



Sexual Misconduct Policy & Procedures for Students

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Overview

The Title IX Education Amendment of 1972 prohibits sex discrimination – which includes sexual violence - in education programs that receive Federal Financial Assistance. ASA College does not discriminate on the basis of sex in its education programs or activities. We have amended our definition of sexual discrimination to include a broader range of prohibited behaviors that will not be tolerated or promoted in ASA College’s education programs or activities: sexual harassment, sexual violence, sexual coercion, sexual exploitation, sexual assault, dating violence, domestic violence and stalking (collectively, Sexual Misconduct).

This Policy governs Sexual Misconduct involving ASA College students, whether part-time or full time, and applies to such students regardless of race, sex, national origin, disability, sexual orientation, gender identity, or other protected status. The health, safety and well-being of all members of ASA College community are the College’s primary concerns. This Policy applies to any allegation of Sexual Misconduct that takes place on ASA College campus buildings or any other property on which a College program or activity takes place. It also covers conduct that takes place off-campus that occurs in the context of an education program or activity of the College. Sexual Misconduct in any form violates the rights and dignity of those subjected to any form of this prohibited conduct/behavior.

Complaints of discrimination or harassment on the basis of sex that do not involve Sexual Misconduct are governed by a separate Policy within the Office Student Support Services. If the Respondent is an employee or a sub-contractor doing business with the College, the investigation and disciplinary processes are handled jointly by the Title IX Coordinator and Human Resources Department for review, appropriate counseling, training and or disciplinary action.

Sexual Misconduct can occur between strangers, acquaintances, or people who know each other well, including those who are involved in an intimate or sexual relationship, and can be committed by anyone regardless of sex, gender, or gender identity. Such behavior can create barriers to both students and employees from having equal access to education and employment activities. In some instances, it can be severe or pervasive enough to create a work or educational environment that can be considered intimidating, hostile or abusive.

Policy Statement

The purpose of the Sexual Misconduct Policy and Procedures for Students is to ensure students, staff and visitors enjoy their college experiences, interact well with each other, work, learn and study in a safe and respectful environment free from any form of Sexual Misconduct.

Accordingly, ASA College is committed to:

- Defining prohibited behaviors that constitutes and encompasses Sexual Misconduct;
- Providing clear guidelines for students, employees and visitors on how to report incidents of unwelcomed sexual behavior that include, but is not limited to, Sexual Harassment, Sexual Violence, Sexual Coercion, Sexual Exploitation, Sexual Assault, Dating Violence, Domestic Violence and Stalking.
- Promptly responding to and investigating allegations of Sexual Misconduct, pursuing disciplinary action when appropriate, and taking action to investigate and address any allegations of retaliation.
- Providing ongoing assistance and support to students and employees who make allegations of Sexual Misconduct.
- Providing awareness and prevention information on all prohibited behavior and conduct that encompasses Sexual Misconduct; implementing training and educational programs; and capitalizing on opportunities outside the classroom to disseminate this Policy.
- Gathering and analyzing information and data that will be reviewed in order to improve safety, reporting, responsive and resolution of incidents.

ASA College has designated Marcus Browne, mbrowne@asa.edu, as the Title IX Coordinator for both the Brooklyn and Manhattan campuses. This employee is responsible for compliance with Title IX of the Education Amendment of 1972, which prohibits discrimination, including Sexual Harassment, Gender-based Harassment, and Sexual Violence in education programs and activities. The Title IX Coordinator has overall responsibility to implement this Policy including, but not limited to, overseeing the College's receipt and response to complaints of Sexual Misconduct, coordinating investigations into allegations of Sexual Misconduct, coordinating the procedural outcome of all complaints, identifying and addressing any patterns or systemic problems of Sexual Misconduct that arise during the investigation of a complaint of Sexual Misconduct.

Inquiries concerning the application of this Policy or Title IX issues at ASA College are referred to the designated Title IX Coordinator:

Marcus Browne

Acting Director – Student Support Services
ASA College
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Brooklyn NY 11201
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In an effort to promote a College that is free from Sexual Misconduct, the Title IX Coordinator makes oral presentations at Freshmen Orientation and “Freshmen Socials” (during the third week of new enrollees’ first semester), at club events and at student-athletes freshmen orientation every semester using excerpts from Education Law Article 129-B and the recently enacted “Enough is Enough” New York State Law.

Definitions within the Policy

The following definitions as required under the NYS Education Law Article 129-B are used in this Policy paper:

Affirmative Consent is defined as 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 action create clear permission regarding willingness to engage in 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 principle, along with the above definition, will be used to evaluate whether sexual activity was consensual:

- Consent to form of sexual contact (such as kissing or fondling) or prior consensual activity between or with any party does not necessarily constitute consent to any other form of sexual activity or to sexual activity in the future.
- Current or previous dating relationship is not sufficient to constitute consent.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and alcohol.

- Consent may be initially given but withdrawn at any time during sexual activity by expressing in words or actions that they no longer want the sexual activity to continue.
- Consent cannot be given when a person is incapacitated, that is, if she/he lacks the physical and/or mental ability to make, informed, rational decisions and therefore cannot consent to 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 unable 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.
- Sexual activity with a minor (a person under 18 years old) is not consensual, because a minor is considered incapable of giving consent due to age.

Bystander means a person who observes a crime, impending crime, conflict, potentially or violent behavior, or conduct that is in violation of rules and policies of the College.

Complainant means the individual who reportedly experienced Sexual Misconduct, regardless of whether such individual report the Sexual Misconduct to the College or participates in the College's conduct process for responding to complaints of Sexual Misconduct.

Confidentiality may be offered by an individual who is not required by law to report known incidents of Sexual Assault or other crimes to College officials, in a manner consistent with State and federal law, including but not limited to limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681 (a). Licensed mental health counselors, medical providers, and pastoral counselors are examples of College employees who may offer Confidentiality.

