interlochen MI, 49643
231.276.7203
Email: TitleIX@interlochen.org

Title IX Pool:

- Eric Blackburn, Dean of Academics
- Samantha Charnes, Associate Vice Provost of Education Operations, Research and IT
- Drew Fitzpatrick, Human Resources Manager
- Sarah Jane Hall, Campus Activities Manager
- Charles Nofsinger, Director of Campus Safety
- Elizabeth Stuk, Dean of Student Life

IAG has also classified all employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing sexual harassment and/or retaliation.

The section below on Mandated Reporting details the responsibilities and duties that all IAG employees have as Mandated Reporters under Title IX.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 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

For complaints involving employees: Equal Employment Opportunity Commission (EEOC)[3]

Detroit Field Office
Patrick V. McNamara Building
477 Michigan Avenue, Room 865
Detroit, MI 48226
Phone: 1-800-669-4000
Fax: 313-226-4610

7. NOTICE/COMPLAINTS OF SEXUAL HARASSMENT AND/OR RETALIATION

Notice or complaints of sexual harassment and/or retaliation may be made using any of the following options:

1. File a complaint with, or give verbal notice to, the Title IX Coordinator or any Official with Authority. A report may be made at any time (including during non-school hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.
2. Report online, using the reporting form posted at https://www.interlochen.org/title-ix. Reports may be made anonymously but may result in a need to investigate. IAG tries to provide supportive measures to all Complainants, which is often not possible with an anonymous report. Know that reporting carries no obligation to file a Formal Complaint, which would trigger a formal response. IAG respects requests from Complainants to dismiss complaints unless there is a compelling threat to health and/or safety, criminal activity, child abuse, and/or the Respondent is an employee.
3. Report via email to: TitleIX@interlochen.org
4. Report via the general community care report

A Formal Complaint means a document submitted or signed by the Complainant or their parent/guardian or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that IAG investigate the allegation(s). Interlochen's formal complaint form is sent to the Complainant and/or the parent or guardian of the Complainant when the decision is made to proceed with a formal investigation process.

A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information above, or as described in this section. As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by IAG) that contains the Complainant's, or their parent/guardian's, physical or digital signature, or otherwise indicates that the Complainant, or their parent/guardian, is the person filing the complaint, and requests that IAG investigate the allegations.

[3] EEOC has jurisdiction over Title IX employment claims.

If a complaint is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant, and/or their parent/guardian, to ensure that it is filed correctly.

8. SUPPORTIVE MEASURES

IAG will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties. Supportive measures are designed to restore or preserve access to IAG's education program or activity, including measures designed to protect the safety of all parties or IAG's educational environment, and/or deter sexual harassment and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, IAG will inform the Complainant, in writing, that they may file a formal complaint with IAG either at that time or in the future, if they have not done so already.

The Title IX Coordinator or designee works with the Complainant, to ensure that their wishes are considered with respect to the supportive measures that are planned and implemented.

IAG will maintain the privacy of the supportive measures so long as the privacy does not impair the IAG's ability to provide the supportive measures. IAG will reduce the academic/occupational impact on the parties as much as possible. IAG will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Education to the school community or community subgroup(s)
- Altering school housing assignment(s)
- Altering work arrangements for employees
- Safety planning
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the school
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

9. EMERGENCY REMOVAL

IAG can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal.

This risk analysis is performed by the Title IX Coordinator in conjunction with student affairs leadership.

In all cases in which an emergency removal is imposed, the student and parent/guardian will be given notice of the action and the option to request to meet with the Title IX Coordinator or designee prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to demonstrate why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. A student Respondent may be accompanied by an Advisor of their choice during the meeting. The student Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.

When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived, except as below.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

IAG will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from housing facilities, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, changing transportation arrangements, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student organizational leadership, or athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, existing provisions for interim action are applicable.

10. PROMPTNESS

All allegations, whether by notice or formal complaint, are acted upon promptly. Complaints can take 30-60 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but IAG will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in IAG procedures will be delayed, IAG will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

11. PRIVACY

Every effort is made by IAG to preserve the privacy of reports.[4] IAG will not share the identity of any individual who has made a report or complaint of harassment or retaliation, any Complainant, any individual who has been reported to be the perpetrator of sexual harassment or retaliation, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

IAG reserves the right to determine which IAG officials have a legitimate educational interest in information about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

12. JURISDICTION OF IAG

This policy applies to the education program and activities of IAG, to conduct that takes place within school or on property owned or controlled by IAG, or at IAG-sponsored events. The Respondent must be a member of IAG's community in order for its policies to apply.

