

MODERN WELDING SCHOOL

SEXUAL HARASSMENT POLICIES & GRIEVANCE PROCEDURES

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MODERN WELDING SCHOOL
SEXUAL HARASSMENT POLICIES & GRIEVANCE PROCEDURES

1. Introduction

Modern Welding School (the “School”) is committed to providing a working and educational environment for all students, faculty and staff that is free from sex discrimination, including sexual harassment. Every member of the School community should be aware that the School is strongly opposed to sexual harassment, and that such behavior is prohibited by state and federal laws.

The School does not discriminate on the basis of sex in its educational, extracurricular, or other programs or in the context of employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides:

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.

As part of the School’s commitment to providing a working and learning environment free from sexual harassment, this Policy shall be disseminated widely to the School community through publications, the School website, new employee orientations, student orientations, and other appropriate channels of communication. The School provides training to key staff members to enable the School to handle any allegations of sexual harassment promptly and effectively. The School will respond promptly to all reports of sexual harassment, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this Policy.

2. Scope of the Policy

This Policy governs sexual harassment that occurs in the School’s education programs or activities. This Policy applies to all students, employees, and third parties conducting business with the School, regardless of the person’s gender, gender identity, sexual orientation, age, race, nationality, class status, ability, religion or other protected status. The School encourages victims of sexual harassment to talk to somebody about what happened – so victims can get the support they need, and so the School can respond appropriately. As further described in this Policy, the School will seek to respect a victim’s request for confidentiality to the extent possible, while remaining ever mindful of the victim’s well-being.

3. Prohibited Conduct

Sexual harassment comprises a broad range of behaviors focused on sex that may or may not be sexual in nature. Sexual harassment includes a School employee conditioning the provision of a School aid, benefit, or service on an individual’s participation in unwelcome sexual conduct. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the School’s education programs or activities also constitutes sexual harassment. Sexual assault, stalking, domestic violence, and dating violence are all forms of sexual harassment. Retaliation following an incident of alleged sexual harassment or attempted sexual harassment is strictly prohibited. The definitions for specific acts of sexual harassment can be found in the Definitions of Key Terms at the end of this Policy statement.

Sexual harassment can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship, can be committed by anyone regardless of gender identity, and can occur between people of the same or different sex or gender. **This Policy prohibits all forms of sexual harassment.**

4. Options for Assistance Following an Incident of Sexual Harassment

The School strongly encourages any victim of sexual harassment to seek immediate assistance. Seeking prompt assistance may be important to ensure a victim’s physical safety or to obtain medical care. The School strongly advocates that a victim of sexual harassment report the incident in a timely manner. Time is a critical factor for evidence collection and preservation.

Reporting Incidents of Sexual Harassment

Victims of sexual harassment may file a report with the Schenectady Police Department. Victims may also file a report with the School's Title IX Coordinator. More information about reporting an incident of sexual harassment can be found in Section 6 of this Policy, below.

The School will respond promptly when it has actual knowledge of sexual harassment in its education programs or activities. The Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures as described below, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. The School will also provide the complainant with written notification about assistance available both within and outside of the School community.

A complainant may choose for the investigation to be pursued through the criminal justice system and/or through the School's disciplinary procedures by filing a formal complaint as described in this Policy. The School and the criminal justice system work independently from each other. Law enforcement officers do not determine whether a violation of this Policy has occurred. The Title IX Coordinator will guide the complainant through the available options and support the complainant in his or her decision.

Supportive Measures

The School's Title IX Coordinator will work with all students affected by sexual harassment to ensure their safety and support their wellbeing. This assistance may include providing supportive measures to support or protect a student after an incident of sexual harassment and while an investigation or disciplinary proceeding is pending. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the School's education programs and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the School's educational environment, or deter sexual harassment.

Supportive measures may include:

- counseling,
- extensions of deadlines or other course-related adjustments,
- modifications of work or class schedules,
- campus escort services,
- mutual restrictions on contact between the parties,
- changes in work or housing locations,
- leaves of absence,
- increased security and monitoring of certain areas of the campus, and
- other similar measures.

The School will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the School to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

The measures needed by each student may change over time, and the Title IX Coordinator will communicate with each student throughout any investigation to ensure that any supportive measures are necessary and effective based on the students' evolving needs. Students who report an incident of sexual harassment may also be able to obtain a formal protection order from a civil or criminal court. The School will work with the student and the applicable court to assist in the enforcement of any such protective orders.

Support Services Available

Counseling, advocacy and support services are available for complainants, whether or not a complainant chooses to make an official report or participate in the School's disciplinary or criminal process. *Modern Welding School does not provide counseling or health care services. Personal counseling offered by the School will be limited to initial crisis assessment and referral.*

Sexual harassment crisis and counseling options are available locally and nationally through a number of agencies, including:

National Resources:

National Sexual Assault Hotline - 800-656-4673
National Domestic Violence Hotline - 800-799-7233
National Teen Dating Abuse Helpline 1-866-331-9474

Local Resources:

Schenectady Police
Non-Emergency: 518-630-0911
Emergency: 9-1-1

Sexual Assault Support Services of Planned Parenthood
Schenectady, NY
Hotline: 518-346-2266

County of Albany Crime Victim and Sexual Violence Center
Albany, NY
Hotline: 518-447-7716
Phone: 518-447-7716

Sexual Assault and Crime Victims Assistance Program for Rensselaer County
Troy, NY
Hotline: 518-271-3257
Phone: 518-271-3257

Fulton Montgomery Rape Crisis Service of Planned Parenthood
Amsterdam, NY
Hotline: 1-866-307-4086
Hotline: 518-843-4367
Phone: 518-843-4367

Evidence Preservation

Victims of sexual assault, domestic violence or dating violence should consider seeking medical attention as soon as possible. It is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen where they were assaulted so that evidence necessary to prove criminal activity may be preserved. In circumstances where the victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address health concerns. Victims of sexual harassment are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful in connection with a School or police investigation.

5. Title IX Coordinator

The School's Title IX Coordinator is responsible for monitoring and overseeing the School's compliance with Title IX and the prevention of sexual harassment and discrimination. The Title IX Coordinator is:

- Knowledgeable and trained in School policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a complainant, respondent, or a third party, about School and community resources and reporting options;
- Available to provide assistance to any School employee regarding how to respond appropriately to a report of Title IX-related prohibited conduct and related retaliation;
- Participates in ensuring the effective implementation of this Policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes; and
- Responsible for overseeing training, prevention, and education efforts and annual reviews of climate and culture.