“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, surveys, threatens, or communicates to or about a person, or interfere with a person's property.

Dating Violence means violent or coercive behavior 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 Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in

the relationship. Dating violence includes, but it is not limited to, sexual, physical, or psychological abuse, or threat of such abuse.

Domestic Violence means a felony or misdemeanor crime of violence committed by:

- A current or former spouse or intimate partner of the victim.
- A person with whom the victim shares a child in common.
- A person who is cohabiting with or has cohabited with the victim as a spouse or intimate partner.
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of New York.
- 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 New York

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

No Contact Order means a directive prohibiting contact between or among designated individuals through any means, direct or indirect, including personal contact, email, telephone, text message, social media, or by means of a third party.

Privacy may be offered by an individual when such individual is unable to offer Confidentiality under the law but shall still not disclose information learned from a Reporting Individual or Bystander to a crime or incident more than necessary to comply with this and applicable laws, including informing appropriate College officials.

Reporting Individual encompasses the term victim, survivor, Complainant, claimant, witness with victim status or any other term used by the College to reference an individual who reports a violation of this Policy to the College.

Respondent means the individual alleged to have committed acts constituting Sexual Misconduct, regardless of whether such individual has entered into the College's conduct process for responding to complaints of Sexual Misconduct.

Responsible Employee is a College employee, who has a duty to report incidents of Sexual Misconduct; or who a student could reasonably believe has this authority or duty. At ASA College, this definition encompasses virtually every College employee, including all faculty, staff and administrators.

Retaliation means taking any adverse action or attempting to take adverse action against an individual for making a good faith report of Sexual Misconduct or participating in an investigation or proceeding related to Alleged Sexual Misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual’s complaint of Sexual Misconduct or participation in an investigation or proceeding related to alleged Sexual Misconduct.

Sexual Activity includes any “sexual act” or “sexual contact”.

A “**sexual act**” means:

1. Contact between the penis and the vulva or the penis and the anus where penetration occurs, however slight;
2. Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
3. The penetration, however slight of the anal or genital opening of another by hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
4. The intentional touching, not through clothing of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

“**Sexual Contact**” means the intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks, of any person with intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Sexual Assault includes non-consensual sexual intercourse and non-consensual contact.

“**Non-consensual sexual intercourse**” means: any form of sexual penetration or intercourse (vaginal, anal, or oral), however slight, with anybody part or object by an individual upon another individual without consent and/or by force. Intercourse means vaginal or anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact).

“**Non-consensual sexual contact**” means any intentional sexual touching, however slight, with any body part or object by an individual upon another individual in a sexual manner without consent. Intentional sexual contact includes contact with the breasts, buttocks, or groin or touching another with any of these parts; making another person touch any of these body parts; and any intentional bodily contact in a sexual manner.

Sexual Coercion is the application of unreasonable pressure, including emotionally or physically manipulative actions or statements, or direct or implied threats, in order to compel the person to engage in sexual activity.

Sexual Exploitation means abuse or exploitation of another person's sexuality without consent, for the perpetrators own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Examples of Sexual Exploitation include:

- Causing or attempting to cause the incapacitation of another person for purposes of compromising that person's ability to give Affirmative Consent to the Sexual Activity;
- Causing the prostitution of another person;
- Electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person without the person's consent;
- Disseminating or posting images of private sexual activity;
- Engaging in Voyeurism;
- Distributing intimate or sexual information about another person; and/or
- Knowingly exposing another individual to a sexually transmitted infection or virus without the other individual's knowledge.

Sexual Harassment means unwelcome conduct of a sexual nature , including but not limited to, sexual advances, request for sexual favors , and other verbal , nonverbal , graphic or physical conduct of a sexual nature when:

- 1) Submission to, or rejection of, such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education or campus life activities , or used as the basis of any academic , student life or employment decision (quid pro quo) ; or
- 2) Such conduct is sufficiently severe, persistent or pervasive such that it unreasonably interferes with, or limits an individual's ability to participate in, or benefit from the College's education or work programs or activities (hostile environment). Whether a hostile environment has been created will be evaluated from both a subjective and an objective perspective.

In evaluating whether a hostile environment exists, the College will consider the totality of known circumstances, including, but not limited to:

- The degree to which the conduct affected one or more students;
- The type, frequency, and duration of the conduct;

- The identity of and relationship between the alleged harasser and the subject or subjects of the harassment;
- The number of individuals involved;
- The age and sex of the alleged harasser and the subject or subjects of the harassment;
- The locations of the incidents and the context in which they occurred;
- The effect of the conduct on the Reporting Individual's mental or emotional state;
- Whether the conduct unreasonably interfered with the Reporting Individual's educational performance or participating in College programs and activities;
- Whether the conduct implicates concerns related to academic freedom or protected speech; and
- Whether the conduct arose in the context of other discriminatory conduct.

Sexual Misconduct means exposing a person to a wide range of unwelcomed prohibited sexual behavior that is committed without consent or by intimidation, coercion, threat or force. Sexual Misconduct includes, but is not limited to, sex discrimination, sexual harassment, sexual assault, sexual coercion, sexual exploitation, dating violence, domestic violence, and stalking.

Sexual Misconduct is a broad term that encompasses the wide range of prohibited behaviors of a sexual nature listed earlier. Sexual Misconduct can occur between strangers or acquaintances, as well as persons involved in an intimate or sexual relationship. Sexual Misconduct can occur in heterosexual and homosexual relationships.

Sexual Violence refers to a sexual act perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because of intellectual or other disability prevents the student from having the capacity to consent). A number of different acts fall into the category of Sexual Violence, including Rape, Sexual Assault, Sexual Battery, Sexual Abuse, and Sexual Coercion. All acts of Sexual Violence are forms of Sex Discrimination by title IX.

