



# ANNUAL SECURITY REPORT

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## **TONI&GUY HAIRDRESSING ACADEMY SAFETY & SECURITY INFORMATION**

Campus safety and security are important issues at TONI&GUY Hairdressing Academy. Our goal is to provide students with a safe environment in which to learn and to keep students and employees well informed about campus security. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, or Clery Act, requires institutions of higher education to provide students with the information they need to make informed decisions. The following policies and procedures are established to comply with the Clery Act.

### **A. Timely Warnings**

In the event that a situation arises, either on or off campus, that, in the judgment of the campus Director constitutes an ongoing or continuing threat, a campus wide “timely warning” will be issued. The Director will immediately notify the school community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring at the school, unless issuing a notification will compromise efforts to contain the emergency. The warning will be issued through the most effective and efficient means available and may include instant messaging to students and school employees. Notices may also be posted in the common areas throughout the school. Anyone with information warranting a timely warning should report the circumstances to the campus Director by phone at 505-842-8616 (Albuquerque) or 505-866-4489 (Rio Rancho), or in person at any school location.

### **B. Reporting the Annual Disclosure of Crime Statistics**

The schools prepare this report to comply with the Clery Act. The full text of this report can be located on our web site at: <https://abq.toniguy.edu>. This report is prepared in cooperation with the local law enforcement agencies around our campuses.

Campus crime, arrest and referral statistics include those reported to the Albuquerque and Rio Rancho police departments, designated campus officials (including but not limited to the campus Director), and other law enforcement agencies.

Each year notification is made to all enrolled students and employees that provides the web site to access this report. Copies of the report may also be obtained by students and prospective employees in person from the Director, by calling the Director by phone at 505-842-8616 (Albuquerque) or 505-866-4489 (Rio Rancho), or in person at any school location.

### **C. Reporting of Criminal Offenses**

TONI&GUY Hairdressing Academy encourages anyone who is the victim or witness to any crime or other emergency to report the incident as soon as possible. Contact the Director at 505-842-8616 (Albuquerque) or 505-866-4489 (Rio Rancho) for non-emergencies or dial 9-1-1 (emergencies only). Any suspicious activity or person seen loitering inside or around the school buildings should be reported to the Director or a Campus Security Authority.

Reports may also be made to the school’s Campus Security Authorities, or CSAs. Under Federal law, the definition of CSAs includes individuals/offices designated by the school as those to whom crimes should be reported; and officials with significant responsibility for student and campus activities. If a school staff member has “significant responsibility” for students and campus activities outside of the classroom, and students potentially could report a crime / incident to that staff member, then they are a CSA. CSAs are defined by function, not title.

For TONI&GUY Hairdressing Academy, CSAs for each location include the Director, Director of Admissions, Financial Aid Manager, and Marketing and Admissions Manager.

Tammy Hingtgen-Director  
Mark Trejo-Financial Aid Manager  
Danielle Garduno-Marketing/Admission Manager

For off campus non-emergency options, you may contact the Albuquerque Police Department at 505-242-2677 and/or the Rio Rancho Police Department at 505-891-7227. You should always dial 9-1-1 for emergency situations.

The Albuquerque and Rio Rancho police departments encourage anyone who is the victim or witness to any crime to promptly report the incident to the police. Because police reports are public records under state law, the Albuquerque and Rio Rancho police departments cannot hold reports of crime in confidence.

#### **D. Confidential Reporting**

TONI&GUY Hairdressing Academy encourages anyone who is the victim or witness to any crime to report the incident as soon as possible. All reports will be investigated. The school does not have professional or pastoral counselors on staff, and does not have procedures for voluntary, confidential reporting of crime statistics. Violations of the law will be referred to either the Albuquerque or Rio Rancho police departments. When a potentially dangerous threat to the school community arises, timely reports or warnings will be issued through email messages, text messages, the posting of flyers in the school buildings, in-class announcements, or other appropriate means.

#### **E. Access Policy**

The schools' facilities are open Monday through Saturday according to assigned class area schedules. During business hours, the schools will be open to students, parents, employees, contractors, guests, and invitees. The buildings may also be open for educational classes for licensed professionals in barbering or to groups securing the use of the facilities through the campus Director. During non-business hours access to all school facilities is by key and security code, if issued, or by admittance via the Director. Emergencies may necessitate changes or alterations to any posted schedules.

#### **F. Campus Security Authority and Jurisdiction**

The school's administration attempts to provide a safe, secure educational environment for all students and employees. The school does not provide security guards on its campus premises. The ultimate authority for law enforcement at each school location is the local police department. The school does not have any written agreements with local police departments for the investigation of alleged criminal offenses. School officials have the authority to contact the local police to request assistance in preventing or reacting to crime within or in the immediate vicinity of school facilities. The Director is each campus' coordinator of security issues. He is not authorized to arrest individuals but does have the authority to detain suspected criminal offenders if it is deemed safe to do so. The administration at TONI&GUY Hairdressing Academy has a strong, working relationship with the local police and work in partnership to offer students and employees the safest possible environment.

## **G. Security Awareness Programs**

All new enrolled students participate in a general school orientation class. During the orientation class, the need and procedure of reporting emergencies and criminal activities, campus security measures and crime prevention is discussed. Similar information is presented to new employees. In addition, information is disseminated to students and employees through tips posted in the school buildings, in-class announcements, and announcements through social media.

## **H. Criminal Activity Off Campus**

TONI&GUY Hairdressing Academy does not provide law enforcement services to off-campus activities on behalf of the school.

## **I. Emergency Response Preparation and Evacuation**

The campus Directors have overall responsibility for coordinating and implementing the Emergency Response and Evacuation Plan. The Directors will ensure that the school's emergency evacuation procedures have been informed to the students and staff.

**Evacuation Procedure.** Evacuation should take place if it is determined that it is safer outside than inside the building (fire, explosion, intruder) and staff, students and visitors can safely reach the evacuation location without danger.

The Director will call or designate another to immediately call public safety (911) (police, fire and emergency responders) to give notice the school has been evacuated. The Director will communicate the need to evacuate the building to the occupants by activating the fire alarm or by in-class announcements. The Director will determine evacuation routes based on location of the incident and type of emergency and communicate changes in evacuation routes based on location and type of emergency. The Director will communicate when it is safe to re-enter the building.

**Lockdown Procedure.** Lockdown is the initial physical response to provide a time barrier during an active shooter/intruder event. Lockdown is not a stand-alone defensive strategy. When securing in place, this procedure should involve barricading the door and readying a plan of evacuation or counter tactics should the need arise.

The Director will make an announcement that the school is experiencing an emergency situation and that it is now under lockdown. The Director will designate staff to call 9-1-1, identify the name and address of the school, describe the emergency, state the school is locking down, and provide intruder description and weapon(s) if known. The Director will instruct staff to stay on the phone to provide updates and additional information.

School staff member responsibilities:

- Clear the hallway and bathrooms by your room, moving everyone into the classroom.
- Lock your doors.
- Move any large objects in front of the door to barricade door. All moveable items such as chairs should be used as well.
- Take attendance and be prepared to notify the Director or local law enforcement of missing students or additional students, staff or guests sheltered in your classroom.
- Do not place students in one location within the room. In the event that entry is gained by a shooter or intruder, students should consider exiting by running past the shooter/intruder.

- Staff and students may utilize methods to distract the shooter/intruder's ability to accurately shoot or cause harm, such as loud noises or aiming and throwing objects at the shooter/intruder's face or person.
- Allow no one outside of the classroom until the Director or local law enforcement gives the "All Clear" signal unless a life-threatening situation exists and a means to safe exit is available (through a window or other safe passage).
- If students and school personnel are outside of the school building at the time of a lockdown, school personnel will move students to the designated off-site assembly location.

**Shelter-In-Place Procedure.** The shelter-in-place procedure provides a refuge for students, staff and the public inside the school building during an emergency. Shelters are located in areas of the building that maximize the safety of occupants. Shelter-in-place is used when evacuation would place people at risk. Shelters may change depending on the emergency.

The Director will announce that the school is experiencing an emergency situation and needs to implement shelter-in-place procedures. Students, guests and staff will be directed to move to the designated shelter locations in the school. All students, guests and staff outside will be directed to immediately move to an inside room.

The Director will instruct staff to close all windows and doors and, if warranted, order the shut-off of heating, ventilation and air conditioning systems to stop the inflow of outside air into the building. The Director will also designate staff to monitor radio, Internet, and other media for information on incident conditions that caused the shelter-in-place. The Director will contact and consult with public safety officials as appropriate and be prepared to announce additional procedures due to changing conditions of the incident, or to announce an "All Clear".

**Bomb Threat Procedure.** The school has developed these procedures to protect staff, students, guests and school property in the event of a communicated threat regarding the presence of destructive devices on Institute property. This may include any explosive device of an incendiary, chemical, biological, or radioactive nature. A bomb threat will result in law enforcement and other safety and emergency services responding to the scene.

Once law enforcement arrives, it is critical to follow the instructions of, and cooperate with, the law enforcement officers who will have jurisdiction over the scene. The school is a crime scene and will require a thorough search and processing.

The Director will notify law enforcement, fire and emergency services by calling 911 if not already notified. The Director will assign staff to meet and brief emergency responder agencies. The Director will notify staff and students that a building emergency is in effect, and that all staff and students should remain in their rooms until advised otherwise. If a suspicious item is located, the Director will determine if evacuation procedures should be activated, selecting routes and assembly areas away from the suspicious item. **THE DIRECTOR WILL NOT ACTIVATE THE FIRE ALARM.** The Director should determine if further response should await arrival of law enforcement and other emergency services.

Once emergency responders are on scene, decisions must be made to:

- Evacuate immediately, if this has not already occurred and if warranted, selecting routes and assembly areas away from the suspicious item. **DO NOT ACTIVATE THE FIRE ALARM.**

- Speak to staff who received the threat and obtain information.
- Search the building.
- If a search is to be conducted, assemble and brief a search team at the interior command post. Assign search areas within the building, the emergency exit routes and the outside assembly areas.
- If a suspicious item is located, order an evacuation, if that has not already occurred.
- No one may re-enter the building(s) until fire or police personnel declare it is safe to do so.
- After consulting with local law enforcement, the Director shall determine if staff and students should be relocated to an alternative safe site.
- If danger is over, the Director will notify staff, students and guests of the termination of the emergency and to resume normal operations.

