

## Dance Institute of Washington

**PURPOSE:** It is the policy of The Dance Institute of Washington (DIW) to comply with Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex (including sexual harassment and sexual violence) in all DIW's educational programs and activities on or off the campus located in Washington, DC. DIW will process all formal Title IX complaints while also prohibiting retaliation for asserting or otherwise participating in claims of sex discrimination. This policy applies to complaints of sexual harassment, including sexual assault and sexual violence, carried out by employees, students, and third parties engaged by DIW. DIW will respond to reports or formal complaints of conduct prohibited under this policy. The policy's goal is to stop discriminatory effects with measures designed to stop the prohibited conduct, prevent its recurrence, and remediate any adverse effects of such conduct on DIW premises or DIW related programs or activities. DIW will not deprive an individual of rights guaranteed under federal and state law, federal and state anti-discrimination provisions; or federal and state law prohibiting discrimination on the basis of sex when responding to any claim of Title IX Sexual Harassment.

The DIW Executive Director or designee shall be designated by DIW and is responsible for coordinating DIW's efforts to comply with Title IX responsibilities while overseeing the response to reports of Title IX violations while identifying and addressing any pattern or systemic problems. The Title IX Coordinator will participate in training on the handling of complaints of sexual harassment, DIW's Title IX Policy and Grievance Procedures, and applicable confidentiality requirements.

Sexual Harassment is conduct based on sex that meets one or more of the following descriptions:

1. A school employee conditioning an educational benefit or school service on an individual's participation in an unwelcome sexual conduct known as Quid Pro Quo harassment. This is offering a benefit in exchange for unwelcome sexual conduct. This is an abuse committed by a school employee's authority.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to DIW'S education programs or activities
3. Sexual assault, dating violence, domestic violence, or stalking based on sex causing fear for safety or causing substantial emotional distress. The terms are defined under other Federal laws called the Clery Act and the Violence Against Women Act and based on the lack of consent.

Sexual harassment may be committed by a school employee or student regardless of the person's race, sexual orientation, disability status or gender identity might be a victim or perpetrator of sexual harassment. The final regulation protects everyone from Sexual Harassment under Title IX. Sexual harassment might consist of verbal, physical or other types of conduct that targets a person based on sex that a person finds unwelcome. Sexual harassment is unwelcome conduct of a sexual nature, such as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment and refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g. due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent).

A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Gender-based harassment is another form of sex-based harassment and refers to unwelcome conduct based on an individual's actual or perceived sex, including harassment based on gender identity or nonconformity with sex stereotypes, and not necessarily involving conduct of a sexual nature. The following definitions clarify key terminology as used in this policy:

**Complainant** refers to the individual(s) who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.

**Formal Complaint** refers to a document filed by a complainant (meaning a document or electronic submission such as by electronic mail that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the individual filing the formal complaint alleging Title IX Sexual Harassment against a respondent and requesting that DIW investigate the allegation of Title IX Sexual Harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity at DIW. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information provided in this policy, and by any additional methods identified in this policy. Formal complaint may also refer to a document signed by DIW's Title IX Coordinator alleging Title IX Sexual Harassment against a respondent. Where DIW's Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party.

**Official with Authority** refers to individuals who have authority to institute corrective measures on behalf of DIW. Party or parties refer to the complainant(s) and the respondent(s).

**Report** refers to information brought to the attention of an Official with Authority alleging conduct prohibited under this policy; a report is not considered to be a formal complaint. A party may bring a report and then subsequently file a formal complaint.

**Respondent Party** or parties refers to the individual(s) who has been alleged to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.

**Third party** refers to any individual who is not a DIW student, a staff member, vendor, alumni, or local resident.

**Witness** refers to any individual who shares information relating to an allegation of prohibited conduct under this policy.

Any DIW community member who believes s/he has been subjected to harassment prohibited by Title IX, is encouraged to bring the concern directly to the attention of the Title IX Coordinator, as soon as possible in order to facilitate a more accurate and timely investigation. The Title IX Coordinator will be notified of all complaints and respond to immediate health and safety concerns. A determination will be made if there is a policy violation within the scope of the DIW Sexual Discrimination and Sexual Harassment policy. An informal resolution may proceed, or the complainant or Title IX Coordinator may proceed with a formal grievance process. When DIW learns that someone is alleged to be a victim of sexual harassment, DIW will address as follows:

- Promptly contact the person and inform them that their notification has been received.
- Explain to complainants that they have an option and process for filing a formal complaint and review the process to complete the complaint form regarding sexual harassment.
- Will not pressure an individual into filing a formal complaint, or into participating in a grievance process.
- Provide a copy of the Sexual Harassment and Non-Discrimination Policy to the complainant.
- Investigate every formal complaint. Title IX Sexual Harassment and Grievance Process
- The outcome will be determined by the DIW Decision-Maker

Options for Complainants, Respondents, and Other Reporting Individuals. After consulting the Title IX Coordinator, a complainant may:

- File a formal complaint with the Title IX Coordinator, thereby invoking the DIW internal grievance process.

