



## **Title IX Policy**

Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination based on sex in education programs and activities in federally funded schools at all levels. If any part of a school district or college receives any Federal funds for any purpose, all of the operations of the district or college are covered by Title IX.

Title IX protects students, employees, applicants for admission and employment, and other persons from all forms of sex discrimination, including discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity. All students (as well as other persons) at recipient institutions are protected by Title IX—regardless of their sex, sexual orientation, gender identity, part- or full-time status, disability, race, or national origin—in all aspects of a recipient’s educational programs and activities

### **Introduction.**

Be Aveda Institutes (the “Institute”) is committed to providing a working and educational environment for all faculty, staff, and students that is free from unlawful sexual discrimination, which includes sexual harassment and sexual violence.

To that end, this policy prohibits sexual misconduct that constitutes sexual discrimination, sexual harassment, sexual violence, sexual assault, relationship/dating violence, stalking, and related claims of retaliation.

All students and employees receive mandatory Sexual Harassment and Prevention training at orientation and at least annually thereafter. In addition, the Institute provides training to key staff members to enable the Institute to investigate any allegations of sexual discrimination promptly and effectively.

As part of the Institute’s commitment to providing a discrimination-free working and learning environment, this policy shall be disseminated widely to the Institute community through publications, the Institute website, new employee orientations, student orientations, and/or other appropriate channels of communication. The Institute is committed to addressing and responding to all reports of sexual discrimination, and will take appropriate action to prevent, correct, and if necessary, discipline behavior that violates this policy.

### **Scope.**

This policy applies to any allegations of sexual misconduct against any faculty or staff (an “employee”) or student, regardless of where the alleged conduct occurs. The actions of third parties (e.g., contractors, vendors, guests, or visitors) that impact students or employees may also be subject to review under this

policy. If a third party is the accused, the matter will be referred to the appropriate authorities for resolution.

### **Definitions.**

*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 harassment may include incidents between any members of the Institute community, including employees, students, and non-employees participants in the Institute community, such as vendors, contractors, guests, and visitors. It can have the effect of unreasonably interfering with a person's or a group's educational or work performance or can create an intimidating, hostile, or abusive educational or work environment. Sexual harassment can take many forms, and the determination of what constitutes sexual harassment will vary according to the particular circumstances.

*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). Sexual violence includes rape, sexual assault, sexual battery, sexual abuse, and sexual coercion; domestic violence; dating violence; and stalking.

*Gender-based harassment* is another form of sexual harassment and refers to unwelcome conduct based on an individual's actual or perceived sex, including harassment or acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender identity or nonconformity with sex stereotypes, and not necessarily involving conduct of a sexual nature.

All of these types of sex-based harassment are forms of sex discrimination prohibited by Title IX.

*Sexual assault* occurs when a physical sexual activity is engaged in without the consent of the other person or when the other person is unable to consent to the activity. The activity or conduct may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol and taking advantage of the other person's incapacitation (including voluntary intoxication).

*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 cohabitating with or has cohabitated 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 the jurisdiction in which the crime occurred, or
- 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 the jurisdiction in which the crime occurred.

*Dating violence* means violence committed by a person—

- who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - the length of the relationship;
  - the type of relationship; and
  - the frequency of interaction between the persons involved in the relationship.

*Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to

- fear for his or her safety or the safety of others; or
- suffer substantial emotional distress.

*Consent* is a voluntary agreement to engage in sexual activity. Someone who is incapacitated cannot consent. Past consent, silence, or an absence of resistance does not imply present or future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Coercion, force, or threat of either invalidates consent.

*Incapacitation* prevents a person from having the capacity to give consent, such as due to the use of drugs or alcohol, when a person is asleep or unconscious, or because of an intellectual or other disability.