If an evacuation occurs, students, guests and staff must be evacuated to a safe distance outside of school building(s).

**Fire Response Procedure.**

Any staff discovering fire or smoke will activate the fire alarm, and report the fire to the Director, or call 911 if conditions require and/or injured are in need of medical assistance. Staff, students and visitors will immediately evacuate the building using prescribed routes or alternate routes to the assembly areas.

No one may re-enter building(s) until it is declared safe by the fire department.

Once the fire department arrives, it is critical to follow the instructions of, and cooperate with, the fire department personnel who have jurisdiction at the scene.

The Director will call or direct staff to call 911 to confirm the alarm is active, identify the school name and location, provide exact location of the fire or smoke, if any staff or students are injured, and state the building is being evacuated. The Director will ensure that staff, students and visitors immediately evacuate the building using prescribed routes or alternate routes due to building debris to the assembly areas. Assembly areas may need to be relocated because of the building collapse or unsafe areas from the fire. The Director will designate staff to obtain student roll from instructors and identify any missing students.

The Director will not allow staff, students or guests to return to the building until the fire department with jurisdiction over the scene has determined that it is safe to do so and given the “All Clear”.

**Medical Emergency Procedure.** These procedures are in place to assist staff, students and guests in the event of a medical emergency.

The school's staff should:

- Quickly assess the situation. Make sure the situation is safe for you to approach (i.e., live electric wires, gas leak, building damage, etc.).
- Immediately notify the Director.
- Assess the seriousness of the injury or illness.
- Call or have someone call 9-1-1 immediately. Be prepared to provide the school name and address, exact location (floor, room number); describe illness or type of injury; and age of the victim(s).



- Protect yourself against contact with body fluids (blood borne pathogens).
- Administer appropriate first-aid according to your level of training until help arrives.
- Comfort and reassure the injured person. Do Not Move an injured person unless the scene is unsafe.

The Director will direct staff to call 9-1-1, if necessary, and provide appropriate information to emergency responders. The Director will send school staff with first responder/ first-aid training to the scene if this has not already occurred. The Director will assign a staff member to meet emergency medical service responders and lead them to the injured person and assign a staff member to remain with the injured person if they are transported to the hospital. If the injured person is a member of school personnel or a student, the Director will notify parent, guardian, or other appropriate family member of the situation, include type of injury or illness, medical care given and location where the injured person has been transported. The Director will ensure that student or staff medical information from administrative records is sent to the hospital. The Director will develop and maintain written documentation of the incident.

### **J. Fire Prevention and Workplace Hazards**

It is the responsibility of all faculty and staff to alert the Director of any and all conditions that could potentially pose a fire hazard or other unsafe condition in or around the building. No smoking is permitted in the building and flammable chemicals are confined and stored in a locked area, meeting all OSHA requirements. Good housekeeping practices will be the responsibility of all faculty, staff and students. Waste materials are to be discarded in their proper places and all aisles, doorways, hallways and exit doors are to be kept clear at all times.

### **K. Alcoholic Beverages or Controlled Substances**

It is the policy of TONI&GUY Hairdressing Academy that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance or alcohol is prohibited while in the workplace, on school premises, or as part of any school sponsored activities. Any employee or student violating this policy will be subject to disciplinary action up to and including termination or expulsion and referral for prosecution. The specifics of this policy can be found in the Drug Free School Policy.

### **L. Alcohol and Substance Abuse Education**

The School has developed a program to prevent the illicit use of drugs and the abuse of alcohol by students and employees. The program provides services related to drug use and abuse including dissemination of information materials, referrals, and school disciplinary actions.

A violation of any law regarding drugs or alcohol is also a violation of the school's Drug Free School Policy and will be treated as a separate disciplinary matter by the school.

Mental health and substance abuse services are available at:

- New Mexico Human Services Department Behavioral Health Services Division (505) 827- 2601
- National Institution on Drug Abuse (M-F, 8:30 a.m.-4:30 p.m.) 1 -800-662-HELP
- National Alcohol & Drug Abuse Hotline 1-800-234-0420
- Cocaine Helpline 1-800-COCAINE
- Reach-Out Hotline 1-800-522-9054  
(Alcohol, drug-crisis, intervention, mental health referral)
- 24 Hour National Addiction Hotline: 800-559-9503
- The Alcohol and Drug Abuse Crisis Intervention: 800-234-0246

- Alcohol and Drug Abuse 24-hour Hotline & Treatment: 800-378-4435

Additional information about drug and alcohol abuse, health risks, addiction and prevention can be accessed at the National School on Alcohol Abuse and Alcoholism ([www.collegedrinkingprevention.gov](http://www.collegedrinkingprevention.gov)) as well as the National School on Drug Abuse ([www.drugabuse.gov/DrugPages/DrugsofAbuse.html](http://www.drugabuse.gov/DrugPages/DrugsofAbuse.html)).

### **M. Sexual Misconduct Policies & Procedures**

TONI&GUY Hairdressing Academy is committed to providing a working and educational environment for all students, faculty and staff that is free from sex discrimination, including sexual misconduct. Every member of the school community should be aware that the school is strongly opposed to sexual misconduct, and that such behavior is prohibited by state and federal laws.

The school's Sexual Misconduct Policy is part of this Annual Security Report. It describes the school's programs to prevent sexual misconduct, and the procedures that the school will follow once an incident of sexual misconduct has been reported. This Policy is disseminated widely to the school community through publications, the school website, new employee orientations, student orientations, and other appropriate channels of communication. Copies of the Policy can be obtained from the Director or downloading from the school's website at <https://abq.toniguy.edu>. The school provides training to key staff members to enable the school to handle any allegations of sexual misconduct promptly and effectively. The school will respond quickly to all reports of sexual harassment, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this policy.

The school's Sexual Misconduct Policy governs sexual misconduct involving students that occurs on any school property or in connection with any school-sponsored program or event. This Policy applies to all students, employees, and third parties conducting business with the school, regardless of the person's gender, gender identity, sexual orientation, age, race, nationality, class status, ability, religion or other protected status. The school encourages victims of sexual violence to talk to somebody about what happened – so victims can get the support they need, and so the school can respond appropriately. As further described in the Policy, the school will seek to respect a victim's request for confidentiality to the extent possible, while remaining ever mindful of the victim's well-being. The school prohibits retaliation against those who file a complaint or third-party report, or otherwise participate in the investigative and/or disciplinary process (e.g., as a witness).

### **N. Sexual Offender Registration**

In accordance to the Campus Sex Crimes Prevention Act of 2000, the Clery Act, and the Family Rights and Privacy Act of 1974, the school is providing information for where students and employees may obtain information regarding registered sex offenders. The New Mexico Sex Offenders Registry may be found at:

[http://sheriffalerts.com/cap\\_office\\_disclaimer.php?office=55290&fwd=aHR0cDovL2NvbW11bml0eW5vdGlmaWNhdGlubi5jb20vY2FwX21haW4ucGhwP29mZmljZT01NTI5MA==](http://sheriffalerts.com/cap_office_disclaimer.php?office=55290&fwd=aHR0cDovL2NvbW11bml0eW5vdGlmaWNhdGlubi5jb20vY2FwX21haW4ucGhwP29mZmljZT01NTI5MA==)

The Campus Sex Crimes Prevention Act requires institutions of higher education to provide a statement advising the campus community where law enforcement information provided by a state concerning registered sex offenders can be obtained.

**TONI&GUY HAIRDRESSING ACADEMY  
CAMPUS CRIME REPORT**

**2201 Uptown Loop Road NE, Suite F, Albuquerque, NM 87110**

The Director prepares this report to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. The report is prepared in cooperation with the local law enforcement agencies surrounding our campus.

Campus crime, arrest, and referral statistics include those reported to the Director and local law enforcement agencies. Copies of the report may be obtained in the Director's Office or by calling 505-842-8616. All prospective employees may obtain a copy from the Director or by calling 505-842-8616.

**To Report A Crime:** Contact the Director at 505-842-8616 (non-emergencies) or dial 9-1-1 (emergencies only). You may also contact one of the school's designated Campus Security Authorities. Any suspicious activity or person seen loitering inside or around the school buildings should be reported to the Director or a Campus Security Authority.

Offense	On Campus			Non Campus			Public Property		
	2014	2015	2016	2014	2015	2016	2014	2015	2016
Murder/Non-Negligent Manslaughter	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0
Rape	0	0	0	0	0	0	0	0	0
Fondling	0	0	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0
<b>VAWA Offenses</b>									
Domestic Violence	0	0	0	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0	0	0	0
Stalking	0	0	0	0	0	0	0	0	0
<b>Arrests &amp; Disciplinary Referrals</b>									
Liquor Law Arrests	0	0	0	0	0	0	0	0	0
Liquor Law Violations Referred for Disciplinary Action	0	0	0	0	0	0	0	0	0
Drug Law Arrests	0	0	0	0	0	0	0	0	0
Drug Law Arrests Referred for Disciplinary Action	0	0	0	0	0	0	0	0	0
Illegal Weapons Possession Arrests	0	0	0	0	0	0	0	0	0
Illegal Weapons Possession Violations Referred for Disciplinary Action	0	0	0	0	0	0	0	0	0

**Hate Crimes** – There were no reported hate crimes for the years 2015, 2016 or 2017.

## **TONI&GUY HAIRDRESSING ACADEMY DRUG FREE SCHOOL POLICY**

TONI&GUY Hairdressing Academy believes that it is very important to provide a safe environment for all its students and employees. Substance abuse, while at work, school or otherwise, seriously endangers the safety of students and employees, as well as the general public, and creates a variety of problems including increased theft, decreased morale, decreased productivity, and a decline in the quality of services provided. It is also our Policy to prevent the use and/or presence of these substances in the school. TONI&GUY Hairdressing Academy will strive to provide an environment conducive to making conscientious and healthy decisions when students are faced with difficult choices associated with the use of legal and illegal drugs.

