

MINERVA SCHOOLS AT KGI

**SEX AND GENDER DISCRIMINATION:
PROHIBITED SEXUAL CONDUCT POLICY**

Table of Contents

I. INTRODUCTION..... 3

II. POLICY STATEMENT 3

A. SCOPE.....4

B. TITLE IX4

C. OTHER REGULATIONS5

D. PRIVACY AND CONFIDENTIALITY6

III. DEFINITIONS OF TERMINOLOGY..... 6

IV. DEFINITIONS OF PROHIBITED SEXUAL CONDUCT..... 10

A. SEXUAL OR GENDER-BASED DISCRIMINATION..... 10

B. SEXUAL MISCONDUCT 12

C. INTIMATE PARTNER VIOLENCE 14

D. PROHIBITED RELATIONSHIPS BY PERSONS IN AUTHORITY 14

E. RETALIATION..... 15

V. CONSENT CULTURE AT MINERVA 15

VI. EDUCATIONAL TRAINING AND RISK REDUCTION 16

VII. REPORTING PROCESSES AND RESOURCES..... 18

A. EXTERNAL REPORTING PROCESS 18

B. INTERNAL REPORTING PROCESSES 19

C. OTHER REPORTING CONSIDERATIONS 19

VIII. INVESTIGATION, HEARING, AND APPEAL PROCEDURES.....20

A. PARTICIPATION OF SUPPORT PERSON 21

B. PRELIMINARY INQUIRY 21

C. INFORMAL RESOLUTION..... 23

D. FORMAL INVESTIGATION..... 24

E. HEARING PROCESS 27

F. APPEAL PROCESS..... 29
G. RIGHTS OF THE PARTIES..... 30
H. RECORDKEEPING 32
I. PRESERVING EVIDENCE 32
IX. LOCAL RESOURCES.....33

I. INTRODUCTION

The mission of Minerva is to nurture critical wisdom for the sake of the world. We apply critical wisdom in establishing policies and procedures that are fair and impartial, including this policy regarding prohibited sexual conduct.

Minerva has enacted this policy in order to:

1. maintain our community values and expectations that all community members are free from sexual misconduct and all forms of sex and/or gender discrimination and harassment,
2. describe our procedures for determining when this policy has been violated, and
3. provide recourse for individuals and the community in response to policy violations.

Minerva's Prohibited Sexual Conduct Policy (Policy) applies to all members of the Minerva community (including both Minerva Schools at KGI and Minerva Project) and complies with U.S. federal and state laws that prohibits sex and/or gender discrimination.

Minerva is committed to the principles of academic freedom, including free inquiry and expression. This Policy is not intended to stifle the freedom of Minerva students, faculty, and staff to properly engage in vigorous discussion and debate and to express ideas that may be controversial, provocative, or unpopular. However, this protection of free speech has limits, such that speech or conduct that rises to the level of unlawful harassment on the basis of gender is neither legally protected expression nor an exercise in academic freedom. Minerva supports an environment free of sex or gender-based harassment and misconduct.

II. POLICY STATEMENT

Minerva does not tolerate acts of Prohibited Sexual Conduct. This term refers to the following forms of behavior:

- Sex or Gender-Based Harassment
- Sexual Misconduct, which includes Sexual Assault, Non-Consensual Sexual Contact, Sexual Exploitation, and Stalking
- Intimate Partner Violence
- Prohibited Relationships by Persons in Authority
- Retaliation against a person who inquires, reports, or otherwise participates in good faith regarding this policy

Any report of Prohibited Sexual Conduct will be taken seriously and addressed promptly. Minerva will act to end the Prohibited Sexual Conduct, prevent its recurrence, and appropriately sanction responsible parties. Individuals who violate these policies are subject to discipline up to and including termination of employment at Minerva

(faculty or staff), expulsion (students), and/or other appropriate sanctions, as defined below.

A. SCOPE

This policy applies to all students, faculty, staff, contractors, volunteers, and other third parties such as vendors, and visitors who may engage with the Minerva community. This policy applies to all Minerva programs and locations around the world. This policy applies to the Minerva Institute, Minerva Project, and Minerva Schools at KGI, referred to collectively in this document as Minerva.

This policy is effective as of August 1, 2019.

Minerva may update this Policy from time to time, and publish the Policy on its official student-facing website, The Hub, and on the official faculty and staff website, The Owl, prior to each academic year. All students, faculty, staff and contractors are responsible for knowing the policies and procedures outlined here. Minerva reserves the right to make changes to this Policy as necessary.

Minerva strongly encourages individuals to report Prohibited Sexual Conduct, regardless of who engaged in the conduct. Even if Minerva does not have jurisdiction over the individual alleged to have engaged in Prohibited Sexual Conduct, Minerva will promptly take reasonable action to provide for the safety and security of any Minerva community member. Any individual who violates this Policy may also be subject to criminal prosecution and civil litigation.

B. TITLE IX

This Policy complies with Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex or gender in educational programs. All forms of Prohibited Sexual Conduct, as defined in this policy, are a form of sex or gender discrimination. Therefore, any investigation of Prohibited Sexual Conduct falls under the responsibility of the Title IX Coordinator at Minerva (tix@minerva.kgi.edu). The Title IX Coordinator has received appropriate training to be responsible for compliance with all aspects of sex or gender-based discrimination and sexual misconduct, including procedural matters described below.

We encourage any member of the Minerva community who experiences any form of prohibited sexual conduct to consider reporting such incidents to the Title IX Coordinator at tix@minerva.kgi.edu. We will respond promptly, equitably, and respectfully in order to put a stop to any sexual misconduct, to remedy the effects of sexual misconduct, and to prevent its recurrence.

The contact information for the current Minerva Title IX Coordinator is:

Susan Christopher, PhD
Title IX Coordinator
415-551-2512
tix@minerva.kgi.edu
Minerva Schools at KGI
1145 Market Street, 9th Floor
San Francisco, CA 94103

In the event that an incident involves alleged misconduct by the Title IX Coordinator at Minerva, reports should be made directly to the Dean of Students.

Dr. James Lyda
Dean of Students
612-799-1978
jlyda@minerva.kgi.edu
Minerva Schools at KGI
1145 Market Street, 9th floor
San Francisco, CA 94103

If you have questions regarding this Policy, or your rights under Title IX, you may also contact the U.S. Department of Education:

Office for Civil Rights, San Francisco Office
U.S. Department of Education
50 United Nations Plaza
Mail Box 1200, Room 1545
San Francisco, CA 94102
415-486-5555
ocr.sanfrancisco@ed.gov

C. OTHER REGULATIONS

In addition to compliance with Title IX regulations, Minerva fulfills its obligations under the Violence Against Women Reauthorization Act of 2013 (VAWA) amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) in response to reported Prohibited Conduct. (VAWA specifically prohibits sexual misconduct, exploitation, stalking, relationship violence, and sexual assault.) These obligations include:

- 1) providing a timely warning to all members of the community in the event that a report of misconduct discloses a serious or continuing threat, in order to protect the health or safety of the community; and
- 2) publishing an Annual Security Report that identifies the number of particular

reported crimes in or adjacent to Minerva-occupied buildings, without identifying information about parties involved.

Minerva also prohibits other forms of discrimination and harassment, including discrimination and harassment on the basis of race, color, national origin, ancestry, age, religious belief, marital status, physical or mental disability, medical condition, veteran status, or any other characteristic protected by federal, state, or local law.

