PURPOSE

Vatterott Educational Centers, Inc. ("Vatterott") believes that providing all students with an educational environment free from discrimination is extremely important. The sexual harassment of students, including sexual violence, interferes with students’ rights to receive an education free from discrimination and, in the case of sexual violence, crime.

This Policy supersedes all prior policies and guidance relating to Title IX.

COVERED PERSONS

The College Community including current students, employees, prospective students, customers, third-party contractors, third-party visitors, and all others persons participating in the College’s educational programs and activities.

ISSUING DEPARTMENT

Legal Department

POLICY

I. Title IX of the Education Amendments of 1972

Title IX of the Education Amendments of 1972 ("Title IX") §§ 1681 et seq., and its implementing regulations, 34 C.F.R Part 106, prohibits discrimination on the basis of sex in education programs or activities operated by recipients of Federal financial assistance. Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX.

II. Making a Complaint

If you believe that you have been a victim of sexual harassment or sex-based discrimination, you have a variety of options and are strongly encouraged to report such incidents to the campus’ Title IX Officer. This individual also serves as the Campus Director. Such occurrences may also be reported to Vatterott’s Title IX Coordinator, Sheila Martinez, who also serves as the Administrator of Student Affairs. Ms. Martinez can be reached via telephone at 314-264-1500, via e-mail at TitleIXCoordinator@vatterott.edu, or via mail at 9807 S Forty Drive, St. Louis, Missouri 63124. While some reporting parties may wish to pursue action through informal methods in place of or prior to requesting the initiation of formal proceedings, others may not. You should consider the circumstances surrounding your complaint and choose the option most appropriate. Regardless of your decision, Vatterott is committed to extending all available resources and support. To that end, you may consult with the Title IX Coordinator at any time and request assistance handling matters related to sexual harassment and discrimination, including the selection of an approach.
Informal Procedures

Informal procedures are optional and may only be utilized when Vatterott deems such procedures adequate.

If you are comfortable handling the situation without assistance, consider the following:

- Clearly say “no” to the individual exhibiting unwelcome behavior
- Communicate with the offender either orally or in writing providing him or her of the following:
  - A factual description of the incident(s) including date, time, place, and specific action.
  - A description of the impact of the action, emotionally, physically, and mentally.
  - A request that the conduct cease.

If you would like to proceed informally but with the assistance of a third party, you may contact your Title IX Officer or Coordinator. These individuals are familiar with Vatterott’s Title IX policies and are available to assist victims of sexual harassment and sexual assault, witnesses and supervisors of parties to a complaint. Additionally, these individuals can provide information pertinent to informal actions and remedies that you may pursue as well as additional information regarding Vatterott’s procedures for sexual harassment and discrimination.

Additionally, you may request that the Title IX Officer or Coordinator serve as a mediator in efforts to resolve your issue(s) prior to pursuing formal proceedings. Mediation is the process of utilizing a third party to engage in discussions and negotiations in hopes of reaching a mutually agreeable resolution and cessation of the unwanted conduct.

This option is not available where allegations of sexual violence or nonconsensual sexual intercourse are raised.

If either party is dissatisfied with the determination rendered subsequent an informal proceeding, he or she may pursue alternative remedies by engaging in the formal process.

If you do not wish to utilize the informal process, you may pursue formal action. Please note that you have the right to end the informal investigation process and begin formal proceedings at any time.

III. Formal Investigation & Determination

To ensure prompt, thorough, and impartial investigations, all incidents of sex-based discrimination or sexual harassment, including sexual misconduct or retaliation, should be reported to the Title IX Officer or Title IX Coordinator immediately, either verbally, or in the form of a written complaint. This process may lead to a formal hearing at which evidence will be considered and witnesses heard. The Title IX Coordinator can assist you with filing a complaint if you choose to pursue formal action.

Upon receipt of a report of alleged unlawful discrimination, harassment, or retaliation, Vatterott’s Title IX Coordinator will investigate without delay. All investigations shall be conducted by the Title IX Coordinator, who is trained in areas involving sex-based discrimination, sexual violence, and
nonconsensual sexual intercourse. At times, it may be necessary to implement remedial measures before completing an investigation to ensure that further unlawful conduct does not continue. These measures may include reassignment or restructuring of the reporting party’s academic or work schedule per that party’s request. Failure to comply with the terms of these interim remedies or protections may constitute a separate violation of the Sexual Misconduct Policy.

