



## **Sexual Misconduct Policy & Procedures for Students**

### Table of Contents

I: Overview

II: Policy Statement

III: Definitions within the Policy

IV: Reporting Procedures for the College

a). Alcohol & Drug Use Policy

b). Anonymous Sources – Other

c). College Reporting Options & Resources

d). External Resources

e). Sexual Assault Forensic Examiners (SAFE)

f). External Confidentiality Resources

g). Medical Examination for the preservation of Evidence

h). Law Enforcement Notification

i). Time for Reporting

V: Privacy and Confidentiality – Plain language definition & explanation

a). Request for Confidentiality

VI: Consent Requirement

VII: Procedure for Responding to Complaint of Sexual Misconduct

a). Initial Assessment

- b). Preliminary Investigation
  - c). The Hearing
  - d). Complainant & Respondent Impact Statements
  - e). Determination & Evidentiary Standards
  - f). Sanctions
  - g). Appeal
  - h) Filing an Appeal
- VIII: Accommodations, Remedial & Protective Measures
- a). Interim Measures
  - b). No Contact Order
  - c). Order of Protection
  - d). Advisors
  - e). Prohibition on Retaliation
- IX: Student Onboarding and Ongoing Education
- X: Prevention and Awareness program
- XI: Academic Transcript Policy Notations
- XII: Cleary Act Compliance
- XIII: Policy Compliance
- XIV: Code of Conduct “student Bill of Rights”

## **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 of 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, responsiveness and resolution of incidents;
- Maintaining an environment free from Sexual Misconduct;

ASA College has designated Marcus Browne (Email Address: [mbrowne@asa.edu](mailto: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

151 Lawrence Street

Brooklyn NY 11201

718-522-9073 ext. 2026

ASA College

1293 Broadway room 603

New York NY 10001

212-672-6450 ext. 1230

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**Definitions within the Policy:**

ASA College is required to provide legal definitions of Sexual Misconduct crimes under New York State Penal Law, and definitions of Sexual Misconduct under ASA College Sexual Misconduct Policy, because Complainants have the right to seek redress under this Policy and to file a criminal complaint.

**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. For individuals to engage in sexual activity of any type with each other there must be clear, knowing, and voluntary affirmative consent prior to and during sexual activity. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

The following principles, along with the above definition, will be used to evaluate whether sexual activity was consensual:

- Consent to form of sexual contact (including, but not limited to 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;

A person is incapacitated if he/she lacks the physical and or mental ability to make informed rational decisions and therefore cannot consent to sexual activity.

A person with a medical or mental disability may also lack the capacity to

give consent. Incapacitation includes, but is not limited to, lack of consciousness, being asleep, being involuntarily restrained, or otherwise being unable to consent.

**Indicators of incapacitation may include:**

Slurred speech;

Bloodshot or unfocused eyes;

Unsteady gait; needing assistance to walk/stand;

Vomiting;

Outrageous or unusual behavior;

Concern expressed by others about the individual;

Expressed memory loss or disorientation;

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 17 years old) is not consensual, because a minor is considered incapable of giving consent due to age. Consent must be active and full. If any type of manipulation, threat, or force is used to obtain a “yes” to sexual activity, the “yes” does not qualify as consent. Silence does not mean “yes”. If a person is afraid to say “no”, physically immobilized as a result of coercion, or incapacitated due to drug and alcohol consumption or a mental disability, they are unable to consent to sexual activity.

**Minors Lack Consent:** According to New York State law, a minor is defined as anyone less than 17 years, is incapable of consenting to sexual activity with a person 18 years of age or older. ASA College adopts this prohibition of sexual activity by adults with minors on all ASA College property, and all College-sponsored activities or functions or off-campus and or outside New York State regardless of out-of-state laws.

**Bystander** means a person who observes a crime, impending crime, conflict, potentially 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 or not the individual reports 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 20 U.S.C. 1092(f) and 20 U.S.C. 1681 (a).

**“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.

Dating violence includes the use or threat of physical force or restraint carried out with the intent of causing pain or injury to another within a dating relationship.

Behaviors that may constitute Dating Violence include: The threat of physical or/and Sexual Assault; Taking away a person’s cell phone during an argument so the person cannot call a friend or police for help; and threatening to self-harm if another does not do what is said.

In New York State, Dating Violence is prosecuted under Domestic Violence laws.

**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;

The term "intimate partner" includes persons legally married to one another; persons formerly married to one another; persons who have a child in common (regardless of whether such persons are married or live together at any time); couples who are in an "intimate relationship" including but not limited to couples who live together or have lived together; and persons who are dating or who have dated in the past, including same-sex couples.

Examples of behavior that may constitute Domestic Violence include:

- Hitting, punching, slapping, and choking;
- Violating a protective order;
- Harming a person's children or animals;

Acts of Domestic Violence include the following behaviors in addition to the behaviors described below:

- Emotional abuse;
- Psychological abuse;
- Emotional abuse;

**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 (vaginal area) or the penis and the anus where penetration occurs, however slight;
2. Contact between the mouth and the penis, the mouth and the vulva (vaginal area), 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;
4. The intentional touching, not through clothing of the genitalia of another person 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 another 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.