D. PRIVACY AND CONFIDENTIALITY

In the implementation of this Policy, Minerva is committed to protecting the **privacy** of all individuals involved, as far as legally possible. Minerva staff will make reasonable efforts to protect the privacy of individuals reporting or accused of Prohibited Sexual Conduct, as permitted by law and while balancing the need to gather relevant information to eliminate Prohibited Sexual Conduct, prevent its recurrence, and remedy its effects. This means that information related to a report of Prohibited Sexual Conduct will only be shared with a limited number of professional staff who “need to know” in order to assist in the investigation and/or resolution of an incident. Furthermore, Minerva staff will protect student records in accordance with the Family Educational Rights and Privacy Act (FERPA), as described [here](#).

The term **confidentiality** refers to information that cannot be revealed to others without an individual’s express permission. As governed by law, the only Minerva employees who may offer legally protected confidentiality to students are members of the professional Mental Health staff. These mental health providers are prohibited from breaking confidentiality unless they have explicit permission from the student or there is an imminent threat of harm to self or others. Therefore, an individual student who seeks confidential assistance or support may do so by speaking with one of these staff members or with a confidential resource outside of Minerva. External resources are provided under the Local Resources heading in this document.

When a student makes a request for privacy or confidentiality in the context of reporting Prohibited Sexual Conduct, the Title IX Coordinator will evaluate the request, balancing the obligation to provide a safe and non-discriminatory environment with the obligation to provide fundamental fairness by giving notice to the individual accused of a conduct violation.

III. DEFINITIONS OF TERMINOLOGY

Reporting Party

When used in this policy, a Reporting Party is the individual who is identified as the subject of prohibited conduct, whether or not that individual makes a report or is the first to make a report.

Responding Party

The Responding Party is the individual alleged to have engaged in prohibited conduct.

Third Party

A Third Party refers to any other participant in the process, including a witness or an individual, who makes a report on behalf of the Reporting Party. A witness may be an individual who observed behavior that is alleged to be a violation of policy or may have communicated with one of the Parties subsequent to an alleged incident of prohibited conduct.

Responsible Employee

A Responsible Employee is any Minerva employee or independent contractor who:

- 1) has the authority to take action to redress the harassment;
- 2) has the duty to report sexual harassment or any other misconduct by students or employees to appropriate Minerva staff; or
- 3) a student could reasonably believe has the authority or responsibility to take action.

Minerva requires that any Responsible Employee who is aware of Policy violations promptly inform the Title IX Coordinator. Responsible Employees are furthermore required to disclose all relevant information, including the names of the parties, even when individuals have requested that their names remain confidential.

The following positions are considered Responsible Employees at Minerva:

- Members of the Senior Team of Minerva Schools or Minerva Project
- Deans, including Associate and Assistant Deans
- Faculty members
- Staff on the academic team, including advisors and directors
- All Student Life personnel, including directors, managers, coordinators, resident assistants and advisors
- All Student Services personnel, including directors and managers

Note: the above is not an exhaustive list of Responsible Employees as Minerva. If you have questions regarding this list, Responsible Employees, or confidential resources at Minerva, please contact the Title IX Coordinator at tix@minerva.kgi.edu.

Affirmative Consent

Affirmative Consent means clear, affirmative, conscious, and voluntary agreement to engage in sexual activity with an adult person. It is the responsibility of each person involved in the sexual activity to ensure that the person has the affirmative consent of the other(s) to engage in sexual activity. Essential elements of affirmative consent are:

Informed and reciprocal: All parties must demonstrate a clear and mutual

understanding of the nature and scope of the act(s) to which they are consenting and a willingness to engage in those act(s).

Freely and actively given: Consent cannot be obtained through the use of force, coercion, threats, intimidation or pressuring, or by taking advantage of the incapacitation of another individual.

Mutually understandable: Communication regarding consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage in sexual activity. **Consent may not be inferred from silence, passivity, lack of resistance, or lack of active response.**

Not indefinite: Affirmative consent must be ongoing throughout the activity. **Consent may be withdrawn by any Party at any time.**

Not unlimited: consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Even in the context of a current or previous intimate relationship, the mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.

The State of California considers sexual intercourse with a minor to be unlawful. A person over the age of eighteen who engages in felony unlawful sexual intercourse as described in the California penal code does so without effective consent as defined by this Prohibited Sexual Conduct policy.

Being intoxicated by drugs or alcohol is no defense to any violation of this policy and does not diminish one's responsibility to obtain consent.

Incapacitation

Incapacitation is a state in which an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act and/or is physically helpless. An individual is incapacitated, for example, if the individual is asleep, unconscious, or otherwise unaware that sexual activity is occurring, or unable to understand the nature of the activity or communicate effectively due to a mental or physical condition.

An individual may be incapacitated due to the use of alcohol, drugs, or other medications. Consumption of alcohol, drugs, or medication alone is insufficient to establish incapacitation. An evaluation of incapacitation requires an assessment of how consumption impacts an individual's decision-making ability, awareness of consequences, ability to make informed judgments, or capacity to appreciate the nature and quality of the act(s).

Use of alcohol or other drugs will never function to excuse any behavior that violates this Policy. When determining the responsibility of the Responding Party with regard to whether affirmative consent was provided, an evaluation will be made using a

reasonable person standard. It is irrelevant whether the Responding Party's own incapacitation caused the Responding Party to misjudge the Reporting Party's capacity to provide affirmative consent.

(Please see Consent Culture at Minerva and Amnesty Policy, below, for additional information on drugs and alcohol in relation to these policies and procedures.)

Force

In the context of this policy, Force is the use or threat of physical violence to overcome an individual's freedom of will to choose whether or not to participate in sexual activity or to provide consent. Consent obtained by force is not valid. Evidence of resistance by a Reporting Party is viewed as clear demonstration of a lack of consent, but there is no requirement that a Reporting Party must physically or verbally resist a sexual advance or request in order to demonstrate that force has been used. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

Intimidation

Intimidation is the use of implied threats to overcome an individual's freedom of will to choose whether or not to participate in sexual activity or to provide consent. Consent obtained by intimidation is not valid.

Coercion

Coercion is the improper use of pressure to compel another individual to initiate or continue sexual activity against that person's will. A person is acting in a coercive manner if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Consent obtained through coercion is not valid. Coercion can include a range of behaviors, including but not limited to: intimidation, manipulation, threats, and blackmail. Examples of Coercion include, but are not limited to:

- 1) threatening to "out" a person based on their sexual orientation, gender identity, or gender expression, or
- 2) threatening to harm oneself or another if the other party does not engage in sexual activity.

An evaluation of coercion requires consideration of the:

- 1) frequency and duration of the application of pressure,
- 2) intensity of the pressure, and
- 3) degree of isolation of the person being pressured.

Preponderance of the Evidence

The standard used for determining whether a Responding Party has violated the Prohibited Sexual Conduct policy is Preponderance of the Evidence. This means that in the eyes of the evaluator, it is more likely than not that a violation occurred, based on all available evidence. This is the longstanding standard of evidence used in disciplinary processes for students and employees, as well as in federal civil rights claims, providing

due process to Responding Parties.

Contact Restrictions

As an interim or permanent resolution, Minerva may impose a Contact Restriction on any Party involved in a claim of Prohibited Sexual Contact. In general, this may include: academic adjustments, such as being assigned to different classes or sections of a class; residence hall restrictions, such as being assigned to a different building or different section of a building, or being restricted from entering a Party's room; and other behavioral restrictions intended to prevent interactions between Parties to the degree reasonably possible. Any violation of Contact Restrictions, once imposed, are treated as a further violation of this Policy.

IV. DEFINITIONS OF PROHIBITED SEXUAL CONDUCT

As defined in this Policy, **Prohibited Sexual Conduct** includes:

- 1) Sexual or Gender-Based Harassment
- 2) Sexual Misconduct
- 3) Intimate Partner Violence
- 4) Prohibited Relationships by Persons in Authority
- 5) Retaliation

A. SEXUAL OR GENDER-BASED DISCRIMINATION

Harassment is conduct that creates an intimidating, offensive, or hostile working or learning environment or that unreasonably interferes with work or academic performance based on a person's protected status, including sex, sexual orientation, gender identity, or gender expression. All such conduct is prohibited, and unlawful.