Vatterott’s investigation into allegations of sex-based discrimination, sexual harassment, and/or sexual misconduct, will be conducted in an objective and impartial manner, and carried out in such a way as to maintain confidentiality to the greatest extent possible. Such investigations may include, but are not limited to, conducting interviews with witnesses and gathering evidence. The College will endeavor to conclude its investigation and issue a resolution of the complaint within sixty (60) calendar days of the date the complaint was received. All pertinent facts will be carefully reviewed and the accused will be given a full opportunity to explain his or her conduct before any decision is reached. When the investigation is complete, Vatterott will inform the complainant and the alleged perpetrator of the results of the investigation and the process for appealing any such determination, as applicable, in writing.

Vatterott invokes no restrictions on the time at which allegations may be reported. Additionally, the standard of proof in all cases shall be a preponderance of the evidence. This means that a party may be held responsible for the alleged conduct upon a finding that it is more likely than not that he or she engaged in conduct prohibited by Vatterott.

If it is determined that an employee or student has engaged in inappropriate conduct, Vatterott will take appropriate disciplinary action, consistent with the Policy, the Employee Handbook and/or Student Catalog.

IV. Ongoing Criminal Investigations

In instances of sexual misconduct that may also constitute criminal conduct, the reporting party is encouraged to file a report with the appropriate law enforcement agency and may request the assistance of a Vatterott representative in doing so. The pendency of a criminal investigation does not relieve Vatterott of its responsibilities under Title IX. To the extent that doing so does not interfere with any ongoing criminal investigation, Vatterott will proceed with its own investigation and resolution of the complaint.

V. Hearing Procedures

Upon concluding that there is reasonable cause\(^1\) to believe that a violation of Title IX has occurred, a hearing may be ordered. In such instances, the complainant, the accused party, and members of the Hearing Panel (hereinafter the “Panel”) described below will be provided an opportunity to review the Investigation Report compiled by the Title IX Coordinator, redacted to remove any unnecessary personal information. The Panel comprised of three (3) Vatterott Officials, to include the Chief Academic Officer, the General Counsel and the Title IX Coordinator, will preside over all Title IX hearings. All officials will be trained to conduct hearings regarding alleged Title IX offenses as well as how to

\(^1\) Reasonable cause is defined as “some credible information to support each element of the offense, even if that information is merely a credible witness or complainant statement.”
conduct investigations and hearings that protect the safety of alleged victims while promoting accountability. At least one (1) panel member will be physically present during the hearing while others may attend via teleconference. All determinations will be reached using a preponderance of the evidence standard (i.e. more likely than not) and all hearings will be prompt, fair, and impartial.

Hearings are closed to the public. The complainant and the accused party have the right to be present during the hearing but do not have the right to be present during deliberations.

If necessary, arrangements can be made so as to prevent the complainant and the accused party from being present in the hearing room at the same time.

A. Special Considerations for Title IX Hearings

1. Panel Composition and Training. All allegations of Title IX violations found to require a hearing subsequent to a thorough investigation will be heard before the Panel.

2. Advisors. The complainant and the accused party may have an advisor present during the hearing proceedings. However, it is important to note that advisors may not advocate on behalf of either party and may only serve in a support role. All advisors will be required to sign a standard form attesting that they have been informed and acknowledge that they may not advocate on behalf of either party and that all information disclosed during the hearing must be kept strictly confidential.

3. Standard. All determinations made by the Panel will be so done using a preponderance of the evidence standard. This means that the accused party will be held responsible for his or her conduct if the Panel determines that it is more likely than not (51% or higher) that he or she did in fact engage in a prohibited act.

4. Hearing Participation. Both parties will have the opportunity to be present during any hearing proceedings. Vatterott will make every effort to honor all requests to minimize contact between the reporting party and the accused. Additionally, both parties should be aware that members of the Panel may pose questions to the complainant, the accused, and/or witnesses presented by either party.

Upon commencement of proceedings, the reporting party will be given an opportunity to make opening remarks to the Panel. Such remarks will be limited to ten (10) minutes. Subsequently, the reporting party will be allowed to present any relevant evidence and/or witnesses with personal knowledge of the circumstances resulting in the convening of the hearing. All witnesses will be called as needed and will not be permitted to be present until and unless needed. Cross-examination of the witnesses presented will not be allowed by opposing parties.

Upon conclusion of the reporting party’s presentation, the accused party will be permitted to make opening remarks to the Panel. Such remarks will be limited to ten (10) minutes. The accused party will also have the opportunity to present relevant evidence and/or witnesses with personal knowledge of the circumstances resulting in the convening of the hearing.
Should new evidence be disclosed during the trial and without prior consultation with Student Affairs, the hearing may be delayed to allow the Panel to consider whether the newly disclosed evidence should be permitted.

After all evidence has been presented, the reporting party will be permitted to give closing remarks followed by the accused party. Both parties will be allotted ten (10) minutes during which to provide concluding remarks.