Under the New York State Penal Law, any of the following acts, if perpetrated against a victim with or without his or her consent is a Sexual Assault Crime.

Such crimes are also a violation of ASA College’s Sexual Misconduct policy:

**Rape and Attempted Rape:** Engaging or attempting to engage in sexual intercourse with another person either; 1). Without the person’s consent; 2). Where a person is incapable of consent due to a mental disability, mental incapacitation, or physically helpless; or 3). The person is less than 17 years old. Sexual Intercourse is any penetration of the penis into the vagina, however slight. There is no requirement of physical injury, ejaculation or orgasm.

**Criminal sexual acts (oral or anal sexual conduct)** occur upon contact between penis and mouth, penis and anus (rectum), mouth and anus, or mouth and vaginal area. No penetration is required.

**Sexual contact** is any touching of the sexual or intimate parts of the body, whether over or under clothing, done for the purpose of gratifying the sexual desire of the perpetrator. Sexual contact includes both: (I) the touching of the victim’s sexual or intimate parts by the perpetrator; and (ii) the touching of the perpetrator’s sexual or intimate parts by the victim.

**Forcible touching** is the intentional and forcible touching of another, done for the purpose of: (I) degrading or abusing another person; or (ii) gratifying the defendant’s sexual desire.

Forcible touching includes squeezing, grabbing, or pinching.

**Aggravated sexual contact** is the insertion of a foreign object (e.g. bottle, broom handle, etc.) into the vagina, urethra, penis or rectum.

**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 without person's consent;
- Engaging in Voyeurism;
- Distributing intimate or sexual information about another person without person's consent;
- Knowingly exposing another individual to a sexually transmitted infection or virus without the other individual's knowledge;
- Blackmailing;

**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 people 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; 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 threats/gestures that intimidates a person;
- Voyeurism;
- Invading one's personal space;
- Making a person feel he/she has to avoid certain places/activities;

**Reporting Procedures for the College:**

Students who believe they have experienced Sexual Harassment, Gender-based Harassment and Sexual Violence, Sexual Assault, Sextortion, Stalking, Domestic or Dating Violence are strongly encouraged to report these situations to the College. Students should file their complaints 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;

It is generally the Complainant's decision whether to file a complaint or to continue with any form of resolution. If a Complainant elects to initiate a formal complaint against another person or group of students, an incident report is filed with the Title IX Coordinator.

A complaint does not have to be in writing. Direct statements from the Complainant alleging misconduct is preferable. However, ASA College accepts verbal or written statements from any party who has knowledge of an incident of Sexual Misconduct occurring on or off campus. A complaint may also be initiated when a possible Title IX violation comes to the College through social media such as Facebook, You Tube and news media.

Anonymous reports are accepted by the Title IX Coordinator, Marcus Browne, via email at [mbrowne@asa.edu](mailto:mbrowne@asa.edu) and by phone at 718-522-9073 ext. 2026/212-672-6450 ext. 1230.

Individuals providing anonymous reports should be aware that failure to disclose identifying information about the alleged accused party, the alleged victim of the Sexual Misconduct, or the facts and circumstances regarding the Misconduct severely limits the College's ability to respond and remedy the effects of Sexual Misconduct.

Employees who receive a complaint /report of sexual Misconduct are required to have the Reporting Individual/Complainant complete the *Sexual Misconduct Report Form*. The employee is required to provide the Reporting Individual/Complainant with assurances that the information he/she provides in the report will be shared only as necessary and on a need-to-know. The receiving employee is required to provide the reporting Individual/Complainant an acknowledgement and assurance that the incident report will be forwarded to the Title IX Coordinator. The Reporting Individual/Complainant is required to receive a photocopy of the completed Sexual Misconduct Report Form, which acts as an acknowledgement a Sexual Misconduct report was filed.

The Reporting Individual/Complainant is able to get basic information and documentation on the procedures to receive information about initiating legal proceedings and or filing a formal Sexual

Misconduct complaint by reviewing the *Sexual Misconduct Report Form* and the ASA campus Sexual Misconduct Brochure posted on ASA College's website, or by requesting a copy from the Campus safety Officers' desk (at the entrance of ASA College Campus buildings), the receptionist's desk at the Brooklyn and Manhattan campuses, the Student Advisement Department and the Title IX Coordinator's office. The Reporting Individual/Complainant may view or download the full ASA College Misconduct Policy on ASA College's website.

**a). 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 including but not limited to Domestic Violence, Dating Violence, Stalking, or Sexual Assault, 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.

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 Coordinator 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 chose 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.

