Policy on Gender-Based and Sexual Misconduct

Including Discrimination, Sexual Violence, Sexual Harassment, Relationship Violence, Stalking, and other forms of Gender-Based or Sexual Misconduct

Approval Authority: Administrative Council
Responsible Executive: Vice President for Enrollment Management and Student Affairs
Responsible Offices: The Office of Student Affairs and the Office of Human Resources
Effective Date: November 19, 2013

I. GENERAL POLICY STATEMENT:

Stevens Institute of Technology (“Stevens” or the “University”) is committed to equality of opportunity and creating a campus climate that supports, nurtures, and rewards educational and career advancement on the basis of ability and performance. Accordingly, it is the policy of the University not to discriminate on the basis of sex, gender identity or expression, or affectional or sexual orientation. Stevens is further committed to maintaining a safe learning environment that is free of gender-based and sexual misconduct, including sexual violence, sexual harassment, relationship violence, and stalking. This Policy has been drafted to comply with the requirements of Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. §§ 1681 et seq. and its implementing regulations, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in educational programs or activities receiving federal financial assistance. Sex discrimination under Title IX includes sexual harassment and sexual violence.

This Policy protects and applies to all students, faculty and staff at Stevens, as well as third-parties. It applies to conduct occurring on Stevens’ property or at University-sanctioned events or programs that take place off campus, including study abroad, internship programs and cooperative educational programs. This Policy also applies to off-campus conduct that has an impact on a member of the Stevens’ community and implicates Stevens’ obligations under Title IX.

All members of the Stevens community are responsible for compliance with this Policy and are encouraged to immediately report misconduct covered by this Policy to the Title IX Coordinator or Deputy Title IX Coordinator whether it takes place on or off-campus. In addition, all faculty members and all staff members listed at Section V.B. of this Policy are required to immediately report allegations of misconduct to the Title IX Coordinator or Deputy Title IX Coordinator, regardless of whether the Complainant intends to make a report.

The University will seek to maintain the privacy of all persons involved with reporting, investigating and resolving complaints under this Policy. Confidential assistance may be obtained only by speaking with professionals who are mandated by law to protect confidentiality. On campus, these professionals include the counselors at Student Counseling and Disability Services and any physician at the Student Health Center. Information shared with these confidential resources will not be shared with the University without consent, unless there are special circumstances such as an imminent risk of harm to self or others or suspected abuse of a minor under the age of 18. Additional information regarding confidentiality and privacy is provided in Section III of this Policy.

1. Discrimination, sexual violence, sexual harassment, sexual exploitation, stalking, and relationship violence are specifically defined within this Policy. In general, sexual misconduct is a broad term that refers to all of the prohibited behaviors under this Policy.
2. For the purposes of this Policy, the “Stevens community” or “campus community” is a broad term that refers to all employees, students, visitors, volunteers, contractors and others who spend time on campus or who participate in University-sanctioned events and programs off-campus.
3. For the purposes of this Policy, “Complainant” refers to the individual who has been the subject of misconduct whether or not this person has made a complaint or report. “Respondent” refers to the individual(s) who has been accused of the misconduct. Complainant and Respondent may be referred to individually as a “party” and collectively as “parties.”
A Complainant has the option to report incidents of misconduct to local law enforcement authorities and the University will assist Complainants in doing so. The University has an independent duty to conduct a prompt review of an allegation of misconduct, notwithstanding the existence of any pending criminal investigation.

Retaliation against anyone involved in filing a report, participating in the report or investigation process, or otherwise providing information regarding allegations of misconduct is prohibited by this Policy and will not be tolerated. Any retaliation occurring at any time during or after the complaint process should be reported and will be investigated by the University under the same processes and standards outlined in this Policy. Anyone found to have engaged in retaliation shall be subject to discipline, including potential dismissal from University employment or matriculation.

The University has established a “Title IX Coordinator” role with centralized oversight responsibility for Title IX matters at Stevens, including the coordination of the University’s response to reports. Dr. Kristie Damell is the Title IX Coordinator and has ultimate responsibility for Title IX matters generally and primary responsibility for overseeing complaints and reports relating to Stevens’ students. Mark Samolewicz is the Deputy Title IX Coordinator and will be the primary person responsible for overseeing complaints and reports relating to employees. Dr. Damell and Mr. Samolewicz are also responsible for the coordination of educational programs for students, faculty, and staff to promote awareness and prevention of gender-based and sexual misconduct.

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This Policy supersedes all other student and employee policies with respect to discrimination on the basis of sex, gender identity or expression, affectional or sexual orientation; sexual violence; sexual harassment; relationship violence; stalking; and other forms of gender-based or sexual misconduct. In the event that a set of facts involves an allegation of misconduct covered by this Policy and conduct covered by other University policies, the entire matter will be reviewed under this Policy.

While this Policy is tailored to gender-based and sexual misconduct, Stevens also maintains policies prohibiting discrimination and harassment on the basis of other legally-protected characteristics including, without limitation, the Discrimination and Harassment Policy which is available on Stevens’ website at:  

This Policy will apply to any report received by the University after the effective date of this Policy, regardless of when the misconduct is alleged to have occurred.