The unlawful manufacture, distribution, possession or use of a controlled substance or the unlawful possession and use of alcohol is wrong, harmful and prohibited by the TONI&GUY Hairdressing Academy or as part of any of its activities. Drug and alcohol abuse prevention and counseling is available to all students and staff upon request.

This policy strictly prohibits the illegal use, possession, manufacture, dispensing, or distribution of alcohol, drugs or controlled substances in the workplace, on its premises, or as a part of all school sponsored activities. A violation of this policy is considered a major offense, which may result in requirement for satisfactory participation in a drug or alcohol rehabilitation program, referral for criminal prosecution, and/or immediate disciplinary action up to and including termination from employment and suspension or expulsion from the school. A criminal conviction is not required for sanctions to be imposed upon an employee or student for violations of this policy. Violations of applicable local, state and federal laws may subject a student or employee to a variety of legal sanctions including but not limited to fines, incarceration, imprisonment and/or community service requirements. Convictions become a part of an individual's criminal record and may prohibit certain career and professional opportunities.

It is a violation of school policy for any student to:

- Use illegal drugs or misuse prescription drugs;
- Misuse alcohol;
- Possess, trade, manufacture, distribute, dispense, buy or offer for sale alcohol, illegal and/or prescription drugs while on duty, during break periods, or on school property;
- Arrive or return to school intoxicated from use of illegal drugs, misused prescription drugs or alcohol;
- Engage in the use of illegal drugs, misuse of prescription drugs or alcohol during school hours or while on school property (including parking lots); or
- Use prescription drugs or non-prescription drugs that may affect the safety of the student or fellow students, and members of the public,

Any student who is taking any prescription or non-prescription drug which might impair safety, performance, or any motor functions must advise his/her Instructor or the Director before providing services under such medication.

Students are individually responsible for being aware of applicable laws, regulations, ordinances, and the school's policy for complying with them. TONI&GUY Hairdressing Academy will assist in that endeavor by providing current information on an ongoing basis to all students.

The following information is provided in accordance with the Drug Free Workplace Act of 1988 (P.L. 100-690, Title V, Subtitle D) and the Drug Free Schools and Communities Act Amendments of 1989 (P.L. 101-226).

### **Health Risks**

Health risks generally associated with alcohol and drug abuse can result in but are not limited to a lowered immune system, damage to critical nerve cells, physical dependency, lung damage, heart problems, liver disease, physical and mental depression, increased infection, irreversible memory loss, personality changes and thought disorders. The use of alcohol and other drugs represents a serious threat to health and the quality of life. More than 25,000 people die each year from drug-related accidents or health problems. With most drugs, it is possible that users will develop psychological and physical dependence. The general categories of drugs and their effects are as follows:

**Alcohol** produces short-term effects that include behavioral changes, impairment of judgment and coordination, greater likelihood of aggressive acts, respiratory depression, irreversible physical and mental abnormalities in newborns (fetal alcohol syndrome) and death. Long-term effects of alcohol abuse include damage to the liver, heart and brain; ulcers; gastritis; malnutrition; delirium tremens; and cancer. Alcohol combined with barbiturates and other depressants can prove to be a deadly mixture.

**Amphetamines/Stimulants** (speed, uppers, crank, caffeine, etc.) speed up the nervous system and can cause increased heart and breathing rates, higher blood pressure, decreased appetite, headaches, blurred vision, dizziness, sleeplessness, anxiety, hallucinations, paranoia, depression, convulsions and death due to a stroke or heart failure.

**Anabolic steroids** seriously affect the liver, cardiovascular and reproductive systems. Can cause sterility in males and females as well as impotency in males.

**Barbiturates/Depressants** (downers, quaaludes, valium, etc.) slow down the central nervous system and can cause decreased heart and breathing rates, lowered blood pressure, slowed reactions, confusion, distortion of reality, convulsions, respiratory depression, coma and death. Depressants combined with alcohol can be lethal.

**Cocaine/Crack** stimulates the central nervous system and is extremely addictive, both psychologically and physically. Effects include dilated pupils, increased heart rate, elevated blood pressure, insomnia, loss of appetite, hallucinations, paranoia, seizures and death due to cardiac arrest or respiratory failure.

**Hallucinogens** (PCP, angel dust, LSD, etc.) interrupt the functions of the part of the brain that controls the intellect and instincts. May result in self-inflicted injuries, impaired coordination, dulled senses, incoherent speech, depression, anxiety, violent behavior, paranoia, hallucinations, increased heart rate and blood pressure, convulsions, coma, and heart and lung failure.

**Cannabis** (marijuana, hashish, hash, etc.) impairs short-term memory comprehension, concentration, coordination and motivation. May also cause paranoia and psychosis. Marijuana smoke contains more cancer-causing agents than tobacco smoke. The way in which marijuana is smoked - deeply inhaled and held in the lungs for a long period -

enhances the risk of getting cancer. Combined with alcohol, marijuana can produce a dangerous multiplied effect.

**Narcotics** (heroin, morphine, demerol, percodan, etc.) initially produce feelings of euphoria often followed by drowsiness, nausea and vomiting. An overdose may result in convulsions, coma and death. Tolerance develops rapidly and dependence is likely. Using contaminated syringes to inject such drugs may result in AIDS.

**Tobacco/nicotine** causes death among some 170,000 people in the United States each year due to smoking-related coronary heart disease. Some 30 percent of the 130,000 cancer deaths each year are linked to smoking. Lung, larynx, esophagus, bladder, pancreas and kidney cancers strike smokers at increased rates. Emphysema and chronic bronchitis are 10 times more likely among smokers.

## **Punishment for Alcohol and Drug Related Crimes**

### **State of New Mexico**

- 60-7A-5 It is a felony for any person to manufacture, for the purpose of sale, possess for the purpose of sale, offer for sale, or sell any alcoholic beverages in the state except under the terms and conditions of the Liquor Control Act.
- 60-7A-7 It is a felony for any person other than a licensed distiller or rectifier to manufacture any spirituous liquors in the state.
- 60-7A-16 It is a violation of the Liquor Control Act for a person to sell or serve alcoholic beverages to, or to procure or aid in the procurement of, alcoholic beverages for an intoxicated person knowing that the person buying or receiving service of alcoholic beverages is intoxicated.
- 60-7A-22 It is a violation of the liquor control act for any person to consume alcoholic beverages in any public establishment unless the establishment is licensed to sell and serve alcoholic beverages.
- 60-7A-25 (Penalties)
  - A violation of any provision of the Liquor Control Act or of any rule or regulation promulgated by the department which is not declared by the Liquor Control Act to be a felony shall be a misdemeanor, and, upon conviction thereof, the person shall be punished by a fine of not more than \$1,000.00 or by confinement in jail not more than one year or by both.
  - Any person convicted of a violation of the Liquor Control Act which is declared by the Liquor Control Act to be a felony shall be punished by a fine of not more than \$5000.00 or by imprisonment not more than 18 months or both.
- 60-7B-1
  - It is a violation of the Liquor Control Act for any person except the minor's parent, guardian, adult spouse, or adult person into whose custody any court has committed the minor to do any of the following acts:
    - sell, serve, or give any alcoholic beverage to a minor or permit a minor to consume alcoholic beverages on the licensed premises;
    - buy alcoholic beverages for, or procure the sale or service of alcoholic beverages to, a minor;

**Federal Law**

OFFENSE	MINIMUM PUNISHMENT	MAXIMUM PUNISHMENT
Manufacture, distribution or dispensing drugs (includes marijuana)	A term of imprisonment for up to 5 years, and a fine of \$250,000.	A term of life imprisonment without release (no eligibility for parole) and a fine not to exceed \$8,000,000 (for an individual) or \$20,000,000 (if other than an individual).
Possession of drugs (includes marijuana)	Imprisonment for up to 1 year, and a fine of \$1,000.	Imprisonment for not more than 20 years or not less than 5 years, a fine of not less than \$5,000 plus costs of investigation and prosecution.
Operation of a Common Carrier under the influence of alcohol or drugs		Imprisonment for up to 15 years and a fine not to exceed \$250,000.

**Referral and Hotline Information**

- National Institution on Drug Abuse (M-F, 8:30 a.m.-4:30 p.m.) 1 -800-662-HELP
- National Alcohol & Drug Abuse Hotline 1-800-234-0420
- Cocaine Helpline 1-800-COCAINE
- Reach-Out Hotline 1-800-522-9054  
(Alcohol, drug-crisis, intervention, mental health referral)
- New Mexico Human Services Department Behavioral Health Services Division (505) 827- 2601

**Reasonable Search:**

To ensure that illegal drugs and alcohol do not enter or affect the school, TONI&GUY Hairdressing Academy reserves the right to search all vehicles, containers, lockers, or other items on school property in furtherance of this Policy. Individuals may be requested to display personal property for visual inspection upon the school's request. Searches will be conducted only where TONI&GUY Hairdressing Academy has reason to believe that the student has violated the school's policy. Failure to consent to a search or display of personal property for visual inspection will be grounds for discipline, up to and including termination from the program or denial of access to school premises. Searches of a student's personal property will take place only in the student's presence. All searches under this Policy will occur with the utmost discretion and consideration for the student involved. Individuals may be required to empty their pockets, but under no circumstances will a student be required to remove articles of clothing to be physically searched.

**Student Assistance:**

TONI&GUY Hairdressing Academy holds all students accountable in terms of substance use but also supports getting help for students. Students who come forward voluntarily to identify that they have a substance problem will not be reprimanded. It is important for the student to come to an understanding regarding the extent of the problem in order to correct the problem and be able to avoid future usage in violation of the school's Policy. This is required in order to correct the problem and be able to avoid violating the school's Policy in the future. If the student is willing to actively engage in resolving the substance use problem, the school will refer the student to a Substance Abuse Professional for an assessment and possible outpatient counseling at the student's expense. This leave will be conditioned upon receipt of reports from the treatment providers that the student is cooperating and making reasonable progress in the treatment program. The student will be permitted to return to school only if (s)he passes a drug /alcohol test and has satisfactory medical evidence that (s)he is fit for attendance.

This protection does not cover a student who confesses a problem after an incident.