Sexual Harassment is any unwelcome sexual advance, request for sexual favors, or other unwelcome conduct of a sexual nature, whether verbal, physical, graphic, or otherwise.

Gender-Based Harassment is harassment based on sex, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal, physical, graphic, or otherwise. To qualify as gender-based harassment, the conduct need not involve conduct of a sexual nature.

Sexual or gender-based harassment is generally defined according to two types of conduct:

- a) Quid Pro Quo Harassment, when it is implicitly or explicitly suggested that submission to or rejection of the conduct will be a factor in academic or employment decisions or evaluations, or in relation to participation in Minerva activities or programs.

b) Hostile Environment Harassment, when the conduct is sufficiently severe, pervasive, or persistent that it unreasonably interferes with, limits, or deprives an individual from regular participation in Minerva activities or programs, whether academic, non-academic, or employment-related.

Determining whether particular conduct constitutes harassment is highly dependent on the specific facts and context in which the conduct occurs. The determination of whether an environment is hostile is based on the totality of the circumstances, including but not limited to: the frequency of the conduct; the nature and severity of the conduct; whether the conduct was physically threatening; the effect of the conduct on the Reporting Party's mental or emotional state, with consideration of whether the conduct interfered with educational or work performance and/or Minerva programs or activities; whether the conduct was directed at more than one person; whether the conduct arose in the context of other discriminatory conduct; and whether the conduct implicates concerns related to academic freedom or protected speech.

Other factors that are considered in determining responsibility for sexual or gender-based harassment include the following. Sexual or gender-based harassment:

- may be subtle or indirect; or, it may be blatant and intentional, involving an overt action, threat, or reprisal, with a coercive aspect that is unstated. Furthermore, it may be perceived differently by different parties involved.
- may consist of a single incident, if the incident is sufficiently severe, and particularly if the conduct is physical; alternatively, the conduct may form of pattern of repeated actions over time.
- may be committed by anyone, regardless of gender, age, position or authority.
- may be committed by a stranger, an acquaintance, or someone who has an intimate relationship with an individual.
- may be committed by or against an individual or as a result of the actions of an organization or group.
- may involve conduct toward an individual of the same or different gender identity or expression. It may also involve conduct toward an individual of the same or different sex or sexual orientation.

Examples of conduct that may constitute Sexual Harassment as defined above may include a severe, persistent or pervasive pattern of unwelcome conduct that includes one or more of the following:

- Physical conduct, including unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements, or unwanted sexual advances;
- Verbal conduct, including making or using derogatory comments, epithets, slurs or humor; verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes, or invitations; or objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes;

- Visual conduct, including leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons, or posters in a public space or forum; or severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate;
- Written conduct, including letters, notes or electronic communications containing comments, words, or images described above;
- Quid pro quo conduct, including direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists; offering educational or employment benefits in exchange for sexual favors; making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose; or making or threatening reprisals after a negative response to sexual advances.

B. SEXUAL MISCONDUCT

Minerva prohibits the following forms of sexual misconduct:

a) Sexual Assault

Sexual assault is any sexual intercourse with another person by force or threat of force, or without effective affirmative consent. Sexual intercourse includes vaginal or anal penetration, however slight, with a body part (e.g., penis, hand, tongue, finger) or object, or oral copulation (mouth to genital contact).

b) Non-Consensual Sexual Contact

Non-consensual sexual contact is having sexual contact with another person by force or threat of force, or without effective affirmative consent. Sexual contact includes intentional contact with the intimate body parts of another, causing an individual to touch their own body parts, or disrobing or exposure of another person without permission. Intimate body parts may include breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner.

c) Sexual Exploitation

Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another person for one's own advantage or benefit, or to benefit or advantage anyone other than the person being exploited. Examples of sexual exploitation include, but are not limited to:

- surreptitiously 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 sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity of the person being exploited,

or distribution of such without the knowledge and consent of all parties involved;

- exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances;
- knowingly exposing another individual to a sexually transmitted disease or virus without their knowledge;
- prostitution; and
- inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

d) Stalking

Stalking occurs when a person engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

A “course of conduct” consists of two or more acts, including, but not limited to, acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person’s property.

A “reasonable person” means a reasonable person under similar circumstances and with similar identities to the Reporting Party.

“Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

“Cyber-stalking” is 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.

Examples of Stalking include, but are not limited to:

- Non-consensual communication, including in-person communication, telephone calls, voice messages, text messages, email messages, social networking site postings, instant messages, postings of pictures or information on websites, written letters, gifts, or any other communications that are undesired and/or place another person in fear.
- Following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, or other locations frequented by a person.
- Surveillance and other types of observation, whether by physical proximity or electronic means.
- Gathering of information about a person from family, friends, co-workers, and/or classmates.

To qualify as stalking, the conduct is not required to be sexual in nature.

C. INTIMATE PARTNER VIOLENCE

Intimate Partner Violence includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, spousal, domestic, or other intimate relationship with the Responding Party. Minerva will not tolerate Intimate Partner Violence of any form.

Intimate Partner Violence is often referred to as dating violence, domestic violence, or relationship violence. Intimate Partner Violence can encompass a broad range of behavior including, but not limited to: physical violence, sexual violence, psychological and/or emotional violence, and economic abuse. It may involve one act or an ongoing pattern of behavior. Intimate Partner Violence may take the form of threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner, or to the family members or friends of the sexual or romantic partner. Whether there was such a relationship will be determined based on, among other factors, statements from the Reporting Party and Responding Party, and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the Parties involved in the relationship. Intimate Partner Violence affects individuals of all sexes, sexual orientations, gender identities, and gender expressions, races, and social and economic backgrounds.

D. PROHIBITED RELATIONSHIPS BY PERSONS IN AUTHORITY

Sexual or other intimate relationships in which one Party maintains – and fails to promptly report and discontinue – a direct supervisory or evaluative role over the other Party are prohibited at Minerva. In general, this includes all sexual or other intimate relationships between students and their managers, supervisors, professors, advisors, or other Minerva employees or contractors. Similarly, faculty and staff who supervise or otherwise hold positions of authority over others are prohibited from having a sexual or other intimate relationship with an individual under the employee's direct supervision.

Intimate or sexual relationships between individuals in asymmetrical positions of power may undermine the professionalism of faculty and staff, and may raise sexual harassment concerns. Even when all parties consent, the person with greater authority may be subject to charges of Prohibited Sexual Conduct if the perspective of another party regarding the consensual nature of the relationship changes. Such relationships may impact Third Parties based on perceived or actual favoritism or special treatment based on the relationship.

If an individual contemplates beginning, or is involved in, a sexual or intimate relationship with another, over whom the individual holds direct supervisory or evaluative responsibilities, the individual must promptly:

- a) discontinue any supervising role or relationship over the other person; and
- b) report the circumstances to their own supervisor or member of the senior staff at Minerva.

Failure to comply fully and in a timely way with these requirements is a violation of this Policy, and the person in authority could be subject to disciplinary action, up to and including dismissal from employment.

E. RETALIATION

All parties involved in any case of Prohibited Sexual Conduct are prohibited from engaging in retaliatory behavior, which is defined as any materially adverse action taken against a person for making a good faith report of Prohibited Sexual Conduct or for participating in any proceeding under this Policy. Adverse action includes conduct that threatens, intimidates, harasses, coerces or in any other way seeks to discourage a reasonable person from engaging in activity protected under this Policy.