### **Prohibited Conduct.**

This policy strictly prohibits sexual or other unlawful harassment or discrimination as well as sexual violence, as defined above. Sexual or other unlawful harassment or discrimination includes any verbal, physical or visual conduct based on sex, race, age, national origin, disability or any other legally protected basis if:

- i. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education or employment;
- ii. submission to or rejection of such conduct by an individual is used as a basis for decisions concerning that individual's education or employment; or
- iii. it creates a hostile or offensive work environment, which means the alleged conduct is sufficiently serious to limit or deny a student's or ability to participate or benefit from the student's education program.

Unlawful harassment or discrimination may include racial epithets, slurs and derogatory remarks, stereotypes, jokes, posters or cartoons based on race, national origin, age, disability, marital status or other legally protected categories.

Sexual harassment is conduct based on sex, whether directed towards a person of the opposite or same sex, and may include explicit sexual propositions, sexual innuendo, suggestive comments, sexually oriented “kidding” or “teasing,” practical jokes, jokes about or displays of obscene printed or visual material, questions about sexual fantasies, preferences or history, and physical contact such as patting, pinching, or intentionally brushing against another person’s body. Gender-based harassment, including acts of verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping are strictly prohibited, even if those acts do not involve conduct of a sexual nature.

### **Grievance Procedures.**

The following grievance procedures apply to sex discrimination complaints filed against school employees, other students, or third parties:

### **Reporting Policies and Protocol.**

Any member of the Institute community may report conduct that may constitute sexual harassment or discrimination under this policy. In addition, managers and other designated employees are responsible for taking whatever action is necessary to prevent sexual misconduct, to correct it when it occurs, and to report it promptly to the Title IX Coordinator.

If you believe that you have experienced or witnessed harassment or sexual misconduct, notify your instructor, supervisor, Human Resources, or the Title IX Coordinator as soon as possible after the incident. Do not allow an inappropriate situation to continue by not reporting it, regardless of who is creating the situation. No employee, contract worker, student, vendor or other person who does business with the Institute is exempt from the prohibitions in this policy. Supervisors will refer all harassment complaints to the Title IX Coordinator for student-related complaints and to the Human Resources Department if the complaint involves an employee. In order to facilitate the investigation, your complaint should include details of the incident or incidents, names of the individuals involved and names of any witnesses.

The Institute recognizes that sexual harassment frequently involves interactions between persons that are not witnessed by others or cannot be substantiated by additional evidence. Lack of corroborating evidence or “proof” should not discourage individuals from reporting sexual harassment under this policy. However, making false charges of sexual harassment is a serious offense. If a report is found to have been intentionally false or made maliciously without regard for truth, the claimant may be subject to disciplinary action. This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

### **Investigation and Response to Sexual Harassment Allegations.**

The Institute takes all reports seriously and will provide a prompt and equitable response to all reports of sexual harassment. A prompt and equitable response may include an early resolution of the issue, a formal investigation, and/or targeted training or educational programs designed to prevent recurrence of any sexual misconduct. Mediation will not be used to resolve sexual assault complaints. If an investigation is warranted, the Institute shall maintain confidentiality for all parties to the extent permitted by law. However, complainants should be aware that in a formal investigation due process generally requires that the identity of the charging party and the substance of the complaint be revealed to the person charged with the alleged harassment. Nonparty witnesses who participate in sexual

harassment investigations shall not share with involved parties, other witnesses, or any others, information revealed to them during the investigation.

The time necessary to conduct an investigation will vary based on complexity but generally the Institute will conduct an investigation within 60 days of receipt of the complaint. Every complainant will have the right to present his or her case, which includes the right to an adequate, reliable, and impartial investigation of the complaint. Parties will be given an equal opportunity to present witnesses and evidence. The preponderance of the evidence standard will apply to investigations, meaning that the Institute will evaluate whether it is more likely than not that the alleged conduct occurred. Both parties will be given periodic status updates and will receive written notice of the outcome of the complaint. During the investigation, the Institute will provide interim measures, as necessary, to protect the safety and well-being of students and/or employees involved. Either party may file an appeal, if applicable.