**Disciplinary Action:**

Violation of this Policy will result in the student's immediate termination. Re-admittance may be considered after 60 days. To be considered for re-admittance, the student must provide proof of having satisfactorily attended treatment that is provided by a Substance Abuse Professional (SAP) and/or prescribed by a SAP and completed a drug and/or alcohol test, determined by which test was previously positive, with a negative test result. If the student is re-admitted, (s)he must complete the prescribed follow-up testing by the SAP or by law, as applicable, to continue attending TONI&GUY Hairdressing Academy. Treatment and follow-up testing will be at the expense of the student. TONI&GUY Hairdressing Academy may terminate a student who has entered a rehabilitation program for violations of the Drug Free School Policy or any other school policy in accordance with the procedures set forth in the Student Catalog.

**Confidentiality:**

All information, interviews, reports, and statement memoranda, written or otherwise, received by TONI&GUY Hairdressing Academy as part of this drug program are confidential communications. Unless authorized by state laws, rules or regulations, the school will not release such information without a written consent form signed voluntarily by the student. Information will not be released unless such information or records are compelled by a court or a professional or occupational licensing board.

**Biennial Review:**

The school will review the drug and alcohol prevention program every two years on the even number year. Any recommendations/data and or assistance available to substance abusers will be updated and distributed to all students and staff of TONI&GUY Hairdressing Academy.



**Notice of Federal Student Aid (FSA) Penalties for Drug Law Violations:**

The Higher Education Opportunity Act requires institutions to provide to every student upon enrollment a separate, clear and conspicuous written notice with information on the penalties associated with drug-related offenses under existing section 484(r) of the HEA. It also requires an institution to provide a timely notice to each student who has lost eligibility for any grant, loan, or work-study assistance as a result of penalties under 484(r)(1) of the HEA a separate clear, and conspicuous written notice that notifies the student of the loss of eligibility and advises the student of the ways in which to regain eligibility under section 484(r)(2) of the HEA. Students are hereby notified that federal guidelines mandate that a federal or state drug conviction can disqualify a student for Federal Student Aid funds. Convictions only count if they were for an offense that occurred during a period of enrollment for which the student was receiving Title IV aid—they do not count if the offense was not during such a period. Also, a conviction that was reversed, set aside, or removed from the student's record does not count, nor does one received when he/she was a juvenile, unless the student was tried as an adult.

The Higher Education Act of 1965 as amended (HEA) suspends aid eligibility for students who have been convicted under federal or state law of the sale or possession of drugs, if the offense occurred during a period of enrollment for which the student was receiving federal student aid (grants, loans, and/or work-study). If you have a conviction(s) for these offenses, call the Federal Student Aid Information Center at 1-800-4-FED-AID (1-800-433-3243) to complete the "Student Aid Eligibility Worksheet" to find out how this law applies to you.

If you have lost federal student aid eligibility due to a drug conviction, you can regain eligibility if you pass two unannounced drug tests conducted by a drug rehabilitation program that complies with criteria established by the U.S. Department of Education.

By completing the FAFSA, you may be eligible for nonfederal aid from states and private institutions even if ineligible for Federal Aid. If you regain eligibility during the award year, notify your financial aid Director immediately. If you are convicted of a drug-related offense after you submit the FAFSA, you might lose eligibility for federal student aid, and you may be liable for returning any financial aid you received during a period of ineligibility.

**School Flexibility:**

TONI&GUY Hairdressing Academy reserves the right to alter or amend any portion of this policy at any time without prior notice. The school reserves the right to alter or modify this policy in a given situation depending on the totality of the circumstances. Time periods stated herein for the performance of any act or provision of any notice by the school are for guidance only and failure of TONI&GUY Hairdressing Academy to strictly meet any time frame provided herein shall not preclude the school from taking any action provided herein. Under no circumstances shall failure to perform any act within the time frames herein excuse or relieve any student from his or her obligations, act to nullify any positive test, or relieve any student from the consequences of any positive test, or any other violation of this Policy.

# **TONI&GUY HAIRDRESSING ACADEMY**

## **CAMPUS SEXUAL MISCONDUCT POLICIES & PROCEDURES**

### **1. Introduction**

TONI&GUY Hairdressing Academy (the “School”) is committed to providing a working and educational environment for all students, faculty and staff that is free from sex discrimination, including sexual misconduct. Every member of the School community should be aware that the School is strongly opposed to sexual misconduct, and that such behavior is prohibited by state and federal laws.

As part of the School’s commitment to providing a working and learning environment free from sexual misconduct, this Policy shall be disseminated widely to the School community through publications, the School website, new employee orientations, student orientations, and other appropriate channels of communication. The School provides training to key staff members to enable the School to handle any allegations of sexual misconduct promptly and effectively. The School will respond quickly to all reports of sexual harassment, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this policy.

### **2. Scope of the Policy**

This Policy governs sexual misconduct involving students that occurs on any School property or in connection with any School-sponsored program or event. This Policy applies to all students, employees, and third parties conducting business with the School, regardless of the person’s gender, gender identity, sexual orientation, age, race, nationality, class status, ability, religion or other protected status. The School encourages victims of sexual violence to talk to somebody about what happened – so victims can get the support they need, and so the School can respond appropriately. As further described in this Policy, the School will seek to respect a victim’s request for confidentiality to the extent possible, while remaining ever mindful of the victim’s well-being.

### **3. Prohibited Conduct**

Sexual misconduct comprises a broad range of behaviors focused on sex that may or may not be sexual in nature. Any intercourse or other intentional sexual touching or activity without the other person’s consent is sexual assault, which is a form of sexual misconduct under this Policy. Sexual harassment and sexual exploitation, stalking, domestic violence, and dating violence are also forms of sexual misconduct. Intimidation for one of these purposes is sexual misconduct, as is retaliation following an incident of alleged sexual misconduct or attempted sexual misconduct. The definitions for specific acts of sexual misconduct can be found in the Definitions of Key Terms at the end of this Policy statement.

Misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship, can be committed by anyone regardless of gender identity, and can occur between people of the same or different sex or gender. **This Policy prohibits all forms of sexual misconduct.**

### **4. Options for Assistance Following an Incident of Sexual Misconduct**

The School strongly encourages any victim of sexual misconduct to seek immediate assistance. Seeking prompt assistance may be important to ensure a victim’s physical safety or to obtain medical care. The School strongly advocates that a victim of sexual assault report the incident in a timely manner. Time is a critical factor for evidence collection and preservation.

### **Reporting Incidents of Sexual Misconduct.**

Victims of sexual misconduct may file a report with the Albuquerque Police Department or Rio Rancho Police Department. Victims may also file a report with the School's Title IX Coordinator. More information about reporting an incident of sexual misconduct can be found in Section 6 of this Policy, below.

When a student or employee reports to the School that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the School will provide the student or employee a written explanation of the student's or employee's rights and options. The School will also provide the student or employee with written notification about assistance available both within the School and without, as well as information about options for academic or protective measures.

The victim of the sexual misconduct may choose for the investigation to be pursued through the criminal justice system and the School's disciplinary procedures. The School and the criminal justice system work independently from each other. Law enforcement officers do not determine whether a violation of this Policy has occurred. The Title IX Coordinator will guide the victim through the available options and support the victim in his or her decision.

### **Support Services Available.**

Counseling, advocacy and support services are available for victims of sexual misconduct, whether or not a victim chooses to make an official report or participate in the School's disciplinary or criminal process. *TONI&GUY Hairdressing Academy does not provide counseling or health care services. Personal counseling offered by the School will be limited to initial crisis assessment and referral.*

Sexual misconduct crisis and counseling options are available locally and nationally through a number of agencies, including:

#### **National Agencies**

Rape, Abuse and Incest National Hotline 800-656-HOPE (4673)

National Sexual Violence Resource Center (NSVRC) 877-739-3895

Other resources available to persons who report being the victim of sexual assault, domestic violence, dating violence, or stalking, are available at: <http://www.ovw.usdoj.gov/sexassault.htm>

#### **Agencies**

- New Mexico Coalition Against Domestic Violence Hotline: 1-800-773-3645 (Statewide)
- Women's Community Association/Shelter from Domestic Violence: (505) 247-4219 (Albuquerque)
- All Faith's Receiving Home - Emergency Shelter for Children: (505) 345-8938
- APD Victim Assistance Unit: (505) 243-2333 (Albuquerque)
- Albuquerque Women's Resource Center: (505) 242-7033 (Albuquerque)
- New Mexico Domestic Legal Help Line: 1-877-974-3400 (Toll Free - Statewide) (505) 243-4300 (Albuquerque)
- New Mexico Coalition of Sexual Assault Programs: 1-888-883-8020 (Statewide) (505) 883-8020 (Albuquerque)
- Morning Star - Advocacy Program for Native American Women: (505) 232-8299 (Albuquerque)
- Resources - Women's Advocacy Group: (505) 884-1241 (Albuquerque)
- Enlace - Spanish Speaking: (505) 246-8972
- 911 or the non-emergency number - (505) 242-COPS (2677) (Albuquerque)

- Nationwide Domestic Violence Hotline: 1-800-799-SAFE (Nationwide)
- National Resource Center on Domestic Violence: 1-800-537-2238 (Nationwide)
- Restraining Orders: (505) 841-8400
- Crime Victim's Reparation Commission: (505) 841-9432

The School's Title IX Coordinator will work with all students affected by sexual misconduct to ensure their safety and support their wellbeing. This assistance may include providing accommodations to support or protect a student after an incident of sexual misconduct and while an investigation or disciplinary proceeding is pending. Such accommodations may include the ability to alter class schedules, withdraw from/retake a class without penalty, and access academic support (e.g., tutoring). The School may be able to provide additional interim measures to victims while an investigation is pending, such as no contact orders and changing the alleged perpetrator's class schedule. Students who report an incident of sexual misconduct may also be able to obtain a formal protection order from a civil or criminal court. The School will work with the student and the applicable court to assist in the enforcement of any such protective orders.

### **Evidence Preservation**

Victims of sexual assault, domestic violence or dating violence should consider seeking medical attention as soon as possible. It is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen where they were assaulted so that evidence necessary to prove criminal activity may be preserved. In circumstances where the victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address health concerns. Victims of sexual misconduct are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful in connection with a school or police investigation.

