

# American Film Institute Discrimination, Harassment, and Retaliation Prevention Policy

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## Introductory Note

Harassment, discrimination, and retaliation are defined differently under federal and state law. The applicable definitions and procedures under these laws also depend on your status in AFI's community as a student, faculty, staff, volunteer, or third party. Non-sexual harassment based on other protected categories is also treated differently under the law and is processed under a separate policy (see the AFI Employee Handbook and/or the AFI Fellow Handbook for additional information). Please do not let the legal complexities deter you from bringing a concern to the attention of the American Film Institute's ("AFI's") Title IX Coordinator or Human Resources. If you are the subject of a complaint of discrimination, harassment, or retaliation, please do not let the legal complexities deter you from asking questions about the applicable definitions and procedures that will apply to you. AFI's Title IX Coordinator or Human Resources can explain which definitions and policies will apply.

### 1. Scope

#### A. Protection of Employees, Applicants, Volunteers, Interns and Contractors

This policy prohibits discrimination and harassment on the basis of protected categories and related retaliation against AFI's applicants and employees (including applicants, students, student-employees, interns, volunteers, and independent contractors) by employees or any other persons or third parties with whom AFI's employees have contact through their employment, including any individuals or organizations over whom AFI can exercise disciplinary authority. Conduct that is prohibited by AFI's *Policy Prohibiting Sex-Based Discrimination, Sex-Based Harassment and Related Retaliation* is defined and processed under that policy.

#### B. Protection of Students and Participants in Education Programs and Activities

This policy also prohibits discrimination and non-sexual harassment on the basis of protected categories, and related retaliation against AFI's students by employees, students or any other persons or third parties with whom AFI's students have contact in AFI's education programs and activities, including any individuals or organizations over whom AFI can exercise disciplinary authority.

#### C. Application of Policy to Community

All members of AFI's community, including employees (including student-employees), students, volunteers, contractors, and vendors are responsible for carrying out this policy and AFI's *Policy Prohibiting Sex-Based Discrimination, Sex-Based Harassment and Related Retaliation*. The procedures for resolving concerns of prohibited conduct will vary based on one's status.

## 2. Prohibited Conduct in Employment (Harassment, Discrimination and Related Retaliation)

AFI prohibits harassment and discrimination against its employees, including applicants for employment, student-employees, interns, volunteers, and contractors on the basis of race (including hair texture and protective hair styles), ethnicity, color, religion (including religious dress and grooming practices), creed, ancestry, national origin, age, medical condition, physical or mental disability, sex, sexual orientation, gender, gender identity gender expression, transgender status, genetic information, marital status (including registered domestic partner status), military and veteran status, lawful change of name, Social Security Number or federal employment authorization document, receipt of Medi-Cal coverage, California driver's license with a "federal limits apply" notation, reproductive health decision-making or any other characteristic protected by local, state or federal law.

Discrimination or harassment on the basis of sex includes harassment or discrimination on the basis of sex, gender identity, gender expression, transgender status, sexual orientation pregnancy, childbirth, or related medical conditions, breastfeeding, and conditions related to breastfeeding and is covered by AFI's Policy Prohibiting Sex-Based Discrimination, Sex-Based Harassment and Related Retaliation. These are not considered protected categories under this policy.

This policy applies to Prohibited Conduct in Employment that occurs:

- In the workplace (including the remote workplace during working time) or anywhere on AFI's property while employees are working;
- Off-campus, if the Prohibited Conduct in Employment occurred in connection with an AFI work event, activity, program, or event; or
- Off-campus, if the off-duty Prohibited Conduct in Employment by a supervisor has or reasonably may have the effect of creating a hostile work environment for an employee.

### A. Definition of Harassment in Employment (included in Prohibited Conduct in Employment)

Harassment in employment under this policy means any unwelcome behavior that is reasonably regarded as offensive that is based on a protected category listed above (except for the categories protected in AFI's *Policy Prohibiting Sex-Based Discrimination, Sex-Based Harassment and Related Retaliation* that:

1. Sufficiently offends, humiliates, distresses, or intrudes upon its victim, so as to disrupt the victim's emotional tranquility in the workplace, or
2. Affects the victim's ability to perform the job as usual, or
3. Otherwise interferes with and undermines the victim's personal sense of well-being.

A single incident of harassing conduct in employment may create a hostile work environment if the harassing conduct in employment has unreasonably interfered with the victim's work performance or created an intimidating, hostile, or offensive work environment.