- **Stalking** means to knowingly engage in a course of conduct directed at a specified person when that course of conduct would cause a reasonable person to fear for his/her safety or the safety of a third person or suffer other emotional distress. Stalking occurs when a person knowingly and without lawful justification, on at least 2 separate occasions, follows another person or places the person under surveillance or any combination thereof. Other examples of Stalking may include:
- At any time transmit a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person

- Places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or that person of a family of that person;
- Making threatening gestures that intimidates a person;
- Voyeurism
- Invading one's personal space;
- Making a person feel he/she has to avoid certain places/activities;

Resources and Reporting Options

All College employees are required to report incidents of Sexual Misconduct to the Title IX Coordinator or the Director of Campus Safety Officers. The information employees provide in connection with a report will be shared only as necessary and on a need-to-know basis. Such reporting will enable Complainants to get the support they need and provide the College with the information it needs to take appropriate action. This may include implementing reasonable interim measures, such as a No Contact Order, sharing with the Complainant/victim phone numbers and addresses where medical and counseling services are available and or assistance with obtaining an Order of Protection from the Courts.

a) Immediate Medical Assistance and Counseling

ASA College strongly encourages anyone who has experienced sexual misconduct or who been the victim of a crime to seek immediate assistance to ensure physical safety and to obtain medical or support services. Listed below is list of community resources that provide emergency assistances and resources; some may or may not charge a service fee:

Medical or Emergency Assistance and Resources:

- Local Police and Emergency Assistance – Call 911
- The Brooklyn Hospital, 240 Willoughby Street, Brooklyn 718–250–6915
- New York Presbyterian/Lower Manhattan Hospital, 170 William street, New York (800) 376-5566
- New York Methodist Hospital, 506 6th Street, Brooklyn (718) 780–3000
- Bellevue Hospital 462 1st. Avenue New York, (212) 562-1000
- Mount Sinai – Elmhurst hospital Sexual Assault and Violence Intervention Program, 79-01 Broadway, Queens, NY 11373, 718–334–1418
- NYPD Special Victims Division 646–610–7272
- Safe Horizon Rape and Sexual Assault Hotline, (866) 689-HELP (4357)

- Safe Horizon Domestic Violence Hotline, (800)621-HOPE (4673)
- New York State Office of Victims Services, (800)942-6906; Spanish: (800) 942-6908
- New York State Police Sexual Assault Hotline, (844) 845-7269

b) Medical Examination for the Preservation of Evidence

In instances involving physical injury or Sexual Assault, the College strongly encourages the victim to obtain a medical examination to determine the extent of injuries. It is important to understand that physical evidence collected in a rape examination (i.e., a rape kit) is a way to preserve evidence should anyone want to pursue criminal charges. A hospital with the victim's permission will collect physical evidence in a sexual offense evidence kit/rape kit. Consenting to the completion of a sexual offense evidence collection kit/rape kit does not obligate the victim to pursue criminal charges with the police; it is a way to preserve evidence should there be a choice to pursue criminal charges at a later time. Hospitals are required by law to preserve such evidence for a minimum of 30 days.

c) Law Enforcement Notification

ASA College strongly encourages the complainant(s) to report all instances of Sexual Misconduct or criminal activity to the Police, even though it is their right to notify or refuse to notify the Police. The over-riding reason to contact the Police is to ensure the evidence is preserved and the investigation and the response is done in a timely manner.

Further, a person may report an incident to either the Police or the College or to both. The Student Advisement Department is also available to assist students in notifying the Police of an incident of Sexual Misconduct and in contacting off campus agencies for medical assistance and counseling.

ASA College will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or to take any interim remedies to protect the victim(s) and the College community. However, there are incidences where the College may temporarily delay its investigation to enable law enforcement to gather evidence and to engage in a preliminary investigation of Sexual Misconduct. An example of such a delay is where the victim is a minor; the College will respect the victim's decision regarding whether or not to report an incident to local law enforcement.

Under this Policy the filing of a complaint of sexual Misconduct is independent of any criminal investigation or proceeding. The standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy. Conduct that constitute Sexual Misconduct under this

Policy may be considered by law enforcement to lack sufficient evidence of a crime and, law enforcement may choose to decline prosecuting as a crime.

d) College Notification

ASA College is committed to providing a prompt, fair and impartial investigation and resolution of all allegations of Sexual Misconduct. In keeping with our commitment the College urges students, including Complainants/victims to report all incidents of sexual Misconduct or criminal activity to the College's Title IX Coordinator regardless of whether the incident took place on or off campus and is reported to the Police. The Colleges also encourages students to seek information and support on available resources on and off campus. ASA employees are required to report to the Title IX Coordinator all incidents of Sexual Misconduct reported to them by members of the College community (student and or staff). Such reporting enable Complainants/victims to get the support they need, and provide the College with information it needs to take appropriate action.

Students who experienced Sexual Harassment, Gender-based Harassment and Sexual Violence should bring their complaint to one of the following campus office/officials:

- The Title IX Coordinator;
- Campus Security;
- Student Advisement Department.

Employees and Sub-contractors who experienced Sexual Harassment, Gender-based Harassment and Sexual Violence should bring their complaint to one of the following campus office/officials:

- The Title IX Coordinator;
- Campus Security;
- Human Resources Department.

Visitors who experienced Sexual Harassment, Gender-based Harassment and Sexual Violence should bring their complaint to one of the following campus office/officials:

- The Title IX Coordinator;
- Campus Security;
- Student Advisement Department.