### **5. Title IX Coordinator**

The School's Title IX Coordinator is responsible for monitoring and overseeing the School's compliance with Title IX and the prevention of sex harassment, sexual misconduct and discrimination. The Title IX Coordinator is:

- Knowledgeable and trained in School policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a complainant, respondent, or a third party, about School and community resources and reporting options;
- Available to provide assistance to any School employee regarding how to respond appropriately to a report of Title IX-related prohibited conduct and related retaliation;
- Participates in ensuring the effective implementation of this Policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes; and
- Responsible for overseeing training, prevention, and education efforts and annual reviews of climate and culture.

Inquiries or concerns about Title IX may be referred to the School's Title IX Coordinator:

**Albuquerque**

Tammy Hingtgen  
2201 Uptown Loop Rd Suite F  
Albuquerque, NM 87110  
Phone: (505) 842-8778  
Email: thingtgen@toniguy.edu

**Rio Rancho**

Tammy Hingtgen  
2201 Uptown Loop Rd Suite F  
Albuquerque, NM 87110  
Phone: (505) 842-8778  
Email: thingtgen@toniguy.edu

## **6. Reporting Policies and Protocols**

TONI&GUY Hairdressing Academy strongly encourages all members of the School community to report information about any incident of sexual misconduct as soon as possible, whether the incident occurred on or off campus. Reports can be made either to the School and/or to law enforcement.

### **Reporting to the School**

An incident of sexual misconduct may be reported directly to the School's Title IX Coordinator. If the School's Title IX Coordinator is the alleged perpetrator of the sexual misconduct, the report should be submitted to the School's owner Joe LiRosi 505-818-0697. Filing a report with a School official will not obligate the victim to prosecute, nor will it subject the victim to scrutiny or judgmental opinions from officers.

An individual who has experienced an incident of sexual misconduct may report the incident at any time, regardless of how much time has elapsed since the incident occurred. The School is committed to supporting the rights of a person reporting an incident of sexual misconduct to make an informed choice among options and services available.

The School will respond to all reports in a manner that treats each individual with dignity and respect and will take prompt responsive action to end any misconduct, prevent its recurrence, and address its effects.

### **Reporting to Law Enforcement**

An incident of sexual misconduct can be reported to law enforcement at any time, 24 hours a day/7 days a week, by calling 911. <sup>SEP</sup>At the complainant's request, the School will assist the complainant in contacting law enforcement. If the complainant decides to pursue the criminal process, the School will cooperate with law enforcement agencies to the extent permitted by law. A complainant has the option to decide whether or not to participate in any investigation conducted by law enforcement. <sup>SEP</sup>Filing a police report will:

- Ensure that a victim of sexual assault receives the necessary medical treatment and tests
- Provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (ideally a victim of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam)
- Assure the victim has a referral to confidential counseling from counselors specifically trained in the area of sexual assault

### **Reporting of Crimes & Annual Security Reports**

Campus safety and security are important issues at TONI&GUY Hairdressing Academy. Our goal is to provide students with a safe environment in which to learn and to keep students,

parents, and employees well informed about campus security. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, or Clery Act, requires institutions of higher education to record and report certain information about campus safety, including the number of incidents of certain crimes on or near campus, some of which constitute sexual misconduct under this Policy.

Each year the School prepares this report to comply with the Clery Act. The full text of this report can be located on the School's web site at <https://abq.toniguy.edu>. This report is prepared in cooperation with the local law enforcement agencies around our campus. Each year notification is made to all enrolled students and employees that provides the web site to access this report. Copies of the report may also be obtained in person from the Director or by calling the Director at 505-842-8616 (Albuquerque) or 505-866-4489 (Rio Rancho). All prospective employees may obtain a copy from the Director.

### **Timely Warnings**

In the event that a situation arises, either on or off campus, that, in the judgment of the campus Director constitutes an ongoing or continuing threat, a campus wide "timely warning" will be issued. The warning will be disseminated to staff and students through announcements in campus facilities, cell phone messages, e-mail, school website, social media and/or flyers to ensure that the entire campus is likely to receive the warning. The timely warning will include information that promotes safety and tips to prevent similar crimes, allowing the campus community to take appropriate precautions. The timely warning will also include the time, location, and type of crime reported. Anyone with information warranting a timely warning should report the circumstances to the Director at 505-842-8616 (Albuquerque) or 505-866-4489 (Rio Rancho) or in person at the School.

### **Third-Party and Anonymous Reporting**

In cases where sexual misconduct is reported to the Title IX Coordinator by someone other than the complainant (by an instructor, classmate or friend, for example), the Title IX Coordinator will promptly notify the complainant that a report has been received. This Policy and the Procedures will apply in the same manner as if the complainant had made the initial report. The Title IX Coordinator will make every effort to meet with the complainant to discuss available options and resources. Reports from an anonymous source will be treated in a similar fashion.

### **No Retaliation**

The School prohibits retaliation against those who file a complaint or third-party report, or otherwise participate in the investigative and/or disciplinary process (e.g., as a witness). The School will take strong responsive action if retaliation occurs. Any incident of retaliation should be promptly reported to the Title IX Coordinator.

### **Coordination With Drug Free School Policy**

Students may be reluctant to report instances of sexual misconduct because they fear being disciplined pursuant to the School's alcohol or drug policies. The School encourages students to report all instances of sexual misconduct and will take into consideration the importance of reporting sexual misconduct in addressing violations of the School's alcohol and drug policies. This means that, whenever possible, the School will respond educationally rather than punitively to student alcohol or drug policy violations associated with reported sexual misconduct.

## **7. School Policy on Confidentiality**

The School encourages victims of sexual misconduct to talk to somebody about what happened – so victims can get the support they need, and so the School can respond appropriately.

This policy is intended to make students aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn should they become a victim of sexual misconduct. The School encourages victims to talk to someone identified in one or more of these groups.

### **Privileged and Confidential Communications – Professional & Pastoral Counselors**

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without a victim's permission. *TONI&GUY Hairdressing Academy does not provide professional or pastoral counseling, but can assist a victim of sexual misconduct in obtaining support services from these groups or agencies.* Contact information for these support organizations is listed in Section 4 of this Policy.

A victim who at first requests confidentiality may later decide to file a complaint with the School or report the incident to local law enforcement, and thus have the incident fully investigated.

**NOTE:** While these professional and pastoral counselors and advocates may maintain a victim's confidentiality vis-à-vis the School, they may have reporting or other obligations under state law.

**ALSO NOTE:** If the School determines that the alleged perpetrator(s) pose a serious and immediate threat to the School community, the School's Director may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the victim.

### **Reporting to “Responsible Employees”**

A “responsible employee” is an School employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty.

When a victim tells a responsible employee about an incident of sexual violence, the victim has the right to expect the school to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee must report to the Title IX coordinator all relevant details about the alleged sexual violence shared by the victim and that the school will need to determine what happened – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the School's response to the report. A responsible employee should not share information with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement.

The following employees are the School's responsible employees:

Director – Tammy Hingtgen, email: [thingtgen@toniguy.edu](mailto:thingtgen@toniguy.edu)  
Mark Trejo- COO email [Mark@urbanacademy.com](mailto:Mark@urbanacademy.com)  
Kortney Patcher @ [kpatcher@toniguy.edu](mailto:kpatcher@toniguy.edu)

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee's reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources.

If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the victim that the School will consider the request, but cannot guarantee that the school will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the victim's request for confidentiality.

Responsible employees will not pressure a victim to request confidentiality, but will honor and support the victim's wishes, including for the School to fully investigate an incident. By the same token, responsible employees will not pressure a victim to make a full report if the victim is not ready to.

### **Reporting to Title IX Coordinator**

When a victim tells the Title IX Coordinator about an incident of sexual misconduct, the victim has the right to expect the School to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

To the extent possible, information reported to the Title IX Coordinator will be shared only with people responsible for handling the School's response to the report. The Title IX Coordinator should not share information with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement.

Before a victim reveals any information to the Title IX Coordinator, the Coordinator should ensure that the victim understands the Coordinator's reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources. If the victim wants to tell the Title IX Coordinator what happened but also maintain confidentiality, the Coordinator should tell the victim that the School will consider the request but cannot guarantee that the School will be able to honor it.

The Title IX Coordinator will not pressure a victim to request confidentiality, but will honor and support the victim's wishes, including for the School to fully investigate an incident. By the same token, the Title IX Coordinator will not pressure a victim to make a full report if the victim is not ready to.

### **Requesting Confidentiality: How the School Will Weigh the Request and Respond.**

If a victim discloses an incident to the Title IX Coordinator but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the School must weigh that request against the School's obligation to provide a safe, non-discriminatory environment for all students, including the victim.

If the School honors the request for confidentiality, a victim must understand that the School's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when the School may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students.



The Title IX Coordinator will evaluate requests for confidentiality. When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual misconduct or other violence, such as:
  - whether there have been other sexual misconduct complaints about the same alleged perpetrator;
  - whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
  - whether the alleged perpetrator threatened further sexual misconduct or other violence against the victim or others;
  - whether the sexual misconduct was committed by multiple perpetrators;
- Whether the sexual misconduct was perpetrated with a weapon;
- Whether the victim is a minor;
- Whether the School possesses other means to obtain relevant evidence of the sexual misconduct (e.g., security cameras or personnel, physical evidence);
- Whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the School to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the School will likely respect the victim's request for confidentiality.

**If the School determines that it cannot maintain a victim's confidentiality**, the School will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the School's response. The School will remain ever mindful of the victim's well-being and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or School employees, will not be tolerated. The School will also:

- assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance;
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the victim of the right to report a crime to local law enforcement – and provide the victim with assistance if the victim wishes to do so.

The School may not require a victim to participate in any investigation or disciplinary proceeding.

Because the School is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt the School to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

**If the School determines that it can respect a victim's request for confidentiality**, the

School will also take immediate action as necessary to protect and assist the victim.

## **Miscellaneous**

**Take Back the Night and other public awareness events.** Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, “survivor speak outs” or other forums in which students disclose incidents of sexual violence, are not considered notice to the School of sexual misconduct for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts.

**Off-campus Counselors and Advocates.** Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the School unless the victim requests the disclosure and signs a consent or waiver form. Contact information for these off-campus resources can be found in Section 4 of this Policy.