If the Institute determines that unlawful harassment or other prohibited behavior has occurred, immediate appropriate corrective action will be taken in accordance with the circumstances involved, and the Institute will take steps to prevent the recurrence of any harassment or discrimination. Any employee determined by the Institute to be responsible for unlawful harassment or discrimination will be subject to appropriate disciplinary action, up to and including termination. Remedies for student-related claims may include, but are not limited to, an order to stay away, suspension, or expulsion.

To initiate a criminal investigation, reports of sexual violence should be made to "911" or local law enforcement. The criminal process is separate from the Institute's disciplinary process. To the extent that an employee or contract worker is not satisfied with the Institute's handling of a harassment or discrimination complaint, he or she may also contact the appropriate state or federal enforcement agency for legal relief.

### **Retaliation Prohibited.**

Employees and students are protected by law from retaliation for reporting alleged unlawful harassment or discrimination or for otherwise participating in processes connected with an investigation, proceeding or hearing conducted by the Institute or a government agency with respect to such complaints.

The Institute will not retaliate against you for filing a complaint and will not tolerate retaliation by students or employees. If you believe you have been retaliated against, you should promptly notify your supervisor, Human Resources, or the Title IX Coordinator.

### **Role of the Title IX Coordinator.**

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education's implementing regulations at 34 C.F.R. Part 106, the Institute's Title IX Coordinator has primary responsibility for coordinating the Institute's efforts to comply with and carry out its responsibilities under Title IX, which prohibits sex discrimination in all the operations of this Institute, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX. Sexual misconduct against students, including sexual harassment, sexual assault, rape, and sexual exploitation, can be a form of sex discrimination under Title IX. The Title IX coordinator oversees the Institute's response to reports and complaints that involve possible sex discrimination to monitor outcomes,

identify and address any patterns, and assess effects on the campus climate, so the Institute can address issues that affect the wider school community.

A student should contact the Title IX Coordinator to:

- seek information or training about students' rights and courses of action available to resolve reports or complaints that involve potential sex discrimination, including sexual misconduct;
- file a complaint or make a report of sex discrimination, including sexual misconduct;
- notify the Institute of an incident or policy or procedure that may raise potential Title IX concerns;
- get information about available resources (including confidential resources) and support services relating to sex discrimination, including sexual misconduct; and
- ask questions about the Institute's policies and procedures related to sex discrimination, including sexual misconduct.

Colleen Komar, Executive Director of Financial Aid/Compliance, is the Institute's Title IX Coordinator and can be reached in person at 235 3<sup>rd</sup> Street South, Suite 200, St. Petersburg FL 33701, by telephone at 727.498.1480, or via email at [colleenk@avedaflorida.edu](mailto:colleenk@avedaflorida.edu).

Inquiries or complaints that involve potential violations of Title IX may also be referred to the U.S. Department of Education's Office for Civil Rights, by mail at 400 Maryland Avenue, SW, Washington, D.C., 20202-1328, by phone at 800.421.3481, or by email at [ocr@ed.gov](mailto:ocr@ed.gov). Regional office contact information can be found at <https://wdcrobcop01.ed.gov/cfapps/OCR/contactus.cfm>.

### **Functions and Responsibilities of the Title IX Coordinator.**

The Institute ensures that its employee(s) designated to serve as Title IX Coordinator(s) have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the Institute's grievance procedures operate. Because complaints can also be filed with an employee's supervisor or Human Resources, these employees also receive training on the Institute's grievance procedures and any other procedures used for investigating reports of sexual harassment.

### **Additional Information**

Employees should contact Human Resources for more information, or any questions related to this policy. Students may contact the Title IX Coordinator with any questions related to this policy. In addition, the U.S. Department of Education Office for Civil Rights ("OCR") investigates complaints of unlawful harassment of students in educational programs or activities. This agency may serve as a neutral fact finder and will attempt to facilitate the voluntary resolution of disputes with the parties. For more information, visit the OCR website at: <http://www.hhs.gov/ocr/>.