Post-hearing, the Panel will convene, deliberate, and reach a determination. Both parties will be simultaneously notified in writing of the Panel’s determination and the right to file an appeal within seven (7) business days. Determinations may include possible clarification of Vatterott policies, clarification regarding the alleged conduct, sanctions, restrictions, and/or conditions. The Panel’s determination will become final within seven (7) business days unless an appropriate appeal is filed.

5. **Possible Sanctions.** Possible sanctions for a person found guilty of behavior in violation of this Policy include but are not limited to the following:

- Issuance of an oral or written reprimand to be placed in the personnel file;
- Mandatory attendance at a sexual harassment sensitivity program;
- An apology to the victim;
- Issuance of an oral or written warning;
- Transfer or change of job, class, or externship location;
- Demotion in employment or leadership position;
- Suspension, probation, termination, dismissal, or expulsion;
- Any other sanction deemed appropriate by Vatterott.

While counseling is not considered a sanction, it may be offered or required in combination with the imposed sanctions. Where alcohol and/or drugs are related to acts of sexual harassment, such counseling may include required participation in a substance abuse program.

6. **Appeals.** Either party may appeal the Panel’s decision. All appeals must be submitted in writing to the Title IX Coordinator within seven (7) business days of the Panel’s determination and clearly set forth grounds for the appeal. Appropriate grounds for appeal include procedural error, previously unavailable relevant evidence that could significantly impact the outcomes of the hearing or a claim that the sanction imposed was substantially disproportionate to the finding. Disagreement with the Panel’s decision does not constitute grounds for appeal. The Title IX Coordinator will process the appeal and both parties will be informed simultaneously in writing of any changes arising from said appeal as well as the final determination. Results become final after seven (7) business days.

All appeals will be reviewed and decided within ten (10) business days of receipt.
VI. Confidentiality

If you wish to report an incident confidentially, there are resources available. The following options are available and do not require further disclosure of the information provided, unless otherwise required by law:

- Report to your campus’ Title IX Officer
- Report to the Title IX Coordinator

Because issues arising under Title IX are often sensitive in nature, Vatterott maintains the highest level of confidentiality regarding all reports of sexual discrimination. While Vatterott strictly prohibits the disclosure of private information obtained through an investigation, it should be noted that circumstances may arise when law and/or policy requires the disclosure of sensitive information.

Vatterott will inform and obtain the reporting party’s consent prior to commencing an investigation. Should the reporting party request anonymity/confidentiality or request that no investigation be conducted, Vatterott will take all reasonable steps to investigate and respond to the complaint consistent with the request for anonymity/confidentiality and/or request that an investigation not be pursued.

Upon the reporting party’s insistence that their name or other identifying information be kept in confidence, Vatterott has the duty to inform the reporting party that in doing so, the ability of authorized representatives to properly respond to the alleged misconduct may be limited.

If anonymity is further insisted upon, Vatterott officials will evaluate the request in context with its responsibility to provide a safe and nondiscriminatory environment for all students. Specifically, Vatterott will weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant’s age; whether there have been previous complaints of harassment relating to the same offender; and the alleged perpetrator’s rights to receive information about the allegations if the information is maintained by Vatterott as an “education record” under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; 34 C.F.R. Part 99. Vatterott will inform you if confidentiality cannot be ensured.

Please be aware that even if Vatterott cannot take disciplinary action against the alleged perpetrator as a result of an insistence of confidentiality, Vatterott may pursue alternative measures in efforts to limit the effects of the alleged misconduct and prevent its recurrence.

VII. Retaliation

Retaliation against reporting parties or those cooperating with an investigation is strictly prohibited. Violation of this policy may result in Vatterott taking immediate disciplinary action, up to and including suspension and/or expulsion for students or termination for employees.

Retaliation includes, but is not limited to threats, harassment, or intimidation, taken against the reporting party or any third party or parties as a result of their cooperation with an investigation.
VIII. Obligations of Vigilance and Reporting

Vatterott can only respond to instances and allegations of harassment or discrimination if it is made aware of such occurrences. Therefore, Vatterott encourages anyone who believes that he or she has experienced sexual harassment or discrimination to promptly come forward with inquiries, reports, or complaints and to seek assistance from Vatterott officials. Furthermore, all Vatterott employees are responsible employees and have an obligation to communicate reports of sexual misconduct to the Title IX Coordinator. Employees who become aware of instances or allegations of sexual harassment by or against a person under his or her supervisory authority must submit a report to those charged with responding to such allegations and reports. These individuals include the Title IX Officer or the Title IX Coordinator.

