

## **Sexual Harassment, Sexual Assault, Sexual Misconduct, Relationship (Dating) Violence and Stalking Disciplinary Procedures**

Cranbrook Academy of Art (Cranbrook) is committed to treating all members of the community with dignity, care, and respect. Any community member who experiences or is affected by the behaviors outlined in Cranbrook's *Sexual Harassment, Sexual Assault, Sexual Misconduct, Relationship (Dating) Violence and Stalking* policies, whether as a complainant, respondent, or third party, will have equal access to care and support from the institute. Interim remedies are available to all parties, and are detailed in the following grievance procedure section of this policy.

### **Grievance procedures**

These grievance procedures have been adopted by Cranbrook to provide a prompt and equitable method for reporting, investigating, and resolving complaints of alleged violations of Cranbrook's *Sexual Harassment, Sexual Assault, Sexual Misconduct, Relationship (Dating) Violence and Stalking* policy. In cases involving potential crimes, including sexual assault, dating or domestic violence, or stalking, individuals are encouraged to file a report with the local law enforcement which has jurisdiction over the location in which the misconduct occurred. If needed, Cranbrook will provide a support person to assist the complainant in contacting local law enforcement and making a report.

Cranbrook's grievance procedures and the legal system work independently from one another and Cranbrook will proceed with its process, regardless of action or inaction by outside authorities. Decisions made or sanctions imposed through these grievance procedures are not subject to change because criminal or civil charges arising from the same conduct are dismissed, reduced, or rejected in favor of or against the respondent.

In certain instances, Cranbrook may need to report conduct to appropriate law enforcement agencies even when the subject of the conduct has decided not to do so. Such circumstances include situations that present a clear and imminent danger or risk to any member of the school community or the community as a whole, when a weapon is involved in the incident, or when the alleged conduct involves sexual misconduct and the complainant is a minor. In such cases where Cranbrook deems it necessary to notify law enforcement, the decision to report will be shared with the complainant.

### **Reporting to the institution**

Any member of Cranbrook's community—whether faculty, staff, or student—who wishes to report an incident of discrimination, harassment, or sexual misconduct as defined in Cranbrook's *Sexual Harassment, Sexual Assault, Sexual Misconduct, Relationship (Dating) Violence and Stalking* policy should first bring this matter to the appropriate Cranbrook representative listed below. Under no circumstances is an individual required to report discrimination, harassment, and/or sexual misconduct to a supervisor or academic instructor who is the alleged perpetrator. The persons charged with handling and investigating discrimination, harassment, and/or sexual misconduct complaints may consult with legal counsel at any point during the process. The procedures should be followed in a manner that is as confidential and sensitive as possible in order to protect all the individuals involved.

There may be situations or circumstances when a member of Cranbrook's community is subjected to discrimination, harassment, and/or sexual misconduct, but does not wish to come forward to pursue a complaint, or when a person observes discrimination, harassment, and/or sexual misconduct directed at another member of the community. Cranbrook will do all it can to respect the victim's wishes, but may proceed to address allegations of discrimination, harassment, and/or sexual misconduct if and when Cranbrook administrators become aware of such allegations, especially where the circumstances present a threat of harm or injury to the victim or other members of the community.

To make a report or complaint against a student, contact:

Judy Dyki, Director of Library and Academic Programs  
Cranbrook Academy of Art  
39221 Woodward Avenue  
Art Academy Administration, 2<sup>nd</sup> Floor  
Bloomfield Hills, MI 48304  
(248) 645-3364  
jdyki@cranbrook.edu

To make a report or complaint against a faculty member, staff member, or third party, contact:

Beth Beadle, *Human Resources Director*  
Cranbrook Educational Community

39221 Woodward Avenue  
Cranbrook House, 1<sup>st</sup> Floor  
Bloomfield Hills, MI 48304  
(248) 645-3165  
bbeadle@cranbrook.edu

After hours, contact campus security at 248.645.3170

Reports may be made orally or in writing. Reports may also be made to responsible employees. A responsible employee is a person who: has the authority to take action to redress sexual violence; has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty. Cranbrook designates all professional staff and faculty members as responsible employees.

