

II. Title IX Policy and Procedures

SFCM is committed to promoting a safe and healthy educational and work environment and must respond when notice is received by the Title IX Coordinator or the following expressly designated officials with authority to institute corrective measures for purposes of Title IX sexual harassment. All faculty and staff who become aware of known or suspected violations are required to report them to the Title IX Coordinator or a deputy coordinator.

A. Title IX Coordinators

Complaints of sexual assault, sexual harassment, or other conduct prohibited under this policy, and any questions about filing a complaint under this policy, the grievance process, or Title IX or its regulations should be directed to the Title IX Coordinator or the Deputy Coordinators listed below:

Title IX Coordinator

Molly O'Malley
Title IX Coordinator
Email: Momalley@sfc.edu
Phone: 650-383-4753 x176
Bowes Center for the Performing Arts
Room 116B

Deputy Title IX Coordinator for Students

Timothy Dunn
Associate Dean for Student Affairs and
Deputy Title IX Coordinator
Phone: 415-503-6281
Email: tdunn@sfc.edu
Bowes Center for the Performing Arts
Room 116B

Deputy Title IX Coordinator for Faculty and Staff

Michael Patterson
Associate Vice President of Human Resources and Administration and
Deputy Title IX Coordinator
Phone: 415-503-6237
Email: mpatterson@sfc.edu
Address: Getty Center for Education
Room 407

The Title IX Coordinators' responsibilities include investigating or overseeing the investigation of incidents of alleged sexual assault or harassment; ensuring that consistent standards and practices

B. Policy Definitions

1. Sex discrimination is an adverse action taken against an individual because of sex, including sexual harassment, sexual violence, domestic violence, dating violence, and stalking as prohibited by Title IX, Title IV, VAWA/Campus SAVE Act, and other laws and regulations.
2. Sexual harassment is any unwelcome conduct of a sexual nature as defined in footnote 2 above. This includes unwelcome verbal, nonverbal or physical conduct including but not limited to unwelcome sexual advances; requests for sexual favors; and other verbal, nonverbal, or physical

5. Statutory rape is unlawful sexual intercourse with a minor under 18 years old, even if the intercourse is consensual.
6. Sexual Assault is a form of sexual violence and means (1) forcing or coercing an individual to engage in any non-consensual sexual contact or sexual penetration; or (2) an attempt to commit an unlawful act that places another person in reasonable apprehension of immediate, non-consensual physical contact for sexual purposes. Sexual assault does not need to satisfy the severe and pervasive standard.
7. Sexual Battery is a form of sexual violence and means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object.³
8. Rape is a form of sexual violence that may or may not involve force or a threat of force, coercion, violence, or immediate bodily injury, threats of future retaliation, or duress. Rape means nonconsensual sexual intercourse or sexual penetration, which, in addition to intercourse, means nonconsensual oral or anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body. Any sexual penetration is sufficient to constitute rape. Sexual acts are considered non-consensual when they involve a person who is physically incapacitated,⁶ physically helpless,⁷ incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or due to a mental or physical disability is incapable of giving consent.
9. Acquaintance Rape is a form of sexual violence committed by an individual known to the victim. This includes a person the victim may have just met, such as at a party, been introduced to through a friend, or met on a social networking website.
10. Consent means intelligent, knowing, and voluntary consent and does not include coerced submission. "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance. Once consent is withdrawn or revoked, all of sexual violence com10.

capacity, awareness of consequences, and ability to make fully informed judgments is impaired.

- e. Being intoxicated by drugs or alcohol does not diminish a person's responsibility to obtain consent from the other party before engaging in sexual activity. Factors to be considered when determining culpability include whether the person knew, or whether a reasonable person in the

E. Training and Impartiality

1. Any individual designated as a Title IX Coordinator, investigator, or decisionmaker, or to facilitate an informal resolution process, cannot have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
2. Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must receive training on the definition of sexual harassment, the scope of SFCM's education programs and activities, and how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes.
3. Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must receive training on how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
4. Decision-makers must receive training on any technology to be used at a live hearing and issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
5. Investigators must receive training on issues of relevance and creating an investigative report that fairly summarizes relevant evidence.
6. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

F. Confidentiality

SFCM will make reasonable and appropriate efforts to preserve complainants' and respondents' privacy and to protect the confidentiality of information. SFCM will only disclose information regarding complaints under this policy on a need to know basis, primarily to persons who are responsible for its investigation and any reporting requirements.