II. DEFINITIONS:

This Policy prohibits a broad range of behaviors, all of which may be classified as misconduct. Gender-based and sexual misconduct can be committed by individuals of any sex, and can occur between individuals of the same sex or different sexes. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships.

In determining whether the alleged conduct constitutes misconduct under this Policy, consideration will be given to the totality of circumstances involved in the incident, including the nature of the conduct and the context in which the alleged incident occurred. Misconduct which violates this Policy includes the behaviors described below:
A. **Discrimination:** The treatment of members of a certain sex or other protected group more or less favorably on the basis of their sex or other protected characteristic or the establishment of an institutional policy or practice that has a disparate impact on members of a certain sex or protected group.

B. **Sexual Violence:** Sexual contact against the will or without the consent of the other person. This includes sexual contact by the use or threat of force or coercion, without effective consent, or where the other individual is incapacitated. A number of acts fall into the category of sexual violence, including acts that are forcible or non-forcible and including penetrative acts as well as sexual touching or disrobing not involving penetration.

C. **Sexual Harassment:** Unwelcome conduct of a sexual nature or on the basis of sex. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct on the basis of sex or of a sexual nature including acts of sexual violence. In most cases, to constitute sexual harassment the incident, behavior or conduct will involve:

- Submission to or rejection of the conduct is either an explicit or implicit term or condition of employment, instruction, evaluation of academic work, or participation in any University academic program, activity or benefit;
- Submission to or rejection of these behaviors by an individual is used as a basis for evaluation in making academic or personnel decisions or decisions regarding participation in a University activity; or
- These behaviors are sufficiently severe, persistent, or pervasive to have the effect of unreasonably interfering with an individual’s educational experience, working conditions or campus living conditions by creating an intimidating, hostile or offensive environment.

A single instance of sexual violence may be sufficiently severe to constitute sexual harassment.

Examples of sexual harassment include, but are not limited to:

- Pressure for sexual activity, sexual favors or a romantic or intimate relationship;
- Unwelcome touching of a person’s body, hair or clothing;
- Verbal abuse or hostile behavior such as insulting, teasing, mocking, degrading or ridiculing another person or group based on gender or sex;
- Unwelcome jokes, comments or questions about gender or sex (including favorable comments about someone’s gender, body, clothing, appearance);
- Asking about a person’s sexual activities or interests;
- Repeatedly asking for a date or making other romantic or sexual advances after the person has said "no";
- Nonverbal behavior, such as making sexual gestures with hands or through body movements;
- Displaying sexually discriminatory or explicit posters or pictures; and
- Electronic and other forms of communications including e-mail, text messaging and internet use, that violate this Policy.

D. **Sexual Exploitation:** An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. An act of sexual exploitation is prohibited even though the behavior does not constitute one of the other sexual misconduct offenses.

Examples of sexual exploitation include:

- Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Non-consensual streaming or distribution of images, photography, video, or an audio recording of sexual activity or nudity without the knowledge and consent of all parties involved;
- Prostituting another individual;
- Exposing one's genitals in non-consensual circumstances;
• Knowingly exposing another individual to a sexually transmitted disease or virus without that individual's knowledge; and
• Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

E. Physical Violence: A purposeful action intended to hurt another person. Examples include, but are not limited to, kicking, punching, hitting with or throwing an object, or biting. When these acts occur in the context of relationship violence or when the behavior is perpetrated on the basis of sex, gender, or sexual orientation, the conduct will be resolved under this Policy.

F. Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others’ safety or to suffer substantial emotional distress. Stalking may include traditional forms of communication such as letter-writing and phone calls and may also include cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion. All allegations of stalking are covered by this Policy regardless of whether the stalking is sexual or gender-based.

G. Relationship Violence: Relationship violence includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with that person. Any of the other types of prohibited conduct described in this Policy may also constitute relationship violence. Domestic violence and dating violence are forms of relationship violence and are defined below:

1. Domestic Violence: Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is a present or former household member of the victim, by a person similarly-situated to a victim under state domestic violence laws, or by any other person against a victim who is protected from that person’s acts under the state domestic violence laws.

2. Dating Violence: Violence committed by a person who has been in a social relationship of a romantic or intimate nature with the victim. (Dating violence also may qualify as “Domestic Violence” under New Jersey law.)

H. Retaliation: Acts or attempts to retaliate or seek retribution against a Complainant, Respondent, or any individual or group of individuals involved in a complaint, investigation and/or resolution of an allegation of misconduct under this Policy. Retaliation can be committed by any individual or group of individuals (not just a Respondent or Complainant). Retaliation may take many forms including, without limitation, threats, intimidation, pressuring, continued abuse, violence or other forms of harm to others.

I. Related Definitions

1. Consent: The voluntary, uncoerced agreement through words and actions freely given, which a reasonable person would interpret as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly chooses to participate. Indications that consent is not present include: when physical force is used or there is a reasonable belief of the threat of physical force; when coercion is present; or when a person is incapable of making an intentional decision to participate in a sexual act, which could include instances in which the person is in a state of incapacitation or where the person is incapable of giving consent due to age, intellectual limitations, or other disability. Important points regarding consent include:

• Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.
• Consent is not implicit in a person’s manner of dress.
• Accepting a meal, a gift, or an invitation for a date does not imply or constitute consent.
• Consent to engage in sexual activity must exist from the beginning to end of each instance of sexual activity and for each form of sexual contact. Either party may withdraw or modify consent at any time. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.
• Consent to one act does not constitute consent to another act.
• Consent on a prior occasion does not constitute consent on a subsequent occasion.
• The existence of a prior or current relationship does not, in itself, constitute consent.
• An individual who is incapacitated is unable to give consent to sexual activity.
• In the State of New Jersey, the age of majority is 18. Under state law, consent cannot be given by minors under the age of 13, and can only be given by a minor under the age of 16 if the other party is less than four years older than the minor.