- Contact Fire and Safety for assistance in filing a criminal complaint and preserving physical evidence
- Contact local law enforcement to file a criminal complaint.

At the complainant's request, DIW will assist the complainant in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue a criminal process. An individual may pursue some or all of these steps at the same time. When initiating any of the above, an individual does not need to know whether they wish to request any particular course of action, nor how to label what happened. Before or during this decision-making process, complainants and other reporting individuals are encouraged to consult with the Title IX Coordinator

DIW is committed to providing a prompt and impartial investigation and adjudication of all formal complaints alleging violations of this policy. During the grievance process, both parties (complainant and respondent) have equal rights to participate.

Privacy and Confidentiality: All activities under these grievance procedures shall be conducted with due regard for any legitimate privacy and reputational interests of those involved. It is expected that any materials and information prepared or acquired under these grievance procedures will be shared only with those who have a legitimate need to know.

- DIW will adopt this written grievance process and abide by the procedures and will never use or attempt to use questions or evidence that is protected by a legal recognized privilege, such as the attorney-client privilege or the doctor-patient privilege.
- DIW cannot unilaterally access or consider a party's records, if those records are made or maintained by a physician, psychiatrist, or other recognized professional and made for the purpose of providing treatment to the party. The records can only be accessed with a party's voluntary written consent.
- No questions will be reviewed during the grievance process about the Complainant's prior sexual behavior.

Where to report Sexual Harassment:

- Students and staff are recommended to contact the Title IX Coordinator to report Sexual Harassment.
- In addition to the Title IX Coordinators, anyone within DIW who mandatory reporters under state law are required to report to the Title IX Coordinator immediately if they become aware of or reasonably suspect any incidents of sexual misconduct.

Emergency Removals:

- DIW can remove a respondent from DIW's education programs or activities on an emergency basis if the respondent poses an immediate threat to anyone's physical health or safety.
- If the respondent is a school employee, the final regulations don't prevent a school from placing that employee on administrative leave during the investigation.

Mandatory and Discretionary Dismissal of Complaints: DIW must dismiss a complaint:

1. Does not describe conduct that does not meet the definition of sexual harassment
2. Alleges sex harassment that did not occur in DIW's education program or activity
3. If the complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or some of its allegations
4. If the respondent is no longer enrolled or employed at DIW
5. If specific circumstances prevent DIW from gathering evidence sufficient to reach a determination about the allegations.

### Formal Complaints

- A formal complaint is an official document alleging sexual harassment.
- Is filed by the student or their parent or legal guardian in some cases.
- In cases where an alleged victim doesn't file a formal complaint, a Title IX Coordinator might initiate grievance procedures where discipline is appropriate. DIW Title IX Grievance Process: Once a decision has been determined to open an investigation that may lead to disciplinary action against a respondent, a written notice will be provided to the respondent stating the allegations constituting a potential violation of DIW's sexual discrimination and harassment policy. The notice will include sufficient details to prepare a response prior to any initial interview including, but not limited to:
  - a description of the prohibited conduct allegedly constituting the potential violation,
  - DIW's policy/specific section of the code of conduct allegedly violated,
  - the date and the location of the incident,
  - the identity of the individuals involved.

The respondent will be given at least 5 days to prepare for an initial interview. Parties involved in an investigation will be given at least 5 days to prepare for each interview throughout the investigation and will receive written notice in advance of each interview. Potential remedies and sanctions, which may be applied to the Complainant and/or the Respondent: Upon receipt of a report or concern, DIW may impose reasonable and appropriate interim supportive measures, some of which could become permanent upon resolution of the complaint, to protect the parties involved. DIW will make reasonable efforts to communicate with the parties to ensure that all safety concerns, both emotional and physical well-being, are being addressed. Such measures may be imposed regardless of whether formal disciplinary action is sought by the complainant or DIW and will be implemented at the discretion of DIW.

**Notice of Investigation:** Following the receipt and review of the formal complaint by the Title IX Coordinator, and it being determined that the matter properly falls under this Title IX Sexual Harassment policy, the parties will be informed in writing of the initiation of the investigation. The written information shall include:

- The identities of the parties, if known.
- A concise summary of the alleged conduct at issue (including when and where it occurred, if known).
- Notice of the allegations potentially constituting Title IX Sexual Harassment.
- A statement that the respondent is presumed not responsible and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement informing the parties that knowingly making false statements or knowingly submitting false information during the grievance process may constitute a violation of DIW policy.
- Information regarding the applicable grievance procedures, including the informal resolution process. If, during the investigation, additional information is disclosed that may also constitute prohibited conduct under this policy, the respondent and complainant will be informed in writing that such additional information will be included in the grievance process.