This policy can also be applicable to the effects of out-of-school misconduct that effectively deprive someone of access to IAG's educational program. IAG may also extend jurisdiction to out-of-school and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial IAG interest.

Regardless of where the conduct occurred, IAG will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on school or in an out-of-school sponsored program or activity. A substantial IAG interest includes:

A. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
B. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
C. Any situation that materially and substantially interferes with the requirements of appropriate discipline in the operation of the school; and/or
D. Any situation that is detrimental to the educational interests or mission of IAG.

If the Respondent is unknown or is not a member of the IAG community, the Title IX Coordinator or designee will assist the Complainant in identifying appropriate school/district and local resources and support options and/or, when criminal conduct is alleged, in contacting local law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of IAG's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

[4] **Privacy** means that information related to a complaint will only be shared with the parties, their advisors, and a limited number of IAG employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in IAG's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"). The privacy of employee records will be protected in accordance with Human Resources policies.

In addition, IAG may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from IAG property and/or events.

All vendors serving IAG through third-party contracts are subject to the policies and procedures of their employers.

When the Respondent is enrolled in or employed by another school, or institution of higher education, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that school/district or institution, as it may be possible to allege violations through that school/district's or institution's policies.

13. TIME LIMITS ON REPORTING

There is no time limit on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to IAG's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, IAG will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

14. ONLINE SEXUAL HARASSMENT AND/OR RETALIATION

The policies of IAG are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on IAG's education program and activities or use IAG networks, technology, or equipment.

Although IAG may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to IAG, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the IAG community.

15. DEFINITION OF SEXUAL HARASSMENT

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Michigan regard Sexual Harassment as an unlawful discriminatory practice.

IAG has adopted the following definition of Sexual Harassment in order to address the unique environment of an educational setting.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex or that is sexual that satisfies one or more of the following:

1. Quid Pro Quo:
    a. an employee of the school,
    b. conditions[5] the provision of an aid, benefit, or service of the school,
    c. on an individual's participation in unwelcome sexual conduct.
2. Sexual Harassment:
    a. unwelcome conduct,
    b. determined by a reasonable person,
    c. to be so severe, and
    d. pervasive, and,
    e. objectively offensive,
    f. that it effectively denies a person equal access to the school's education program or activity.[6]
3. Sexual assault, defined as:
    a. Sex Offenses, Forcible:
        i. Any sexual act directed against another person[7],
            1. Sexual acts include the following:
                a. Forcible Rape:
                    i. penetration,
                    ii. no matter how slight,
                    iii. of the vagina or anus with any body part or object, or
                    iv. oral penetration by a sex organ of another person,
                    v. without the consent of the Complainant.
                b. Forcible Sodomy:
                    i. oral or anal sexual intercourse with another person,
                    ii. forcibly,
                    iii. and/or against that person's will (non-consensually), or
                    iv. not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
                c. Sexual Assault with an Object:
                    i. The use of an object or instrument to penetrate,
                    ii. however slightly,
                    iii. the genital or anal opening of the body of another person,
                    iv. forcibly,
                    v. and/or against that person's will (non-consensually),
                    vi. or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or

[5] Implicitly or explicitly.
[6] Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.
[7] This would include having another person touch you sexually, forcibly, or without their consent.

because of temporary or permanent mental or physical incapacity.

d. Forcible Fondling:
    i. The touching of the private body parts of another person (buttocks, groin, breasts),
    ii. for the purpose of sexual gratification,
    iii. forcibly,
    iv. and/or against that person's will (non-consensually),
    v. or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

ii. without the consent of the Complainant,
iii. including instances in which the Complainant is incapable of giving consent.

b. Sex Offenses, Non-forcible:
    i. Incest:
        1. Non-forcible sexual intercourse,
        2. between persons who are related to each other,
        3. within the degrees wherein marriage is prohibited by Michigan law.
    ii. Statutory Rape:
        1. Non-forcible sexual intercourse,
        2. with a person who is under the statutory age of consent of 16.