Any person who brings a complaint of discrimination, harassment, or sexual misconduct under this policy may seek a campus "active avoidance" order pending disciplinary action. These are written orders issued to the respondent that restrict or prohibit contact with the complainant or impose other restrictions as may be appropriate. Request for such orders may be made to the administrators handling the complaint. Complainants may also seek protective measures from outside law enforcement agencies.

### **Interim measures**

Cranbrook may take whatever measures deemed necessary in response to an allegation in order to protect an individual's rights and personal safety and the safety of the Cranbrook community. Such measures include, but are not limited to, an interim suspension (immediate, temporary suspension pending the outcome of the grievance process), an active avoidance order (an order that an individual refrain from direct or indirect contact with another person or persons), restrictions on access to campus or areas of campus, and/or appropriate changes in academic schedule. Interim measures may include reporting the matter to the local police. Failure to adhere to the parameters of any interim measure is a violation of Cranbrook policy and may lead to additional disciplinary action. Interim measures will be determined by the Director or the HR Director, as appropriate. Such interim measures may be imposed:

- In instances where the complaining party feels unsafe;
- In instances where it is determined that the accused party poses a potential threat to another;
- To ensure the safety and well-being of members of the Cranbrook community and/or preservation of Cranbrook property;
- To ensure the accused party's own physical or emotional safety and well-being; or
- If the accused party poses a threat of disruption or interference with the normal operations of Cranbrook.

### **Support person**

Each party may have a support person present with them at all meetings and any hearing associated with the complaint and in which the respective individual is participating. The support person may attend, but shall not participate in, meetings or the hearing. Legal counsel will not be permitted, except in cases of sexual assault, dating violence, domestic violence or stalking or in which any party to the grievance faces potential criminal charges or if required by applicable law. In such cases, an attorney will only be permitted in a non-participatory advisory role at the party's expense.

### **Informal complaint procedure**

Note: the informal procedure is not appropriate for and will not be used in the case of sexual misconduct. When an incident arises in which a person feels that they have been subjected to discrimination, harassment, or sexual misconduct as defined in this policy, it should be addressed as soon as possible. In many cases, informal actions can be taken that will effectively stop the misconduct; however, informal resolution is never required. The person may choose to confront the offender, making clear that they do not want any further incidents to occur. If this does not stop the misconduct, or if the person does not feel that they can confront the offender or needs help in the process, the following procedure should be followed: when the offender is a student, the Director should be contacted. When the offender is a staff or faculty member, the HR Director should be contacted.

The administrator can provide the person with support and advice on how to confront the offender and how to discourage further misconduct. At the person's request, the administrator may also intervene directly with the offender. In this case, the administrator will provide the offender an opportunity to respond to allegations and after discussions with both parties, may attempt to mediate or suggest another person to mediate a solution, which may result in a written agreement between the parties.

Other remedial action may also result. The administrator will make every effort to resolve the informal complain in a timely manner. At any time, either party may end the informal process and begin the formal complaint procedure. The formal procedures may also be started if the informal complaint procedure has not resulted in satisfactory resolution to the complainant.

### **Formal complaint procedure**

Prompt reporting of a complaint of discrimination, harassment, and/or sexual misconduct as defined in Cranbrook's *Sexual Harassment, Sexual Assault, Sexual Misconduct, Relationship (Dating) Violence and Stalking* policy is strongly encouraged, as it facilitates a faster resolution. However, Cranbrook may need to investigate and take appropriate action in response to all reports regardless of when the alleged conduct occurred. The ability of Cranbrook to respond is limited if the respondent is no longer a member of the Cranbrook community. If a Cranbrook staff member, faculty member, or student leaves Cranbrook with a pending complaint against them, they will not be permitted to return to Cranbrook until the case is resolved through these grievance procedures.