When the College receives a report from a student that she or he has been the victim of Sexual Misconduct, including Dating Violence, Domestic Violence, Sexual Assault or Stalking, whether the

offense occurred on or off campus, the College will provide the Reporting Individual with information on how to proceed. This information may include, but is not limited to, providing the Reporting Individual with list off-campus resources that are listed in this Policy including the names of local hospitals that are designated as SAFE (Sexual Assault Forensic Examiner) hospitals. The Reporting Individual will receive a copy of this Policy with the name and contact information of the Title Coordinator and procedures to file a formal complaint and procedures that are a part of the investigation process, the potential sanctions that follows. If the reporting Individual is not the Complainant, and the identity of the Complainant is made known to the College, the College will provide such written notification to the Complainant.

Regardless of whether or not an official complaint of Sexual Misconduct, students can arrange an appointment to meet ASA Counseling Advisor, Ms. Helena Armstrong at 212-672-6450 ext. 1407.

e) **Time for Reporting**

There is no time limit for reporting Sexual Misconduct to the College under this Policy. Any member of the College community who believes that he or she has been a victim of Sexual Misconduct is encouraged to report the alleged Sexual Misconduct immediately in order to maximize the University's ability to obtain evidence and conduct a timely, thorough, impartial and reliable investigation. While the time to resolve a reported incident will vary from case to case, depending on the specific facts and circumstances, it is expected that in most cases, complaints will be resolved within 60 days. If the process will take longer than 60 days, both the Complainant and the Respondent will be notified in writing as to the delay and the reason for the delay. The College will not allow an impending graduation to compromise its resolution of a Sexual Misconduct complaint.

Procedure for Responding to a Complaint of Sexual Misconduct

The College will take appropriate measures to promptly, and thoroughly (without malice) investigate and address complaints of Sexual Misconduct by and against its students, staff and third parties (visitors and contractors) in order to stop prohibited conduct, prevent its recurrence, and remedy any effect of the Sexual Misconduct.

The evidentiary standard in determining the facts will be based upon a Preponderance-of-Evidence Standard of Proof. That is, a finding that the alleged Sexual Misconduct occurred or did not occur.

a) Initial Assessment

Once a complaint or notice of allegation of Sexual Misconduct is received, the Title IX Coordinator will make an initial assessment of the reported information and respond to any immediate health concerns raised by the report, including interim remedies.

The Title IX Coordinator will provide the Complainant/Victim with a general understanding of this Policy and the process for responding to complaints of Sexual Misconduct. The Complainant will be provided with available resources and referrals for medical treatment at local hospitals and trauma centers. The Complainant will also be advised of the right to an advisor of his or her choice to accompany them to all meetings during the investigation.

The Title IX Coordinator will explain the College prohibits Retaliation against any person who reports Sexual Misconduct or participates in any proceeding under this Policy, including testifying as a witness. Prohibited retaliation may include taking adverse action or treatment that leads to a negative impact on an individual employment or educational experience. Complainants/Victims are encouraged to report immediately any acts of Retaliation to the Title IX Coordinator. The College will take prompt and strong action in response to any act of Retaliation.

Listed below is a summary of the disclosures the Title IX Coordinator is required to discuss with the Complainant and the Respondent:

- The right to be notified of the timeframe for the major stages of the investigation.
- The right to present witnesses and evidence.
- The College title IX Coordinator will inform the Respondent that an investigation is being commenced and the allegations of the Complainant. If there is a written complaint, the Respondent will be provided with a copy of the complaint, unless circumstances warrant otherwise.
- If the alleged Respondent is allowed to have a lawyer; the Complainant has right to have one too.
- Both parties are offered the opportunity to submit questions (in writing) of the other party and/or witnesses to the Hearing Committee. However, the Hearing Committee reserves the right to decline to ask the questions submitted.
- Both parties will be informed that the College prohibits Retaliation in any form against any person who reported the allegation of Sexual Misconduct or participates in the investigative proceedings. Reports of Retaliation will be investigated and individual(s) involved Retaliation will be subject to disciplinary action.

- The College uses the Preponderance-of-the Evidence Standard of Proof to adjudicate the complaint. The College cannot use a Higher Standard of Proof.
- The right to be given periodic status updates; to be notified in writing of the outcome of the complaint and any appeal, including any sanctions directed to each party.
- Inform both parties of their right to appeal the outcome of the complaint.
- Each part has the right to have the proceedings documented, which may include written findings of fact, transcript, or audio recordings.
- The Complainant has the right not to “*work it out*” with the Respondent/alleged perpetrator in mediation. Mediation is not appropriate in cases involving Sexual Assault.

b) Preliminary Investigation

The Title IX Coordinator will conduct a preliminary investigation to assess whether this Policy or the Student Code of Conduct may have been violated. If the title IX Coordinator determines that there was a finding of Sexual Misconduct, the Title IX Coordinator, will notify the Respondent in writing that a complaint has been filed and provide the factual allegations concerning the alleged violation, and possible sanctions.

The Title IX Coordinator will schedule a meeting with the Respondent, within a reasonable amount of time, and ensure the Respondent is provided with a written explanation of all available resources and options, and is offered the opportunity to discuss those resources and options. During the time the reported misconduct is being investigated, the Respondent may be suspended depending on the circumstances and the seriousness of the initial allegation.

c) Interim Measures

The Title IX Coordinator may implement effective interim remedies to prevent recurrence, protect the safety and wellbeing of the Complainant and the wider College community. Interim remedies may be temporary or permanent and are available regardless of whether a Complainant chooses to report the crime to law enforcement or to the Institution.

ASA College offers accommodations for both students and employees designed to alleviate the pain, embarrassment and aggravation associated with Sexual Misconduct. Such accommodations may include, but are not limited to: providing increased security; supervision or monitoring at locations or activities where the alleged misconduct occurred; adjusting student housing or living arrangements; reasonable adjustment to academic or College work schedule; separating parties by change of location

(Brooklyn/Manhattan Campus); issuing a No Contact Order; placing limitations on the parties. Where permissible, the Title IX Coordinator will offer one or more of these remedies to minimize the “burden” on the Complainant. The College will provide information about the student’s request for accommodation only to those having a need to know this information in order to implement the accommodation. The College will promptly address violations of any interim measures.