**c). College Reporting - Reporting Options and Resources:**

All employees who receive a complaint/report of Sexual Misconduct should, wherever possible, ensure the report include the following information: the name(s) of the Complainant(s) and Respondent(s), the date and time, the location and names of other witnesses (if any). The Complainant shall be assured that the information they provided to ASA employees in connection with a report will be shared only as necessary and on a need-to-know basis. They will be told that the information is extremely important for them to get the support they need and to provide the College with the information it needs to take appropriate action. The person reporting acts of Sexual Misconduct will be informed of their right to: 1. Make a report to the NYC Police Department, and or NY State Police, or choose not to file a report; 2. Report the incident to ASA College's Title IX Coordinator; The Title IX Coordinator:

- Will carefully explain all support services available to the student, including information on medical services, counseling, mental health, rape advocacy and legal assistance;
- Arrange for assistance the Complainant or the Respondent may need;
- Provide contact information and location information of external resources that can offer, but not limited to, (preferably free) Sexual Assault Forensic Examinations (SAFE) services, bilingual counseling, as a Confidential resource, information on counseling and medical assistance, mental health counseling, , legal assistance, financial support, Emergency room

assistance, accompaniments to medical facilities, rape advocacy, police precincts report filing procedures and court proceedings;

- Filing a criminal complaint against the accused;
- Review and explain the College's formal reporting procedures and sanctions;
- Ensuring the victim gets access to a Sexual Assault Forensic Examination (SAFE) hospital/medical center;
- Obtaining an Order of Protection from Family Court or Criminal Court, or if the accused resides outside of State, the equivalent of a protective or restraining order;
- Contacting law enforcement when an Order of Protection is violated;

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 IX Coordinator and procedures to file a formal complaint and procedures that are a part of the investigation process, and the potential sanctions that follows.

Possible sanctions for employees include, but are not limited to, a letter of reprimand or warning letter; a reduction in pay; probation; suspension; termination of employment from the College; or other appropriate sanctions.

Possible sanctions for students include, but are not limited to, a disciplinary reprimand; College disciplinary probation; suspension or expulsion from the College.

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.

If the Complainant initially chooses to seek such assistance without the Title IX Coordinator's involvement, the Complainant can still at a later date request for the Title IX Coordinator to provide the names and addresses of local hospitals or medical centers which provide SAFE emergency room services or assistance to call New York City Police department at 911.

Students attending the Brooklyn Campus will be referred to the 84<sup>th</sup> Police Precinct located at 301 Gold Street, Brooklyn, NY 11201, 718-875-6811. Students attending the Manhattan Campus will be referred to the Midtown South Police Precinct located at 357 West 35 Street, New York, NY 10001, 212-239-9811.

d). **External Community Resources:**

Listed below is a list of community resources that provide SAFE examinations, emergency medical assistance and medical resources; crisis counseling; police and court advocacy; information and referral services for victims of Sexual Assault.

Hospitals in New York City with SAFE Centers:

**Brooklyn**

- **Woodhull Medical and Mental Health Center (HHC)**  
760 Broadway, Brooklyn, NY 11206  
718-963-8000
- **King County Hospital Center (HHC)**  
451 Clarkson Ave, Brooklyn, NY 11203  
718-245-3131
- **Wyckoff Heights Medical Center**  
374 Stockholm Street (between Wyckoff & St. Nicholas Avenue)  
Brooklyn, NY 11237  
718-963-7272

**Bronx**

- **Lincoln Medical and Mental Health Center (HHC)**  
234 E 149<sup>th</sup> St  
Bronx, NY 10451  
718-579-5000
- **Jacobi Hospital (HHC)**  
1400 Pelham Parkway  
Bronx, NY 10461

(Eastchester Rd & Pelham Pkwy S)  
718-918-5000

### **Manhattan**

- **The Mount Sinai Hospital**  
1 Gustave L. Levy Place  
New York, NY 10029-6574  
212-241-6500/212-590-3300
- **Mount Sinai Beth Israel Hospital**  
First Avenue at 16 street  
New York, NY 10003  
212-420-2000/212857-9980

### **Queens**

- **New City Health & Hospitals - Queens (HHC)**  
82-68 164<sup>th</sup> St  
Jamaica, NY 11432  
718-883-3000
- **Elmhurst Hospital Center (HHC)**  
79-01 Broadway  
Elmhurst, NY 11373  
718-334-4000

### **e). Sexual Assault Forensic Examiners (SAFE):**

SAFE Centers provide sexual assault patients with:

1) Sensitive, victim-centered, medical and forensic health care, performed by specially trained Sexual Assault Forensic Examiners (SAFE); a SAFE examiner is a healthcare provider such as doctor, nurse, physician's assistant or nurse practitioner.

2) Care that is timely, compassionate, and patient centered, in a designated and appropriately equipped private room.

3) Assurance about the quality of collection, documentation, preservation, and custody

of physical evidence by utilizing trained and certified by the New York State Department of Health, as certified Sexual Assault Forensic Examiners to perform exams. These examiners are available to provide expert testimony if patients choose to report crimes to law enforcement.

4) Emotional Support by a specially trained Rape Crisis Advocate or Counselor.

5) Reliable referrals to mental and physical health care facilities and follow-up services.