SFCM cannot require the complainant or respondent to maintain confidentiality, as restricting the ability of either party to discuss the investigation (e.g., through "gag orders") is likely to deprive them of the ability to obtain and present evidence or otherwise to defend their interests.

In cases involving sexual violence, even if a complainant requests that SFCM not move forward, there may be circumstances that require SFCM to take action. If a complainant requests confidentiality, the Title IX Coordinator will determine whether SFCM can honor this request while providing a safe and nondiscriminatory environment for all students and employees, including the individual who reported the sexual violence. Because a request for confidentiality could preclude a meaningful investigation, SFCM will consider whether there are circumstances present that demonstrate a risk that the respondent may commit additional acts of sexual violence or other violence. These include whether other sexual violence complaints have been received about the same Respondent; whether the Respondent has a history of arrests; whether the Respondent has records from a prior school indicating a history of violence; whether the Respondent threatened further sexual violence or other violence against the Complainant or others; and whether the sexual violence was committed by multiple

perpetrators. Other factors include whether the sexual violence was perpetrated with a weapon, and the age of the individual subjected to the sexual violence.

and/or counseling services available both on and off campus;

10. Even if a Complainant asks SFCM not to take any action, SFCM may be obligated to investigate the complaint in circumstances in which SFCM has actual knowledge of a pattern of alleged sexual harassment by a respondent in a position of authority;
11. Prohibitions against retaliation;
- 12.

(415) 503-6325

Carbon Health

<https://carbonhealth.com/>

(415) 918-5677

All collegiate students receive a membership with Carbon Health, which provides high-quality, patient-centered primary and urgent care services with same-day/next-day appointments. Carbon also provides access to 24/7/365 virtual care by phone, email, and video conference. Carbon Health's services also include mental health, women's health, LGBT Health, COVID Care and more.

GoHealth Urgent Care

<https://www.gohealthuc.com/>

415-746-1812

SFCM has partnered with GoHealth Urgent Care to provide easy, convenient access to health care for students, faculty and staff.

SHIP Benefits

812-360-2313

With its inclusive benefits and comprehensive coverage, the SFCM SHIP plan ensures that students have access essential healthcare services, including vision care, emergency assistance, preventive vaccines and mental health support. Additionally, the SFCM SHIP plan includes benefits such as telemedicine and telehealth services provided by HealthiestYu from Teladoc. All members have online access to licensed medical professionals 24/7 with no fees associated with the services.

Other Supportive Services

Academic Accommodations

Ryan Brown

Dean

rbrown@sfc.edu

(415) 503-6217

Housing Accommodations, On and Off Campus

Timothy Dunn

Associate Dean for Student Affairs

tdunn@sfc.edu

(415) 503-6281

Outside Reporting & Crisis Support

Rape & Trauma Services 24 Hour Helpline

(415) 206-8256

National Domestic Violence Hotline

(800) 799-7233

National Sexual Assault Hotline

(800) 656-4673

San Francisco Women Against Rape (Legal)
(415) 861-2024

4. Supportive services are not provided for witnesses. SFCM has discretion to continue providing supportive measures to a complainant or respondent after a determination of no responsibility.
5. Supportive measures must be confidential unless maintaining confidentiality would impair SFCM's ability to provide them.
6. The Title IX Coordinator or designee will consider the appropriateness of supportive measures on an ongoing basis to ensure the well-being of the parties throughout the process. Long-term measures may include extending or making permanent any interim supportive measures or implementing additional measures tailored to achieve the goals of the Title IX policy. Many of the remedies a complainant might need after a finding of responsibility will have already been provided as supportive measures, including but not limited to academic accommodations, short-term counseling, and housing arrangements. The Title IX Coordinator will, in all cases, consider whether there is a need for additional remedies. Additional remedies or supports may be included in the sanctions, such as reassignment or removal of the respondent from a class.