2. **Incapacitation:** Incapacitation is the state in which a person’s perception or judgment is so impaired that he or she lacks the cognitive capacity to make or act on conscious decisions. It is the inability (temporarily or permanently) to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where a person knows or ought reasonably to have understood that the individual is incapacitated, constitutes sexual misconduct. In evaluating sexual misconduct allegations, an investigator will consider whether a Respondent should have been aware of the Complainant’s incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent’s position.

The use of drugs or alcohol (voluntarily or involuntarily) can cause incapacitation, however, consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and other drugs varies from person to person; warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, or emotional volatility. Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual’s decision-making ability, awareness of consequences, ability to make informed judgments, and capacity to appreciate the nature and the quality of the act.

In general, sexual contact while under the influence of alcohol or other drugs is risky behavior. It is especially important that anyone engaging in sexual activity be aware of the other person’s level of intoxication. If there is any doubt as to the level or extent of the other person’s intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity. Being intoxicated or impaired by drugs or alcohol is never an excuse for misconduct and does not diminish one’s responsibility to obtain informed and freely given consent.

3. **Force:** Force is the use or threat of physical violence or intimidation to overcome a person’s freedom of will to choose whether or not to participate in sexual activity. For the use of force to be demonstrated, there is no requirement that a Complainant resist the sexual advance or request. However, resistance by the Complainant will be viewed as a clear demonstration of the absence of consent.

4. **Coercion:** Coercion is the improper use of pressure to compel another person to initiate or continue sexual activity against his/her will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. Examples of coercion include threatening to disclose personal information such as one’s sexual orientation, gender identity or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity.
J. **Other Forms of Misconduct**: Other forms of gender-based or sexual misconduct are also covered by this Policy. Examples of such misconduct may include, but are not limited to, actions that are degrading and/or abusive.

K. **Electronic Communications and Social Media**: Electronic communications and social media may be conduits for misconduct covered by this Policy. Discrimination, harassment, threats of violence, or stalking occurring over electronic communications and social media are prohibited by this Policy whether or not they utilize Stevens’ electronic equipment, servers, or e-mail resources.

L. **Relationships between Stevens’ Students and Stevens’ Employees**: The University has a Non-Fraternization Policy, which prohibits amorous or sexual relationships between Stevens’ employees and any student under their supervision (graduate or undergraduate), as well as any amorous or sexual relationship between an employee and an undergraduate student, regardless of whether a supervisory relationship exists. Stevens also strongly discourages employees from engaging in amorous or sexual relationships with graduate students even where there is no supervisory relationship. This policy is available at [http://www.stevens.edu/provost/sites/default/files/NonFraternization_Policy_6feb2012p.pdf](http://www.stevens.edu/provost/sites/default/files/NonFraternization_Policy_6feb2012p.pdf)

III. **STATEMENT REGARDING PRIVACY AND CONFIDENTIALITY:**

The University is committed to protecting the privacy of all individuals involved in a report of misconduct under this Policy consistent with the need for a thorough review by the University of the allegation. All employees who are involved in the University’s Title IX response, including investigators and adjudicators, receive specific training and guidance about safeguarding private information. Privacy and confidentiality have distinct meanings under this Policy.

**Privacy**: Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those individuals who “need to know” in order to assist in the active review, investigation or resolution of the report. While not bound by confidentiality, these individuals will be instructed by the University to be discreet and respect the privacy of all individuals involved in the process.

**Confidentiality**: Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the permission of the individual. Those campus and community professionals who are able to preserve the confidentiality of communications include physicians, mental health providers, ordained clergy, and rape crisis counselors. These individuals will not breach confidentiality unless special circumstances exist such as an imminent risk of harm to the individual or others or suspected abuse of a minor under the age of 18.

Individuals who wish to seek confidential assistance may do so by speaking with professionals who are mandated by law to protect the confidentiality of a disclosure. On campus, these professionals include the counselors at Student Counseling and Disability Services or any physician at the Student Health Center. Please see Sections IV B and C below for additional information regarding confidential resources. Any University employee who is not designated as a confidential resource under this Policy is required to share a report of misconduct covered by this Policy with the Title IX Coordinator or Deputy Title IX Coordinator. The Title IX Coordinator and Deputy Coordinator are not confidential resources.

Where a Complainant makes a report to a Stevens’ employee who is not designated as a confidential resource under this Policy, but requests that a name or other identifiable information not be shared with the Respondent or that no formal action be taken, the University will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all Stevens’ community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before action is taken against a Respondent. In making this determination, the University will consider, among other factors, whether the Complainant has requested confidentiality, whether the Complainant wants to participate in an investigation, the severity and impact of the alleged misconduct, the respective ages of the parties, whether the Complainant is a minor under the age of 18, whether the Respondent has admitted to
the misconduct, whether the Respondent has a pattern of committing such misconduct, the existence of independent evidence, and the extent of prior remedial methods taken with the Respondent.