Retaliation can be direct, such as denying a student access to a program, or it may be indirect, such as acting in a way that is intimidating, threatening, or harassing to an individual who has made a report of, or otherwise participated in an investigation of, Prohibited Sexual Conduct. Retaliation can be committed by or against any individual or group of individuals, not just a Responding Party or Reporting Party.

Retaliation may be present whether or not there is ultimately a finding of responsibility on the allegations of Prohibited Sexual Conduct. Therefore, an individual reporting Prohibited Conduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the Responding Party is later not found responsible.

Any instance of retaliation should be reported to the Title IX Coordinator. Minerva will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate.

V. CONSENT CULTURE AT MINERVA

The behaviors described under Definitions of Prohibited Sexual Conduct represent violations of our cultural values and official policy. We have developed a culture at Minerva in which all students, faculty, staff, visitors, and others interact in meaningful, caring, and respectful ways. It is therefore essential to understand the concept of consent as it applies to all forms of physical interactions, including sexual activity.

Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity. Consent can be given by word or by action, but non-verbal consent is not as clear as talking about what one does and does not want sexually. Silence or passivity – without actions demonstrating permission – cannot be assumed to show consent. An individual who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. Relying solely upon non-verbal communication can lead to a false conclusion as to whether consent was sought or given. Therefore, consent must be based on mutually understandable communication

that clearly indicates a willingness to engage in sexual activity.

Previous consent to sexual activity or to a particular form of sexual activity cannot be interpreted as consent to any other form of sexual activity or to sexual activity at a future time. Each participant in a sexual encounter must consent to each form of sexual contact with each participant. Even in the context of a current or previous intimate relationship, each person must consent to each instance of sexual contact each time. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.

Consent, once given, can be withdrawn at any time, although there must be a clear indication that consent is being withdrawn. Withdrawal of consent can be expressed by “no,” or can be based on an outward demonstration that conveys that an individual is hesitant, confused, uncertain, or is no longer a mutual participant. Once consent is withdrawn, the sexual activity must cease immediately. Clearly and mutually expressed consent must be obtained before continuing further sexual activity.

Non-consensual contact may take the form of coercion, and it is important to clarify the difference between seduction and coercion, as coercing someone into sexual activity violates this Policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex. An example of this would be one person suggesting that they will hurt the other person, physically or emotionally, unless they engage in sexual activity. If the other person agrees to sexual activity under this coercive condition, the sexual activity is not consensual.

Because alcohol or other drug use may impair an individual’s capacity to provide consent, sober sexual interactions are less likely to raise questions about consent. When alcohol or other drugs are being used, an individual will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction. **It is the responsibility of each person to be aware of the intoxication level of others before engaging in sexual activity.**

VI. EDUCATIONAL TRAINING AND RISK REDUCTION

All Minerva staff, faculty, contractors, and students are required to complete educational programs that familiarize them with the policies and procedures governing Prohibited Sexual Conduct. Staff, contractors, and faculty are required to complete sexual harassment training on a regular basis. Minerva students complete an educational program immediately preceding and during their first semester of enrollment, and participate in annual supplementary programs.

In addition to these training resources, the following list of risk reduction tips may help members of the Minerva community reduce their risk for experiencing non-consensual sexual behavior.

- Clearly communicate limits you may have regarding sexual interactions, and make your limits known as early as possible.
- Tell a sexual aggressor NO clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Give thought before sharing your intimate content, pictures, images and videos with others, even those you may trust. If you do choose to share, clarify your expectations as to how or if those images may be used, shared or disseminated.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

In order to reduce your risk for being accused of sexual misconduct:

- As the initiator of sexual behavior, clearly communicate your intentions to your sexual partner(s) and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- **DO NOT MAKE ASSUMPTIONS ABOUT CONSENT.** Do not assume that someone is sexually available, that they are attracted to you, or that they are physically able to consent without receiving affirmative and continuous consent during a sexual encounter. If there are any questions or ambiguity, you do not have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading your partner, or they may not have figured out how far they want to go with you yet.
- Do not take advantage of someone's altered state, whether as a result of alcohol or drug use, even if they willingly consumed substances.
- Realize that your potential partner(s) could feel intimidated or coerced by you. You may have a power advantage simply because of your gender or physical presence. Do not abuse that power.
- Do not share intimate content, pictures, images and videos that are shared with you.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence, passivity, or non-responsiveness cannot be interpreted as an indication of consent. Read your potential partner(s) carefully, paying attention to verbal and non-verbal communication and body language.

If you are accused of Sexual Misconduct or any form of physical violence, do not contact the Reporting Party. Such communication could be interpreted as intimidation or retaliation, as described above. Instead, you may want to speak with a Mental Health staff member as a confidential counselor or seek external counseling services. You may want to contact someone who can act as your Support Person in any forthcoming Investigation process. You may also contact anyone on the Student Affairs staff, and/or

the Title IX Coordinator at Minerva, who can explain Minerva's policies and procedures with regard to Prohibited Sexual Conduct.

VII. REPORTING PROCESSES AND RESOURCES

A. EXTERNAL REPORTING PROCESS

In the event that any student, faculty or staff member, or contractor has experienced an incident of sexual violence, Minerva strongly encourages that individual to seek assistance immediately from a medical provider and/or law enforcement. This will allow the appropriate authorities to collect and preserve evidence, execute search warrants, make arrests, and assist in seeking emergency protective orders, as necessary and if requested. Resources for students in each location where students live and study are published to students prior to their residency in that city. In San Francisco, those resources include:

Zuckerberg San Francisco General Hospital

1001 Potrero Avenue

415-206-8000 (general information)

<http://zuckerbergsanfranciscogeneral.org>

SF General is the only facility in San Francisco providing services for victims of sexual assault, including rape kits, medications, etc., free of charge. The hospital is required by law to report an incident of a sexual offense to the San Francisco Police Department (SFPD). A decision by the victim to press formal charges does not have to be made at the time of the visit to the hospital.

San Francisco Police Department

SFPD may be contacted either by calling 911 (for emergencies only) or for non-emergency situations:

415-553-0123

<http://sanfranciscopolice.org/>

Tenderloin District (16 Turk Residence Hall and Minerva HQ)

301 Eddy Street

415-345-7300

Additional resources for those who have experienced sexual assault, violence, or other forms of gender or sex discrimination are listed in the Resources section of this document.

Minerva also strongly encourages all individuals to make an internal report to a Responsible Employee or to the Title IX Coordinator at Minerva. The definitions of Prohibited Sexual Conduct and the burden of proof for internal processes are different

from the definitions of criminal behavior and the burden of proof used in the criminal justice system. These reporting options are not mutually exclusive and may be made simultaneously or at different times. An internal investigation process at Minerva will not be delayed unless officially requested to by law enforcement.

B. INTERNAL REPORTING PROCESSES

In response to any of the Prohibited Sexual Conduct described in this policy, any student, faculty member, contractor, or staff member may make an initial report in person, by email, by text, or by phone. This report may be made to any Responsible Employee or directly to the Title IX Coordinator:

Susan Christopher, PhD
tix@minerva.kgi.edu
415-551-2512

Reporting Parties are encouraged to make a report in a timely way in order to maximize our ability to respond promptly and effectively. The Reporting Party (or Third Party if making a report on behalf of another person) does not have to request a particular course of action, nor does the Reporting Party need to know the appropriate definition or label for what happened. The decision to make a report is a process that is likely to unfold over time.