## **8. Investigation Procedures and Protocols**

The School’s Title IX Coordinator oversees the School’s investigation, response to, and resolution of all reports of prohibited sexual misconduct, and of related retaliation, involving students, faculty, and staff. The Title IX Coordinator will designate an investigator (or team of investigators) to interview the complainant, respondent and any witnesses. The investigator will also gather pertinent documentary materials (if any) and other information.

### **Notice of Investigation**

The Title IX Coordinator will inform the complainant before starting an investigation. The complainant may request that an investigation not be undertaken. The Title IX Coordinator will consider such a request in light of the School’s commitment to provide a safe and non-discriminatory environment for all students. If the Title IX Coordinator determines not to investigate, he will notify the complainant in writing, including that the determination was made at the complainant’s request. At the complainant’s request, the Title IX Coordinator will also notify the respondent in writing, including that the complainant asked the School not to investigate. <sup>[L]</sup><sub>[SEP]</sub>

The investigator will direct the complainant, respondent, witnesses and other interested individuals to preserve any relevant evidence.

If an investigation proceeds, the School will notify the respondent in writing that a report has been filed. The notice will describe the allegations in the report. The complainant and respondent will be given the opportunity to meet separately with the Title IX Coordinator to review the Policy and these Procedures.

### **Investigation Process**

The School’s process for responding to, investigating and adjudicating sexual misconduct reports will continue during any law enforcement proceeding. The investigator may need to temporarily delay an investigation while the police are gathering evidence but will resume the investigation after learning that the police department has completed its evidence-gathering and will generally not wait for the conclusion of any related criminal proceeding.

The investigator will interview the complainant, respondent and any witnesses. They will also gather pertinent documentary materials (if any) and other information.

### **Time Frame for Investigation**

Consistent with the goal to maximize educational opportunities and minimize the disruptive nature of the investigation and resolution, the Title IX Coordinator seeks to resolve all reports in a timely manner. In general, an investigation may last up to 30 days, from receipt of written notice from the complainant of the intent to proceed with an investigation. Adjudication will generally take up to 30 days from the date the investigative report is provided to both the complainant and the respondent. The Title IX Coordinator may set reasonable time frames for required actions under the Policy. Those time frames may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, accommodate delays by the parties, account for School breaks or vacations, or address other legitimate reasons, including the complexity of the investigation (including the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged conduct. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Where necessary, the School will take immediate steps to protect complainants pending the final outcome of an investigation, including academic accommodations and other interim measures. These steps may include the ability to change class schedules; withdraw from/retake a class without penalty; access academic support such as tutoring; issue no contact orders; and change the alleged perpetrator's class schedule.

### **Impact of Victim's Confidentiality Request**

A victim's request for confidentiality will likely limit the School's ability to investigate a particular matter. The School may take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Examples include: providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; revising and publicizing the School's policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

### **Investigation Report**

The investigator will prepare a report detailing the relevant content from the interviews and the documentation gathered. The report will include the assessment of individual credibility and recommended findings of responsibility.

The respondent and complainant will each have the opportunity to review a copy of the investigative report and any other information used during the disciplinary proceedings. The names and other identifying information of other students will be redacted from such materials in accordance with the Family Educational Rights and Privacy Act (FERPA), except to the extent that doing so would interfere with the purpose of Title IX to eliminate sex-based discrimination.

Upon receipt of the investigative report, the complainant and respondent shall each have the opportunity to request a hearing be conducted pursuant to the procedures set forth in Section 9, below. If neither party requests a hearing within 10 calendar days from their receipt of the investigative report, then the recommended findings of responsibility set forth in the investigative report shall be final. The Title IX Coordinator shall rely on the recommended findings of responsibility in the investigative report for purposes of imposing sanctions in accordance with Section 10, below.

## **Voluntary Resolution**

Voluntary resolution, when selected by the complainant and deemed appropriate by the Title IX Coordinator, is a path designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preference of the complainant and the safety and welfare of the School community. Voluntary resolution is not appropriate for all forms of conduct under the Policy.

The School retains the discretion to determine, when selected by the complainant, which cases are appropriate for voluntary resolution. If a complainant requests voluntary resolution, and the Title IX Coordinator concludes that voluntary resolution is appropriate, then the Title IX Coordinator will take appropriate action by imposing remedies designed to maximize the complainant's access to all employment, educational, and extracurricular opportunities and benefits at the School and to eliminate a potential hostile environment. A complainant may request and decide to pursue voluntary resolution at any time. In those cases in which the voluntary resolution involves either the notification to or participation by the respondent, it is the respondent's decision whether to accept voluntary resolution.

Voluntary resolution may include: conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; facilitating a meeting with the respondent with the complainant present (in cases that do not involve sexual assault); and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy. In some forms of voluntary resolution, the remedies imposed will focus on supporting the complainant with no participation or involvement by the respondent. In other forms of voluntary resolution, the respondent may agree to participate. Depending on the type of remedy used, it may be possible for a complainant to maintain anonymity.

Voluntary resolution may also include restorative principles that are designed to allow a respondent to accept responsibility for misconduct and acknowledge harm to the complainant or to the School community. Restorative models will be used only with the consent of both parties and following a determination by the Title IX Coordinator that the matter is appropriate for a restorative approach.

The School will not compel a complainant to engage in mediation, to confront directly the respondent, or to participate in any particular form of informal resolution. Mediation, even if voluntary, is never appropriate in sexual assault cases and will not be used in such cases. As the title implies, participation in voluntary resolution is a choice, and either party can request to end this manner of resolution and pursue an investigation and adjudication at any time, including if voluntary resolution is unsuccessful at resolving the report. Similarly, a complainant can request to end an investigation and pursue voluntary resolution at any time.

The time frame for completion of voluntary resolution may vary, but the School will seek to complete the process within 15 days of the complainant's request.

## **9. Grievance/Adjudication Procedures**

### **Hearing Panel**

If requested by either complainant or respondent following the distribution of the investigative report, the School will convene a hearing panel following the end of the investigation. The hearing panel determines whether the respondent is responsible or not responsible for a violation of the Policy. If the respondent is determined to be responsible, the matter proceeds to

the sanctions stage.

The hearing panel will generally include the Title IX Coordinator and two additional members who will be individuals associated with the School. These additional hearing panel members may include Directors, officers, lawyers or other individuals with relevant experience and special training. Panel members may participate remotely so long as the hearing room is equipped with telephone equipment that allows the panel member to hear all the participants and to be heard by all the participants throughout the hearing proceedings. All panelists will receive training from experts in the field at least once a year. In addition to training on how the adjudicatory process works, the training will include specific instruction about how to approach students about sensitive issues that may arise in the context of sexual misconduct. The complainant and respondent will be informed of the panel's membership before the hearing process begins. A complainant and/or respondent may challenge the participation of a panel member because of perceived conflict of interest, bias, or prejudice. Such challenges, including rationale, must be made to the Title IX Coordinator at least 48 hours prior to the commencement of the hearing. At its discretion, the Title IX Coordinator will determine whether such a conflict of interest exists and whether a panel member should be replaced. Postponement of a hearing may occur if a replacement panelist cannot be immediately identified.

### **Advisors**

Both the complainant and the respondent are entitled to be accompanied to any meeting or proceeding relating to the allegation of sexual misconduct by an advisor or support person of their choice, provided the involvement of such advisor or support person does not result in the postponement or delay of such meeting as scheduled.

### **Written Submissions**

Both the complainant and respondent will have the opportunity to submit written responses to the investigation report and other relevant information to the hearing panel. Each of the complainant and respondent will have the opportunity to review any written submissions by the other. The hearing panel may set reasonable parameters for these written submissions. The hearing panel will review the investigation report and written submissions.

### **Hearing Procedures**

The Title IX Coordinator will, whenever possible, give the complainant and respondent at least five days' advance notice of the hearing. The hearing is a closed proceeding, meaning that no one other than the panel members, the complainant and respondent, their respective advisors, witnesses (when called), and necessary School personnel may be present during the proceeding. The Director will work with School staff so that any student whose presence is required may participate in the hearing.

In general, hearings will proceed as follows:

- The Title IX Coordinator may set reasonable time limits for any part of the hearing. Each of the complainant and respondent will have the opportunity to present witnesses and other information consistent with the Policy and these Procedures. The panel may determine the relevance of, place restrictions on, or exclude any witnesses or information. When the complainant and respondent are not able to be present for the hearing panel, arrangements will be made for participation via alternate means.
- In cases where either the complainant or respondent opts not to participate in the hearing, the panel may still hear from the other.
- Additional hearing rules include:

- Questioning. Only the panel may ask questions of the complainant and respondent and any witnesses. Both the complainant and respondent will have the opportunity to suggest questions of the other and of witnesses by submitting suggested questions to the panel in writing. The panel may revise or not ask any or all submitted questions.
- Information Regarding Romantic or Sexual History. The panel will not consider the romantic or sexual history of either the complainant or respondent in cases involving allegations of sexual misconduct, except for testimony offered by one or the other about the complainant's and respondent's shared sexual history that the panel deems relevant. If such information is offered by the complainant or respondent, the other has the right to respond. The existence of a prior consensual dating or sexual relationship between the complainant and respondent by itself does not support an inference of consent to alleged sexual misconduct.
- Prior Conduct Violations. The hearing panel will not consider the respondent's prior conduct violations, unless the investigator provided that information to the hearing panel because the respondent was previously found to be responsible, and the previous incident was substantially similar to the present allegation(s) and/or the information indicates a pattern of behavior by the respondent. [SEP]

The School will keep an audio recording of the hearing for the use of the panel, for sanctioning, and for purposes of appeal. [SEP] Cell phones and recording devices may not be used in the hearing room(s) unless approved by the panel in advance.

#### **[SEP] Panel Determinations/Standard of Proof [SEP]**

The panel will use "preponderance of the evidence" as the standard of proof to determine whether a violation of the Policy occurred. Preponderance of the evidence means that a panel must be convinced based on the information it considers that the respondent was more likely than not to have engaged in the conduct at issue in order to find the respondent responsible for violating the Policy. [SEP] The panel will find a student responsible, or not responsible, based on a majority vote. The panel will generally render a decision within 10 days after the conclusion of a hearing. The panel's decision will include an explanation of the basis for the decision. [SEP] If the panel finds the respondent responsible, the matter will proceed to the sanctions stage.