**Free, confidential help: contact information and location information:**

The National Sexual Assault Hotline: 1-800-656-HOPE (4673) or online.rainn.org);

CAMBA's Victim Assistance Program Rape Crisis Services:

Confidential Hotline 1-800-310-2449;

Wyckoff Heights Medical Center – Violence Intervention Treatment Program

Confidential, Counseling and Referrals: 718-906-3846/3857;

**Other Off-Campus Resources/Hotlines for Crisis Intervention:**

- NYC Police Emergency Number, 911;
- Local Police: 84<sup>th</sup> Police Precinct, 301 Gold Street, Brooklyn, NY 11201, 718-875-6811;
- The Brooklyn Hospital Center, 121 DeKalb Avenue, Brooklyn, NY 11201, 718-250-8000;
- New York Presbyterian/Lower Manhattan Hospital, 170 William Street, N.Y. NY 10038, 212-312-5000;
- New York-Presbyterian Brooklyn Methodist Hospital, 506 6<sup>th</sup> Street, Brooklyn, NY 11215 718-780-3000;
- Bellevue Hospital 462 1<sup>st</sup> Avenue New York, NY 10016, 212-562-1000;
- 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 Domestic & Sexual Violence Hotline - Office of Victims Services, (800) 942-6906; Spanish: (800) 942-6908;

**f). External Confidentiality Resources:**

ASA College does not have a health or counseling center or a chapel or ministry. Because of the unavailability of these resources, confidential havens do not exist on ASA College campuses and as a result the College does not accommodate request for Confidentiality.

Students and staff who may want to talk to someone about something they have observed or experienced, even if she/he is not sure that behavior constitutes Sexual Violence are urged to contact the Confidential Hotline at CAMBA or Wyckoff Heights Medical Center, 800-310-2449 and 718-906-3846/3857 respectively. The staff who are confidential resources will not report crimes to law enforcement or college officials without the alleged victim or Reporting Individual's permission, except for extreme circumstances, such as the health and or safety emergencies where the individual is a threat to him or herself or others and the mandatory reporting of child abuse.

Similarly, students and employees who do not wish to disclose to ASA College a complaint of Sexual Misconduct may also seek confidential health, rape crisis services and counseling services (effective February 2018) from Wyckoff Heights Medical Center's Violence Intervention & Treatment Program (VITP) by calling 718-906-3846/3857, or CAMBA, Violence Prevention & Intervention, Confidential Hotline at 800-310-2449. These external confidential resources are the result of recently signed Memorandum of Understanding, MOU, agreements between ASA College and these advocacy organizations.

**g). 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 wants 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 offence 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.

The Complainant(s)/Reporting Individual(s) who are victims of Sexual Assault are urged not to bathe, douche, smoke, change clothing or clean the bed/linen/area where the victim was assaulted if the offense occurred within the past ninety-six (96) hours so that evidence which may be necessary to prove criminal activity may be preserved. If the victim of a Sexual Assault does not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of

pregnancy and or sexually transmitted diseases.

Victims of Sexual Assault, Domestic Violence, Stalking, and Dating Violence are also encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communication, and keeping pictures, logs or other copies of documents, that may be useful to ASA College's Title IX Coordinator, the Disciplinary Committee or the police.

The Overriding reason to contact the Police is to ensure the evidence is preserved and the investigation and the response is done in a timely manner.

Complainants should be made aware that delaying seeking medical attention and or reporting their experience to the police may cause evidence to dissipate or become lost or unavailable, making investigation by the police investigation, possible prosecution, disciplinary proceedings, or obtaining an Order of Protection more difficult.

**h). Law enforcement notification:**

ASA College is required to report to law enforcement all violent felonies situation involving students who reside ASA College's owned or operated housing to local law enforcement within twenty-four (24) hours of the incident. Sexual assaults involving a Complainant who resides in ASA College-owned or operated housing must be reported to local law enforcement unless the Complainant objects. All other students who do not reside in ASA College owned or operated housing and staff who are subjected to Sexual Misconduct are encouraged to report potential crimes of Sexual Misconduct (either by a person known to you or a stranger) to the New York City Police Department and/or the New York State Police, and/or The Director of Campus Safety Officers.

Notwithstanding, ASA College strongly encourages all members of its community to report all incidents of Sexual Assault or criminal activity to the Police, however, it is the victim's choice whether or not to file a criminal complaint; the victim also have the right to decline involvement with the Police.

**i). 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 College's ability to obtain evidence and conduct a timely, thorough, and 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.

#### **V: Privacy and Confidentiality:**

##### **Plain Language Definition and Explanation -**

ASA College is required as a part of its ongoing education campaign to provide to all of its college community a plain language definition of Privacy and Confidentiality and to provide an explanation what each means:

**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.

**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).

The College values the Privacy of its students and understands that, for any victims of Sexual Misconduct, Confidentiality is a primary concern. ASA College strongly supports a person's interest in Confidentiality who is involved in Sexual Misconduct matters. ASA College requires all employees to report all incidents of Sexual Misconduct to the Title IX Coordinator. The Reporting individual will be assured all employees will honor the Complainant's privacy to the greatest extent possible.

Even though a person does not ask for Confidentiality violations of ASA College's Sexual Misconduct Policy are considered private and are shared with a limited number of employees who have a "need to know" and who are responsible for the College's response, including taking

appropriate steps to respond to what happened, supporting Complainants, Respondents, witnesses, and resolving the matter promptly and fairly.