Minerva will provide support to any individual making a report. An individual may request to speak to the Title IX Coordinator to clarify their understanding of this Policy. Additionally, Student Life staff members, including Residence Life Coordinators, Graduate Assistants, and RAs (Resident Assistants and Resident Advisors), are available to provide appropriate information and referral to resources. To the extent legally allowable, Minerva staff will respect an individual's autonomy in deciding if and/or how to proceed. We will balance the Reporting Party's preferences and interests with our obligation to provide a safe and non-discriminatory environment for all members of the Minerva community.

Any student may consult with a member of Minerva's Counseling and Psychological Services staff (CAPS) regarding an incident on a strictly confidential basis. Students have free and unlimited access to confidential counseling, and may contact CAPS staff in response to any incident and/or to assist with a decision about whether/what to report.

C. OTHER REPORTING CONSIDERATIONS

Anonymous Reports

Any individual may make an anonymous report concerning an act of Prohibited Sexual Conduct, without disclosing the name of the Responding Party or requesting any action. However, Minerva's ability to respond to such a report is limited by lack of information about the incident(s) or the individuals involved. The Title IX Coordinator will determine

any appropriate steps to take in response to an anonymous report, including community-wide remedies as appropriate.

Amnesty Policy

Any student who participates in a report and/or investigation of Prohibited Sexual Conduct as a Reporting Party, Responding Party, or Third Party will not be subject to disciplinary action by Minerva for specific conduct violations related to the consumption of alcohol or other drugs in the context of the reported incident(s). This policy is intended to encourage reporting of Prohibited Sexual Conduct in a complete and forthright manner. However, this amnesty does not apply to other forms of student conduct violations, including prohibited academic conduct or violations of the honor code, nor does it prevent Minerva from responding to violations of student conduct that place the safety or health of other individuals at risk. Furthermore, being intoxicated due to alcohol or other drugs is not a defense to any violation of this Policy and does not diminish one's responsibility with regard to obtaining consent for any sexual activity with another person.

False Reports

It is a violation of this policy to knowingly make a false report or to knowingly provide false information regarding a report of Prohibited Sexual Conduct. A Reporting Party or Third Party may be subject to appropriate sanctions, as defined by student or employee conduct policies, if it is determined that they made a false report, knowingly fabricated allegations, or gave false information with malicious intent or in bad faith. However, a good-faith complaint or report that results in a finding of "not responsible" is not considered a false report.

Reports from Third Parties

Generally, information that is revealed in the context of climate surveys, classroom assignments or discussions, research projects, or events such as workshops and fishbowl exercises, does not represent notice of conduct that must be reported to the Title IX Coordinator. However, any staff or faculty member with concerns about Prohibited Sexual Conduct should notify the Title IX Coordinator. Remedial actions may be pursued without taking official actions such as a Formal Investigation.

VIII. INVESTIGATION, HEARING, AND APPEAL PROCEDURES

In the process of investigating and resolving any report of Prohibited Sexual Conduct, Minerva will proceed in a fair and impartial manner, treating all parties equitably. As circumstances require, Minerva may take immediate steps to avoid risk of harm to all Parties and to the broader community, but take a neutral position with regard to whether or not an individual is responsible for the Prohibited Sexual Conduct that is alleged.

Minerva aims to bring resolution within 60 business days of an official report. This time period may be extended, as necessary, for appropriate cause by the Title IX Coordinator with notice to both the Reporting Party and the Responding Party.

If the Responding Party is not a member of the Minerva community, Minerva will take appropriate steps to end the Prohibited Conduct, prevent its recurrence, and address its effects.

A. PARTICIPATION OF SUPPORT PERSON

All parties are entitled to be accompanied by one Support Person of their choosing throughout the investigation and resolution processes, including initial intake, investigation interviews, and other meetings. The Support Person may be a friend, mentor, family member, attorney, Minerva staff member, or any other person, as long as the Support Person is not also a witness or otherwise involved in the investigation or resolution processes. Depending on their relationship to Minerva, the Support Person may or may not be required to follow FERPA guidelines. The Title IX Coordinator, in his or her sole discretion, may make exceptions to rules regarding the participation of a Support Person as long as the same exception is offered to all parties.

Minerva students are expected to speak for themselves and represent themselves on all matters related to student conduct, including Prohibited Sexual Conduct matters. A Support Person may advise, but may not present evidence on behalf of the Reporting or Responding Party, or interact directly with the Title IX Coordinator or the Investigator. If Support Persons wish to meet privately with the Title IX Coordinator, they may do so in order to clarify their role in the process only. Meeting times will not be scheduled to accommodate a Support Person.

If the Support Person interferes in any way during any meeting as part of an Investigation or Resolution process, a single warning will be given. In response to any subsequent disruption, the Support Person will be asked to leave. It is the responsibility of the Title IX Coordinator to determine whether the Support Person may be reinstated or replaced, or whether the party will forfeit the right to a Support Person.

B. PRELIMINARY INQUIRY

Initial Intake

During an initial intake meeting, the Title IX Coordinator begins the process of a Preliminary Inquiry, taking the following actions, as appropriate:

- Address the immediate safety and wellbeing of all individuals involved, including referrals to medical treatment as needed.
- Notify the Reporting Party of their right to contact law enforcement (and their right to decline to do so), and offer support from Minerva staff in these communications.
- Inform the Reporting Party of both confidential and non-confidential resources, including counseling services from Minerva Mental Health staff, external victim advocacy services, and (non-confidential) support from other Minerva staff.
- Ask the Reporting Party for information regarding the identity of the Responding

Party, the date, time, and location of the incident(s), the nature of the incident(s), the nature of any documentary or other evidence, and the identity of any witnesses.

- Discuss any interim measures deemed necessary to remedy the immediate situation.
- Determine the need to issue a timely warning, in accordance with Clery Act requirements.
- Provide an overview of the relevant policies and procedures, including the provisions of these policies and procedures on Amnesty (regarding alcohol and drug use), Retaliation, and Informal Resolution and Formal Resolution Procedures.
- Determine the specific policy violations that are alleged.
- Confirm the Reporting Party's wishes with regard to protecting privacy and taking formal action to report a violation of Prohibited Sexual Conduct.

Interim Remedies

After the initial intake meeting, the Title IX Coordinator may recommend interim remedies to address the short-term effects of harassment, discrimination, and/or retaliation, both to lessen potential harm to the Reporting Party and to prevent further violations. These may include, but are not limited to: referrals to Counseling and Psychological Services, community education programs or workshops, implementation of Contact Restrictions between the parties, such as a change of residence location, change of work study arrangements, change of academic class assignments, and/or other academic accommodations. In serious cases in which the safety or well-being of any member of the Minerva community may be jeopardized, the Title IX Coordinator may recommend to the Global Director of Student Affairs (for students) or the Chief Financial Officer (for employees and contractors) that an interim suspension be imposed on the Responding Party. If imposed, the Responding Party will be given the opportunity to meet with the person who imposed the interim remedy to show cause why the interim suspension should not be implemented. Furthermore, if the Responding Party is found not responsible for a violation of the Prohibited Sexual Conduct policy, these restrictions may be removed and deleted from the Responding Party's disciplinary record.

Preliminary Investigation

As soon as possible after the initial intake, the Title IX Coordinator will conduct a Preliminary Investigation to determine if there is reasonable cause to believe that there has been a violation of the Prohibited Sexual Conduct Policy. This determination may be based solely on the initial intake meeting, or may require additional interviews with relevant parties. This determination lies at the sole discretion of the Title IX Coordinator.

In cases where the Reporting Party does not wish for their name or other information about an incident to be shared, or does not wish for Minerva to take any formal action in response to the information shared in the preliminary investigation, the Title IX Coordinator will evaluate the request in light of Minerva's duty to protect the safety of the Minerva community and to comply with the law.