The University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation or disciplinary action, but its ability to do so may be limited based on the nature of the request by the Complainant. The University will assess any barriers to proceeding, including retaliation, and will inform the Complainant that Title IX prohibits retaliation and the University will take strong responsive action to protect the Complainant. Where the University is unable to take action consistent with a request of the Complainant, the University’s chosen course of action will be communicated to the Complainant.

If a report of misconduct discloses a serious and immediate threat to the campus community, the University will issue a timely notification to the community to protect the health and safety of the community as required by law. The timely notification will not include any identifying information about the Complainant. The University may also share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions. At no time will the University release the name of the Complainant to the general public without the express consent of the Complainant or as otherwise permitted or required by law.

All University proceedings are conducted in compliance with the requirements of the Family Educational Rights and Privacy Act (“FERPA”), the Clery Act, Title IX, state and local law, and University policy.

IV. RESOURCES:

The University is committed to treating all members of the community with dignity, care and respect. Any individual affected by behaviors prohibited by this Policy, whether as a Complainant, a Respondent or a third party, will have access to support and counseling services through the University. The University recognizes that deciding whether to make a report and choosing how to proceed can be difficult decisions. The University encourages any individual who has questions or concerns to seek the support of campus and community resources. These professionals can provide information about available resources and procedural options and assistance to either party in addressing a matter covered by this Policy.

A. Emergency Response:

1. Stevens Campus Police have resources available to help students and employees. Campus Police are located at the Gate House located at the south entrance to campus across from the Babbio Center. The emergency number is 201-216-3911.  

2. The Hoboken Police Department is located at 106 Hudson Street in Hoboken and can be reached by dialing 911 in an emergency.

B. Student Health and Emotional Well-Being:

1. Student Health Center: Stevens has an on-campus Student Health Center located on the 1st Floor of Jacobus Hall. The Student Health Center also facilitates connecting students with off-campus medical providers. Additional information about such medical services is available on the Health Center webpage: http://www.stevens.edu/health/info.htm. (Physicians are a confidential resource)

2. Student Counseling Services: Stevens has an office of Student Counseling and Disability Services, located on the 7th floor of the Howe Center, which provides on-campus personal counseling services to students. This office also facilitates connecting students with off-campus therapists. Additional information about counseling services is available on the following webpage: http://www.stevens.edu/sit/counseling. (Counselors are a confidential resource)

3. The Hoboken University Medical Center is located at 308 Willow Avenue in Hoboken and can provide urgent medical services. (Physicians are a confidential resource)
4. **External Abuse Resources and Hotline Services:** The Student Health Center and Student Counseling and Disability Services webpages provide links to various confidential abuse resources and hotline services, including the Hudson County Rape Crisis Center Hotline, the Hudson County Sex Crime Unit and domestic violence hotlines.

C. **Employee Health and Emotional Well-Being:**

1. The *Hoboken University Medical Center* is located at 308 Willow Avenue in Hoboken and can provide urgent medical services. (Physicians are a confidential resource)

2. **Employee Assistance Program** ("EAP"): CIGNA's "Life Assistance Program" is available to Stevens' employees and consists of a variety of counseling and support services, as well as other resources and referral services. All services are available 24 hours a day, 365 days per year. The Program may be reached at 1-800-538-3543 or via the web at www.cignabehavioral.com/cgi. (confidential resource)

D. **Title IX Coordinator:** In addition to the confidential resources listed above, the University’s Title IX Coordinator and Deputy Title IX Coordinator are trained to support individuals affected by gender-based or sexual misconduct. While not bound by confidentiality, these resources will maintain the privacy of an individual's information within the limited circle of those involved in the Title IX resolution process. Dr. Kristie Damell is the Title IX Coordinator and has ultimate responsibility for Title IX matters generally and primary responsibility for overseeing complaints and reports relating to Stevens’ students. Mark Samolewicz is the Deputy Title IX Coordinator and will be the primary person responsible for overseeing complaints and reports relating to employees. Dr. Damell and Mr. Samolewicz are also responsible for the coordination of educational programs for students, faculty, and staff to promote awareness and prevention of gender-based and sexual misconduct. If you are unsure which person to contact based upon the facts involved in a particular situation or if you have general inquiries about the application of Title IX, please feel free to contact either Dr. Damell or Mr. Samolewicz to discuss the situation.

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V. **REPORTING AND RELATED CONSIDERATIONS:**

A. **Reporting Considerations:**

1. **Timeliness of Report:** Complainants and others are encouraged to report misconduct covered by this Policy as soon as possible in order to maximize the University’s ability to respond effectively. The University does not, however, limit the timeframe for reporting.