The following outlines the formal complaint procedure that will be used to address violations of this policy and any appeals based on the same. No other available grievance or appeals procedures may be applied to violations of this policy or sanctions based on those violations. Upon receipt of a report of a violation of this policy, Cranbrook will activate the following grievance procedures:

1. Reports of complaints of alleged violations of this policy should be submitted to (or will be forwarded to) Cranbrook's responsible administrator as follows:
  - A. If the respondent is a student, the Director should be notified.
  - B. If the respondent is a staff or faculty member, the HR Director should be notified.
2. Within five (5) business days, unless unusual or complex circumstances exist, the responsible administrator will meet with the complainant to review the complaint, related policies, and the grievance procedures. The responsible administrator will also identify support resources and interventions or interim measures available to the complainant.
3. In cases where the alleged violation is reported to Cranbrook by a third party, the victim will be notified by the responsible administrator that a complaint has been received. The responsible administrator will meet with the victim to discuss their options and resources available to them at Cranbrook and in the community.
4. Within five (5) business days of meeting with the complainant, unless unusual or complex circumstances exist, the responsible administrator will appoint a trained investigator to conduct a thorough, impartial, and prompt investigation of the complaint which shall be completed within sixty (60) days, unless unusual or complex circumstances exist.
5. The investigator, in consultation with the responsible administrator, will establish a timeline and process for the investigation, including a plan for notifying the respondent (the subject of a report or complaint). The investigator will conduct interviews as needed with all appropriate individuals including the complainant and respondent, and will gather any pertinent evidentiary materials. Upon completion of the investigation, the investigator will prepare a report detailing the investigation, including a summary of the interviews and the evidentiary materials gathered. Based on the results of the investigation, the investigator will make an appropriate finding based on the preponderance of the evidence, either:
  1. It is more likely than not that the alleged conduct did not occur and the respondent is not responsible for violating this policy; or
  2. It is more likely than not that the alleged conduct did occur and the respondent is responsible for violating this policy. The investigator will share the investigation report and findings with the responsible administrator.

If the investigator finds that the respondent is not responsible for a policy violation, the investigation shall be closed and the responsible administrator shall notify the complainant and respondent of this outcome, consistent with Cranbrook's obligations under FERPA. In some circumstances involving a finding of no violation, Cranbrook may institute other forms of remedial, community-based responses, such as educational initiatives and/or trainings, as the responsible administrator determines appropriate under the circumstances.

The complainant may appeal the outcome of the investigation if the finding is not responsible (see appeals section below). If the investigator finds that the respondent is responsible for violation of this policy, then the responsible administrator and/or the investigator will present the findings to the respondent and the complainant separately. The respondent may accept the findings as presented, accept the findings in part and reject them in part, or reject all of the findings. If the respondent accepts the findings, the appropriate administrator, as outlined below, will impose

sanctions appropriate for the violation. If the respondent is a student, the Director will impose sanctions. If the respondent is a faculty member, the Director will impose sanctions. If the respondent is a staff member, the HR Director will impose sanctions. If the respondent rejects the findings in part or entirely, the responsible administrator will forward the complaint to the administrative hearing process (see below). In cases in which the respondent accepts some of the findings and rejects other, the findings accepted by the respondent will stand and the hearing will be convened solely to resolve the contested findings.

### **Sanctions**

Cranbrook may consider the following determining sanctions(s): the nature of the circumstances surrounding the violation, the respondent's prior disciplinary record, precedent cases, Cranbrook safety concerns and other information deemed relevant. The sanction(s) will be structured to end such conduct, prevent its recurrence, and remedy its effects on the complainant and the Cranbrook community. The administrator will render a sanction decision within five (5) business days of receiving the investigator's findings. Not all violations will be deemed equally serious offenses, and Cranbrook reserves the right to impose different sanctions, ranging from warning to expulsion/termination, depending on the severity of the offense. Cranbrook will consider the concerns and rights of both the complainant and the respondent. Where appropriate, the sanctions will be reported to the complainant and the respondent in writing. The sanctions(s) imposed will be implemented immediately and will be in effect pending the outcome of the appeal. Possible sanctions include but are not limited to:

- Students: up to and including suspension or dismissal
- Faculty: up to and including suspension without pay and dismissal/termination of employment
- Staff: up to and including dismissal/termination of employment
- Third parties: up to and including removal from campus and termination of contractual agreements.