If a Complainant request Confidentiality or ask that the complaint not be pursued, ASA College will evaluate his/her Confidentiality request in the context of its responsibility to provide a safe and non-discriminatory environment for all persons. There may be instances where an investigation may have to be pursued against the Complainant's wishes for Confidentiality if doing so fulfills ASA College's responsibility to protect the College community. In those cases, ASA College will undertake all efforts to safeguard the privacy of the Complainant that is consistent with law. If the Complainant insists that his or her name, or other identifiable information not be disclosed to the accused individual, the Title IX Coordinator's ability to respond or conduct a fair investigation may be limited. The Title IX Coordinator will take all reasonable steps to investigate and to respond to the complaint consistent with the request, as long as doing so does not prevent ASA College from responding effectively to the Sexual Misconduct and protecting others from Sexual Misconduct.

In such situations where confidentiality cannot be guaranteed, privacy will be maintained to the greatest extent possible and information will be relayed only to the extent possible for the Title IX Coordinator to investigate and seek a resolution.

If a person previously discloses an incident or reports an incident of Sexual Discrimination or Sexual Misconduct to the College, then wishes to change his/her mind by requesting the experience to remain confidential; does not offer consent and does not want the Title IX Coordinator to proceed with an investigation, ASA College will attempt to honor the Complainant's wishes.

However, the Title IX Coordinator will notify the Reporting individual/Complainant that the College will not be able to meaningfully investigate and pursue misconduct proceedings or disciplinary proceedings to find anyone responsible for the violation. At the same time, the Reporting individual/Complainant will be also informed that ASA College will provide reasonable and available accommodation such as tutoring, academic support (including changes to class schedules); employment opportunities via our Career Services Department along with

referral to external resources of the kind that are available from CAMBA and Wyckoff Heights Medical Center's Violence Intervention & Treatment Program. They include advocacy, counseling, medical services, information about Sexual Transmitted Infections (STIs), Human Immune Deficiency (HIV), emergency contraception, Sexual Assault Forensic Examinations (SAFE) and other NYS Office of Victims Services (OVS) resources such as financial support to victims and their family, tenant support including moving expenses, legal services, college and career advising.

Both CAMBA and Wyckoff Heights Medical Center under its Victim Assistance, Rape Crisis Services Program, provides victims/survivors of Sexual Assault and their families, 24 hour Rape/Sexual Assault crisis counseling; emergency food and transit assistance; housing assistance; individual and group support; education and career advisement; information and referral services; Police and court advocacy and assistance in filing Crime Victim compensation with the NYS Office of Victim Services.

**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 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 and or with force;
- The seriousness of the offense;
- The age of the victim;
- Whether the College has means to obtain relevant evidence; from security cameras, personal, and or 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 meaningful 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 efforts of Sexual Misconduct, prevent its recurrence and provide ongoing assistance and support.

**VI: Consent Requirement:**

Before any discussion to proceed with an investigation of a reported Sexual Misconduct allegation, the Title IX Coordinator will request the consent of the Reporting Individual prior to beginning an investigation. If the Title IX Coordinator request is denied to proceed there are several instances under which the Title IX Coordinator will proceed with an investigation without the written consent of the Reporting Individual/Complainant to proceed with an investigation:

- The increased risk that the accused will commit additional acts of violence;
- Whether the accused has a history of violent behavior or is a repeat offender;
- Whether the victim is a minor;
- Whether the accused used a weapon or force in the reported incident;
- The incident is an escalation of previous behavior;
- There is a risk that the accused will commit additional acts of violence or similar Misconduct;
- Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior, such a situation that previously involved sustained stalking;
- Evidence is obtained by other means;
- Whether the institution possesses other means to obtain evidence such as security footage and whether the report reveals a pattern of perpetration at a given location or by a particular group.

Reporting Individuals/Complainants are able to get basic information and documentation regarding the manner and method by which ASA College seek consent from individuals prior to conducting an investigation. The Reporting Individual/Complainant can review the *Sexual Misconduct Report Form* and the *ASA Campus Sexual Misconduct Tips brochure* posted on ASA College's website, or during a meeting with the Title IX Coordinator. Prior to requesting consent the Title IX Coordinator will review in detail the Sexual Misconduct Report Form completed by the Reporting Individual/Complainant.

The title IX coordinator will request the Reporting Individual/Complainant to affirm consent to conduct an investigation, deny consent to conduct an investigation, answering Yes or No, and providing his/her signature to attest their answer regarding consent.

**VII: 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 review the information from the *Sexual Misconduct Report Form* to assess the category of the Sexual Misconduct; assess the need for safety for the Reporting Individual; discuss whether consent make an initial assessment of the reported information and respond to any immediate health concerns will be given or denied for the Title IX Coordinator to proceed with the investigation and to contact law enforcement.

The Title IX Coordinator will provide the Complainant with a general understanding of this Policy and the process for responding to complaints of Sexual Misconduct. The Complainant will be provided with the remedies available from the Office of Student Support Services, 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's 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 generally conducts allegations of Sexual Misconduct investigations. The Title IX Coordinator will seek consent from a reporting individual prior to commencing an investigation. Declining to consent will be honored unless ASA College determines in good faith that the failure to investigate does not adequately lessens a potential risk of harm to the Complainant/reporting individual, other students and staff at ASA College.