2. **Rules Violations Should Not Deter Reporting:** Stevens’ primary concern is safety. Complainants and bystanders should report incidents covered by this Policy regardless of whether rules violations may have been involved. Use of alcohol or drugs never makes a Complainant at fault for sexual violence and should not deter reporting by Complainants, bystanders, or other knowledgeable parties. To encourage reporting, an individual who reports misconduct covered by this Policy, either as a Complainant or a third-party witness, will not be subject to disciplinary
action by the University for his/her own personal consumption of alcohol or drugs at or near the
time of the incident, provided that any such violations did not and do not place the health or safety
of any other person at risk. The University may, however, initiate an educational discussion or
pursue other educational remedies regarding alcohol or drug use.

3. **Statement Against Retaliation:** Retaliation is a violation of University policy. The University
recognizes that retaliation can take many forms, may be committed by or against an individual or a
group, and that a Respondent or third party may also be the subject of retaliation by another
individual, including the Complainant. Retaliation against anyone involved in filing a report,
participating in the report or investigation process, or otherwise providing information regarding
allegations of misconduct is prohibited by this Policy and will not be tolerated. Any retaliation
occurring at any time during or after the complaint process should be reported and will be
investigated by the University under the same processes and standards outlined in this Policy.
Anyone found to have engaged in retaliation shall be subject to discipline, including potential
dismissal from University employment or expulsion.

4. **False Reporting:** A charge of sexual or gender-based misconduct may have severe consequences.
A Complainant who makes a report that is later found to have been intentionally false or made
maliciously without regard for the truth will be subject to disciplinary action. This provision does
not apply to reports made in good faith, even if the facts alleged in the report are not substantiated
by an investigation. Similarly, a Respondent or witness who is later proven to have intentionally
given false information during the course of an investigation may be subject to disciplinary action.

5. **Reports Involving Minors:** Under New Jersey law, every person is a mandatory reporter of child
abuse. Any member of the Stevens community who has reasonable cause to suspect abuse of a
minor under the age of 18 must make a report to the Title IX Coordinator, Deputy Title IX
Coordinator or Campus Police, who will facilitate a report to local law enforcement and the New
Jersey Department of Children and Families.

6. **Preservation of Evidence:** A Complainant is advised to seek medical treatment and preserve
physical evidence following an incident of misconduct even if s/he has not decided whether s/he
wishes to pursue any action against a perpetrator of misconduct. This will help to ensure that a
Complainant receives proper care and preserves his/her opportunity to support a disciplinary or
criminal action at a later time. Stevens’ medical personnel, Campus Police and the Hoboken
University Medical Center can assist Complainants in preserving evidence.

B. **Reporting at Stevens:** Complainants or anyone else who is aware of the occurrence of an incident
covered by this Policy are encouraged to report the incident as soon as possible, to the Stevens’ Title
IX Coordinators and/or to Stevens’ Campus Police.

   i. **Obligation to Report by Certain University Employees:** All faculty members
and any staff member who is (a) a member of Stevens’ Campus Police or
otherwise has a responsibility for campus security; (b) charged with significant
responsibility for student affairs and/or campus activities or programs, including
but not limited to student housing, student discipline, athletics, extra-curricular
activities, Greek life, or student employment; (c) a member of the Human
Resources department; or (d) in a supervisory or managerial role with respect to
students or employees and is informed of an allegation of misconduct covered
by this Policy is, in each case, required to immediately file a report with the
Title IX Coordinator or Deputy Title IX Coordinator. Certain University
employees who serve in a privileged professional capacity (i.e., physicians,
mental health counselors and others who are statutorily prohibited from
reporting) are excluded from this requirement, except where reporting is
required by law.
ii. **Campus Reporting Options:**

a. **Title IX Coordinator and Deputy:**

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**Mark Samolewicz**
Vice President for Human Resources and Deputy Title IX Coordinator
7th Floor of the Howe Center
Phone: 201-216-5218
E-mail: Mark.Samolewicz@stevens.edu

b. **Stevens Campus Police:** Reports can also be made directly to Stevens’ Campus Police. Campus Police can be reached at 201-216-5105 or at the Gate House located at the south entrance to campus across from the Babbio Center. The emergency number is 201-216-3911.

c. **Anonymous Reporting:** Anonymous reports or requests for resources may be made through the University’s EthicsPoint Compliance Hotline at 855-277-4065 or online through https://secure.ethicspoint.com/domain/media/en/gui/31028/index.html. EthicsPoint allows the University to request information from a reporter and provide updates to the reporter on an anonymous basis. Reports made via EthicsPoint will be forwarded to the Title IX Coordinator. EthicsPoint is not an emergency service. For emergency service, reporters should call Stevens’ Campus Police or local law enforcement authorities.

iii. **Study Abroad:** Students on study abroad experiences should report misconduct covered by this Policy to the Stevens Title IX Coordinator or, if necessary, via EthicsPoint.

C. **Reporting to Off-Campus Police:**

1. A Complainant has the option to report the incident to the appropriate local law enforcement authorities and the University will assist the Complainant in doing so. A Complainant who wishes to report an incident to local law enforcement may seek assistance from the Title IX Coordinator, Deputy Title IX Coordinator, or Campus Police. A Complainant may also elect to decline to notify law enforcement.

2. In cases involving potential criminal conduct, Stevens will determine, consistent with its obligations under federal, state and local law, whether appropriate law enforcement or other authorities should be notified.
D. Inquiries or Complaints about the Application of Title IX: Inquiries or complaints about the application of Title IX may be directed to Stevens’ Title IX Coordinator, Deputy Title IX Coordinator, and/or to the United States Department of Education’s Office for Civil Rights.