Generally, when a Reporting Party does not wish to pursue a Formal Investigation, Minerva will offer interim support and remedies to the Reporting Party and the community, but will not otherwise pursue formal action. The Reporting Party reserves the right to waive confidentiality later and to request a Formal Investigation.

Outcome of Preliminary Inquiry

As a result of this Preliminary Inquiry, the Title IX Coordinator will make two threshold determinations:

1. Do the allegations describe conduct that, if true, constitutes a violation of the Prohibited Sexual Conduct Policy?
2. If so, should resolution be pursued through informal or formal means?

If the first threshold is not met, the inquiry process will be stopped although the Reporting Party may still file a written complaint that will be preserved by the Title IX Coordinator or local police department, and may seek civil remedies through the judicial system. In any case, a record will be kept of the Preliminary Inquiry in an internal Minerva database; this information may be considered in any future investigations. If new evidence is provided at a later date, the Title IX Coordinator may reopen the investigation process, initiating a Formal Investigation. The Title IX Coordinator may also recommend an informal, voluntary mediation process, as described below, depending on the circumstances.

C. INFORMAL RESOLUTION

If the first threshold is met, the Title IX Coordinator will determine whether the report may, at the choice of the parties, proceed through informal resolution. Informal resolution is not an option in cases alleging sexual assault or violence. If the allegations involve less severe forms of sexual harassment that do not suggest violence, for example, an informal resolution may be appropriate. If so determined, the Title IX Coordinator will ask both the Reporting Party and the Responding Party whether they would agree to pursue informal resolution of the complaint. Informal resolution will be pursued only if both parties agree.

The nature of informal resolution is flexible, and will vary according to the specifics of any particular allegation. Typically, the Title IX Coordinator will ask the Reporting Party to provide a written description of the grievance and any proposed resolution. The description must be completed within five business days after being notified of the outcome of the Preliminary Inquiry. The Responding Party will receive a copy of this description and will have five business days to respond in writing.

The Title IX Coordinator will meet separately with both Parties to discuss potential alternative resolutions based on the Parties' statements and (if applicable) other information available and to identify possible alternative resolution(s). Possible resolutions include:

- Temporary or permanent contact restrictions between the parties
- Change of a student's residence location
- Change of a student's work-study arrangements
- Change of an employee or contractor's work arrangements
- Change of a student's academic class assignments, or other academic accommodations
- Written apology from the Responding Party
- Educational remedies
- Community Service

Either party may request that the informal resolution be facilitated by an independent mediator. If both parties and the Title IX coordinator agree that use of a mediator would be appropriate and beneficial, the Title IX coordinator may, at his or her sole discretion, select a qualified mediator who is not a member of the Minerva community to assist in the informal resolution process. At any time during the informal resolution process, either Party or the Title IX Coordinator may suspend or terminate the mediator's involvement. The Parties may, by mutual agreement and the agreement of the Title IX Coordinator, continue with the informal resolution process even after suspension or termination of the mediator's involvement.

If all parties reach an agreement on an appropriate resolution, the Title IX Coordinator will issue a letter outlining the terms of the resolution to be distributed to both parties. Any Party or the Title IX Coordinator may terminate the informal resolution process at any time, in which case both the Reporting Party and the Responding Party would be notified in writing and the Title IX Coordinator would describe the steps to be taken under a Formal Investigation.

D. FORMAL INVESTIGATION

When it is determined that a formal resolution must proceed, the Title IX Coordinator will meet with the Reporting Party to finalize their statement, and prepare a written Notice of Investigation that will be provided to both the Responding Party and the Reporting Party to inform them that a Formal Investigation will take place. Both Parties will be informed simultaneously, as reasonably possible, without undue delay and usually within one business day of the decision. The Notice of Investigation will include:

- Reporting Party's name
- Specific policy violation(s) alleged
- Date(s), time(s), and location(s) of alleged policy violations
- Brief description of allegation(s)

The Responding Party will be offered the chance to meet with the Title IX Coordinator within five business days to review all relevant policies and procedures (including retribution and alcohol/drug amnesty policies), counseling and psychological resources, any interim measures in place, their rights with regard to a Support Person, and any questions they might have about these procedures. If the Responding Party does not

respond or is unable to meet within five business days, this information will be provided in writing.

The Title IX Coordinator will either serve as Investigator or appoint an Investigator to conduct an impartial, fact-finding investigation. Both Parties will be notified in writing of the name of the Investigator and have three business days to object in writing to the Global Director of Student Affairs regarding the selection of the Investigator. Objections may be based on bias or conflict of interest. The Global Director of Student Affairs will determine whether an objection is substantiated and will replace any Investigator deemed to have bias against either party or have a conflict of interest.

Investigation Process

Both the Parties will have an equal opportunity to participate in the investigation. Both parties will have an equal opportunity to give statements, provide evidence, and request that the Investigator meet with relevant witnesses, and pose specific questions to witnesses or the other party. The investigator has broad discretion in determining whether a witness's statements or documentary evidence is relevant to a determination. The investigator may be asked to address why or why not certain statements or other evidence was relevant in the Investigation Report.

The Investigator will inform both Parties of the timeline and process of the investigation, which will likely involve interviews with relevant parties and possible witnesses in order to obtain all relevant evidence. With the permission of the interviewee, interviews may be recorded. The Investigator will create an Interview Summary and will share this document with each interviewee, who may provide corrections and/or comments. Both the Interview Summary and any comments from the interviewee will be part of the Investigation records.

The Investigator may conduct follow-up interviews as testimonial and documentary evidence is collected. It is important that Formal Investigations be thorough, reliable, fair, and impartial. Therefore, the Investigator will continue to collect evidence until they determine that the Investigation is complete. The Investigator will provide the Title IX Coordinator with a Preliminary Investigation Report, which will then be shared simultaneously with the Parties. The Preliminary Investigation Report shall include the Investigator's summary of the investigation, the allegations at issue, any findings, and all evidence including witness statement summaries or other evidence relied on in reaching the findings.

Both Parties may provide written comments in writing in response to the Preliminary Report, within five business days of receiving it. Comments may include posing any follow-up questions for the other party or any witness, requesting a follow-up interview with the investigator to clarify or provide any additional information that such party believes is relevant to the investigation, identifying any new witnesses who should be interviewed, identifying any additional evidentiary materials that should be collected and reviewed to the extent that such items are reasonably available, identifying and objecting to any information that such party believes was inappropriately included in the

Preliminary Report. If these comments suggest that additional interviews or consideration of additional material evidence is needed, the Title IX Coordinator may determine that the investigation process will be extended.

After additional investigation, or if no comments are provided, the Investigator will submit the Final Investigation Report to the Title IX Coordinator.

Final Investigation Report

This report includes a description of the finding(s) and rationale for the finding(s) for each policy violation that has been alleged.

The Reporting Party and the Responding Party will receive the Final Investigation Report simultaneously and without undue delay. Both Parties will also be informed about next steps, as applicable. Neither Party, nor any Support Person, may copy, remove, photograph, print, image, videotape, record, or in any manner duplicate or remove the information provided to the Parties. The Report will also be submitted to the Global Director of Student Affairs.

Additional Considerations

The role of the Title IX Coordinator is to protect all persons' rights and accord equal dignity to all parties involved in an allegation of Prohibited Sexual Conduct.

A Formal Investigation may be resolved at any time if the Responding Party chooses to admit responsibility for all of the alleged policy violations. In this case, the Title IX Coordinator will issue a letter to the Parties noting that the individual has accepted responsibility for all allegations and recommend appropriate sanctions to the Global Director of Student Affairs for students and to the Chief Financial Officer for employees and contractors. If the proposed sanctions are accepted by both Reporting and Responding Parties, the appropriate official will implement sanctions and the Investigation will be closed. If either Party does not accept the resolution, the Investigation process will continue to completion as described here.