If the Respondent is determined to present a continuing threat to the health and safety of the College community, the Respondent may be subject to an interim suspension pending the final outcome of the resolution process.

d) The Hearing

The Hearing Committee shall be comprised of two (2) faculty members and a supervisory staff from the Office of Student Advisement.

The hearing will take place on the date and time specified in the notice of hearing. If circumstance arises that require a change in the hearing date or time, the College will notify each party in writing. Such changes or postponement of the proceedings require legitimate documentation or if the Committee determines that unresolved issues exist.

Only the Hearing Committee may question the individual parties and any witnesses; both parties were informed earlier during the *Initial Assessment Phase* of the investigation.

The hearing is not open to the public and questions about prior parties sexual history is precluded and will not be admitted as evidence.

The Hearing Committee will evaluate the evidence under the “Preponderance of the Evidence” Standard.

e) Complainant and Respondent Impact Statements

Within seven business (7) days of the conclusion of the hearing, both the Complainant and the Respondent will be given access to the record of the hearing and offered an opportunity to provide an impact statement to the Hearing Committee while it is deliberating on the appropriate sanctions. The record of the hearing may not be copied.

The impact statement may be no longer than ten (10) singled-spaced typed pages using size 12 Times New Roman font and 1-inch margins. The impact statement is the student’s opportunity to discuss his or

her experience and the incident in question, as well as respond to how the investigation and hearing was conducted and any areas of agreement or/disagreement with the investigation or hearing or determination of the Hearing Committee. The impact statement may not seek to introduce new evidence.

The impact statement must be provided to the Title IX Coordinator who will provide it to the opposing party as well and all members of the Hearing Committee.

f) Determination & Evidentiary Standards

In all investigations into alleged Sexual Misconduct, The College will evaluate evidence under a “Preponderance of Evidence” Standard of Proof. A preponderance of the evidence means that the Hearing Committee, after careful consideration of the evidence has determined that it is “more likely than not” that the Respondent violated this Policy. The Hearing committee must decide if the Respondent is responsible or not responsible. The Hearing Committee will provide a written report to the Title IX Coordinator.

The U.S. Department of Education Office for Civil Rights in 2011, made clear its stance that when Colleges assess Title IX related complaints on their campuses, including those involving sexual violence, they should use the “Preponderance-of-Evidence” Standard of Proof. Title IX requires equitable treatment based on sex, both in substance and procedure. Listed below is a summary of the procedures the College will follow when a report of Domestic Violence, Dating Violence, Sexual Assault, or Stalking is reported to the Title IX Coordinator.:

INCIDENT	PROCEDURE	EVIDENTIARY STANDARD
SEXUAL ASSAULT	<ol style="list-style-type: none"> 1. Provide complainant with information on access to medical care. 2. Assess immediate safety needs of complainant. 3. Assist complainant with contacting police. 4. Provide complainant with referrals to mental health providers. 5. Assess need to implement protective measures (change in class schedule, No contact directive, etc.). 6. Provide information on applying for Order of Protection. 7. Inform the complainant regarding timeframes for inquiry, investigation and resolution. 8. Inform the complainant of the outcome of the investigation, whether or not the accused will be administratively charged and the outcome of any hearings. 	Preponderance of the evidence standard.

INCIDENT	PROCEDURE	EVIDENTIARY STANDARD
STALKING	<ol style="list-style-type: none"> 1. Assess immediate safety needs of complainant. 2. Assist complainant with contacting police. 3. Provide information on applying for Order of Protection. 4. Provide information to complainant on how to preserve evidence. 5. Assess need to protective measures to protect the complainant. 	Clear and convincing evidentiary standard.
DATING VIOLENCE	<ol style="list-style-type: none"> 1. Assess immediate safety needs of complainant. 2. Assist complainant with contacting police. 3. Provide information on applying for Order of Protection. 4. Provide information to complainant on how to preserve evidence. 5. Assess need to implement protective measures to protect the complainant. 	Clear and convincing evidentiary standard.
DOMESTIC VIOLENCE	<ol style="list-style-type: none"> 1. Assess immediately safety needs of complainant. 2. Assist complainant with contacting police. 3. Provide information on applying for Order of Protection. 4. Provide information to complainant on how to preserve evidence. 5. Assess need to implement protective measures to protect the complainant. 	Clear and convincing evidentiary standard.

g) Sanctions

The Hearing Committee may impose, including but not limited to, one or more of the following sanctions that are determined to be fair and proportionate to the violation:

- Reprimand or warning
- Changing the Respondent’s academic schedule
- Disciplinary probation
- Postponement of degree conferral
- Revocation of honor awards
- Restricting the Respondent’s access to the College facilities or activities
- Community service
- Issuing a No Contact Order to the Respondent or requiring that such an order remain in place
- Dismissal from or restricting or reassignment of College employment
- Suspension (limited time or indefinite)
- Expulsion

In determining appropriate sanctions, the Hearing Committee will consider any record of past violations of College policies, as well as the nature and severity of such violation(s). The Hearing Committee will consider as part of the deliberations whether the Respondent poses a continuing risk to the Complainant and/or the College community. Any sanction imposed will be explained and supported in the written decision of the Hearing Committee. The imposition of sanctions is meant to eliminate Sexual Misconduct, prevent its recurrence, and remedy its effects, while ensuring a safe and non-discriminatory environment for the entire College community.