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.

Whenever possible, simultaneous notification will be given to both parties (Complainant and Respondent) either by personal delivery; overnight mail with signature requirement; certified mail with return receipt to the address in ASA College's records; and or by email to the Complainant's and Respondent's ASA College's email accounts. The notice shall contain: (1) the date, approximate time, and location of the alleged violation; (2) a description of the factual allegations; and (3) a summary of potential sanctions associated with the alleged violation.

The notice shall inform the Complainant and the Respondent of the right to bring an advisor to meetings and ensure there is a clear understanding that the role of the advisor is to support and advise, not to speak on the behalf of the Complainant or Respondent or to take any action that may interfere with the integrity and process of the investigation.

The Title IX Coordinator will interview the parties to the complaint, as well as any witnesses who have been identified. The investigator will ask the parties for any documentary, electronic, or other evidence related to the complaint that they want to offer. The Title IX Coordinator may also independently gather available evidence as part of the investigation. Prior sexual history with persons other than the charged party in a disciplinary proceeding **is not** considered evidence and will be excluded. Also, the mental health diagnosis and or treatment of the parties will be excluded from the decision stage of the disciplinary process that determines responsibility. However, past findings (especially repeated offenders) of Domestic Violence, Dating Violence, Stalking or Sexual Assault may be admissible when determining sanctions. All individuals who are interviewed shall be advised to maintain confidentiality of the investigation process and not to disclose any information related to the complaint unless necessary during the complaint process. Maintaining confidentiality is important to preserve the integrity of the investigation, protecting student and witness privacy, and deter retaliation.

ASA College will take every step necessary to protect the parties and any witnesses against retaliation for filing a complaint under this policy or for participating in the investigation of a complaint. Retaliation is unlawful and prohibited by this Policy. Impermissible retaliation can occur even when it is determined that a complaint is without merit. If the Complainant/Reporting Individual believes that he/she is the subject of retaliation, which is a violation of this Policy,

because of making a report or a complaint or assisting in an investigation, they are urged to contact the Title IX Coordinator promptly for action. Disciplinary action will be pursued against any employee, faculty member, or anyone who attempts to intimidate anyone who is a party in the investigation of Sexual Misconduct. 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). 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.

**d). 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) single-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 for 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.

**e). 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"> <li>1. Provide Complainant with information on access to medical care.</li> <li>2. Assess immediate safety needs of Complainant.</li> <li>3. Assist Complainant with contacting police.</li> <li>4. Provide Complainant with referrals to mental health providers.</li> <li>5. Assess need to implement protective measures (change in class schedule, No contact directive, etc.).</li> <li>6. Provide information on applying for Order of Protection.</li> <li>7. Inform the Complainant regarding timeframes for inquiry, investigation and resolution.</li> <li>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.</li> </ol>	Preponderance of the Evidence standard.

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

**f). 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 day 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 publicly 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.

**g). 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 Colleges 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, allows 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.

#### **h). 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 a n d 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.

**Time Frame:**

In general, the investigation, disciplinary process and appeal, if any, will not exceed sixty (60) days, although ASA College reserves the right to exceed the timeframe, with notice to the parties, in order to conduct a thorough investigation.

**VIII: Accommodations, Remedial and Protective Measures:**

**a). Interim Measures:**

The Title IX Coordinator may implement interim measures pending the investigation of a report or complaint to prevent contact between a Complainant, an accused party, and anyone involved in the investigation.

Interim measures are helpful to ensure the safety of all parties to the investigation, prevent retaliation, and void an ongoing hostile environment. Such measures may include but are limited to: (1) Issuing a "no contact order" whereby intentional contact shall be a violation subject to disciplinary procedures; (2) Interim suspension after it is determined that the accused presents a continuing threat to the health and safety of the rest of the College community; and (3) Providing increased security; supervision or monitoring at locations or activities where the alleged misconduct occurred; adjustment to housing or living arrangements; reasonable adjustment to class or College work schedule; or change in campus location to attend classes. Such remedies are designed to

prevent recurrence, to alleviate pain, embarrassment and aggravation associated with Sexual Misconduct.

Interim measures imposed on the accused party are not determination of guilt. Such measures are implemented to ensure that the investigation and adjudication of a complaint proceeds as efficiently, in a timely manner, and fairly as possible. Both the Complainant and the Respondent shall have opportunity to request a prompt review of the need for and possible modification of interim measures that affect them. The Title IX Coordinator in consultation with the Provost shall do such review before a final decision is made.

**b). 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 messages, 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 Safety Officers. If the Respondent and the Complainant observe each other in a public place, it shall be the responsibility of the Respondent to leave that area immediately without directly contacting the Complainant. Individuals who violate a No Contact Order are subject to disciplinary action.