If the Title IX Coordinator determines that an allegation of Prohibited Sexual Conduct includes more than one Responding Party, these allegations may be investigated together as a single matter and institute a single investigation and resolution process. Similarly, where the Title IX Coordinator determines that there are multiple allegations of Prohibited Sexual Conduct involving one Responding Party by more than one Reporting Party, the Title IX Coordinator may investigate the allegations separately or together as a single matter, conducting a single investigation and resolution process.

All Parties involved in a Formal Investigation have rights of due process, and rights to expect that their privacy will be protected to the degree possible, and as outlined above. The Reporting Party and the Responding Party will be regularly apprised of the status of the Investigation as it unfolds, including information about any necessary delays.

Witnesses

Witnesses are expected to cooperate with and participate in the Formal Investigation process. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone or videoconferencing technology if they cannot be interviewed in person.

E. HEARING PROCESS

A Hearing Panel will be appointed by the Title IX Coordinator. The Panel will be made up of three professional Minerva staff or faculty members, one of whom will act as Chair; the Title IX Coordinator will participate as a non-voting advisor to the Chair. Each appointed Panel member will have at least eight hours of training relevant to Title IX matters.

The purpose of the Hearing is to consider the Investigator's Report, to make a determination regarding policy violation(s), and to recommend any appropriate sanctions to the Global Director of Student Affairs for students or to the Chief Financial Officer for employees and contractors.

The Hearing date will be set no sooner than 10 business days nor later than 20 business days after the distribution of the Investigator's Report. The Title IX Coordinator will notify the parties and witnesses of the Hearing date in writing at least 10 business days before the Hearing. The Investigator and Title IX Coordinator or their designee must be available and present at the Hearing.

All Parties are expected to attend the Hearing and witnesses are expected to be available to participate in the Hearing. If a Party chooses not to participate in the Investigation, they cannot present new information at the Hearing and will be limited to examining only the facts developed during the Investigation. If a Party has participated in the Investigation, they must also participate in the Hearing. If the Reporting Party chooses not to participate in the Hearing, the ability of the Hearing Panel to determine if a violation has occurred may be limited and therefore the Panel will decide whether or not it is appropriate to proceed.

Each Party may have a Support Person at the Hearing. The Support Person may be a friend, family member or any other person who is not otherwise involved in the matter. The Support Person may not speak at the Hearing.

Each Party must have an Advisor at the Hearing. The Advisor may be a friend, family member, attorney, or any other person who is not otherwise involved in the matter. The Advisor may not make a presentation nor represent the Party at the Hearing, but the Advisor will ask the approved questions that the Party wishes to pose to other Party (or Parties) and witnesses.

At the Hearing, the Hearing Panel will question the Parties and the witnesses that the Panel deems necessary to make a decision. Through Advisors, the Parties may also question the other Party or Parties and the witnesses, if any. Five business days before

the Hearing, each Party may submit questions they plan to pose and a list of witnesses they intend to call to the Title IX Coordinator. The Title IX Coordinator will share the questions with the Hearing Panel, which will determine if any questions cannot be posed and will so inform the relevant Party the day before the Hearing. The Panel will prepare a comprehensive list of the Parties' witnesses and any other witnesses the Panel may want to question and provide notice to those individuals so they may be available during the hearing. During the Hearing, the Parties may submit additional questions to be posed to the Panel, which will determine by a majority vote of panel members whether or not the question can be posed. After a Party or witness has been dismissed, no further questions can be posed to that person.

The Hearing is not open to the public and is conducted via videoconference and recorded. The Investigator (if not the Title IX Coordinator) and witnesses will be present only when being questioned as a witness. A Party may request that their video be turned off when they are not being questioned or otherwise speaking.

The sequence of the Hearing is as follows:

- The Title IX Coordinator opens the Hearing, makes introductions and explains the rules for the Hearing.
- The Hearing Panel Chair will call and ask questions of the Reporting Party, followed by the Reporting Party's Advisor and then the Responding Party's Advisor.
- The Hearing Panel Chair will call and ask questions of the Responding Party, followed by the Reporting Party's Advisor and then the Responding Party's Advisor.
- The Hearing Panel Chair will determine the order of the witnesses, call witnesses, and ask questions first. Then the Reporting Party's Advisor will ask questions of the witness, followed by the Responding Party's Advisor.
- The Reporting Party will have five minutes to give an oral closing statement, or may ask their Advisor to make this statement.
- The Responding Party will have five minutes to give an oral closing statement, or may ask their Advisor to make this statement.

Outcome of the Hearing

The Hearing Panel will issue a Panel Decision Letter to the Title IX Coordinator no more than 15 business days following the Hearing. The Decision Letter sets forth its determination with respect to each finding and any sanctions that it recommends. The Reporting Party and the Responding Party receive a copy of the Panel Decision Letter simultaneously. If the Responding Party is found to be responsible for one or more policy violations, the Panel forwards the Panel Decision Letter to the Global Director of Student Affairs (if the Responding Party is a student) or the Chief Financial Officer (if the Responding Party is an employee or contractor) to determine the sanction(s), which are communicated to the Parties by way of a Sanction Letter. The Sanction Letter is issued no more than five days following receipt of the Decision Letter.

Sanctions

If the Panel concludes that the Responding Party is responsible for one or more policy violations, the possible sanctions are as follows:

For students:

- Warning
- Required Training or Education
- Removal from Minerva Housing
- Exclusion from Specific Minerva Student Activities
- Probation
- Suspension*
- Expulsion*
- Withholding Diploma*
- Revocation of Degree*

*Noted on the student's permanent record/transcript

For employees:

- Warning
- Required Training or Education
- Demotion
- Suspension without Pay
- Suspension with Pay
- Termination

In addition to determining the appropriate sanction or sanctions, the officer imposing the sanction may, in consultation with the Title IX Coordinator, determine other appropriate remedial actions other than sanctions, such as, but not limited to, sexual harassment awareness or other training.

F. APPEAL PROCESS

After an Investigation, the Parties have a right to appeal the Panel's findings within five business days of receiving written confirmation of the decision. Appeals are limited to the case record including the written documents and recording of the Hearing. The Party requesting an appeal must provide a written statement that describes a clear and significant procedural error in the investigation and its impact on the outcome of the case or new evidence and its impact on the Investigation findings or sanctions.

An appeal is directed to the Appeal Officer at Minerva, who will typically render a written decision on the appeal within 10 business days from being notified of the appeal. The Appeal Officer for cases involving students is the Chief Student Services and Operations Officer; the Appeal Officer for cases involving employees and contractors is the Chief Academic Officer. In either case, a designee may be appointed by the Senior Team if the Title IX Coordinator believes there is a conflict of interest.

Appeals are not intended to be a full reconsideration of the original allegations, and are usually confined to a review of written documentation of the original investigation and review process and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for the Appeal Officer to substitute their judgment for that of the Review Panel merely because they disagree with the outcome.

Specifically, an appeal will be considered only on limited grounds as follows:

1. A clear procedural error occurred that significantly affected the outcome of the investigation (e.g. substantiated bias, material deviation from established procedures, etc.); or
2. New evidence, unavailable during the investigation, that could substantially impact the original finding or sanction has come to light.

The Title IX Coordinator will inform all Parties when an Appeal has been submitted, and explain that the Appeal Officer has 10 business days to provide a response to all Parties. The Appeal Officer may take action as follows:

1. dismiss the appeal because it is untimely or does not meet the standards for an Appeal under this Policy; or
2. grant the appeal based on either procedural error or because new evidence should be considered.

If the Appeal Officer grants an appeal, they may order further investigation or reconsideration with the same Investigator(s) and Panel members, unless it is determined by the Title IX Coordinator that a new Investigator or new Panel members are required to prevent bias. The results of a reconvened investigation or Panel are final and cannot be appealed.