### **Formal administrative hearing procedure**

Formal complaints of discrimination, harassment, and/or sexual misconduct as defined by this policy will be received and decided by an administrative hearing process. The staff member conducting the administrative hearing is charged with determining, based on the preponderance of the evidence or other legally appropriate standard, whether or not the respondent violated any Cranbrook policies specific to the alleged conduct. The administrative hearing officers will be assigned as follows:

- When the respondent is a student, the Director.
- When the respondent is a faculty member, the Director and HR Director.
- When the respondent is a staff member, the HR Director

An alternate staff member may serve as the hearing officer when one of the appointed members is unavailable or must be recused from a particular case due to conflict of interest. Both parties will be given the opportunity to respond to the issues before the hearing officer. Such responses may be in writing or in person, and shall be made within the timeframe established by the hearing officer. The hearing officer will review all the documentation of the investigation, any other evidentiary material as needed, and may also call witnesses as deemed appropriate.

The hearing officer will determine an appropriate finding based on a preponderance of the evidence either that: (1) it is more likely than not that the alleged conduct did not occur and that the respondent is not responsible for violating Cranbrook policy; or (2) it is more likely than not that the alleged conduct did occur and the respondent is responsible for violating Cranbrook policy. If the officer finds that a violation occurred, they will issue a written decision that includes the imposition of sanctions, if appropriate. In determining sanctions, the officer will take into account any previous violations of this policy. If the respondent is a Cranbrook employee, copies of the decision are provided to the complainant and the respondent to the extent appropriate. If the respondent is a student, a copy of the written decision is provided to the respondent and the complainant. The complainant shall also be advised of the officer's decision to the extent permitted by the provisions of FERPA and required by The Clery Act. If the officer determines that the respondent has violated the discrimination, harassment, and/or sexual misconduct policy, the appropriate administrator shall implement any sanctions imposed by the officer. When the respondent is an employee, the HR Director shall institute sanctions together with the respondent's supervisor and/or department head. Sanctions may include, but are not limited to:

Students: an oral warning; a written letter of warning; a letter of reprimand, mandatory attendance of an educational program on discrimination, harassment, and/or sexual misconduct; mandatory referral for psychological assessment and compliance with any resulting treatment plan; change in room assignment; probation; cancellation of residence hall contract and removal from the residence halls; suspension; or dismissal from Cranbrook.

Faculty: an oral warning; a written letter of warning; a letter of reprimand, mandatory attendance of an educational program on discrimination, harassment, and/or sexual misconduct; restriction of responsibilities; reassignment; denial of salary increase; suspension without pay; or termination.

Staff: an oral warning; a written letter of warning; a letter of reprimand, mandatory attendance of an educational program on discrimination, harassment, and/or sexual misconduct; restriction of responsibilities; reassignment or transfer to another department; denial of salary increase; suspension without pay; or termination.

The sanctions described in this policy are not exclusive of and may be in addition to other actions taken or sanctions imposed by outside authorities. Sanctions imposed will be determined on the basis of the facts and the extent of harm to the individuals involved and Cranbrook's interests. The sanctions imposed will be implemented immediately and will be in effect pending the outcome of any appeal.

### **Appeals**

Either party may appeal the hearing officer's decision in accordance with the policy detailed below. An appeal is not intended to be a new investigation or a full re-hearing of the complaint. In most cases, an appeal is confined to a review of the written documentation and/or record of the investigation and/or administrative hearing and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for the appeals officer to substitute their judgment for that of the investigator or the hearing officer merely because the appeals officer disagrees with the finding and/or sanction. Appeal decisions are to be deferential to the investigator and the hearing officer, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so. Disagreement with the finding or sanction is not, by itself, grounds for an appeal. The only grounds upon which an appeal may be made are:

**Procedural error:** a procedural error occurred that significantly impacted the outcome of the investigation and/or administrative hearing as it applies to the appealing party (e.g. substantiated bias, material deviation from established procedures, etc.). A description of **the error and its impact on** the outcome of the case as it applies to the appealing party must be included in the written appeal.