Whether or not the person meant to give offense or believed their comments or conduct were welcome is not significant. Rather, the policy is violated when other individuals, whether recipients or mere observers, are actually offended by comments or conduct based on any protected category and the conduct is considered offensive by a reasonable person.

Examples of conduct based on a protected category covered by this policy that may constitute harassing conduct may include, but are not limited to:

- Making gestures, threats, derogatory comments, or slurs that may be reasonably regarded as offensive to individuals in a particular group
- Bullying behavior that is threatening, intimidating, verbally abusive or results in other disruptive actions in the workplace
- Displaying derogatory objects, photographs, cartoons, calendars, or posters

AFI also prohibits sexual assault, dating violence, domestic violence and stalking based on sex by and against its employees. If this conduct does not fall under the jurisdiction of AFI's *Policy Prohibiting Sex-Based Discrimination, Sex-Based Harassment and Related Retaliation*, AFI reserves the right to address this conduct under the procedures of this policy, using the same definitions of Prohibited Conduct as the AFI's *Policy Prohibiting Sex-Based Discrimination, Sex-Based Harassment and Related Retaliation*, and the definition of affirmative consent. In these cases, as required by VAWA, the parties shall be entitled to have an advisor of choice at any meetings or proceedings and to receive simultaneous notice of the outcome and results and the available appeal procedures. AFI's victim's resource packet is available from the Title IX Coordinator.

### 3. Prohibited Conduct in Educational Programs and Activities

Harassment in educational programs and activities means any unwelcome behavior (physical, verbal, graphic, or written) based on a protected category that based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from AFI's programs and activities. This definition does not include conduct that is prohibited and defined by AFI's *Policy Prohibiting Sex-Based Discrimination, Sex-Based Harassment and Related Retaliation*.

## A. Definition of Discrimination in Employment and Educational Programs and Activities

AFI also prohibits discrimination based on a lawfully protected category. (Note, this is separate from harassment.)

Except as permitted by law AFI, including employees, students, participants and agents of AFI, shall not, engage in any of the following prohibited discriminatory actions on the basis of a protected category under this policy against another employee, student, participant, or other individual protected by this policy, if it would cause more than *de minimis* harm:

1. Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;
2. Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;
3. Deny any person any such aid, benefit, or service;
4. Subject any person to separate or different rules of behavior, sanctions, or other treatment;
5. Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;
6. Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;
7. Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

AFI's statements of non-discrimination shall be published as required by law and shall state:

### 1. **Title IX Statement**

AFI does not discriminate based on sex in any program or activity, including in the admissions process and employment, and is prohibited from such discrimination by Title IX and 34 CFR Part 106.

Complaints of discrimination based on sex or questions about Title IX can be directed to AFI's Title IX Coordinator or to the U.S. Assistant Secretary of Education, or both. To make a report or complaint of sex discrimination or sexual harassment, or for any questions related to Title IX, please contact:

Denise TrimbleSmith  
WB 104  
Telephone: (323) 856-7625  
Email: [titleix@afi.com](mailto:titleix@afi.com)

## 2. **Section 504 Statement**

AFI does not discriminate based on disability in any program or activity, including in the admissions process and employment, and is prohibited from such discrimination by Section 504 of the Rehabilitation Act. Denial of an accommodation and disability-discrimination complaints may be filed under this policy.

Complaints of disability discrimination can be directed to AFI's Section 504 Coordinator or to the U.S. Assistant Secretary of Education, or both. To make a report or complaint of discrimination please contact:

Denise TrimbleSmith  
WB 104  
Telephone: (323) 856-7625  
Email: [titleix@afi.com](mailto:titleix@afi.com)

Questions or complaints about Title IX or Section 504 may be directed to the assistant secretary for civil rights:

Office for Civil Rights,  
San Francisco Office  
U.S. Department of Education  
50 United Nations Plaza  
San Francisco, CA 94102  
Telephone: (415) 486-5555  
Facsimile: (415) 486-5570  
Email: [OCR.SanFrancisco@ed.gov](mailto:OCR.SanFrancisco@ed.gov)