**c). 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.

In New York State, Criminal Court, Family Court, and Supreme Court can issue legal

Orders of Protection. Provisions that might be contained in an Order of Protection include: (1) directing the abuser to stop the abusive behavior toward the victim, the victim's children, and others; (2) directing the abuser to cease contact (phone calls, emails, letters, etc.) with the victim; and (3) limiting where an abuser can go (such as near a school).

Family Court can issue orders of protection that can be in effect for a maximum of two (2) years or, with aggravating circumstances for a maximum of five (5) years. Violation of a valid Order of Protection constitutes an aggravating circumstance. Criminal Court Order of Protection vary according to the severity and type of the offenses: two (2) years for violations; five (5) years for misdemeanors; eight (8) years for felonies; and six (6) years for misdemeanors sex crimes; and ten (10) years for felony sex crimes. Orders of Protection are valid in every county in New York State and are honored in every State throughout the United States through the Full Faith and Credit Clause of the U.S. Constitution.

The Title IX Coordinator will assist complainants in obtaining an Order of Protection. 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.

**d). 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.

**e). 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 suspension 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 any findings of ill-conduct may result in disciplinary action independent of the sanction(s) or interim remedies imposed in response to allegations of Sexual Misconduct.

**IX: Student Onboarding and Ongoing Education (Section 6447):**

ASA College has revamped its onboarding and ongoing education campaign by using multiple methods and mediums to share information about ASA College's Sexual Misconduct Policy, which is not limited to, Domestic Violence, Dating Violence, Stalking and Sexual Assault.

We solicited the assistance of CAMBA, Wyckoff Heights Medical Center (WHMC) and EVERFI to help ASA College develop a comprehensive and sustainable onboarding and on-

going education campaign, which we believe satisfies the mandates of section 6447 (a-f) of the NYS Education law 129-B.

CAMBA and WHMC have provided resource material and staff to assist ASA College with the compilation of a power point presentation called *Understanding Sexual Misconduct - A Guide for Students*, which is currently being used for classroom presentations to students and ASA College staff. The staff from the advocacy groups are qualified and experienced in all aspects of Sexual Misconduct and are currently working in an advisory capacity with other Colleges and Universities who are in compliance with NYS Education Law 129-B.

Under the MOUS agreement both agencies will work collaboratively with staff at ASA College to conduct education seminars to ASA College staff and students on all topics of ASA College's Sexual Misconduct Policy, including but limited to:

1. ASA College's prohibition against sexual and interpersonal violence, the availability of resources to victims and survivors of such violence and the institution's responsibility to take administrative and conduct action related to reports received of such violence that fall within the Institution's jurisdiction;
2. Plain language definition of Consent, Sexual Assault, dating Violence, Domestic Violence, Stalking; Confidentiality and Privacy;
3. Ensuring ASA College Misconduct Policy apply equally to all students regardless of sexual orientation, gender identity or gender expression;
4. The role of the Title IX Coordinator, Campus Safety Officers and other Institution offices that address Sexual Assault, dating Violence, Domestic Violence stalking prevention and response;
5. Awareness of violence and its impact;
6. Bystander intervention and the importance of taking action to prevent violence when one can safely do so;
7. Risk assessment and reduction;
8. Consequences and sanctions for individuals who commit Code of Conduct violations and or crimes related to Sexual Assault, Dating Violence, Domestic Violence and Stalking;

9. Assist ASA College in conducting climate surveys and making assessments based on the climate survey.

The seminars will be conducted each semester starting from the third week to the twelfth week.

The target audience will be:

1. First semester (new) students; which includes international students; students enrolled in the *Freshmen Skills Seminar* (FSM100) course;
2. Transfer and returning students in their second and third semesters;
3. Athletic coaches, assistant coaches, student-athletes, including team leaders and co-captains;
4. Frontline staff from the Admissions Department, Student Advisement Department and the Registrar's Office.

As of December 12, 2017, CAMBA began the first in a series of workshops for the administrative staff and department chairs. They along with Wyckoff Heights Medical Center have agreed to make similar presentations to the College's faculty during in-service training workshops throughout the year; the day prior (usually a Monday) to the start of the spring, summer and fall semesters. Some of the topics covered and they are expected to cover, include but is not limited to, the definitions of Domestic Violence, Dating Violence, Stalking and Sexual Assault, Affirmative Consent, Drug and Alcohol Amnesty Policy; Students Bill of Rights; Informational Rights to Reporting Individuals; Institutional Rights ASA College is required to Afford to its College community; Accommodations and Interim measures Institutions are required to provide; No Contact Orders; and an understanding of Privacy and Confidentiality.

ASA College department chairs and faculty has recently began online prevention and awareness training with EVERFI. EVERFI specializes in providing institutions of Higher Education ongoing prevention and awareness campaigns that satisfies Title IX, and the Clery Act (Campus SaVE/VAWA) regulations. We project all members of the faculty will complete their on-line training by the end of the fall 2018 semester. We are confident their training will bolster ASA College's awareness campaign about what constitutes Sexual Misconduct; why prohibited

behavior is considered prohibited conduct; and enable them to recognize warning signs of abusive behavior within their classrooms.