Inquiries or concerns about Title IX may be referred to the School's Title IX Coordinator:

Mrs. Wendy Daubert
1842 State Street
Schenectady, NY 12304
Phone: (518) 374-1216
email: wdaubert@modernwelding.com

6. Reporting Policies and Protocols

Modern Welding School strongly encourages all members of the School community to report information about any incident of sexual harassment as soon as possible. Reports can be made either to the School and/or to law enforcement.

Reporting to the School

An incident of sexual harassment may be reported to the School's Title IX Coordinator or to a Designated School Official as described in Section 7, below. No other School officials or employees have the authority to institute corrective measures under these Policies and Procedures on behalf of the School. **The School will not be deemed to have actual knowledge of alleged sexual harassment unless the School's Title IX Coordinator or a Designated School Official possess such knowledge.** Reports of sexual harassment to School officials or employees other than the Title IX Coordinator or a Designated School Official will not confer actual knowledge to the School of such allegations, unless the Title IX Coordinator or a Designated School Official subsequently obtain such actual knowledge.

If the School's Title IX Coordinator is the alleged perpetrator of the sexual harassment, the report should be submitted to a Designated School Official. Filing a report with the School will not obligate the victim to prosecute, nor will it subject the victim to scrutiny or judgmental opinions from officers.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed in Section 6 for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator or a Designated School Official receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

While there is no time limit for reporting, reports of sex discrimination or harassment should be brought forward as soon as possible. All incidents should be reported even if significant time has elapsed, but prompt reporting will better enable the School to respond, investigate, provide an appropriate remedy, and impose discipline if appropriate. Note that if a complainant seeks to file a formal complaint for the School to initiate an investigation into allegations of sexual harassment, the complainant must be participating in or attempting to participate in the School's education programs or activities at the time of filing such formal complaint. The School is committed to supporting the rights of a person reporting an incident of sexual harassment to make an informed choice among options and services available.

The School will respond to all reports in a manner that treats each individual with dignity and respect and will take prompt responsive action to end any harassment, prevent its recurrence, and address its effects.

Reporting to Law Enforcement

An incident of sexual harassment can be reported to law enforcement at any time, 24 hours a day/7 days a week, by calling 911. At the complainant's request, the School will assist the complainant in contacting law enforcement. If the complainant decides to pursue the criminal process, the School will cooperate with law enforcement agencies to the extent permitted by law. A complainant has the option to decide whether or not to participate in any investigation conducted by law enforcement. Filing a police report will:

- Ensure that a victim of sexual assault receives the necessary medical treatment and tests
- Provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (ideally a victim of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam)

Reporting of Crimes & Annual Security Reports

Campus safety and security are important issues at Modern Welding School. Our goal is to provide students with a safe environment in which to learn and to keep students, parents, and employees well informed about campus security. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, or Clery Act, requires institutions of higher education to record and report certain information about campus safety, including the number of incidents of certain crimes on or near campus, some of which constitute sexual harassment under this Policy.

Each year the School prepares an annual security report to comply with the Clery Act. The full text of this report can be located on the School's website at www.modernwelding.com. This report is prepared in cooperation with the local law enforcement agencies around our campus. Each year notification is made to all enrolled students and employees that provides the website to access this report. Copies of the report may also be obtained in person from the Director by calling (518) 374-1216. All prospective employees may also obtain a copy from the Director.

Timely Warnings

In the event that a situation arises, either on or off campus, that, in the judgment of the Director constitutes an ongoing or continuing threat, a campus wide "timely warning" will be issued. The Director will immediately notify the School community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring at the School, unless issuing a notification will compromise efforts to contain the emergency. The warning will be issued through the most effective and efficient means available and may include instant messaging to students and School employees. Notices may also be posted in the common areas throughout the School. Anyone with information warranting a timely warning should report the circumstances to the Director by phone at (518) 374-1216 or in person at the School. The School will provide adequate follow-up information to the community as needed.

Third-Party and Anonymous Reporting

In cases where sexual harassment is reported to the Title IX Coordinator or a Designated School Official by someone other than the complainant (by an instructor, classmate, or friend, for example), the Title IX Coordinator will promptly notify the complainant that a report has been received. This Policy and the Procedures will apply in the same manner as if the complainant had made the initial report. The Title IX Coordinator will make every effort to meet with the complainant to discuss available options and resources. Reports from an anonymous source will be treated in a similar fashion.

No Retaliation

The School prohibits retaliation against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing. The School will take strong responsive action if retaliation occurs. Any incident of retaliation should be promptly reported to the Title IX Coordinator or the Director.

Except as may otherwise be required by law, the School will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness.

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

Coordination With Drug Free School Policy

The health and safety of every student at the Modern Welding School is of utmost importance. Modern Welding School recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that the violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of

potential consequences for their own conduct. Modern Welding School strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Modern Welding School's officials or law enforcement will not be subject to Modern Welding School's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

7. School Policy on Confidentiality

The School encourages victims of sexual harassment to talk to somebody about what happened – so victims can get the support they need, and so the School can respond appropriately.

This Policy is intended to make students aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn should they become a victim of sexual harassment. The School encourages victims to talk to someone identified in one or more of these groups.

Privileged and Confidential Communications – Professional & Pastoral Counselors

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator without a victim's permission. *The School does not provide professional or pastoral counseling, but can assist a victim of sexual harassment in obtaining support services from these groups or agencies.* Contact information for these support organizations is listed in Section 4 of this Policy.

NOTE: While these professional and pastoral counselors and advocates may maintain a victim's confidentiality vis-à-vis the School, they may have reporting or other obligations under state law.

ALSO NOTE: If the School determines that the alleged perpetrator(s) pose a serious and immediate threat to the School community, the Director may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the victim.

Reporting to a Designated School Official

A "Designated School Official" is a School employee who has the authority to institute corrective measures on behalf of the School upon actual notice of sexual harassment.

A Designated School Official will report to the Title IX Coordinator all relevant details about the alleged sexual harassment shared by the complainant – including the names of the complainant and respondent, any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a Designated School Official will be shared only with people responsible for handling the School's response to the report. Designated School Officials should not share information with law enforcement without the complainant's consent or unless the complainant has also reported the incident to law enforcement.

In addition to the Title IX Coordinator, the School's Designated School Officials include the President, Vice-President, and Director.

Before a complainant reveals any information to a Designated School Official, the official should ensure that the complainant understands the official's reporting obligations – and, if the complainant wants to maintain confidentiality, direct the complainant to confidential resources.

If the complainant wants to tell the Designated School Official what happened but also maintain confidentiality, the official should tell the complainant that the School will consider the request but cannot guarantee that the school will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the official will also inform the Coordinator of the complainant's request for confidentiality.