Within seven (7) business days from the determination of the Hearing Committee, the Hearing Committee will issue a determination letter to the Respondent and Complainant. Both parties, concurrently, will receive a copy of this determination letter. The determination letter will contain only the following information: (i) the name of the Respondent; (ii) whether the Respondent has been found responsible or not responsible for specific violation(s) of this Policy; (iii) a list of possible sanctions imposed, if any; (iv) the sanctions actually imposed; (v) the rationale for the sanctions imposed; (vi) the College's appeal process; (vii) any change to the results that occur prior to the time that the results become final; and (viii) when the results become final.

The College does not publically release underlying information regarding investigations unless required by law. However, after the students are provided with an outcome, a student can choose whether to disclose or discuss the outcome of the conduct process.

h) Appeal

Either party may appeal the Hearing Committee's determination and/or the disciplinary decision. A party has three (3) grounds under which to appeal the College's determination: (i) the Hearing Committee committed procedural errors that had a significant impact on the outcome of the case; (ii) there is new evidence that was not reasonably available at the time of the hearing before the Hearing Committee, or (iii) the sanctions are not consistent with past practices or the severity of the alleged Sexual Misconduct.

Final sanctions are in effect until any timely appeal of the decision is resolved. The Hearing Committee may suspend the determination pending exhaustion of appeal, allow the student to attend classes or other activity on a supervised or monitored basis; or make such other modifications to the determination as may be advisable. Interim measures will remain in effect until the appeal is resolved.

i) Filing an appeal

1. A party wishing to appeal the findings of the Hearing Committee and/or sanctions imposed by the Hearing Committee must file a notice of intent to appeal within ten (10) business day of the date the party is notified of the Hearing Committee finding and the Hearing Committee's sanctions . The notice of intent to appeal must be submitted in writing (either email or hard-copy) to the Title IX Coordinator. The notice of intent to appeal must contains the party's grounds for appeal. If either the Complainant or Respondent submits an appeal, the Title IX Coordinator will notify the other party within three (3) days after receipt of the notice of intent to appeal.
2. Within two (2) weeks of filing a notice to appeal, the party's formal appeal must be filed. The party should submit copies of any and all material the party wishes to provide as evidence for his/her appeal. Additionally, the party can submit a written statement that is no longer than ten (10) single-spaced typed pages, using size 12 Times New Roman font and 1-inch margins.
3. In the event a formal appeal is filed, the non-appealing party is given an opportunity to review the appealing party's submissions and material and submit a written response. The response can be no longer than ten (10) single-spaced typed pages, using size 12 Times New roman font and 1-inch margins. The written response must be submitted within seven (7) days after the appealing party submits a formal appeal.
4. A committee made up of three full-time faculty members or administrators ("Appeals Committee"), which shall not include members of the Hearing Committee, will be assembled by the Title IX Coordinator. Except for appeals brought under (ii) above, the Appeals Committee's entire review process will be based on the party's appeal the non- appealing party's response to appeal, if any, and the Hearing Committee's record of the case. Otherwise, no additional evidence is allowed and no witnesses may be heard.
5. The Appeals Committee will make a final determination on the appeal and will report such determination in writing. The Appeals Committee shall render its decision regarding the appeal within twenty (20) calendar days of receipt of the appeal , the non-appealing party's response to the appeal , if any, the record of the case , and , if applicable any new evidence pursuant to(ii) above.
6. Within five (5) business days of receipt of the Appeals Committee's report, the Appeals Committee will concurrently issue a final determination letter to the Respondent and the Complainant.

Accommodations, Remedial and Protective Measures

a) No Contact Order

The College may impose a No Contact Order between the Complainant and the Respondent, which typically will include a directive that the parties refrain from having contact with one another, directly or indirectly, including personal contact, e-mail, telephone, text message, social media, or by means of a third party.

Both the Complainant and the Respondent may request for a review of the terms of the No Contact Order instructions. Such a request may be made in writing to the Title IX Coordinator providing the basis for the request and any evidence to support the request. Upon receipt of such a request, the Title IX Coordinator will inform the other party of the request and allow the other party to respond. The title IX Coordinator will determine within a reasonable time frame whether there will be any modification. An individual, who wishes to report a violation of a No Contact Order, can contact the Title IX Coordinator or the Director of Campus Security Officers. If the Respondent and the Complainant observe each other in a public place, it shall be the responsibility of the Respondent to leave the area immediately without directly contacting the Complainant. Individuals who violate a No Contact Order are subject to disciplinary action.

b) Order of Protection

A Complainant has the right to request assistance of the College in acquiring an Order of Protection from either the Family Court or Criminal Court. Employees from the Offices of Student Support Services and the Student Advisement Department are available to assist the Complainant/victim to request an Order of Protection from the Courts.

Once Complainant/victim receives the Order of Protection, he/she is required to share this document with the College with the understanding that the Order of Protection will be shared with the Respondent. The Title IX Coordinator will meet with each party, to explain the order, answer questions about it and inform each party about the consequences of violating such an order, including but not limited to arrest, additional conduct charges, and interim suspension. The Respondent will be asked to concur his/her understanding of the Court order's instructions to stay away from the protected person or persons. If the Order of Protection is violated, the Complainant may request assistance from the College in calling local law enforcement to inform them of the violation.

c) Advisors

During the investigatory or disciplinary proceeding, each party has the right to choose and consult with an advisor. The advisor may be any person who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors (at the party's own expense if the advisor is a paid advisor) at any meeting or proceeding related to the investigation and resolution of a complaint. Advisor cannot actively participate or speak on behalf of the Complainant or Respondent. The choice of whether or not to invite an advisor is solely that of the Complainant and the Respondent. The Title IX Coordinator must be advised in writing that an advisor will be present at least 24 hours before any scheduled meeting, hearing or proceeding. This notification must include: (1) full name and title of the advisor of choice; contact information for the advisor of choice (phone, email and address). The College reserves the right to have its own legal counsel present during the adjudication process. If any advisor's conduct is not consistent with these guidelines, he or she may be excluded from the process.