ASA College is working aggressively with EVERFI to extend their online reach to both prospective students and families, new and transfer students by the end of the fall 2018 semester. Our shared goal is to reach members of the ASA College community whom we could not otherwise accommodate in a classroom setting. Their online reach will afford ASA College to have “primary prevention and awareness programs” in place for all new students and employees by the end of the fall 2018 semester.

Currently staff from both agencies (CAMBA and Wyckoff Heights Medical Hospital) are working closely with the staff at ASA College conducting power point presentations (in classroom setting), about the meaning of Domestic Violence, Dating Violence, Stalking and Sexual Assault, Affirmative Consent, Drug and Alcohol Amnesty Policy; the name, address and role of the Title IX Coordinator and other related aspects of the NYS Educational Law 129B, including but not limited to, ASA College’s Students Bill of Rights; ASA College’s Misconduct Policy about the rights of the Reporting Individuals; ASA College on-campus resources and its relationship with community based organizations that provide rape Crisis and other Victim support; ASA College’s policy on Accommodations and Interim measures including No Contact Orders and Order of protection.

The Office of Student Support Services plans to extend the awareness campaign outside the classroom by distributing and displaying posters and flyers about safety and lifestyle tips at:

- Club Week during the fourth and fifth week of the semester where students are invited to join one or more of the 15 clubs on campus;
- ASA College Student Government Campaign and elections of new Student Government members;
- Phi Theta Kappa (PTK) Honor Orientations held twice per year.

We expect to reach our goal of a workable ground and online educational campaign by the fall 2018. We believe this prevention approach that will enable ASA College to apply its Student

Misconduct Policies equally to all students regardless of their orientation, gender identity or gender expression. Our on-going educational campaigns will be able to reach all students; traditional and non-traditional students; online enrollees; part-time students; students enrolled in night and or are taking week-end courses.

The ultimate goal is to educate members of the ASA College community about Sexual Misconduct, to improve the College community awareness; prevent the recurrence of prohibited behavior; change life style practices and social norms within the College community; foster positive, healthy and mutual respectful behavior; eliminate Sexual Misconduct; and ensure ASA College becomes a safe and non-discriminatory environment for the entire College community.

### **X: Prevention and Awareness Programs:**

We have restructured our prevention and Awareness program to mirror the methods and mediums used in our ongoing education campaign. The Title IX Coordinator continues to make oral presentations at ASA College Freshmen orientations. Starting from the spring 2018 semester, we have added a power point presentation “*Understanding Sexual Misconduct, A guide for students*” to the freshmen skills workshops. The target audience is new/first semester students; international students, student-athletes and transfer students. We have expanded the use of the power point presentation to reach international students who are taking English remediation courses in Reading and Writing.

The topics covered includes, but is not limited to, Domestic Violence, Dating Violence, Stalking, Sexual Assault, Victim rights, Resources available to victims, Knowing the name and Office address of the Title IX Coordinator, the role of the Title IX Coordinator and Campus Safety Officers, etc. Other topics covered include:

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;

We have also created a summary pamphlet *ASA Campus Sexual Misconduct Tips* brochure which is posted on ASA website, distributed at ASA Freshmen Orientations, Freshmen Socials, and visibly displayed during Club week, Student Government Election Campaign, and Phi Theta Kappa Honor Society Membership drive and Orientation workshops.

ASA College will continue to post a copy of this Policy on its website and display posters using excerpts from the *Students Bill of Rights and the Affirmative Consent Misconduct Policy Statement* throughout campus buildings in the student lounges, entrances to the elevators and the libraries.

ASA College strongly believes our partnership with Wyckoff Heights Medical Center, CAMBA and EVERFI has bolstered ASA College's awareness campaign about what behavior constitutes Domestic Violence, Dating Violence, Sexual Assault, and Stalking; why such prohibited behavior is considered prohibited conduct; how to recognize warning signs of abusive behavior; and how to avoid potential attacks.

We have already witnessed the positive impact of these initiatives where there is a c-change in the culture in the College environment; students respect each other, avoid gestures that mimics suggestions/innuendos of Sexual Misconduct and has helped fellow students refrain from such misconduct.

Both advocacy organizations have recommended members of the College community to register for Peer Training workshops and to join a Survivors' Group. Many of our students have expressed their desire to join at one of these programs based on their current and past experiences as victims of Sexual Misconduct.

The classroom and online seminars afforded department chairs and faculty to have up-to-date information about ASA College Sexual Misconduct Policy, the definitions and laws on what constitutes Sexual Harassment, Sexual Violence, Stalking, Gender-Based Harassment and Sexual Assault in a college environment.

## **XI: Academic Transcripts Policy 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.

In all student cases of Sexual Misconduct investigation, the information and other appropriate records will be maintained in a secure and confidential manner for six (6) years plus the current year after the employee or student separates from ASA College, unless the documents must be preserved for litigation purposes. All documentation related to a disciplinary action shall become a part of the Respondent's permanent education record or the Respondent employee's record. 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.”***

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.

**XII: 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, ASA College will withhold the names and The identifying information of the Complainants(s)/victim(s) when issuing such timely warnings.

**XIII: 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.

**XIV: 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](mailto: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.**

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*.