Designated School Officials will not pressure a complainant to request confidentiality, but will honor and support the complainant's wishes, including for the School to fully investigate an incident. By the same token, Designated School Officials will not pressure a complainant to make a formal complaint and initiate a School investigation if the complainant is not ready to do so.

A complainant who at first requests confidentiality may later decide to file a formal complaint with the School or report the incident to local law enforcement, and thus have the incident fully investigated.

Reporting to Title IX Coordinator

To the extent possible, information reported to the Title IX Coordinator will be shared only with people responsible for handling the School's response to the report. The Title IX Coordinator should not share information with law enforcement without the complainant's consent or unless the complainant has also reported the incident to law enforcement.

Before a complainant reveals any information to the Title IX Coordinator, the Coordinator should ensure that the complainant understands the Coordinator's reporting obligations – and, if the complainant wants to maintain confidentiality, direct the complainant to confidential resources. If the complainant wants to tell the Title IX Coordinator what happened but also maintain confidentiality, the Coordinator should tell the complainant that the School will consider the request but cannot guarantee that the School will be able to honor it.

The Title IX Coordinator will not pressure a complainant to request confidentiality, but will honor and support the complainant's wishes, including for the School to fully investigate an incident. By the same token, the Title IX Coordinator will not pressure a complainant to make a formal complaint and initiate a School investigation if the complainant is not ready to do so.

Requesting Confidentiality: How the School Will Weigh the Request and Respond

If a complainant discloses an incident to the Title IX Coordinator but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the School must weigh that request against the School's obligation to provide a safe, non-discriminatory environment for all students, including the complainant.

If the School honors the request for confidentiality, a complainant must understand that the School's ability to investigate the incident and pursue disciplinary action against the respondent will be limited. A complainant may provide the Title IX Coordinator with confidential knowledge of alleged sexual harassment and receive supportive measures from the School without the complainant filing a formal complaint and initiating an investigation. Although rare, there are times when the School may not be able to honor a complainant's request in order to provide a safe, non-discriminatory environment for all students.

The Title IX Coordinator will evaluate requests for confidentiality. When weighing a complainant's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the respondent will commit additional acts of sexual harassment or other violence, such as:
 - whether there have been other sexual harassment complaints about the same respondent;
 - whether the respondent has a history of arrests or records from a prior school indicating a history of violence;
 - whether the respondent threatened further sexual harassment or other violence against the complainant or others;
 - whether the sexual harassment was committed by multiple respondents;
- Whether the sexual harassment was perpetrated with a weapon;
- Whether the complainant is a minor;
- Whether the School possesses other means to obtain relevant evidence of the sexual harassment (e.g., security cameras or personnel, physical evidence); and
- Whether the complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or

alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the Title IX Coordinator to file a formal complaint to investigate and, if appropriate, pursue disciplinary action. If none of these factors are present, the School will likely respect the complainant's request for confidentiality.

If the School determines that it cannot maintain a complainant's confidentiality, the School will inform the complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the School's response. The School will remain ever mindful of the complainant's well-being, and will take ongoing steps to protect the complainant from retaliation or harm and work with the complainant to create a safety plan. Retaliation against the complainant, whether by students or school employees, will not be tolerated. The School will also:

- Assist the complainant in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance;
- Provide other security and support, which could include issuing a no-contact order, helping arrange a change of course schedules (including for the respondent pending the outcome of an investigation), or adjustments for assignments or tests; and
- Inform the complainant of the right to report a crime to local law enforcement – and provide the complainant with assistance if the complainant wishes to do so.

The School may not require a complainant to participate in any investigation or disciplinary proceeding.

Because the School is under a continuing obligation to address the issue of sexual harassment campus-wide, reports of sexual harassment (including non-identifying reports) will also prompt the School to consider broader remedial action – such as increased monitoring, supervision, or security at locations where the reported sexual harassment occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/ victimization surveys; and/or revisiting its policies and practices.

If the School determines that it can respect a complainant's request for confidentiality, the School will also take immediate action as necessary to protect and assist the complainant. This includes the Title IX Coordinator promptly contacting the complainant to discuss the availability of supportive measures. A complainant's request for confidentiality will limit the School's ability to investigate a particular matter. The School may take steps to limit the effects of the alleged sexual harassment and prevent its recurrence without initiating formal action against the respondent or revealing the identity of the student complainant. Examples include: providing increased monitoring, supervision, or security at locations or activities where the harassment occurred; providing training and education materials for students and employees; revising and publicizing the School's policies on sexual harassment; and conducting climate surveys regarding sexual harassment.

Off-campus Counselors and Advocates

Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the School unless the complainant requests the disclosure and signs a consent or waiver form. Contact information for these off-campus resources can be found in Section 4 of this Policy.

8. Formal Complaint Investigation Procedures and Protocols

The School will investigate all formal complaints of sexual harassment. A formal complaint must be in writing filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the School investigate the allegation of sexual harassment. A formal complaint form may be obtained from the Title IX Coordinator, although no particular form is required to submit a formal complaint so long as the complaint is in writing, signed by a complainant, alleges sexual harassment against a respondent, and requests an investigation. The School's Title IX Coordinator oversees the School's investigation, response to, and resolution of all reports of prohibited sexual harassment, and of related retaliation, involving students, faculty, and staff.

As soon as practicable after receiving a formal complaint, the Title IX Coordinator will make an initial assessment of the formal complaint to determine whether the formal complaint, on its face, alleges an act prohibited by this Policy. If the Title IX Coordinator determines the formal complaint states facts which, if true, could constitute sexual harassment in violation of this Policy, the Title IX Coordinator will proceed through the formal investigation process (see below). If the Title IX Coordinator determines the complainant's report does not state facts that, if true, could constitute a violation of this Policy, the Title IX Coordinator will communicate this determination in writing to the complainant. In such circumstances the complainant may still file a report with the federal Office for Civil Rights, the police, or seek available civil remedies through the judicial system. The complainant may also re-file the report with the School upon discovery of additional facts.

The School will dismiss a formal complaint if the conduct alleged in the formal complaint would not constitute sexual harassment under Title IX even if proved, did not occur in the School's education program or activity, or did not occur against a person in the United States. ***Such dismissal does not preclude action under another provision of the School's code of conduct.*** The School may dismiss the formal complaint if a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint; the respondent is no longer enrolled or employed by the School; or specific circumstances prevent the School from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. The School will promptly send written notice of the dismissal and reasons therefor simultaneously to the parties.