d) Prohibition on Retaliation

ASA College prohibits Retaliation against any person who reports Sexual Misconduct or participates in the investigation of any allegation of Sexual Misconduct, including participating as a witness. Prohibited retaliation may include taking adverse action or treatment that leads to a negative impact on an individual's employment or educational experience. Any member of the College community or third party who attempts either directly or indirectly to intimidate, threaten, retaliate, interfere with, restrain, coerce, discriminate against the Complainant, violates the College No Contact Order. Similarly, anyone who harass any person for reporting, attempting to report, or responsibly pursuing a complaint, or is a witness cooperating in a College investigation will be subject to prompt and appropriate disciplinary action, including possible termination or expulsion from the College.

Complainants/victims are encouraged to report immediately any acts of Retaliation to the Title IX Coordinator. Reports of retaliation will be investigated, and such conduct may result in disciplinary action independent of the sanction(s) or interim remedies imposed in response to allegations of Sexual Misconduct.

Privacy and Confidentiality

The College values the Privacy of its students and understands that, for any victims of Sexual Misconduct, Confidentiality is a primary concern.

a) Request for Confidentiality

ASA College is obligated by law to investigate all allegations of Sexual Misconduct regardless of whether the Complainant wishes to file a complaint. If a Complainant/Victim reports an incident of Sexual Misconduct to an employee, but wishes not to reveal his/her identity, or requests that no investigation into the incident be conducted, the College will assess whether it can honor the Complainant's request while providing a safe, nondiscriminatory environment for all members of the College community, including the Complainant. The Title IX Coordinator will weigh the Complainants' request for confidentiality against the College's obligation to provide a safe, non-discriminatory environment for the College community and decide whether it should proceed with the investigation.

When determining whether a request for confidentiality can be honored, the Title IX Coordinator will consider a range of factors, including, but not limited to the following:

- Whether there have been other Sexual Misconduct complaints about the same accused;
- Whether the Respondent has a history of arrest or records from a prior institution indicating a history of violence;
- Whether the incident represents an escalation in and unlawful conduct on behalf of the Respondent from previously noted behavior;
- Whether there is an increased risk that the Respondent will commit additional acts of violence;
- Whether the Sexual misconduct was committed by multiple perpetrators;
- Whether the Complainant's/Victim who filed the notice of allegation of Sexual Misconduct reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- Whether the Sexual Conduct was perpetrated with a weapon;
- The seriousness of the offense;
- The age of the victim; and
- Whether the College has means to obtain relevant evidence (e.g. security cameras or personal, physical evidence).

The presence of one or more of these factors could lead the College to investigate the alleged Sexual Misconduct and, if appropriate, pursue disciplinary action in a manner that may require the College to disclose the Complainant's identity to the Respondent. If the College determines that an investigation is required, the College will inform the Complainant and take immediate action necessary to protect and assist the Complainant. The College will take all reasonable steps to investigate and respond to the complaint while maintaining the Complainant's Privacy to the greatest extent possible.

If, after considering these factors, the College determines that it can honor the Complainant's request for Confidentiality, the College will nevertheless take all reasonable steps to respond to the complaint consistent with the Complainant's request for Confidentiality, and will take immediate actions necessary to protect and assist the Complainant. The College will consider broader remedial action, such as increased monitoring, supervision of security at locations where the reported Sexual Misconduct occurred, increased training, education and prevention efforts, and conducting climate surveys. If the College honors the request for Confidentiality, the Complainant must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the Respondent may be limited. Ultimately, the College retains the right to act upon any information that comes to its attention. In all cases, the College will take appropriate steps to mitigate the effects of Sexual Misconduct, prevent its recurrence and provide ongoing assistance and support.

b) Anonymous Sources – Other

If the College received a report of alleged Sexual Misconduct by some other than the victim (e.g., friend or room-mate) or from an anonymous source, the College's Title IX will promptly notify the Complainant of the report, and inform him/her of the available resources and assistance. The College will respond to the report of Sexual Misconduct as if the victim made the initial report. The College will accept anonymous reports. However, due to the nature of the anonymous reports, the College's ability to take responsive action may be limited.

ASA College will not begin an investigation based on information that a person chooses to share during public awareness events that are designed and intended to be safe spaces for victims to share their experiences. These events could include candlelight vigils, protests and other public events.

Prevention and Awareness Programs

The Title IX Coordinator and Office of Student Support Services conduct oral presentations each semester geared towards freshmen students towards its mandatory freshmen orientation and freshmen skills workshops during the third week of their first semester (which is a component of the Freshmen Skills Seminar Course (FSM100). The topics covered includes, but is not limited to, domestic violence, dating violence, stalking, sexual assault, victim rights, resources available to victims, the role of the Title IX Coordinator and Campus Security Officers, etc. Other topics covered includes:

1. Identifying why acts of domestic violence, dating violence, sexual assault and stalking are considered prohibited conduct.
2. Defining what behavior constitutes domestic violence, dating violence, sexual assault and stalking.
3. Defining what behavior and actions constitutes consent to sexual activity.
4. Providing assurance of Indemnity to bystanders who put themselves at risk to prevent harm by intervening when there is risk of domestic violence, dating violence, sexual assault or stalking to a person other than the bystander
5. Providing tips and suggestions to the ASA College community on how to recognize warning signs of abusive behavior and how to avoid potential attacks
6. Distributing disclosure information contained in the Annual Security Report in compliance with the Clery Act.