New York Office
Office for Civil Rights
U.S. Department of Education
32 Old Slip, 26th Floor
New York, NY 10005-2500
Telephone: 646-428-3900
Email: OCR.NewYork@ed.gov

E. Intersection with Other Laws and Law Enforcement: All Stevens community members have a responsibility to adhere to University policies and local, state and federal law. Behavior that violates this Policy may also violate the laws of the locality in which the incident occurred.

1. Law Enforcement Investigation Does Not Relieve University’s Title IX Obligations: A criminal investigation into an allegation of misconduct does not relieve or substitute for the University’s duty to conduct its own prompt review of a complaint. Accordingly, the University will not wait for the conclusion of a criminal investigation or proceeding to begin its own investigation and resolution of an alleged violation. Furthermore, because the standards for criminal proceedings differ from those used in University disciplinary actions, conduct that may not be subject to criminal action may still be addressed through the University’s disciplinary process. A finding of “not guilty” in a criminal matter does not necessarily preclude a finding of responsibility for violating this Policy. At the request of law enforcement, Stevens may agree to defer its fact-gathering until after the initial stages of a criminal investigation. Stevens will nevertheless communicate with the Complainant regarding Title IX resources and procedural options, and the implementation of interim measures to ensure safety and well-being. Stevens will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation.

2. New Jersey Law: The NJ Law Against Discrimination prohibits discrimination on the basis of sex, gender identity or expression, and affectional or sexual orientation. In addition, sexual and/or relationship violence is a crime. Sexual offenses are described in the New Jersey Criminal Code and may be found at Title 2C, Chapter 14. Assault and stalking may be found at Title 2C, Chapter 12. New Jersey’s Prevention of Domestic Violence Act (which also covers dating violence) is available at Title 2C, Chapter 25.

3. Study Abroad: Students who are studying abroad should be aware that they are subject to this Policy as well as the laws of the host country, which define what constitutes sexual violence or other offenses.

VI. INVESTIGATION AND RESOLUTION OF A COMPLAINT:

A. Prompt and Impartial Investigation and Response: Any reported conduct that may be in violation of this Policy will be investigated and addressed in a timely manner by trained individuals who are free from any conflicts of interest which may affect their judgment in the application of the Policy. Upon receiving a report, Stevens will commence an investigation within 10 working days. The University may elect to designate an investigator from outside of the University community. The investigator will conduct a prompt, thorough and impartial initial investigation of the complaint in the manner s/he deems necessary. The parties to the complaint each will have an opportunity to be heard and present witnesses and other evidence and will be kept informed of the status of the investigation as deemed appropriate. While the length of an investigation will depend on a variety of factors including the nature and scope of the allegations, the number of parties and witnesses and the availability of parties and witnesses, the University will seek to conclude the investigation within 25 working days of receipt of the report. The University will seek to resolve the complaint, including any appeals, within 60 working days of the report.
B. **Extension of Timelines:** The University may determine that circumstances warrant extending the timelines for investigation and resolution of a report. Such circumstances may include the unavailability of a party or key witnesses due to holidays or other breaks. In such cases, the University will notify parties of the status of the report and the revised timelines for its investigation and/or resolution.

C. **Standard of Review:** The standard of review that the University will use when reviewing a complaint and making related determinations is the standard of “preponderance of the evidence.” This means that the University will decide whether it is “more likely than not,” based upon the information provided, that the Respondent is responsible for the alleged violation(s).

D. **Prior Sexual History and/or Pattern Evidence:**

1. **Prior Sexual History of a Complainant:** In general, a Complainant’s prior sexual history is not relevant and will not be admitted as evidence in an investigation. Where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of this Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the complainant with other individuals is typically not relevant and will not be permitted.

2. **Pattern Evidence by a Respondent:** Where there is evidence of a pattern or conduct similar in nature by the Respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant and probative to the determination of responsibility and/or assigning of a sanction. Where there is a prior finding of responsibility for a similar act of misconduct, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and/or assigning of a sanction.

Any party seeking to introduce information about prior sexual history or pattern evidence should bring this information to the attention of the investigator at the earliest opportunity. Where a sufficient informational foundation exists, the investigator will assess the relevance, form, and reliability of the information and determine if it is appropriate for inclusion in the report.

E. **Participants in the Process:** Attorneys are not permitted to attend any investigative interviews or other meetings or proceedings under this Policy. If desired, parties may elect to have one silent observer present during investigative interviews; however, this observer may not participate. The observer’s function is solely to provide support. The observer must be a current member of the University’s faculty or staff or a student where the supported party is also a student; however the observer may not be someone who has a current formal role (e.g., advisor, coach, instructor, supervisor) with either the Complainant or Respondent and may not be someone who is otherwise a witness in the investigation. Adversarial hearings, including confrontation, cross-examination by the parties, and advocacy by attorneys or other advocates, are neither appropriate nor permitted during the investigation or resolution process.

F. **Obligation to Participate by University Employees:** The University expects all members of the faculty and staff to cooperate fully in the investigation of complaints. Any faculty or staff member who is the subject of, a potential witness regarding, or the recipient of a report of misconduct covered by this Policy and refuses to cooperate in an investigation is subject to discipline up to and including termination of employment.