Notice

Upon receipt of a formal complaint, the School will provide written notice of the School's grievance process to the parties who are known. The School will also provide the parties with notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known; the conduct allegedly constituting sexual harassment; and the date and location of the alleged incident, if known. The written notice will include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice will inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence that is submitted to and/or collected by the School in connection with the investigation. The written notice will also inform the parties of any provision in the School's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the School decides to investigate allegations about the complainant or respondent that are not included in a prior notice provided to the parties, the School will provide notice of the additional allegations to the parties whose identities are known.

Voluntary Resolution

Voluntary resolution, when selected by all parties and deemed appropriate by the Title IX Coordinator, is a path designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the safety and welfare needs of the School community. If all parties voluntarily agree to participate in an informal resolution that does not involve a full investigation and adjudication after receiving notice of a formal complaint, and if the School determines that the particular formal complaint is appropriate for such a process, the School will facilitate an informal resolution to assist the parties in reaching a voluntary resolution. The School retains the discretion to determine which cases are appropriate for voluntary resolution.

Voluntary resolution may include: conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the harassment occurred; facilitating a meeting with the respondent and the complainant present; and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy.

Voluntary resolution may also include restorative principles that are designed to allow a respondent to accept responsibility for harassment and acknowledge harm to the complainant or to the School

community. Restorative models will be used only with the consent of both parties and following a determination by the Title IX Coordinator that the matter is appropriate for a restorative approach.

The School will not compel parties to engage in mediation or to participate in any particular form of informal resolution. As the title implies, participation in voluntary resolution is a choice, and either party can request to end this manner of resolution and pursue an investigation and adjudication at any time, including if voluntary resolution is unsuccessful at resolving the complaint.

In connection with any informal resolution process, the School will provide written notice to the parties disclosing the allegations and the requirements of the informal resolution process. The School will notify the parties that any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. The School must obtain the parties' voluntary, written consent to the informal resolution process. The informal resolution process may not be utilized to resolve allegations that a School employee sexually harassed a student.

The time frame for completion of voluntary resolution may vary, but the School will seek to complete the process within 15 days of all the parties' request for voluntary resolution.

Formal Investigation Process

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the School and not on the parties. The Title IX Coordinator is responsible for the investigation of a formal complaint. The Title IX Coordinator may designate a specially trained investigator (or team of investigators) to conduct the investigation.

The School's process for responding to, investigating, and adjudicating sexual harassment reports will continue during any law enforcement proceeding. The investigator may need to temporarily delay an investigation while the police are gathering evidence but will resume the investigation after learning that the police department has completed its evidence-gathering and will generally not wait for the conclusion of any related criminal proceeding.

The investigator will interview the complainant, respondent, and any witnesses. They will also gather pertinent documentary materials (if any) and other information. The School will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. Each party shall have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The School will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

Time Frame for Investigation

Consistent with the goal to maximize educational opportunities and minimize the disruptive nature of the investigation and resolution, the Title IX Coordinator seeks to resolve all reports in a timely manner. In general, an investigation may last up to 30 days, from receipt of a formal complaint from the complainant or the Title IX Coordinator of the request to proceed with an investigation. Adjudication will generally take up to 30 days from the date the investigative report is provided to both the complainant and the respondent. The Title IX Coordinator may set reasonable time frames for required actions under the Policy. Those time frames may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, accommodate absences or delays by the parties, the need for language assistance or accommodation of disabilities, account for School breaks or vacations, or address other legitimate reasons, including the complexity of the investigation (including the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged conduct. Any extension of the timeframes, and the reason for the extension, will be shared simultaneously with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Where necessary, the School will take prompt steps to protect complainants pending the final outcome of an investigation, including the provision of supportive measures to the complainant and/or the

respondent. The School may remove a respondent from the School's education programs or activities on an emergency basis, provided that the School undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. The School may place a non-student employee respondent on administrative leave during the pendency of a grievance process.

The School will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the School does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the School will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report. The School will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination

Investigation Report

The investigator will prepare an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. Such report will include a statement of the allegations and issues, the positions of the complainant and respondent, a summary of the evidence (including from interviews and documentation gathered), an explanation why any proffered evidence was not investigated, assessment of individual credibility, findings of fact, and an analysis of whether a violation of the Policy has occurred. The investigator will use "preponderance of evidence" as the standard of proof to determine whether a violation of the Policy occurred. Preponderance of evidence means that the party must present evidence that leaves one with a firm belief or conviction that it is more likely than not that the alleged conduct occurred. The complainant and respondent will be simultaneously notified of the completion of the investigation and provided with the investigator's report.

9. Grievance/Adjudication Procedures

Hearing Panel

The School will convene a hearing panel following the end of the investigation. The hearing panel determines whether the respondent is responsible or not responsible for a violation of the Policy.

The hearing panel will consist of three members. The Title IX Coordinator will designate the members of the hearing panel but will not serve as a panel member. The investigator responsible for the School's investigation of the formal complaint may not serve as a panel member. The hearing panel members may include administrators, officers, lawyers, or other individuals with relevant experience and special training. Panel members may participate remotely so long as the School utilizes technology enabling the panel members and parties to simultaneously see and hear the party or witness answering questions. All panelists will receive training from experts in the field at least once a year. In addition to training on how the adjudicatory process works, the training will include specific instruction about how to approach students about sensitive issues that may arise in the context of sexual harassment. The complainant and respondent will be informed of the panel's membership before the hearing process begins. A complainant and/or respondent may challenge the participation of a panel member because of perceived conflict of interest, bias, or prejudice. Such challenges, including rationale, must be made to the Title IX Coordinator at least three days prior to the commencement of the hearing. At its discretion, the Title IX Coordinator will determine whether such a conflict of interest exists and whether a panel member should be replaced. Postponement of a hearing may occur if a replacement panelist cannot be immediately identified.

Advisors

Both the complainant and the respondent are entitled to be accompanied to any meeting or proceeding relating to the allegation of sexual harassment by an advisor or support person of their choice, provided the involvement of such advisor or support person does not result in the postponement or delay of such

meeting as scheduled.

Written Submissions

Both the complainant and respondent will have the opportunity to submit written responses to the investigation report and other relevant information to the hearing panel. Each of the complainant and respondent will have the opportunity to review any written submissions by the other. The hearing panel may set reasonable parameters for these written submissions. The hearing panel will review the investigation report and written submissions.

Hearing Procedures

The Title IX Coordinator will give the complainant and respondent at least 10 calendar days' advance notice of the hearing. The Title IX Coordinator may arrange to hold the hearing at an off-campus location. The hearing is a closed proceeding, meaning that no one other than the panel members, the complainant and respondent, their respective advisors, witnesses (when called), and necessary School personnel may be present during the proceeding. The School's Vice-President will work with School staff so that any student whose presence is required may participate in the hearing.