## 3. **Title VI Statement**

AFI does not discriminate based on race, color or national origin in any program or activity, including in the admissions process and employment, and is prohibited from such discrimination by Title VI. Protection from race, color or national origin discrimination extends to discrimination, including harassment, based on their actual or perceived (i) shared ancestry or ethnic characteristics or (ii) citizenship or residency in a country with a dominant religion or distinct religious identity. In cases in which an individual respondent cannot be identified, AFI reserves the right to address hostile climate claims under the AFI Employee Handbook and/or the AFI Fellow Handbook. To make a report or complaint of discrimination or for any questions related to Title VI, please contact:

Denise TrimbleSmith  
WB 104  
Telephone: (323) 856-7625  
Email: [titleix@afi.com](mailto:titleix@afi.com)

#### 4. Age Discrimination Act of 1975 Statement

AFI does not discriminate based on age in any program or activity, including in the admissions process and employment and is prohibited from such discrimination by the Age Discrimination Act of 1975. To make a report or complaint of discrimination or for any questions related to the Age Discrimination Act of 1975, please contact:

Denise TrimbleSmith  
WB 104  
Telephone: (323) 856-7625  
Email: [titleix@afi.com](mailto:titleix@afi.com)

### B. Related Retaliation in Employment and Education Programs and Activities

Retaliation is any materially adverse action taken against an individual because they were involved in the disclosure, reporting, investigation, or resolution of a report of Prohibited Conduct under this Policy. Retaliation includes threats, intimidation, harassment, coercion, discrimination, violence, or any other conduct by AFI, a student, or an employee or other person authorized by AFI to provide aid, benefit, or service under AFI's education program or activity, for the purpose of interfering with any right or privilege secured by this Policy or by law, including Title IX or its regulations. Adverse action does not include perceived or petty slights, or trivial annoyances.

The prohibition against retaliation applies to any individuals who participate in any manner in an investigation and to any student who refuses to participate in an investigation or proceeding.

Retaliation may occur even where there is a finding of "not responsible" under this Policy. Good faith actions lawfully pursued in response to a report of prohibited conduct (such as discipline) are not Retaliation.

## 4. Reporting Prohibited Conduct Under this Policy

AFI encourages individuals who believe they are subject to conduct prohibited by this policy to, whenever possible, promptly advise the offender that their behavior is unwelcome/unacceptable and request that it be discontinued. AFI recognizes that an individual may prefer to pursue the matter through an informal or investigation complaint process. Any manager or supervisor who witnesses or hears about conduct prohibited by this policy must immediately report the conduct to the Senior Manager of Human Resources.

AFI encourages the prompt reporting of complaints or concerns so that rapid and constructive action can be taken. Individuals who feel they have been the victim of or witness such conduct should promptly report the complaint because early reporting and



intervention have proven to be the most effective method of resolving actual or perceived incidents. However, late reporting by itself will not preclude AFI from taking appropriate remedial action.

Any good faith discrimination, harassment, or retaliation complaint or concern about conduct that is prohibited by this policy that is brought to AFI's attention will be reviewed and resolved, even if the complaint or concern comes to light in a manner that is not addressed as outlined in this section. AFI-affiliated mental health counselors are confidential resources for purposes of this policy and any complaint of behavior covered by this policy that is brought to their attention is not considered notice to AFI, however, these individuals may be required to report such information as required by their licensing body.

## 5. Procedures for Resolving Complaints of Prohibited Conduct Under this Policy

AFI will follow the procedures set forth below to ensure prompt and equitable resolution of complaints of conduct prohibited by this policy. Certain types of conduct may also be addressed by AFI's *Policy Prohibiting Sex-Based Discrimination, Sex-Based Harassment and Related Retaliation*, in which case this policy shall not apply. If the prohibited behavior is by a student, it may also be addressed by AFI's Student Code of Conduct. If reported conduct is covered under the Violence Against Women Reauthorization Act of 2013 amendments to the Clery Act, but is not included within the scope of AFI's Policy Prohibiting Sex-Based Discrimination, Sex-Based Harassment and Related Retaliation, the obligations under the 2013 amendments to the Clery Act will apply.

AFI will take appropriate action in response to complaints or knowledge of such behaviors while preserving the rights of those against whom allegations have been made to receive procedural protections in the fact-finding and decision-making process. All such investigations will be conducted by qualified, impartial personnel in a manner that is fair, equitable, and timely to all parties. AFI maintains the confidentiality of such investigations to the extent possible, documents, and tracks investigations to ensure reasonable progress, and closes investigations in a reasonably timely manner.

All complaints shall be acknowledged promptly and resolved timely. Interim and remedial measures shall be considered on a case-by-case basis.