Any original sanctions imposed by the Panel will be in effect during the appeal process, and will only be modified if ordered by the Appeal Officer.

The Reporting Party and the Responding Party will receive a written notification describing the outcome of an Appeal, simultaneously and without undue delay.

G. RIGHTS OF THE PARTIES

The following rights apply to all Reporting Parties and Responding Parties during the Investigation and Appeal processes:

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct or discrimination made in good faith to a Responsible Employee or Title IX Coordinator at Minerva
- The right to have Minerva policies and procedures followed without material deviation
- The right to be treated with care and respect by all Minerva staff and any external Investigators involved in the process

- The right to preservation of privacy, to the extent possible and as permitted by law
- The right not to be discouraged by Minerva officials from reporting sexual misconduct or discrimination to both internal and external authorities
- The right to be informed of options to notify proper law enforcement authorities, and the option to be assisted by Minerva staff in notifying such authorities, if desired, as well as the right not to report to law enforcement authorities
- The right to be notified of available counseling/mental health, medical, and advisory resources and services, and the right not to seek these services
- The right to be fully informed of Minerva policies and procedures and the nature and extent of all alleged violations contained within an official report of Prohibited Sexual Conduct
- The right to notification of and options for, and available assistance in, establishing Contact Restrictions after an alleged incident of Prohibited Sexual Conduct, if so requested and if such changes are reasonably available
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence
- The right to a Support Person to advise the Party at any stage of the process, within the guidelines described in this Policy
- The right to be fully informed of the nature of any investigation, including alleged violation and possible sanctions, as dictated by this Policy
- The right to decline to give a statement or otherwise participate during any part of an Investigation or Appeal process
- The right to receive a written Notice of Investigation that informs the Parties that a Formal Investigation will take place and describes the Formal Investigation process, if applicable
- The right to participate in both preliminary and formal Investigation processes, including by identifying witnesses and/or providing relevant information to the Investigator
- The right to receive a written Investigation Report of the Formal Investigation process, once completed
- The right to receive timely notice of an interview date and adequate time for preparation, and the right to review all documentary evidence available regarding the allegations, including the Preliminary Investigation Report, subject to the privacy limitations imposed by state and federal law
- The right to be informed of the names of all witnesses who are interviewed
- The right to petition that any staff member involved in the Investigation or Appeal process be recused on the basis of demonstrated bias
- The right not to have irrelevant prior sexual history admitted as evidence in an Investigation
- The right to receive written notification of the outcome of an Investigation, if applicable, including information about the Appeal policy and process
- The right to participate in the Appeal process
- The right to receive written notification of the final outcome of the process, once a final decision about sanctions is made after any possible appeal
- The right to a fundamentally fair resolution, as defined in these procedures,

including the right to a decision based solely on appropriate evidence presented during the resolution process

- The right to be informed in advance of any public release of information regarding the incident

H. RECORDKEEPING

All documentation of allegations, investigations, hearing testimony, and resolutions will be compiled and maintained by the Title IX Coordinator in a secure manner. Only those documents pertaining to affirmative findings of responsibility are part of students' education records.

Student records are protected from release under FERPA. However, Minerva observes the following legal exceptions:

- Parties to non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and intimate partner violence incidents have an absolute right to be informed of the outcome, essential findings/rationale, and any sanctions that may result, in writing, without condition or limitation, and without substantial delay between notifications to each party, as described in this policy.
- Minerva may release publicly the name, nature of the violation, and the sanction for any student who is found in violation of a policy that is a crime of violence, including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property, intimate partner violence, stalking and kidnapping/abduction. In doing so, Minerva will inform the Responding Party in advance and will not release any information that could lead to the identification of the Reporting Party.

I. PRESERVING EVIDENCE

Victims who promptly seek medical attention may benefit from being examined for physical injury, receiving preventive treatment for sexually transmitted diseases, undergoing a toxicology examination for date rape drugs, and accessing emergency contraception. In addition, prompt reporting allows for the preservation of evidence, which will only be used if the victim decides (then or later) to press criminal charges or file civil suit.

To preserve evidence, victims/survivors should not bathe, douche, smoke, brush their teeth or change clothes (a change of clothes should be brought to the examination). If clothes have been changed, the original clothes should be put in a paper bag (plastic bags damage evidence) and brought to the hospital. Do not disturb the scene of the assault. If it is not possible to leave the scene undisturbed, evidence (e.g. bedding, towels, loose fabrics, prophylactics, and clothing) should be placed in separate paper bags to be preserved.

Time is a critical factor in collecting and preserving evidence. If, however, a sexual assault victim chooses to report the incident days, weeks, or even months after the assault, important support systems are still available and can be arranged.

Know that while the preservation of evidence is important, lack of physical evidence should not deter a victim from reporting or seeking resources. Because Minerva's process uses a preponderance of the evidence standard, the need for physical evidence (while helpful) is never a requirement for proceeding with a formal or informal process.

IX. LOCAL RESOURCES

SAN FRANCISCO

Anyone who experiences sexual assault should seek medical attention and legal information as soon as possible. **If immediate medical care is required, call 911.**

Zuckerberg San Francisco General Hospital

1001 Potrero Avenue

415-206-8000 (general information)

<http://zuckerbergsanfranciscogeneral.org>

SF General is the only facility in San Francisco providing services for victims of sexual assault, including rape kits, medications, etc., free of charge.

The hospital is required by law to report an incident of a sexual offense to the San Francisco Police Department (SFPD). A decision by the victim to press formal charges does not have to be made at the time of the visit to the hospital.

SF Women Against Rape (SFWAR)

415-647-7273 (24-hour crisis line)

415-861-2024 (business line)

<https://www.sfwar.org>

SFWAR provides peer counseling and support groups, legal and medical advocacy. SFWAR also works with SF General Hospital to provide support to sexual assault victims.

Trauma Recovery Center/Rape Treatment Center

(affiliated with SF General Hospital and UCSF)

2727 Mariposa Street, Suite 100 (at Bryant Street)

415-821-3000

<http://traumarecoverycenter.org>

Rape treatment and recovery center. Also provides support for victims of other physical

assaults and violent crimes. Helpful Brochures:

[“After Sexual Assault” brochure](#)
[Drug-Facilitated Sexual Assault Information](#)

Community United Against Violence (CUAV)

415-777-5500 (business line)

<http://www.cuav.org>

Provides support groups and advocacy for LGBTQ community.

Woman Inc. (Women Organized to Make Abuse Nonexistent)

415-864-4722 (24-hour support line)

877-384-3578 (En Espanol)

<http://www.womaninc.org>

Provides support for victims of domestic violence.

National Domestic Violence Hotline

800-799-7233

<http://www.thehotline.org/>

Provides 24/7 support for victims of abusive relationships, and online resources about abuse, healthy relationships, communication, and consent.

U.S. Government Resources (for students wishing to file a complaint of sexual misconduct)

U.S. Department of Education, Office for Civil Rights <http://www.hhs.gov/ocr>

U.S. Department of Justice, Office on Violence Against Women

<http://www.ovw.usdoj.gov>

ALL OTHER MINERVA LOCATIONS

Local resources for Minerva students who may be victims of sexual harassment, sexual assault, or any form of prohibited sexual conduct are provided on The Hub. Local resources for Minerva staff and faculty who may be victims of sexual harassment, sexual assault, or any form of prohibited sexual conduct are provided on The Owl.

Approved August 1, 2019

^[1] All reports are governed by the policies that were in place at the time the alleged Prohibited Sexual Conduct occurred. Applicable procedures are those that are in place at the time of reporting.