E. Interim suspension or expulsion of a respondent

Although it is not a supportive measures, interim suspension or expulsion of a respondent is an option where a respondent poses an immediate threat to the physical health or safety of the complainant or anyone else. In that instance, they are subject to temporary emergency removal³ prior to the conclusion of the grievance process or where no grievance process is pending. An employee respondent who poses an immediate threat to the physical health or safety of the complainant or anyone else may be placed

following types of information:

- a. Statements by the complainant and respondent about the alleged incident(s);
 - b. Statements by witnesses to the alleged incident(s);
 - c. Statements or reports from expert witnesses
 - d. Evidence about the credibility of the complainant and respondent;
 - e. Evidence that the alleged harasser has been found to have harassed other victims;
 - f. Evidence that the complainant has made false allegations against other individuals;
 - g. Evidence as to the complainant's reaction or behavior after the alleged harassment or other misconduct;
 - h. Evidence as to whether the complainant filed a complaint or took other action to protest the conduct soon after the incident occurred; and
 - i. Other evidence of the harassment (reporting conduct to parents, counselors, or friends, or medical records.
 - j. The fact of a current or previous consensual dating or sexual relationship between the parties will not imply consent or preclude a finding of sexual violence.
3. Evidentiary/fact relevance determinations. The Title IX Coordinator or investigator has broad discretion in determining whether a proffered witness or documentary information would be relevant or helpful to a determination.
 4. Evidentiary Standard. A "preponderance of the evidence" standard will be used to determine whether there was a policy violation.
 5. Presumption that the respondent is not responsible. The respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
 6. Time Frame for Investigation and Completion of Report. There is no fixed time frame under which a school must complete a sexual misconduct report. While the report and investigation should normally be completed within 90 calendar days after notice of a complaint, the inability to meet this time frame does not affect the legitimacy, credibility, or reliability of the investigation or report. A written decision must be completed and provided to the parties at the conclusion of the investigation.
 7. Cooperation. Witnesses,⁵ including faculty, staff, volunteers, vendors, contractors, and students are required to cooperate in the investigation process. Refusal

- a. The investigation is designed to provide a fair and reliable gathering of the facts by a trained and impartial investigator. All individuals, including the complainant, the respondent, and any third-party witnesses, will be treated with respect throughout the investigation. The investigation will safeguard the privacy of the individuals involved in a manner consistent with federal law and SFCM policy.
- b. SFCM will provide an equal opportunity for the parties to identify witnesses, including fact and expert witnesses, and provide inculpatory and exculpatory evidence. SFCM will not restrict the ability of any party to gather and present relevant evidence.
- c. During the investigation, the complainant and the respondent each have the right to have an advisor of their choice present during interviews and other meetings. The investigator will gather or receive information that is relevant to the determination of an appropriate sanction or remedy, including information about the impact of the alleged conduct on the parties. The investigator will also gather evidence, including seeking prior statements by parties or witnesses, any communications between the parties, email messages, social media materials, text messages, audio or video recordings, and other records as available and feasible.
- d. The investigator must perform an objective evaluation of all r n7eq00 1 106.7 620.02 Tm0 g0 G()JT#TQq192 reV

- a. Before completion of the investigative report, the recipient must 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;
- b. All evidence that is subject to the parties' inspection and review must be available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for cross-examination;
- c. Before a decision concerning responsibility is made or, for students, before there is a hearing, the investigation report should be provided to the respondent and the complainant and both parties must have an opportunity to respond to the findings, conclusions, and other information in the investigation report in writing; and
- d. The parties must have at least 10 days to submit a written response that the investigator will consider before completion of the investigative report.

12. Informal Resolution

- a. At any time after a formal complaint has been filed and before a hearing to reach a determination regarding responsibility, upon the parties' request and voluntary agreement the informal resolution process, SFCM may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that —
 - 1) The parties receive written notice of the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
 - 2) The parties receive a written notice of the requirements of the informal resolution process;
 - 3) The parties receive written notice that at any time before agreeing to a resolution, each has the right to withdraw from the informal resolution process and resume the grievance process, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
 - 4) The parties provide' voluntary, written consent to the informal resolution process.
 - 5) Informal resolution is not available to resolve allegations that an employee sexually harassed a student.
 - 6) Supportive measures are available during the informal resolution process.
- b. Procedure
 - 1) Determine eligibility for informal resolution:

the grievance process. The Title IX Coordinator or investigator may redact portions of the Final Investigation Report that is not directly related to the allegations (or that is otherwise barred from use under § 106.45, such as information protected by a legally recognized privilege, or a party's treatment records if the party has not given written consent) contained within documents or other evidence that are directly related to the allegations, before sending the evidence to the parties for inspection and review. As a precondition to receiving a copy of the Final Investigation Report, all parties and their respective advisors must sign and agree to comply with a non-disclosure agreement.