In general, hearings will proceed as follows:

- The Title IX Coordinator may set reasonable time limits for any part of the hearing. Each of the complainant and respondent will have the opportunity to present witnesses and other information consistent with the Policy and these Procedures. The panel may determine the relevance of, place restrictions on, or exclude any witnesses or information. When the complainant and respondent are not able to be present for the hearing panel, arrangements will be made for participation virtually, with technology enabling the participants to see and hear each other simultaneously.
- In cases where either the complainant or respondent opts not to participate in the hearing, the panel may still hear from the other.
- Additional hearing rules include:
 - Cross Examination. At the hearing, the hearing panel shall permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
 - At the request of either party, the School will provide for the hearing to occur with the parties located in separate rooms with technology enabling the hearing panel members and parties to simultaneously see and hear the party or the witness answering questions.
 - Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing panel must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
 - If a party does not have an advisor present at the live hearing, the School will provide without fee or charge to that party, an advisor of the School's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
 - Information Regarding Romantic or Sexual History. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The existence of a prior consensual dating or sexual relationship between the complainant and respondent by itself does not support an inference of consent to alleged sexual harassment.
 - Prior Conduct Violations. The hearing panel will not consider the respondent's prior conduct violations, unless the investigator provided that information to the hearing panel because the respondent was previously found to be responsible, and the previous incident was substantially similar to the present allegation(s) and/or the information indicates a pattern of behavior by the respondent.

- o If a party or witness does not submit to cross-examination at live hearing, the hearing panel will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the hearing panel will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.
- o The School will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- o Live hearings may be conducted with all parties physically present in the same geographic location or, at the School's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants to see and hear each other simultaneously.

The School will create an audio or audiovisual recording, or transcript, of any hearing and make it available to the parties for inspection and review. The panelists may request a copy or transcript of the recording. Cell phones and recording devices may not be used in the hearing room(s) unless approved by the panel in advance.

Panel Determinations/Standard of Proof

The hearing panel will issue a written determination regarding responsibility. The panel will use "preponderance of evidence" as the standard of proof to determine whether a violation of the Policy occurred. Preponderance of evidence means that the party must present evidence that leaves one with a firm belief or conviction that it is more likely than not that the alleged conduct occurred. The panel will find a student responsible, or not responsible, based on a majority vote. The panel will generally render a written determination within 10 calendar days after the conclusion of a hearing.

The panel's written determination will include:

- a) Identification of the allegations potentially constituting sexual harassment;
- b) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- c) Findings of fact supporting the determination;
- d) Conclusions regarding the application of the School's code of conduct to the facts;
- e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the School imposes on the respondent, and whether remedies designed to restore or preserve equal access to the School's education program or activity will be provided by the School to the complainant; and
- f) The School's procedures and permissible bases for the complainant and respondent to appeal.

The parties will be informed of the results of the adjudication hearing by simultaneous written notice to both parties of the outcome of the formal complaint. The determination regarding responsibility becomes final either on the date that the School provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

10. Sanctions and Other Remedies

The hearing panel shall be responsible for imposing sanctions that are:

- Fair and appropriate given the facts of the particular case;
- Consistent with the School's handling of similar cases;
- Adequate to protect the safety of the campus community; and
- Reflective of the seriousness of sexual harassment.

No disciplinary sanctions or other actions that are not supportive measures will be imposed against a respondent until the completion of the School's grievance procedures, including any applicable appeal. The hearing panel will consider relevant factors, including if applicable: (1) the specific sexual harassment at issue (such as penetration, touching under clothing, touching over clothing, unauthorized recording, etc.); (2) the circumstances accompanying the lack of consent (such as force, threat, coercion, intentional

incapacitation, etc.); (3) the respondent's state of mind (intentional, knowing, bias-motivated, reckless, negligent, etc.); (4) the impact of the offense on the complainant; (5) the respondent's prior disciplinary history; (6) the safety of the School community; and (7) the respondent's conduct during the disciplinary process. The sanctioning decision will be communicated in writing to the complainant and the respondent as part of the hearing panel's written determination.

The School may impose any one or more of the following sanctions on a student determined to have violated the Policy:

- Reprimand/warning;
- Changing the respondent's academic schedule;
- Disciplinary probation;
- Restricting access to School facilities or activities;
- Community service;
- Issuing a "no contact" order to the respondent or requiring that such an order remain in place;
- Dismissal or restriction from School employment;
- Suspension (limited time or indefinite); and
- Expulsion.

In addition to any other sanction (except where the sanction is expulsion), the School may require any student determined to be responsible for a violation of the Policy to receive appropriate education and/or training related to the sexual harassment violation at issue. The School may also recommend counseling or other support services for the student.

Whatever the outcome of the hearing process, a complainant may request ongoing or additional supportive measures and the Title IX Coordinator will determine whether such supportive measures are appropriate. Potential ongoing supportive measures include:

- Providing an escort for the complainant;
- Changing the complainant's academic schedule;
- Allowing the complainant to withdraw from or retake a class without penalty; and
- Providing access to tutoring or other academic support, such as extra time to complete or re-take a class.

The School may also determine that additional measures are appropriate to respond to the effects of the incident on the School community. Additional responses for the benefit of the School community may include:

- Increased monitoring, supervision, or security at locations or activities where the harassment occurred;
- Additional training and educational materials for students and employees;
- Revision of the School's policies relating to sexual harassment; and
- Climate surveys regarding sexual harassment.

11. Appeals

Either the respondent or the complainant or both may appeal from a determination regarding responsibility, and from a recipient's dismissal of a formal complaint or any allegations therein, on the following bases:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), or hearing panel member(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

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

The decision maker(s) for the appeal may not be the same person as the hearing panel members, the investigator(s), or the Title IX Coordinator. The appealing party must submit the appeal in writing to the School within seven calendar days after receiving the written determination regarding responsibility. If either the complainant or respondent submits an appeal, the Title IX Coordinator will notify the other that an appeal has been filed and the grounds of the appeal. The non-appealing party may submit a written response within seven days after notice of an appeal.

If the decision-maker concludes that a change in the hearing panel's determination is warranted, the School may enter a revised determination, reconvene the panel to reconsider the determination, or return the matter for additional investigation. If both the complainant and respondent appeal, the appeals will be considered concurrently.

The decision maker will issue a written decision describing the result of the appeal and the rationale for the result, and provide the written decision simultaneously to both parties. Appeals decisions will be rendered within 15 calendar days after the receipt of the written appeal. All appeal decisions are final.