4. Dating Violence, defined as:
    a. violence,
    b. on the basis of sex,
    c. committed by a person,
    d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
        i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
        ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
        iii. Dating violence does not include acts covered under the definition of domestic violence.
5. Domestic Violence, defined as:
    a. violence,
    b. on the basis of sex,
    c. committed by a current or former spouse or intimate partner of the Complainant,
    d. by a person with whom the Complainant shares a child in common, or
    e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
    f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Michigan or
    g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Michigan.

    *To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.
6. Stalking, defined as:
    a. engaging in a course of conduct,

b. on the basis of sex,
c. directed at a specific person, that
    i. would cause a reasonable person to fear for the person's safety, or
    ii. the safety of others; or
    iii. Suffer substantial emotional distress.

For the purposes of this definition—

1. Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
3. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

IAG reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is <u>unreasonable</u> pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should stop within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) does not imply there is consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on IAG to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

16. RETALIATION

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. IAG will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

IAG and any member of IAG's community are prohibited from taking materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Filing a complaint under another school/district policy could be considered retaliatory if those charges could be applicable under this policy, when the charges are made for the purpose of interfering with or circumventing any right or privilege provided under this policy that is not provided under the other school/district policy that was used. Therefore, IAG vets all complaints carefully to ensure this does not happen, and to assure that complaints are tracked to the appropriate process.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

17. MANDATED REPORTING

All IAG employees (teachers, staff, administrators) are expected to report actual or suspected sexual harassment or retaliation to appropriate officials immediately. This includes employees who might otherwise be considered confidential resources.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting school resources. In school, some resources may maintain confidentiality and are not required to report actual or suspected sexual harassment or retaliation. They may offer options and resources without any obligation to inform an outside agency or school official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at IAG for a Complainant or third-party (including parents/guardians when appropriate):

a. Confidential Resources

Because all IAG employees are required to report actual or suspected sexual harassment or retaliation, any such information a Complainant shares with any IAG employee cannot remain confidential.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with a non-IAG employee. Following are some confidential community-based resources:

- Employee Assistance Program
- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies

- Clergy/Chaplains
- Attorneys

All of the above-listed individuals are not IAG employees and may maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor, or when required to disclose by law or court order.

b. Mandated Reporters and Formal Notice/Complaints

All employees of IAG are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Failure of a Mandated Reporter to report an incident of sexual harassment or retaliation of which they become aware is a violation of IAG policy and can be subject to disciplinary action.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though IAG is technically not on notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

18. WHEN A COMPLAINANT DOES NOT WISH TO PROCEED

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the school and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether IAG proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires IAG to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. IAG may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the IAG's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to have experienced conduct that could constitute a violation of this policy.

When IAG proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor or the student's parent/guardian may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony except in situations where a Complainant is unable to provide evidence or testimony without assistance (e.g. due to age, disability, etc.).

Note that IAG's ability to remedy and respond to notice may be limited if the Complainant does not want IAG to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing IAG's obligation to protect its community.

In cases in which the Complainant requests no formal action and the circumstances allow IAG to honor that request, IAG will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by IAG, and to have the incident investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

19. EMERGENCY NOTIFICATIONS

IAG may issue emergency notifications for incidents that are reported and pose a serious or continuing threat of bodily harm or danger to members of the school community.

IAG will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

These notifications may be issued school-wide or may be limited to those members of the community who are potentially impacted. The Title IX Coordinator will work in conjunction with the appropriate school officials in determining the scope and content of the notification that may be issued.

20. FALSE ALLEGATIONS AND EVIDENCE

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under IAG policy.

21. AMNESTY FOR COMPLAINANTS AND WITNESSES

The IAG community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to IAG officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the IAG community that Complainants choose to report misconduct to IAG officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, IAG maintains a policy of offering parties and witnesses amnesty from minor policy violations related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

In determining whether to offer amnesty, the Title IX Coordinator will consider factors such as: the nature and severity of the policy violation; the age of the individual; the impact on the health and safety of the individual and the school community; and the best interests of the school community.

Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to seek assistance).

IAG maintains a policy of amnesty for students who offer help to others in need. Although policy violations cannot be overlooked, IAG may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

This Policy and procedures are effective August 26, 2021.