- c. The Final Investigation Report must be completed at least ten (10) days before a hearing if

of interest, or lack of impartiality; and identify any new information that was not provided during the investigation due to not being available through the exercise of due diligence. The parties will also have the opportunity to address questions about the process. If the complainant is not participating in the hearing, he/she is not required to attend this meeting. The Title IX Coordinator or a designee will also notify the complainant that they may make an impact statement following a determination of responsibility.hhd.

- b. Both parties must have an opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source.
- c. Any party needing a disability accommodation shall request it at this meeting. . If a complainant has a disability accommodation in place, they should request that the Associate Dean for Student Affairs and Section 504 Coordinator be involved.
- d. Both parties can object based on an actual conflict of interest, bias, or lack of impartiality. The request must be submitted in writing, raised no later than the date of the pre-hearing meeting, and clearly state the grounds to support a claim of bias, conflict of interest, or an inability to be fair and impartial. Failure to object before the date of the pre-hearing meeting eliminates the possibility of appealing the outcome of the hearing based on the assertion that a member of the Hearing Panel had a conflict of interest, was biased, or lacked impartiality.-132(h)14(ad)4()-132(a)]T#TQq0.00000912 0 612

someone who is aligned with the interests of the student, but the advisor cannot be

remote participation shall be submitted to the Title IX coordinator in writing at least three (3) days prior to the hearing.

- g. Recording. SFCM must record all hearings, even if the hearing is in person. Except for an approved reasonable disability accommodation, a respondent, complainant, advisor, and/or witness may not bring electronic devices that capture or facilitate communication (e.g., computer, cell phone, audio/video recorder, etc.) into a hearing room. The Title IX Coordinator will make an audio recording of the hearing to be kept on file per SFCM's document retention policy. Reasonable care will be taken to create a quality audio recording and minimize technical problems; however, technical problems that result in no recording or an inaudible one will not be a valid argument for appeal.

16. Determination regarding responsibility (Notice of Hearing Outcome).

- a. The decisionmaker(s) must issue a written determination (Notice of Hearing Outcome) regarding responsibility.
- b. The Notice of Hearing Outcome must include—
 - 1) Identification of the allegations potentially constituting sexual harassment;⁶
 - 2) 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;
 - 3) For each allegation, findings of fact supporting the determination;
 - 4) Conclusions regarding application of any applicable Title IX policy provision to the facts;
 - 5) For each allegation, a statement of, and rationale for, the result, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
 - 6) The procedures and permissible bases for the complainant and respondent to appeal.
- c. The Notice of Hearing Outcome will be provided to the complainant and the respondent concurrently.
- d. The complainant and respondent are responsible for providing an e-mail address that Student Affairs will use to notify them that a decision has been reached and that they should report to Student Affairs to receive written notice and the specifics of the decision.

17. Impact Statement. The decisionmaker(s) will not receive an impact statement or impact

⁶ As defined in § 106.30.

- d. Change of studio.
- e. Music probation.
- f. R

Following a hearing, both the complainant and the respondent have a right to appeal a finding of responsibility or no responsibility, remedies, and/or recommended sanctions. An appeal of a finding of responsibility or no responsibility is limited to three grounds: (1) procedural irregularities, (2) newly-discovered evidence, and (3) alleged bias or conflicted interest of any personnel involved in the Title IX process, provided the errors affected the outcome. A sanction may be appealed based on it being too severe or too lenient.

B. Process for

2. Appeal Procedure

- a. Each party will be allowed to review any written appeal and respond in writing. The response must be submitted to the Appeals Officer within three (3) business days after being provided the appeal. If both parties file an appeal, the appeal documents from each party will be considered together in one appeal review process.
- b. The Appeals Officer has discretion to meet separately with the respondent and the complainant. The Appeals Officer may agree with the determination, disagree with the determination, or request additional information. If the Appeals Officer determines additional information is needed before they can make a decision, the Title IX Coordinator will assist on obtaining any necessary additional information.
- c. The Appeals Officer will issue a written decision to both parties concurrently within ten (10) business days of receipt of the request for review. This timeframe may be extended for good