The parties will be informed of the results of the adjudication hearing by simultaneous written notice to both parties of the outcome of the complaint. As set forth in Section 11, below, both parties shall have the option to appeal the hearing panel's determination.

### **10. Sanctions and Other Remedies**

The Title IX Coordinator, with the advice and counsel of the other hearing panel members, shall be responsible for imposing sanctions that are:

- Fair and appropriate given the facts of the particular case;
- Consistent with the School's handling of similar cases;
- Adequate to protect the safety of the campus community; and
- Reflective of the seriousness of sexual misconduct.

The Title IX Coordinator will consider relevant factors, including if applicable: (1) the specific sexual misconduct at issue (such as penetration, touching under clothing, touching over clothing, unauthorized recording, etc.); (2) the circumstances accompanying the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.); (3) the respondent's state of

mind (intentional, knowing, bias-motivated, reckless, negligent, etc.); (4) the impact of the offense on the complainant; (5) the respondent's prior disciplinary history; (6) the safety of the School community; and (7) the respondent's conduct during the disciplinary process.

The Title IX Coordinator will render a sanctioning decision within five days following the receipt of the panel's determination. The sanctioning decision will be communicated in writing to the complainant and the respondent.

The School may impose any one or more of the following sanctions on a student determined to have violated the Policy:

- Reprimand/warning
- Changing the respondent's academic schedule
- Disciplinary probation
- Restricting access to School facilities or activities
- Community service
- Issuing a "no contact" order to the respondent or requiring that such an order remain in place
- Dismissal or restriction from School employment
- Suspension (limited time or indefinite)
- Expulsion

In addition to any other sanction (except where the sanction is expulsion), the School may require any student determined to be responsible for a violation of the Policy to receive appropriate education and/or training related to the sexual misconduct violation at issue. The School may also recommend counseling or other support services for the student.

Whatever the outcome of the hearing process, a complainant may request ongoing or additional accommodations and the Title IX Coordinator will determine whether such measures are appropriate. Potential ongoing accommodations include:

- Providing an escort for the complainant
- Changing the complainant's academic schedule
- Allowing the complainant to withdraw from or retake a class without penalty
- Providing access to tutoring or other academic support, such as extra time to complete or re-take a class

The School may also determine that additional measures are appropriate to respond to the effects of the incident on the School community. Additional responses for the benefit of the School community may include:

- Increased monitoring, supervision, or security at locations or activities where the misconduct occurred
- Additional training and educational materials for students and employees
- Revision of the School's policies relating to sexual misconduct
- Climate surveys regarding sexual misconduct

## **11. Records Disclosure**

Disciplinary proceedings conducted by the School are subject to the Family Educational

Records and Privacy Act (FERPA), a federal law governing the privacy of student information. FERPA generally limits disclosure of student information outside the School without the student's consent, but it does provide for release of student disciplinary information without a student's consent in certain circumstances.

Any information gathered in the course of an investigation may be subpoenaed by law enforcement authorities as part of a parallel investigation into the same conduct or required to be produced through other compulsory legal process.

Additional information about FERPA can be found on the School's website at <https://abq.toniguy.edu>.

The School will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in Section 16 of Title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by the School against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

## **12. Education and Prevention Programs**

As set forth in Section 3 of this Policy statement, Sexual Assault, Sexual Harassment, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking are all forms of Prohibited Conduct.

The School is committed to offering educational programs to promote awareness and prevention of Prohibited Conduct. Educational programs include an overview of the School's policies and procedures; relevant definitions, including prohibited conduct; discussion of the impact of alcohol and illegal drug use; consent; safe and positive options for bystander intervention; review of resources and reporting options available for students, faculty, and staff; and information about risk reduction. Incoming students and new employees will receive primary prevention and awareness programming as part of their orientation.

As part of the School's commitment to provide an educational and work environment free from Prohibited Conduct, this Policy will be disseminated widely to the School community through e-mail communication, publications, websites, new employee orientations, student orientations, and other appropriate channels of communication.

The Title IX Coordinator, hearing panel members, and anyone else who is involved in responding to, investigating, or adjudicating sexual misconduct will receive annual training from experts in the field. In addition to training on how the adjudicatory process works, the training will include specific instruction about how to approach students about sensitive issues that may arise in the context of sexual misconduct.

### **Definitions of Sexual Misconduct under New Mexico Law**

Sexual Assault is any unwanted physical contact of a sexual nature that occurs either without the consent of each participant or when a participant is unable to give consent freely. Sexual assault can occur either forcibly and/or against a person's will, or when a person is unable to give consent freely. Non-consensual sexual intercourse is any form of sexual intercourse (vaginal, anal or oral) with any object

without consent. Non-consensual sexual contact is any intentional sexual touching, however slight, with any object without a person's consent.

The New Mexico Statutes provide the following definitions with respect to incidents of sexual assault:



**N.M. Stat. Ann. § 30-9-11. Criminal sexual penetration.**

A. Criminal sexual penetration is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.

B. Criminal sexual penetration does not include medically indicated procedures.

C. Aggravated criminal sexual penetration consists of all criminal sexual penetration perpetrated on a child under thirteen years of age with an intent to kill or with a depraved mind regardless of human life. Whoever commits aggravated criminal sexual penetration is guilty of a first degree felony for aggravated criminal sexual penetration.

D. Criminal sexual penetration in the first degree consists of all criminal sexual penetration perpetrated:

- (1) on a child under thirteen years of age; or
- (2) by the use of force or coercion that results in great bodily harm or great mental anguish to the victim.

Whoever commits criminal sexual penetration in the first degree is guilty of a first degree felony.

E. Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated:

- (1) by the use of force or coercion on a child thirteen to eighteen years of age;
- (2) on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate;
- (3) by the use of force or coercion that results in personal injury to the victim;
- (4) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons;
- (5) in the commission of any other felony; or
- (6) when the perpetrator is armed with a deadly weapon.

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F. Criminal sexual penetration in the third degree consists of all criminal sexual penetration perpetrated through the use of force or coercion not otherwise specified in this section.

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G. Criminal sexual penetration in the fourth degree consists of all criminal sexual penetration:

- (1) not defined in Subsections D through F of this section perpetrated on a child thirteen to sixteen years of age when the perpetrator is at least eighteen years of age and is at least four years older than the child and not the spouse of that child; or
- (2) perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing

services in or for a school that the child is a student in a school.

**N.M. Stat. Ann. § 30-9-12. Criminal sexual contact.**

A. Criminal sexual contact is the unlawful and intentional touching of or application of force, without consent, to the unclothed intimate parts of another who has reached his eighteenth birthday, or intentionally causing another who has reached his eighteenth birthday to touch one's intimate parts.

B. Criminal sexual contact does not include touching by a psychotherapist on his patient that is:

- (1) inadvertent;
- (2) casual social contact not intended to be sexual in nature; or
- (3) generally recognized by mental health professionals as being a legitimate element of psychotherapy.

C. Criminal sexual contact in the fourth degree consists of all criminal sexual contact perpetrated:

- (1) by the use of force or coercion that results in personal injury to the victim;
- (2) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons; or
- (3) when the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual contact in the fourth degree is guilty of a fourth degree felony.

D. Criminal sexual contact is a misdemeanor when perpetrated with the use of force or coercion.

E. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breast.

New Mexico does not specifically define "consent." However, New Mexico defines "force or coercion" as:

- (1) the use of physical force or physical violence;
- (2) the use of threats to use physical violence or physical force against the victim or another when the victim believes that there is a present ability to execute the threats;
- (3) the use of threats, including threats of physical punishment, kidnapping, extortion or retaliation directed against the victim or another when the victim believes that there is an ability to execute the threats;
- (4) the perpetration of criminal sexual penetration or criminal sexual contact when the perpetrator knows or has reason to know that the victim is unconscious, asleep or otherwise physically helpless or suffers from a mental condition that renders the victim incapable of understanding the nature or consequences of the act; or
- (5) the perpetration of criminal sexual penetration or criminal sexual contact by a psychotherapist on his patient, with or without the patient's consent, during the course of psychotherapy or within a period of one year following the termination of psychotherapy.

Physical or verbal resistance of the victim is not an element of force or coercion. New Mexico Statutes §30-9-10.

The New Mexico Statutes provide the following definitions with respect to Stalking:

**N.M. Stat. Ann. § 30-3A-2. Harassment; penalties.**

A. Harassment consists of knowingly pursuing a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.

**N.M. Stat. Ann. § 30-3A-3. Stalking; penalties.**

A. Stalking consists of knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, confinement or restraint of the individual or another individual.

B. As used in this section:

- (1) "lawful authority" means within the scope of lawful employment or constitutionally protected activity; and
- (2) "pattern of conduct" means two or more acts, on more than one occasion, in which the alleged stalker by any action, method, device or means, directly, indirectly or through third parties, follows, monitors, surveils, threatens or communicates to or about a person.

C. Whoever commits stalking is guilty of a misdemeanor. Upon a second or subsequent conviction, the offender is guilty of a fourth degree felony.

D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted of stalking to participate in and complete a program of professional counseling at the person's own expense or a domestic violence offender treatment or intervention program.

**N.M. Stat. Ann. § 30-3A-3.1. Aggravated stalking; penalties.**

A. Aggravated stalking consists of stalking perpetrated by a person:

- (1) who knowingly violates a permanent or temporary order of protection issued by a court, except that mutual violations of such orders may constitute a defense to aggravated stalking;
- (2) in violation of a court order setting conditions of release and bond;
- (3) when the person is in possession of a deadly weapon; or
- (4) when the victim is less than sixteen years of age.

B. Whoever commits aggravated stalking is guilty of a fourth degree felony. Upon a second or subsequent conviction, the offender is guilty of a third degree felony.

C. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted of aggravated stalking to participate in and complete a program of professional counseling at his own expense.

**N.M. Stat. Ann. § 30-3A-4. Exceptions.**

The provisions of the [Harassment and] Stalking Act do not apply to:

- A. picketing or public demonstrations that are lawful or that arise out of a bona fide labor dispute; or
- B. a peace officer in the performance of his duties.