G. **Interim Steps:** Where appropriate, prior to or during the investigation, interim steps may be taken to protect the safety and well-being of members of the University community. Depending on whether the situation involves students or employees, such steps may include, but are not limited to the following: restricted access to campus facilities, reassignment in University housing, academic modifications,
academic support services, job modifications, no-contact orders, counseling, interim suspension or leave, or other interim disciplinary measures.

H. Resolution of a Complaint:

1. Title IX Assessment: In every report of misconduct under this Policy, the Title IX Coordinator will make a prompt assessment of the existence of any risk of harm to individuals or to the campus community and will take steps necessary to address those risks. These steps may include interim protective measures to provide for the safety of individuals and the campus community.

2. Informal Resolution: With the consent of the Complainant and the Respondent, and if the University deems the circumstances to warrant doing so, a matter may be resolved through non-disciplinary interventions (e.g., education, counseling, mediation, changes in housing and/or academic accommodations, administrative actions). Either party has the right, however, to end this type of process at any time and begin a formal proceeding. Mediation will not be used to resolve complaints of sexual violence.

3. Formal Resolution: Should an informal resolution be inappropriate or unattainable, the matter will be reviewed under the following process:
   a. The investigator will conduct interview(s) with parties and witnesses;
   b. The investigator will review party and witness statements and other evidence presented;
   c. The investigator will issue a written report to the parties summarizing the witness statements and other evidence presented without rendering any conclusions so that opposing parties have an opportunity to respond to the evidence collected, including correcting factual errors;
   d. Parties have an opportunity to correct and/or respond to the evidence set forth in in the report;
   e. The investigator will review any party responses and make a determination whether University policies have been violated according to the “preponderance of the evidence” standard described above;
   f. The investigator will issue written findings to the parties which include the investigator’s determination as to whether University policies have been violated;
   g. If there has been a finding of responsibility on the part of the Respondent, each party will have an opportunity to provide an impact statement that will be considered by the University administrator who will determine the appropriate disciplinary sanctions. The University administrator may also elect to meet with the parties;
   h. If there has been a finding of responsibility on the part of the Respondent, the relevant University administrator will determine the disciplinary sanctions and/or other remedies.
   i. As a general matter, the relevant University administrator who will determine appropriate sanctions will be (i) the Assistant Vice President for Student Affairs or another designee of the Vice President for Enrollment Management and Student Affairs for matters involving student Respondents and (ii) the Senior Director of Human Resources or another designee of the Vice President of Human Resources for matters involving faculty or staff Respondents.

4. Disciplinary Sanctions: The specific sanctions imposed by the University may differ depending on the circumstances of the matter being addressed. In general, however, sanctions imposed upon Respondents determined to have violated this Policy are at the discretion of the University. Sanctions imposed upon students can include a range of sanctions including, but
not limited to, warning, censure, education, counseling, disciplinary probation, loss of privileges, suspension or expulsion from a residence hall or Greek housing, suspension or expulsion from University premises, and/or suspension or expulsion from the University’s academic programs. Sanctions imposed on employees can include a range of sanctions including, but not limited to, warning, censure, education, counseling, disciplinary probation, paid or unpaid suspension of employment, demotion, or termination of employment. The imposition of sanctions will take effect immediately and will not be stayed pending the resolution of any appeal.

5. **Other Remedies**: Where appropriate, Stevens will take steps to prevent the recurrence of any discrimination, violence, harassment or other misconduct and to correct the effects on the Complainant and others. Examples of such remedies may include the provision of counseling opportunities, academic services, escort services and/or training for members of the Stevens community, as well as making modifications to class scheduling and/or housing assignments.

6. **Notification to Parties**: Stevens will notify each party in writing of the outcome of the complaint. “Outcome” refers to the University’s determination of whether the alleged misconduct occurred, not necessarily the sanction imposed on the Respondent. The Respondent will be informed of any sanctions, the date by which any requirements must be satisfied, and the consequences of failure to satisfy the requirements. The University will disclose to a Complainant information about a sanction imposed upon a Respondent where the sanction directly relates to the Complainant (e.g., imposition of a no-contact order).

7. **Appeals**:

   a. **Grounds for Appeal**: Dissatisfaction with the outcome is not grounds for appeal. The limited grounds for appeal are as follows: (1) new evidence is available that could affect the adjudication that was unavailable at the time of the adjudication; (2) procedural error(s) that had a material impact on the fairness of the investigation or adjudication; and (3) the sanctions imposed were grossly disproportionate to the violation committed.

   b. **Appeal Procedures where the Respondent is a Stevens’ Student**:

      i. Either the Complainant or Respondent may appeal the findings (as provided in (a) above), disciplinary decision and/or the resulting sanction(s) to the Vice President for Enrollment Management and Student Affairs. The person appealing the findings, disciplinary decision and/or sanction(s) must submit a letter of appeal in writing to the Vice President for Enrollment Management and Student Affairs within five working days of receiving the disciplinary decision and sanction(s).

      ii. The Vice President for Enrollment Management and Student Affairs will review the disciplinary file and the appeal letter and may elect to meet with the parties.