Whether confirmed or speculated, Campus Directors, Directors of Education, Program Directors, or other comparable administrator who becomes aware of information indicating a significant likelihood of sexual harassment must report such information to the Title IX Coordinator immediately. Unconfirmed or disputed allegations should be clearly labeled as such and reports should indicate any steps already taken to investigate or otherwise respond. Administrators should always consult with the Title IX Coordinator and refrain from conducting independent investigations or otherwise responding to any situation where sexual harassment is alleged.

IX. Definitions

**Meaningful Consent** - means:

- The person giving consent must be informed as to the nature of his or her consent; and
- The person giving consent must do so freely, absent coercion, threat, or blackmail; and
- Mutual understanding must exist, which means that both parties understand that consent is being given and to what consent is being given; and
- An affirmative act or statement is made that a reasonable person would understand as consent. SILENCE IS NEVER CONSENT!

**Sex Discrimination** - behaviors and actions that deny or limit a person’s ability to benefit from, and/or fully participate in, the available educational programs, activities, or employment opportunities because of a person’s sex.

Sexual discrimination may take many forms including sexual harassment (discussed below), denial of equal opportunities in educational programs, discrimination based on pregnancy and employment discrimination.

**Sexual Harassment** - unwelcome conduct of a sexual nature, such as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.

**Sexual violence** - a form of sexual harassment and refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (e.g., due to the student’s age or use of
drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Claims of sexual violence will be adjudicated in accordance with Vatterott Educational Centers, Inc.’s Clery Investigations and Hearing Process.

Gender-based harassment – a form of sexual harassment and refers to unwelcome conduct based on an individual’s actual or perceived sex, including harassment based on gender identity or nonconformity with sex stereotypes, and not necessarily involving conduct of a sexual nature. All of these types of sex-based harassment are forms of sex discrimination prohibited by Title IX and will not be tolerated by Vatterott.

Harassing conduct may take many forms, including verbal acts and name-calling, as well as non-verbal behavior, such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating.

Nonconsensual Sexual Contact - any intentional sexual touching, however slight, with any object or body part, by a man or woman upon another, without consent.

Nonconsensual Sexual Intercourse – any sexual intercourse (anal, oral, or vaginal) however slight, with any object or body party, by a man or woman upon a man or a woman, without consent.

Forced Sexual Intercourse – unwilling or nonconsensual sexual penetration (anal, vaginal or oral) with any object or body part that is committed either by force, threat, intimidation, or through exploitation of another’s mental or physical condition of which the assailant was aware or should have been aware.

Sexual Contact Includes:

- 11.4.1. Intentional contact with the breasts, buttocks, groin, or genitals of another person, or touching another person with any of these body parts; or making another person touch you or themselves with or on any of these body parts; or

- 11.4.2. Any intentional bodily contact in a sexual manner, even where the touching does not involve contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice; or

- 11.4.3. Intercourse, however slight, meaning vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact or genital to mouth contact).

Sexual Exploitation - occurs when a person takes nonconsensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

Sexual Violence – physical, sexual acts that are perpetrated against a person’s will or when a person is incapable of giving meaningful consent.
Sexual Violence includes acts such as rape, sexual assault, forced sodomy, prostituting others, and knowingly transmitting sexually transmitted disease.

Relationship Violence - abuse or violence between partners or former partners involving one or more of the following elements:
- Battering that causes bodily injury;
- Purposely or knowingly causing reasonable apprehension of bodily injury;
- Emotional abuse creating apprehension of bodily injury or property damage;
- Repeated telephonic, electronic, or other forms of communication – anonymously or directly -- made with the intent to intimidate, terrify, harass, or threaten.

Stalking - Stalking based on one’s sex or gender includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.

Specifically Prohibited Conduct.

Promising, directly or indirectly, to reward a student provided that the student comply with a sexually oriented request.

Threatening, directly or indirectly, retaliation if a student refuses to comply with a sexually oriented request.

Denying, directly or indirectly, a student an education or employment related opportunity if the student refuse to comply with a sexually oriented request.

Engaging in unwelcome sexually suggestive conversation or inappropriate physical contact or touching of a student.

Engaging in indecent exposure.

Making repeated sexual or romantic advances toward another despite the student’s rejection.

Engaging in unwelcome physical contact such as touching, blocking normal movement, physical restraint, or assault.

Retaliating against a student for filing a harassment complaint or threatening to report harassment.

Sexual harassment can involve males and/or females being harassed by members of the opposite or same sex.

Sexual harassment can be physical or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered separately would not rise to the level of harassment.
If you have any questions regarding this policy, please do not hesitate to contact the Title IX Coordinator via email at titleixcoordinator@vatterott.edu.