The New Mexico Statutes provide the following definitions with respect to Domestic Violence:

**N.M. Stat. Ann. § 40-13-1.1. Legislative findings; state policy; dual arrests.**

The legislature finds that domestic abuse incidents are complex and require special training on the part of law enforcement officers to respond appropriately to domestic abuse incidents. The state of New Mexico discourages dual arrests of persons involved in incidents of domestic abuse. A law enforcement officer, in making arrests for domestic abuse, shall seek to identify and shall consider whether one of the parties acted in self defense.

**N.M. Stat. Ann. § 40-13-2. Definitions.**

As used in the Family Violence Protection Act:

- A. "continuing personal relationship" means a dating or intimate relationship;
- B. "co-parents" means persons who have a child in common, regardless of whether they have been married or have lived together at any time;
- C. "court" means the district court of the judicial district where an alleged victim of domestic abuse resides or is found;
- D. "domestic abuse":

- (1) means an incident of stalking or sexual assault whether committed by a household member or not;
- (2) means an incident by a household member against another household member consisting of or resulting in:
  - (a) physical harm;
  - (b) severe emotional distress;
  - (c) bodily injury or assault;
  - (d) a threat causing imminent fear of bodily injury by any household member;
  - (e) criminal trespass;
  - (f) criminal damage to property;
  - (g) repeatedly driving by a residence or work place;
  - (h) telephone harassment;
  - (i) harassment; or
  - (j) harm or threatened harm to children as set forth in this paragraph; and
- (3) does not mean the use of force in self-defense or the defense of another;

E. "household member" means a spouse, former

spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, child, stepchild, grandchild, co-parent of a child or a person with whom the petitioner has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for purposes of this section;

F. "mutual order of protection" means an order of protection that includes provisions that protect both parties;

G. "order of protection" means an injunction or a restraining or other court order granted for the protection of a victim of domestic abuse;

H. "protected party" means a person protected by an

order of protection; and

I. "restrained party" means a person who is restrained by an order of protection.

New Mexico does not currently have any laws with respect to Dating Violence. However, as used in the Family Violence Protection Act, "continuing personal relationship" means a dating or intimate relationship. Additionally, the definition of Household Member in determining Domestic Abuse as described above includes a person with whom the petitioner has had a continuing personal relationship.

## **Bystander Intervention**

The School's primary prevention and awareness program includes a description of safe and positive options for bystander intervention. Active bystanders take the initiative to help someone who may be targeted for a sexual assault. They do this in ways that are intended to avoid verbal or physical conflict. Active bystanders also take the initiative to help friends, who are not thinking clearly, from becoming offenders of crime. Intervention does not mean that you directly intervene to stop a crime in progress; rather, these steps are "early intervention" – before a crime begins to occur. There are three important components to consider before taking action that we refer to as the ABCs:

- **Assess for safety.** Ensure that all parties are safe, and whether the situation requires calling authorities. When deciding to intervene, your personal safety should be the #1 priority. When in doubt, call for help.
- **Be with others.** If it is safe to intervene, you are likely to have a greater influence on the parties involved when you work together with someone or several people. Your safety is increased when you stay with a group of friends that you know well.
- **Care for the person.** Ask if the target of the unwanted sexual advance/attention/behavior is okay – does he or she need medical care? Ask if someone they trust can help them get safely home.

*Information on Bystander Intervention was provided by the Department of Defense Sexual Assault Prevention and Response Office from: [www.sapr.mil](http://www.sapr.mil)*

## **Risk Reduction**

The School's primary prevention and awareness program includes information on risk reduction. This includes:

*Avoiding Dangerous Situations.* While you can never completely protect yourself from sexual assault, there are some things you can do to help reduce your risk of being assaulted.

- Be aware of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
- Try to avoid isolated areas. It is more difficult to get help if no one is around.
- Walk with purpose. Even if you don't know where you are going, act like you do.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
- Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
- Make sure your cell phone is with you and charged and that you have cab money.

- Don't allow yourself to be isolated with someone you don't trust or someone you don't know.
- Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.

*Safety Planning.* Things to think about:

- How to get away if there is an emergency? Be conscious of exits or other escape routes. Think about options for transportation (car, bus, subway, etc.).
- Who can help? Friends and/or family, or support centers in your area. Please see Section 4 of this Policy for a list of support organizations.
- Where to go? Options may include a friend's house or relative's house, or you may consider going to a domestic violence or homeless shelter. You may also go to the police. **Important Safety Note:** If the dangerous situation involves a partner, go to the police or a shelter first.
- What to bring? This may include important papers and documents such birth certificate, social security card, license, passport, medical records, lease, bills, etc. This will also include house keys, car keys, cash, credit cards, medicine, important numbers, and your cell phone. If you are bringing children with you, remember to bring their important papers and legal documents. You can keep all of these things in an emergency bag. You should hide the bag—it is best if it is not in your house or car. If the bag is discovered, you can call it a "tornado" or "fire" bag.

*Protecting Your Friends.* You have a crucial role to play in keeping your friends safe. No matter what the setting, if you see something that doesn't feel quite right or see someone who might be in trouble, there are some simple things you can do to help out a friend.

- Distract. If you see a friend in a situation that doesn't feel quite right, create a distraction to get your friend to safety. This can be as simple as joining or redirecting the conversation: suggest to your friend that you leave the party, or ask them to walk you home. Try asking questions like: "Do you want to head to the bathroom with me?" or "Do you want to head to another party – or grab pizza?"
- Step in. If you see someone who looks uncomfortable or is at risk, step in. If you feel safe, find a way to de-escalate the situation and separate all parties involved. Don't be shy about directly asking the person if they need help or if they feel uncomfortable.
- Enlist others. You don't have to go it alone. Call in friends or other people in the area as reinforcements to help defuse a dangerous situation and get the at-risk person home safely. There is safety in numbers.
- Keep an eye out. Use your eyes and ears to observe your surroundings. If you see someone who has had too much to drink or could be vulnerable, try to get them to a safe place. Enlist friends to help you. Even if you weren't around when the assault occurred, you can still support a friend in the aftermath.

*Social Situations.* While you can never completely protect yourself from sexual assault, there are some things you can do to help reduce your risk of being assaulted in social situations.

- When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately.
- Don't leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.

- Don't accept drinks from people you don't know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
- Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
- If you suspect you or a friend has been drugged, contact law enforcement immediately. Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).

*Information on Risk Reduction was provided by RAINN: Rape, Abuse & Incest National Network: [www.rainn.org](http://www.rainn.org).*

### **13. Amendments**

The School may amend the Policy or Procedures from time to time. Nothing in the Policy or Procedures shall affect the authority of the School to take such actions as it deems appropriate to further the educational mission or to protect the safety and security of the School community.

# TONI&GUY Hairdressing Academy

## Sexual Misconduct Policy

### Definitions of Key Terms

- Sexual Harassment - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education or employment, (ii) submission to or rejection of such conduct by an individual is used as the basis for education or employment decisions affecting such individuals, or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual's school or work performance or creating an intimidating, hostile, or offensive educational or working environment.
  - Hostile Environment Caused By Sexual Harassment - refers to a situation where students and/or employees are subject to a pattern of exposure to unwanted sexual behavior that is so severe, persistent, or pervasive that it alters the conditions of education, employment, or participation in a School program or activity, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive. An isolated incident, unless sufficiently severe, does not amount to a hostile environment caused by sexual harassment.
  - Quid Pro Quo Harassment – refers to a situation where students and/or employees are subject to unwanted sexual behavior where submission or rejection of such conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education, employment, or participation in a School program or activity.
- Sexual Assault - is any unwanted physical contact of a sexual nature that occurs either without the consent of each participant or when a participant is unable to give consent freely. Sexual assault can occur either forcibly and/or against a person's will, or when a person is unable to give consent freely. Non-consensual sexual intercourse is any form of sexual intercourse (vaginal, anal or oral) with any object without consent. Non-consensual sexual contact is any intentional sexual touching, however slight, with any object without a person's consent. Sexual assault includes incidents of rape and sex offenses as defined below.
- *Rape* - The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- *Sex Offenses* - Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
  - *Fondling* - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - *Incest* - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - *Statutory Rape* - Sexual intercourse with a person who is under the statutory age of consent.

- Domestic Violence - A felony or misdemeanor crime of violence committed (i) by a current or former spouse or intimate partner of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (v) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- Dating Violence - Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purpose of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- Prohibited Conduct – The School prohibits the crimes of Sexual Assault, Sexual Harassment, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking as defined in these Definitions of Key Terms.
- Sexual Exploitation - sexual misconduct that occurs when a person takes unjust or abusive sexual advantage of another for his or her own advantage or benefit or for the benefit or advantage of anyone other than the exploited party; and that behavior does not otherwise constitute sexual assault. Examples of sexual exploitation include, but are not limited to, videotaping or photographing of any type (web-cam, camera, Internet exposure, etc.) without knowledge and consent of all persons; prostituting another person; knowingly transmitting HIV or a sexually transmitted disease to an unknowing person or to a person who has not consented to the risk; or inducing incapacitation with the intent to commit sexual assault, without regard to whether sexual activity actually takes place.
- Stalking - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Retaliation - means any adverse action, or attempted adverse action, against an individual or group of individuals because of their participation in any manner in an investigation, proceeding, or hearing under this Policy.

- Intimidation - To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
- Consent - is defined as an unambiguous and willful participation or cooperation in an act or as an attitude that is commonly understood to be consistent with the exercise of free will. Consent requires participants who are fully conscious, are equally free to act, have clearly communicated their willingness, cooperation, or permission to participate in a specific sexual activity, are positive and clear in their desires, and are able to cease ongoing consensual activity at any time. Refusal does not have to be verbal; it can be expressed with gestures, body language or attitude. Assent (i.e., an expression of approval or agreement) does not constitute consent if:
  - It is given by a person who lacks mental capacity; or
  - It is given by a person who is unable to make a reasonable judgment about the sexual activity because of age, mental disease or defect, intoxication, drugs, or some other reason; or
  - It is induced by force, duress or deception.
- Complainant – means the person making the allegation(s) of sexual misconduct.
- Respondent – means the person alleged to have committed sexual misconduct.