12. Records Disclosure & Recordkeeping

Disciplinary proceedings conducted by the School are subject to the Family Educational Records and Privacy Act (FERPA), a federal law governing the privacy of student information. FERPA generally limits disclosure of student information outside the School without the student's consent, but it does provide for release of student disciplinary information without a student's consent in certain circumstances.

Any information gathered in the course of an investigation may be subpoenaed by law enforcement authorities as part of a parallel investigation into the same conduct or required to be produced through other compulsory legal process.

Additional information about FERPA can be found on the School's website at www.modernwelding.com.

The School will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in Section 16 of Title 18, United States Code), or a non-forcible sex offense, a report on the results of any disciplinary proceeding conducted by the School against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

The School will maintain for a period of not less than seven years records of:

- a) Each sexual harassment investigation including any determination regarding responsibility; any audio, audiovisual recording, or transcript from a hearing conducted in response to a formal complaint; any disciplinary sanctions imposed on the respondent; and any remedies provided to the complainant designed to restore or preserve equal access to the School's education programs or activities;
- b) Any appeal and the result therefrom;
- c) Any informal resolution and the result therefrom; and
- d) All materials used to train Title IX Coordinators, investigators, hearing panel members, decision-makers, and any person who facilitates an informal resolution process. The School will make these training materials publicly available on its website.

The School will create and maintain for a period of not less than seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the School will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the School's education program or activity. If a School does not provide a complainant with supportive measures, then the School will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the School in the future from providing additional explanations or detailing additional measures taken.

13. Education and Prevention Programs

As set forth in Section 3 of this Policy statement, sexual assault, sexual harassment, dating violence, domestic violence, and stalking are all forms of prohibited conduct.

The School is committed to offering educational programs to promote awareness and prevention of prohibited conduct. Educational programs include an overview of the School's policies and procedures; relevant definitions, including prohibited conduct; discussion of the impact of alcohol and illegal drug use; consent; safe and positive options for bystander intervention; review of resources and reporting options available for students, faculty, and staff; and information about risk reduction. Incoming students and new employees will receive primary prevention and awareness programming as part of their orientation.

As part of the School's commitment to provide an educational and work environment free from prohibited conduct, this Policy will be disseminated widely to the School community through e-mail communication, publications, websites, new employee orientations, student orientations, and other appropriate channels of communication.

The Title IX Coordinator, investigators, hearing panel members, and anyone else who is involved in responding to, investigating, or adjudicating sexual harassment will receive annual training from experts in the field. In addition to training on how the adjudicatory process works, the training will include specific instruction about how to approach students about sensitive issues that may arise in the context of sexual harassment.

Definitions of Sexual Harassment under New York Law

The New York Penal Code provides the following definitions with respect to Sexual Abuse, Sexual Assault and Consent:

S 130.00 Sex offenses; definitions of terms.

The following definitions are applicable to this article:

1. "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight.
2. (a) "Oral sexual conduct" means conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina.
- (b) "Anal sexual conduct" means conduct between persons consisting of contact between the penis and anus.
3. "Sexual contact" means any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed.
* * *
8. "Forcible compulsion" means to compel by either:
 - a. use of physical force; or
 - b. a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped.
9. "Foreign object" means any instrument or article which, when inserted in the vagina, urethra, penis, rectum or anus, is capable of causing physical injury.
10. "Sexual conduct" means sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact.
11. "Aggravated sexual contact" means inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis, rectum or anus of a child, thereby causing physical injury to such child.

S 130.05 Sex offenses; lack of consent.

1. Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.
2. Lack of consent results from:
 - (a) Forcible compulsion; or
 - (b) Incapacity to consent; or
 - (c) Where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct; or
 - (d) Where the offense charged is rape in the third degree as defined in subdivision three of section 130.25, or criminal sexual act in the third degree as defined in subdivision three of section 130.40, in addition to forcible compulsion, circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an

expression of lack of consent to such act under all the circumstances.

3. A person is deemed incapable of consent when he or she is:
 - (a) less than seventeen years old; or
 - (b) mentally disabled; or
 - (c) mentally incapacitated; or
 - (d) physically helpless; or
 - (e) committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital, * * *, and the actor is an employee who knows or reasonably should know that such person is committed to the care and custody or supervision of such department or hospital. * * *
 - (g) committed to or placed with the office of children and family services and in residential care, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to or placed with such office of children and family services and in residential care. * * *
 - (h) a client or patient and the actor is a health care provider or mental health care provider * * *, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination; or (i) a resident or inpatient of a residential facility operated, licensed or certified by (i) the office of mental health; (ii) the office for people with developmental disabilities; or (iii) the office of alcoholism and substance abuse services, and the actor is an employee of the facility not married to such resident or inpatient. * * *

S 130.20 Sexual misconduct.

A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person without such person's consent; or
2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or
3. He or she engages in sexual conduct with an animal or a dead human body.

Sexual misconduct is a class A misdemeanor.

S 130.25 Rape in the third degree.

A person is guilty of rape in the third degree when:

1. He or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;
2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old; or
3. He or she engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

Rape in the third degree is a class E felony.

S 130.30 Rape in the second degree.

A person is guilty of rape in the second degree when:

1. being eighteen years old or more, he or she engages in sexual intercourse with another person less than fifteen years old; or

2. he or she engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It shall be an affirmative defense to the crime of rape in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act. Rape in the second degree is a class D felony.

S 130.35 Rape in the first degree.

A person is guilty of rape in the first degree when he or she engages in sexual intercourse with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

Rape in the first degree is a class B felony.

S 130.40 Criminal sexual act in the third degree.

A person is guilty of criminal sexual act in the third degree when:

1. He or she engages in oral sexual conduct or anal sexual conduct with a person who is incapable of consent by reason of some factor other than being less than seventeen years old;
2. Being twenty-one years old or more, he or she engages in oral sexual conduct or anal sexual conduct with a person less than seventeen years old; or
3. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

Criminal sexual act in the third degree is a class E felony.

S 130.45 Criminal sexual act in the second degree.

A person is guilty of criminal sexual act in the second degree when:

1. being eighteen years old or more, he or she engages in oral sexual conduct or anal sexual conduct with another person less than fifteen years old; or
2. he or she engages in oral sexual conduct or anal sexual conduct with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of criminal sexual act in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Criminal sexual act in the second degree is a class D felony.

S 130.50 Criminal sexual act in the first degree.

A person is guilty of criminal sexual act in the first degree when he or she engages in oral sexual conduct or anal sexual conduct with another person:

1. By forcible compulsion; or

2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

Criminal sexual act in the first degree is a class B felony.

S 130.52 Forcible touching.

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. For the purposes of this section, forcible touching includes squeezing, grabbing or pinching.