**New information:** new information has arisen which was not available or known to the appealing party during the investigation or hearing and that could have substantially impacted the original finding or sanction(s) had it been available at that time. Information that was known to the appealing party at the time of the investigation or hearing but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the findings and/or sanction must be included in the written appeal; or

**Disproportionate sanction(s):** the sanctions imposed are substantially disproportionate to the severity of the violation(s). An explanation of why the sanction(s) are disproportionate to the severity of the violation must be included. Mere dislike or disagreement with the sanction(s) or the impact of the sanction(s) on the appealing party is not grounds for an appeal.

The written appeal should be submitted to the Title IX Coordinator or deputy coordinator within two (2) business days following the date of the administrative hearing outcome letter. The non-appealing party will receive notice of the appeal from the Title IX Coordinator or deputy coordinator and will have two (2) business days to submit a written response to the appeal to the Title IX Coordinator or deputy coordinator. If the appeal is related to disproportionate sanctions, the administrator will have two (2) business days to submit a written explanation for the sanctioning decision to the Title IX Coordinator or deputy coordinator for submission to the appeals officer.

### **Confidentiality**

Cases involving sexual misconduct are particularly sensitive and demand special attention to issues of confidentiality. Those responsible for carrying out the responsibilities outlined in this policy will respect the confidentiality and privacy of the individuals involved, to the extent reasonably possible. Those individuals reporting, involved in, respondent of, or otherwise involved in a discrimination, harassment, and/or sexual misconduct complaint are also required to keep the matter as confidential as is reasonably possible. Absolute confidentiality may not be maintained in all circumstances, including when Cranbrook is required to disclose information in response to legal process or when Cranbrook's need to protect the rights of others must outweigh confidentiality concerns. Often, the person reporting or otherwise concerned about discrimination, harassment, and/or sexual misconduct wants the conversation to be considered confidential or off the record. Faculty, staff and other Cranbrook employees may be required to disclose information concerning discrimination, harassment, and/or sexual misconduct that is not personally identifiable, or if a member of Cranbrook's community is at risk, to disclose personally identifiable information to the appropriate Cranbrook leaders.

### **Anonymous complaints**

Cranbrook will reasonably respond to all allegations of discrimination, harassment, and/or sexual misconduct. However, due to the inherent difficulty of investigating and resolving allegations from unknown persons, it may be difficult for Cranbrook to resolve an anonymous complaint. Cranbrook may be unable to impose disciplinary action against a person who has allegedly committed discrimination, harassment, and/or sexual misconduct if a complainant insists

that his or her name not be revealed. Frivolous complaints the purpose of this policy is to promote and maintain an environment at Cranbrook that is free from discrimination, harassment, and/or sexual misconduct. Any member of Cranbrook's community who believes that they have been subjected to discrimination, harassment, and/or sexual misconduct is encouraged to use the procedures provided in this policy, not only for the benefit and protection of that individual, but ultimately for the entire Cranbrook community. However, false charges of discrimination, harassment, and/or sexual misconduct undermine the purpose and effectiveness of this policy. Accordingly, persons who knowingly make false charges of discrimination, harassment, and/or sexual misconduct may be subject to disciplinary action. The failure of a complaint to result in a finding of discrimination, harassment, and/or sexual misconduct is not alone evidence that the charges were knowingly false.

#### **Record retention**

Records of investigations and hearings are maintained by Cranbrook for five (5) years as indicated below.

Students: if the respondent is a student, the records will be maintained for five (5) years past the student's graduation or if the student leaves Cranbrook before graduation, for five (5) years past their original expected graduation date.

Faculty or staff: if the respondent is a faculty or staff member, the records will be maintained for five (5) years past the conclusion of the investigation and any hearing.

#### **Information concerning registered sex offenders**

As required by the federal campus sex crimes prevention act, institutions of higher education must issue a statement advising Cranbrook community members where information concerning registered sex offenders may be obtained. Persons convicted of certain sex offenses are required by law to register with the state. Information on registered sex offenders is available at: <http://meganslaw.ca.gov/index.htm>. The department of justice national sex offender public website is also a source for sex offender information. For information on registered sex offenders attending or employed at Cranbrook, contact the local police department.