This initiative is part of our effort to create a culture where students respect each other, avoid engaging in any sexual misconduct and act to help fellow students refrain from such misconduct. Going forward, ASA College will post a copy of this Policy on its website and create posters using excerpts from the *Students Bill of Rights and the Affirmative Consent Misconduct Policy Statement*. Large posters will be displayed throughout campus buildings in the student lounges, entrances to the elevators and the libraries.

Academic Transcripts Policy Notations

In all student cases all information and other appropriate records will be maintained for a minimum of five (5) years from the outcome of an investigation. In accordance with Article 129-B of the New York State Education Law ; If a student is found responsible through the College's conduct process for crime(s) of violence, including but not limited to Sexual Violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. & 1092 (f) (1) (F)(i)(I)

–(VIII) , the College will make one of the following notations on the transcript of such student. That they were:

- “suspended after a finding of responsibility for a code of conduct violation” ; or
- “expelled after a finding of responsibility for a code of conduct violation”

If a student withdraws from the College while such conduct charge(s) is pending and declines to complete the disciplinary process, the College will note on the student’s transcript that he or she “withdrew with conduct charges pending.”

Clery Act Compliance

ASA College is required to include for statistical reporting purposes the occurrence of crimes in its Annual Security Reports. However, the College will not release identifying information about the individuals involved in the Sexual Misconduct. In the case of an emergency or dangerous situation, ASA College will issue a timely warning to the College community about certain crimes that have been reported and continue to pose a serious or continuing threat to the campus community. Consistent with the Clery Act, the College will withhold the names and the identifying information of the Complainants(s)/victim(s) when issuing such timely warnings.

Policy Compliance

Questions regarding the Title IX, The Campus SaVE Act and or Article 129-B of the New York State Law may be referred to Marcus Browne, ASA College, Title IX Coordinator. Questions regarding Title IX may also be referred to the U.S. Department of Education’s Office for Civil Rights, at 400 Maryland Avenue, SW, Washington DC 20202-1100 or (800) 421 – 3481.

Code of Conduct “Students’ Bill of Rights” (Section 6443)

All ASA College students who experience domestic violence, dating violence, stalking and/or sexual assault 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 to participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution.
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.
5. Be treated with dignity and to receive from the College 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 College representatives as practicable and not to be required to unnecessarily repeat a description of the incident.
8. Be protected from retaliation by the College, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the College.
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.
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College.

To file a Report of Sexual Misconduct contact Marcus Browne, Title IX Coordinator, at mbrowne@asa.edu or call 718-522-9073 ext. 2026/212-672-6450 ext. 1230. If there an emergency, outside of business hours you may contact him at 718-801-1083. You can also discuss your options in a confidential manner with Mr. Marcus Browne or with any staff member within the Student Advisement Department.

Copies of this Bill of Rights is now available on the ASA College’s website, and is posted in each designated student lounge and distributed to all freshmen during Freshmen Orientation and *Freshmen Social Week*, the third week of their first semester.

Definition of “Affirmative Consent” to Sexual Activity (Section 6441)

Affirmative Consent is defined as 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 action create clear permission regarding willingness to engage in 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 principle, along with the above definition, will be used to evaluate whether Sexual Activity was consensual:

- Consent to form of sexual contact (such as kissing or fondling) or prior consensual activity between or with any party does not necessarily constitute consent to any form of sexual activity or to sexual activity in the future.
- Current or previous dating relationship is not sufficient to constitute consent.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and alcohol.
- Consent may be initially given but withdrawn at any time during sexual activity by expressing in words or actions that they no longer want the sexual activity to continue.
- Consent may be initially given but withdrawn at any time during sexual activity by expressing in words or actions that they no longer want the sexual activity to continue.
- 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 unable 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.
- A person is incapacitated if she/he lacks the physical and/or mental ability to make, informed, rational decisions and therefore cannot consent to sexual activity.
- A person with medical or mental disability may also lack the capacity to give consent.
- Sexual activity with a minor (a person under 18 years old) is not consensual, because a minor is considered incapable of giving consent due to age.

Policy for “Alcohol and/or Drug-Use Amnesty” Section 6442)

The health and safety of every student at ASA College is of utmost importance. The College recognize that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that sexual misconduct occurs may be hesitant to report such incidents due to fear to potential consequences for their own conduct. The College strongly encourages students to promptly report any incident of Sexual Misconduct to Institution officials. A Bystander acting in good faith or Reporting Individual acting in good faith who discloses any incident of Sexual Misconduct to College officials or law enforcement will not be subject to the College’s Code of Conduct action for violations of alcohol and drug use policies occurring at or near the commission of the Sexual Misconduct.

Policy for “Transcript Notations” (Section 6444(6))

ASA College is required to denote certain conduct outcomes on academic transcripts of students who engage in conduct that constitutes crimes of violence (including but not limited to sexual assault) as defined in the Clery Act.

To satisfy compliance with New York State Law, ASA College must indicate on these students’ academic transcripts the following words: *“suspended after a finding of responsibility for a code of conduct violation”* or *“expelled after a finding of responsibility for a code of conduct violation”*.

If a student withdraws from ASA College with conduct charges pending and declines to complete the disciplinary process, ASA College must make a notation on the student’s academic transcript *“withdrew with conduct charges pending”*.

Transcript notation for a violence-related suspension is required by law to remain on a student’s academic transcript for a period of one year following the completion of the suspension. Transcript notation for violence-related expulsion shall never be removed from a student’s transcript. If a finding of responsibility is vacated for any reason, the transcript notation must be removed.

Transcript notations can be appealed by contacting the Provost.

The petition shall include:

1. A statement describing the incident and the lessons learned as a result of that incident over the time away from the institution;
2. The reason(s) for removal of the notation.
3. Documentation of successful completion of any terms imposed as a part of the conduct proceeding; required or recommended in/out program, therapy or educational training, etc.

A petition will not be considered if filed before the expiration of the minimum one year period