Forcible touching is a class A misdemeanor.

S 130.55 Sexual abuse in the third degree.

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person.

Sexual abuse in the third degree is a class B misdemeanor.

S 130.60 Sexual abuse in the second degree.

A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Less than fourteen years old.

Sexual abuse in the second degree is a class A misdemeanor.

S 130.65 Sexual abuse in the first degree.

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old; or
4. When the other person is less than thirteen years old and the actor is twenty-one years old or older.

Sexual abuse in the first degree is a class D felony.

S 130.65-a Aggravated sexual abuse in the fourth degree.

1. A person is guilty of aggravated sexual abuse in the fourth degree when:

- (a) He or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person and the other person is incapable of consent by reason of

some factor other than being less than seventeen years old; or
(b) He or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than seventeen years old.
2. Conduct performed for a valid medical purpose does not violate the provisions of this section.
Aggravated sexual abuse in the fourth degree is a class E felony.

S 130.66 Aggravated sexual abuse in the third degree.

1. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person:
(a) By forcible compulsion; or
(b) When the other person is incapable of consent by reason of being physically helpless; or
(c) When the other person is less than eleven years old.
2. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.
3. Conduct performed for a valid medical purpose does not violate the provisions of this section.
Aggravated sexual abuse in the third degree is a class D felony.

S 130.67 Aggravated sexual abuse in the second degree.

1. A person is guilty of aggravated sexual abuse in the second degree when he or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:
(a) By forcible compulsion; or
(b) When the other person is incapable of consent by reason of being physically helpless; or
(c) When the other person is less than eleven years old.
2. Conduct performed for a valid medical purpose does not violate the provisions of this section.
Aggravated sexual abuse in the second degree is a class C felony.

S 130.70 Aggravated sexual abuse in the first degree.

1. A person is guilty of aggravated sexual abuse in the first degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:
(a) By forcible compulsion; or
(b) When the other person is incapable of consent by reason of being physically helpless; or
(c) When the other person is less than eleven years old.
2. Conduct performed for a valid medical purpose does not violate the provisions of this section.
Aggravated sexual abuse in the first degree is a class B felony.

The New York Penal Code provides the following definitions with respect to Stalking:

S 120.45 Stalking in the fourth degree.

A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

1. is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
2. causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or
3. is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

For the purposes of subdivision two of this section, "following" shall include the unauthorized tracking of such person's movements or location through the use of a global positioning system or other device.
Stalking in the fourth degree is a class B misdemeanor.

S 120.50 Stalking in the third degree.

A person is guilty of stalking in the third degree when he or she:

1. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against three or more persons, in three or more separate transactions, for which the actor has not been previously convicted; or
2. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime, as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or
3. With intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or
4. Commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.
Stalking in the third degree is a class A misdemeanor.

S 120.55 Stalking in the second degree.

A person is guilty of stalking in the second degree when he or she:

1. Commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 of this article and in the course of and in furtherance of the commission of such offense: (i) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, shotgun, machine gun, electronic dart gun, electronic stun gun, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slungshot, shirken, "Kung Fu Star", dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapon; or (ii) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or
 2. Commits the crime of stalking in the third degree in violation of subdivision three of section 120.50 of this article against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or
 3. Commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree as defined in subdivision four of section 120.50 of this article against any person; or
 4. Being twenty-one years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or
 5. Commits the crime of stalking in the third degree, as defined in subdivision three of section 120.50 of this article, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.
- Stalking in the second degree is a class E felony.

S 120.60 Stalking in the first degree.

A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 or stalking in the second degree as defined in section 120.55 of this article and, in the course and furtherance thereof, he or she:

1. intentionally or recklessly causes physical injury to the victim of such crime; or
 2. commits a class A misdemeanor defined in article one hundred thirty of this chapter, or a class E felony defined in section 130.25, 130.40 or 130.85 of this chapter, or a class D felony defined in section 130.30 or 130.45 of this chapter.
- Stalking in the first degree is a class D felony.

The New York laws provide the following definitions with respect to Domestic Violence:

S 812. Procedures for family offense proceedings.

1. Jurisdiction.

* * *

For purposes of this article, "members of the same family or household" shall mean the following:

- (a) persons related by consanguinity or affinity;
- (b) persons legally married to one another;
- (c) persons formerly married to one another regardless of whether they still reside in the same household;
- (d) persons who have a child in common regardless of whether such persons have been married or have lived together at any time; and
- (e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an "intimate relationship" include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship".

* * *

5. Notice. Every police officer, peace officer or district attorney investigating a family offense under this article shall advise the victim of the availability of a shelter or other services in the community, and shall immediately give the victim written notice of the legal rights and remedies available to a victim of a family offense under the relevant provisions of the criminal procedure law, the family court act and the domestic relations law. Such notice shall be available in English and Spanish and, if necessary, shall be delivered orally and shall include but not be limited to the following statement:

"If you are the victim of domestic violence, you may request that the officer assist in providing for your safety and that of your children, including providing information on how to obtain a temporary order of protection. You may also request that the officer assist you in obtaining your essential personal effects and locating and taking you, or assist in making arrangement to take you, and your children to a safe place within such officer's jurisdiction, including but not limited to a domestic violence program, a family member's or a friend's residence, or a similar place of safety. When the officer's jurisdiction is more than a single county, you may ask the officer to take you or make arrangements to take you and your children to a place of safety in the county where the incident occurred. If you or your children are in need of medical treatment, you have the right to request that the officer assist you in obtaining such medical treatment. You may request a copy of any incident reports at no cost from the law enforcement agency. You have the right to seek legal counsel of your own choosing and if you proceed in family court and if it is determined that you cannot afford an attorney, one must be appointed to represent you without cost to you.

You may ask the district attorney or a law enforcement officer to file a criminal complaint. You also have the right to file a petition in the family court when a family offense has been committed against you. You have the right to have your petition and request for an order of protection filed on the same day you appear in court, and such request must be heard that same day or the next day court is in session. Either court may issue an order of protection from conduct constituting a family offense which could include, among other provisions, an order for the respondent or defendant to stay away from you and your children. The family court may also order the payment of temporary child support and award temporary custody of your children. If the family court is not in session, you may seek immediate assistance from the criminal court in obtaining an order of protection. The forms you need to obtain an order of protection are available from the family court and the local criminal court (the addresses and telephone numbers shall be listed). The resources available in this community for information relating to domestic violence, treatment of injuries, and places of safety and shelters can be accessed by calling the following

800 numbers (the statewide English and Spanish language 800 numbers shall be listed and space shall be provided for local domestic violence hotline telephone numbers). Filing a criminal complaint or a family court petition containing allegations that are knowingly false is a crime."