**Collection of Evidence:** The investigators will collect information from each party. While the complainant and the respondent are not restricted from gathering and presenting relevant evidence, the investigators are responsible for gathering relevant evidence to the extent reasonably possible. However, each party will be given an equal opportunity to suggest witnesses; provide other relevant information, such as documents, communications, photographs, and other evidence; and suggest questions to be posed to the other party or witnesses. Parties and witnesses are expected to provide all available relevant evidence to the investigators during the investigation. If a party or witness fails to provide available relevant evidence during the investigation, such evidence may, at the discretion of the Decision-Maker Hearing Panelist, be excluded from consideration at the hearing. While parties are not restricted from presenting information attesting to the parties' character, such evidence generally is not considered relevant. The investigators will provide to a party written notice of the date, time, location, participants, and purpose of all investigative interviews to which they are invited or expected, with sufficient time (generally no less than three (3) business days, absent exigent circumstances) for the party to prepare to participate. Parties will be interviewed separately and will be interviewed by the panel of investigators. The

investigators will interview witnesses as necessary and may, at their discretion, delegate Title IX Sexual Harassment and Grievance Process witness interviews to two investigators. The investigators will record all interviews or notes of the interviews will be taken by the investigators. Any other recording of interviews is prohibited, and violations may result in discipline. In general, a party's medical and counseling records are confidential. The investigator will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the investigators obtain that party's voluntary, written consent to do so. The investigators will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g., attorney-client, doctor-patient), unless the individual holding such privilege has waived the privilege.

Investigation Guidelines: In the case of a formal grievance, DIW will initiate an investigation. DIW will designate an investigator of its choosing from the Equity and Compliance team who has participated in specific training related to investigating allegations of sexual discrimination and misconduct. DIW will provide annual training for all investigators, and any investigator chosen to conduct the investigation will be impartial and free of any conflict of interest. The investigator(s) will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the complainant, the respondent, and any witnesses. Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. During the investigation and adjudication of the Title IX complaint, any prior relationship history of the complainant with anyone other than the alleged perpetrator will not be considered. As part of the investigation, DIW will provide an opportunity for the parties to present statements, witnesses, cross examination of witnesses (though parties will not be permitted to personally question or cross-examine each other), and other evidence. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The investigation is designed to:

1. Be respectful of the needs and rights of individuals involved.
2. Proceed as promptly as possible per the time frame noted in this policy.
3. Permit a complainant and a respondent to have the same opportunity to have an appropriate support person or advisor present at any interview or hearing, in a manner consistent with the governing procedures. Both parties shall also have similar and timely access to information used at hearings.
4. Include notifying the complainant of his/her right to proceed with a criminal investigation and a Title IX complaint simultaneously.
5. Be conducted in accordance with applicable due process standards and privacy laws.
6. Provide notice to both the complainant and respondent (through written letter or email) of the outcome in a timely manner, as permitted by applicable privacy law.
7. Be based on a preponderance of evidence standard.

Investigation Outcome: During the investigation, the complainant and the respondent will be kept informed at regular intervals of the status of the investigation. At the conclusion of the investigation, the investigator will prepare a written report which will be provided to the DIW Executive Director. At a minimum, the report will:

1. Detail the investigative steps taken by the investigator
2. Provide summaries of testimony for all witnesses interviewed.
3. Include copies of all documents reviewed.
4. Set forth the analysis of the investigator supporting the conclusions drawn.
5. If the complaint is substantiated by the investigation, provide recommendations (with support of legal counsel, as needed) as to the consequences and actions to be taken, which may involve sanctions up to and including termination and/or expulsion for the accused. No student will have his/her educational status adversely affected as a result of making a complaint. Also, no employee will have his/her employment adversely affected as a result of making a complaint.

Retaliation: Retaliation against any person or group who makes a complaint, cooperates with an investigation, or participates in a grievance procedure is a violation of DIW policy. Retaliation should be reported promptly to the Title IX Coordinator and may result in disciplinary action independent of any sanction or interim measures imposed in response to the underlying allegations of discrimination and/or harassment. At the conclusion of the investigation and after appropriate corrective action has been determined, the complainant and the respondent will simultaneously receive a written copy of the outcome of the investigation including general findings and corrective action that may be taken.

Conflicts of Interest: These procedures will be administered in a manner that eliminates any conflict of interest (real or perceived) by individuals handling the procedures. Anyone who feels there is any conflict of interest related to a Title IX proceeding should report the conflict to the Title IX Coordinator if they feel the conflict of interest. The final decision as to whether to remove the individual is the prerogative of the Executive Director of DIW. When considering whether to remove an individual from the proceedings, the Director will consider:

- The nature of the relationship between the individual and the situation (or those involved)
- Whether that individual could be reasonably expected to render a fair and impartial analysis regardless of the relationship.

Policy Notices and Distribution of Policy to Students: At a minimum DIW will make available to each student information about its Notice of Nondiscrimination and Title IX Grievance Procedures and shall additionally post a copy of its Notice of Nondiscrimination at appropriate locations on site.