### 1. Informal Complaint Process

Individuals who believe they have been the victim of conduct prohibited by this policy or believe they have witnessed such conduct should discuss their concerns with their immediate supervisor, the Provost, Vice President for Student Affairs, or the Senior Manager of Human Resources. AFI representatives will attempt to resolve the complaint. The Senior Manager of Human Resources will be informed by the supervisor when a complaint or report is received. If resolution is reached, a record

of the resolution will be maintained on file in the Human Resources Department in the event the complaint moves from informal to an investigation under this Policy. Participation in the informal complaint process is optional and can be withdrawn by either party at any time.

## **2. Complaint Process**

Individuals who believe they have been the victim of conduct prohibited by this policy or believe they have witnessed such conduct who wish to report a concern should contact the Senior Manager of Human Resources and do not need to directly complain to their immediate supervisor. If the complaint is against the Senior Manager of Human Resources, the individual should contact the President. It is helpful for the individual to submit the complaint in writing, but a written complaint is not required in order for the University to investigate.

Any reported allegations of conduct prohibited by this policy will be reviewed promptly and impartially by qualified personnel (including external third-parties when necessary) under the direction of the Senior Manager of Human Resources, unless the report is against the Senior Manager of Human Resources, in which case the Chief Resource Officer will direct the process. When an investigation is necessary, the investigator will conduct a fair, timely, and thorough investigation that provides all parties appropriate due process and reaches reasonable conclusions based on the evidence collected. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant information. Confidentiality will be maintained throughout the investigation to the extent possible consistent with adequate investigation practices. This means that allegations will not be kept completely confidential and information will be disclosed to those who have legitimate need to know. The investigation process will give persons accused of prohibited conduct notice of the nature of the allegations and a meaningful opportunity to respond. The standard of proof shall be preponderance of the evidence.

If a determination is made that there has been a violation of this policy, then the Senior Manager of Human Resources, in consultation with Chief Resource Officer, shall determine what disciplinary action, if any, shall be imposed. If at the end of the investigation misconduct is found, appropriate remedial measures shall be taken. The Chief Resource Officer or their designee shall recommend how AFI shall resolve the matter in terms of eliminating behavior prohibited by this policy and ensuring compliance with this policy.

Any member of the campus community who is found to have violated this policy will be subject to corrective action. Corrective action could include required subject matter courses/development, letter(s) of reprimand, and disciplinary action up to and including termination of employment.

The Senior Manager of Human Resources is responsible for communicating and administering approved disciplinary action. All actions shall be timely and shall consider appropriate remedial actions and resolutions. The case shall be closed in a timely manner.

## 6. Appeals

Within 10 days of receiving the written determination, either party may appeal from a determination regarding responsibility on the following grounds:

- Ground 1:** Procedural irregularity that affected the outcome of the matter;
- Ground 2:** New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- Ground 3:** The investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Appeals must be sent to the Chief Resource Officer in writing.

### 1. Response to Appeals

As to all appeals, the Chief Resource Officer (or designee) shall:

- a. Notify the other party in writing immediately when an appeal is filed and implement appeal procedures equally for both parties;
- b. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, or the investigator(s);
- c. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in this policy;
- d. Give the non-appealing party an opportunity to submit a written statement in response to the appeal within 10 days of receiving the appeal, which shall be transmitted within 2 business days to the Appeal decision-maker(s).

### 2. Decision on Appeal

Within 20 days of receiving the appeal and the response, the Appeal decision-maker(s) shall issue a written decision describing the result of the appeal and the rationale for the result; and provide the written decision simultaneously to both

parties. The Appeal decision-maker(s) may deny the appeal or, if the appeal ground(s) has or have been met, may return the case to the initial decision-maker(s) for reconsideration, or convene a new hearing. If a case is returned to the initial decision-maker(s), the Appeal decision-maker(s) shall identify which aspects merit further review.

## 7. Required Training

Every employee upon hire and annually thereafter is required to review this policy, acknowledge they have read and understand its content. Supervisors undergo mandatory sexual harassment prevention training within six months of initial employment and annually thereafter. Additionally, all non-supervisory employees (including temporary employees and volunteers) must complete a one-hour workplace sexual harassment prevention training within six months of their initial employment and annually thereafter.

The Department of Fair Employment and Housing offers sexual harassment training at: <https://www.dfeh.ca.gov/shpt/>.