      iii. Within 15 working days of receipt of the appeal, the Vice President for Enrollment Management and Student Affairs will render a decision using the preponderance of the evidence standard and will inform the parties of the decision in writing.

      iv. The options available to the Vice President for Enrollment Management and Student Affairs are to: (a) affirm the findings, disciplinary decision and/or
the sanction(s); (2) modify the findings, disciplinary decision and/or sanction(s); or (3) in the event of significant new evidence, order a new adjudication process based on the totality of the evidence.

v. The decision by the Vice President for Enrollment Management and Student Affairs is final. No further appeals are available. A copy of the appellant’s letter will be placed in the parties’ files.

c. Appeals Procedures where the Respondent is a Stevens’ Employee:

A Complainant or Respondent may file a written request for reconsideration of an adjudication in which the Respondent is an employee to the Vice President for Human Resources within five working days of notification of the outcome of the complaint. The Vice President for Human Resources will review the matter and the appeal letter and may elect to meet with the parties. Within 15 working days of receipt of the appeal, the Vice President for Human Resources will render a decision and inform the parties in writing. The decision by the Vice President for Human Resources shall be final except that, following such decision of the Vice President for Human Resources, certain specified employees may take the additional actions provided below. A copy of the appellant’s letter will be placed in the parties’ files.

i. Tenured and Tenure-Track Faculty who have received a proposed sanction of dismissal or suspension without pay are entitled to request that the charges be reviewed according to the procedures set forth in Section 3.7.2 of the Faculty Handbook. This additional review process is not for the purpose of re-evaluating whether the misconduct occurred but rather for determining whether the finding of misconduct justifies the discipline imposed.

ii. Bargaining Unit Employees may resort to the grievance procedures of the applicable collective bargaining agreement. This additional review process is not for the purpose of re-evaluating whether the misconduct occurred but rather for determining whether the finding of misconduct justifies the discipline imposed.

8. Student Employees: In the event that the Respondent is both a student and a Stevens’ employee, the complaint will be processed according to the student procedures contained in this Policy.

9. Resolution Where the Respondent is Neither a Stevens Student Nor Employee: Complaints against individuals who are not members of the Stevens’ community (e.g., contractors, vendors, or other visitors to Stevens’ campus) will be investigated and Stevens will take steps to remedy the misconduct and support the Complainant in reporting the misconduct externally. While Stevens’ ability to impose sanctions against a person who is neither a student nor an employee may be limited, such sanctions will be considered and, if appropriate, imposed on such person (e.g., ban from campus, notifying the Respondent’s employer of the misconduct). In addition, where appropriate, Stevens will take steps to prevent the recurrence of any discrimination, violence, harassment or other misconduct and to correct the effects on the Complainant and others.

I. Records: The Title IX Coordinator will retain records of all reports, allegations and complaints, regardless of how the matter is resolved. A complaint against a student which is resolved by the Title IX Coordinator or Deputy Title IX Coordinator’s assessment or informal resolution will not be part of a student’s conduct file or academic record. Affirmative findings of responsibility in matters resolved through formal
resolution will be part of a student’s conduct record. Such records shall be used in reviewing any further conduct or in developing sanctions. The University reserves the right to include any records regarding complaints against non-student employees in the employee’s personnel file.

J. **Expectations of Parties:** Participants in proceedings under this Policy should expect the following:

1. The right to be treated with respect, dignity, and sensitivity throughout the process.

2. If the party is a student, the ability to seek support services at or through the University (e.g., on- and off-campus counseling, mental health or other student services for victims of misconduct covered by this Policy). If the party is an employee, the ability to use Stevens’ employee support programs.

3. If the party is a student, the right to protection under the Family Educational Rights and Privacy Act (“FERPA”), a federal law that protects the privacy of student education records.

4. The right to file a complaint on campus and to avail oneself of the process for doing so including, but not limited to, the following: an adequate, reliable, prompt and impartial investigation of complaints; an equal opportunity to present relevant witnesses and other evidence; and an equal opportunity to file an appeal.

5. The right to file a complaint with the appropriate local law enforcement authorities and to obtain assistance from the University in doing so.

6. If the party is a student, the right to request and receive a housing or academic modification if such a modification is reasonably available.

7. The right to be notified of the outcome of the complaint.

F. **CONCLUSION**

Stevens is committed to equality of opportunity and maintaining a safe learning environment that is free of gender-based and sexual misconduct including sexual violence, sexual harassment, relationship violence and stalking. All members of the Stevens community are responsible for compliance with this Policy and are encouraged to report misconduct covered by this Policy whether it takes place on or off-campus. In addition, all faculty members and all staff members listed at Section V.B. of this Policy are **required** to immediately report allegations of misconduct to the Title IX Coordinator or Deputy Title IX Coordinator, regardless of whether the Complainant intends to make a report. This Policy supersedes all other student and employee policies with respect to sex discrimination, gender-based discrimination, affectional and sexual orientation discrimination, sexual violence, sexual harassment, relationship violence, stalking and other forms of gender-based or sexual misconduct. Inquiries or complaints about the application of Title IX may be directed to Stevens’ Title IX Coordinator, Deputy Title IX Coordinator, and/or to the United States Department of Education’s Office for Civil Rights (“OCR”). The contact information for the OCR may be found at Section V.D of this Policy.