The New York laws do not provide a criminal definition of Dating Violence. However, as described above, for purposes of family offense proceedings the term "member of the same family or household" includes persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an "intimate relationship" include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship.

Bystander Intervention

The School's primary prevention and awareness program includes a description of safe and positive options for bystander intervention. Active bystanders take the initiative to help someone who may be targeted for a sexual assault. They do this in ways that are intended to avoid verbal or physical conflict. Active bystanders also take the initiative to help friends, who are not thinking clearly, from becoming offenders of crime. Intervention does not mean that you directly intervene to stop a crime in progress; rather, these steps are "early intervention" – before a crime begins to occur. There are three important components to consider before taking action that we refer to as the ABCs:

- **Assess for safety.** Ensure that all parties are safe, and whether the situation requires calling authorities. When deciding to intervene, your personal safety should be the #1 priority. When in doubt, call for help.
- **Be with others.** If it is safe to intervene, you are likely to have a greater influence on the parties involved when you work together with someone or several people. Your safety is increased when you stay with a group of friends that you know well.
- **Care for the person.** Ask if the target of the unwanted sexual advance/attention/behavior is okay – does he or she need medical care? Ask if someone they trust can help them get safely home.

Risk Reduction

The School's primary prevention and awareness program includes information on risk reduction. This includes:

Avoiding Dangerous Situations. While you can never completely protect yourself from sexual assault, there are some things you can do to help reduce your risk of being assaulted.

- Be aware of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
- Try to avoid isolated areas. It is more difficult to get help if no one is around.
- Walk with purpose. Even if you don't know where you are going, act like you do.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
- Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
- Make sure your cell phone is with you and charged and that you have money for transportation.
- Don't allow yourself to be isolated with someone you don't trust or someone you don't know.

- Avoid putting headphones in or on both ears so that you can be more aware of your surroundings, especially if you are walking alone.

Safety Planning. Things to think about:

- How to get away if there is an emergency? Be conscious of exits or other escape routes. Think about options for transportation (car, bus, subway, etc.).
- Who can help? Friends and/or family, or support centers in your area. Please see Section 4 of this Policy for a list of support organizations.
- Where to go? Options may include a friend's or relative's house, or you may consider going to a domestic violence or homeless shelter. You may also go to the police. **Important Safety Note:** If the dangerous situation involves a partner, go to the police or a shelter first.
- What to bring? This may include important papers and documents such as a birth certificate, social security card, license, passport, medical records, lease, bills, etc. This will also include house keys, car keys, cash, credit cards, medicine, important numbers, and your cell phone. If you are bringing children with you, remember to bring their important papers and legal documents. You can keep all of these things in an emergency bag. You should hide the bag—it is best if it is not in your house or car. If the bag is discovered, you can call it a “tornado” or “fire” bag.

Protecting Your Friends. You have a crucial role to play in keeping your friends safe. No matter what the setting, if you see something that doesn't feel quite right or see someone who might be in trouble, there are some simple things you can do to help out a friend.

- Distract. If you see a friend in a situation that doesn't feel quite right, create a distraction to get your friend to safety. This can be as simple as joining or redirecting the conversation: suggest to your friend that you leave the party, or ask them to walk you home. Try asking questions like: “Do you want to head to the bathroom with me?” or “Do you want to head to another party – or grab pizza?”
- Step in. If you see someone who looks uncomfortable or is at risk, step in. If you feel safe, find a way to de-escalate the situation and separate all parties involved. Don't be shy about directly asking the person if they need help or if they feel uncomfortable.
- Enlist others. You don't have to go it alone. Call in friends or other people in the area as reinforcements to help defuse a dangerous situation and get the at-risk person home safely. There is safety in numbers.
- Keep an eye out. Use your eyes and ears to observe your surroundings. If you see someone who has had too much to drink or could be vulnerable, try to get them to a safe place. Enlist friends to help you. Even if you weren't around when the assault occurred, you can still support a friend in the aftermath.

Social Situations. While you can never completely protect yourself from sexual assault, there are some things you can do to help reduce your risk of being assaulted in social situations.

- When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately.
- Don't leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
- Don't accept drinks from people you don't know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
- Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
- If you suspect you or a friend has been drugged, contact law enforcement immediately. Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly

others).

Information on Risk Reduction was provided by RAINN: Rape, Abuse & Incest National Network:
www.rainn.org.

14. Amendments

The School may amend the Policy or the Procedures from time to time. Nothing in the Policy or Procedures shall affect the inherent authority of the School to take such actions as it deems appropriate to further the educational mission or to protect the safety and security of the School community.

**Modern Welding School
Sexual Harassment Policies & Grievance Procedures**

Students Bill of Rights

All students have the right to:

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

Modern Welding School
Sexual Harassment Policies & Grievance Procedures

Definitions of Key Terms

- Sexual Harassment - means conduct on the basis of sex that satisfies one or more of the following:
 - 1) An employee of the School conditioning the provision of an aid, benefit, or service of the School on an individual's participation in unwelcome sexual conduct;
 - 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the School's education programs or activities; or
 - 3) "Sexual assault," "dating violence," "domestic violence," or "stalking" as defined herein.

- Sexual Assault - An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Unified Crime Reporting ("UCR") program.
 - Rape - The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - Sex Offenses - Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - Fondling—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent.

- Domestic Violence - A felony or misdemeanor crime of violence committed (i) by a current or former spouse or intimate partner of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (v) 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 in which the crime of violence occurred.

- Dating Violence - Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purpose of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

- "Education program or activity" includes locations, events, or circumstances over which the School exercises substantial control over both the respondent and the context in which the sexual harassment occurs. It includes all of the academic, educational, extra-curricular, and other programs of the School, whether they take place in the facilities of the School, at a class or training program sponsored by the School at another location, or elsewhere. An instructor's alleged sexual harassment of a student would likely constitute sexual harassment in the School's education programs or activities even if the alleged harassment occurs off campus. The School's education programs and activities may also include computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of, the School.

- Prohibited Conduct – The School prohibits Sexual Assault, Sexual Harassment, Dating Violence, Domestic Violence, and Stalking as defined in these Definitions of Key Terms.
- Stalking - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker 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. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Retaliation – The School shall not, and no individual shall, intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, 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 Title IX and/or this Policy. 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 does not constitute retaliation; provided, however, that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.
- Consent - Modern Welding School uses an affirmative consent standard in the determination of whether consent was given by both parties to sexual activity. "Affirmative Consent" is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

The following principles shall serve as guidance for the School community:

- Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore not able to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.
- Complainant – means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- Respondent – means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.