

**Annual Campus Security/Fire Safety Report and Policies for Worcester, MA**  
**As of 10/1/19**

**TONI&GUY Hairdressing Academy** is firmly committed to maintaining a safe campus environment. The full benefit of academic freedom is only experienced by faculty and students when the Academy is free of violence or other criminal activity. To that end, and in accordance with the Jean Clery campus security policy and campus crime statistics act, the institution collects campus crime statistics and prepares this report for distribution to all current and prospective students and employees.

Campus is defined as “any building or property owned or controlled by the Academy within the same contiguous geographic area used by the Academy in direct support of or related to its educational purpose.” The campus includes the facilities located at TONI&GUY Hairdressing Academy at 6 Park Ave in Worcester and the parking lot.

The public area for the Academy is defined as the sidewalk in front of 6 Park Ave, the street directly in front of it and the sidewalk on the opposite side of the Shell gas station (340 Grove St.).

No later than October 1st of each year, the Academy distributes notification to all current students and employees of the availability of the campus security report on our website with the exact URL where it is located. In addition, the report is provided to all prospective students during their tour or upon hiring of a new employee. At orientation, students review the campus security procedures. A copy of the report is maintained in the business office along with the backup documentation.

**How TONI&GUY Hairdressing Academy Prepares the Annual Crime Statistics:**

The TONI&GUY Hairdressing Academy utilizes a Compliance Manager who requests the crime statistics from the state and local authorities and produces the Annual Campus Security and Fire Safety Report.

Gloria Salvatore, Compliance Manager

**Reporting Crimes**

All individuals are encouraged and requested to report immediately any known criminal offense or other emergency occurring on campus to the Director of the Academy (non-emergencies) or dial 9-1-1 (emergencies only). In the event that the director is unavailable, the contact will then be the Director of Education or the Academy Designee. All individuals are also encouraged to promptly report all crimes to appropriate police agencies. The Academy Director will report all known criminal offenses to local law enforcement authorities upon obtaining knowledge of any criminal offense. Any suspicious activity or person seen loitering inside or around the school buildings should be reported to the School Director.

Reports may also be made to the school’s Campus Security Authorities, or CSAs. Under Federal law, the definition of CSAs include 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 include the Academy Chief Executive Officer, Regional Director, Academy Director, Recruiter, Business Manager and Financial Aid Coordinator.

Compliance with these provisions does not constitute a violation of section 444 of the General Education Provisions Act (20 U.S.C. 1232g) commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

### **Voluntary Confidential Crime Reporting**

TONI&GUY Hairdressing Academy does not currently have policies and procedures allowing voluntary confidential crime reporting.

### **Pastoral and Professional Counselors**

TONI&GUY Hairdressing Academy does not employ pastoral and professional counselors.

### **Campus Security Authority and Jurisdiction**

The campus does not employ campus security officials. The ultimate authority for law enforcement at the Academy is the local police department. The security of the campus is the direct responsibility of each employee and the Academy director. The Academy does not have any written agreements with local police departments for the investigation of alleged criminal offenses. Academy 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 Academy facilities. The Academy Director is the school's coordinator of security issues. She 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.

### **Criminal Activity on Campus**

In the event of criminal activity at the Academy, the student body, faculty, and administration are gathered together and informed of the situation immediately.

### **Information for Crime Victims about Disciplinary Hearings**

Institution must, upon written request, disclose to the alleged victim of any crime of violence, or a non-forcible sex offense, the results of any disciplinary proceeding conducted by the institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of the crime or offense, the information shall be provided, upon request to the next of kin of the alleged victim. This provision applies to any disciplinary proceeding conducted by the institution on or after August 14, 2009 (HEOA amendment).

### **Fire Safety**

TONI&GUY Hairdressing Academy does not house any students on campus and is not required by the Clery Act to disclose fire information.

### **Facility Access & Safety**

The TONI&GUY Hairdressing Academy is monitored by 24-hour surveillance cameras. The facilities are open Monday through Saturday according to assigned class/salon area schedules. During business hours, the Academy will be open to students, employees, contractors, guests, and invitees. The building may also be open for educational classes when not in use for regularly scheduled classes for licensed professionals in cosmetology or to groups securing the use of the facilities through the owner. During non-business hours access to all school facilities is by key and security code, if issued, or by admittance via the Academy Director or her designee. Emergencies may necessitate changes or alterations to any posted schedules. No student will have access to the campus facility, other than the parking area, at any time unless supervised by a staff member.

## **Security Education**

Before a student enrolls, all the information regarding crime statistics are given to the prospective student before they sign their contract. The Academy conducts pre-enrollment orientation sessions for all new students. The orientation program includes information regarding issues of personal security and emergency response protocol. In addition, information is disseminated to students and employees through tips posted in the school buildings, in-class announcements, and announcements through social media. TONI&GUY Hairdressing Academy does not offer a crime prevention program.

The Academy encourages all students and employees to be responsible for their own security and the security of others. The Academy does not employ campus security officials. Therefore, the security of the campus is the direct responsibility of each employee and administrator. No such individuals have the authority to make arrests.

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## **Off-Campus Student Activities**

When TONI&GUY Hairdressing Academy students are meeting off- campus, they are held to the same policies and regulations of reporting all crimes and offenses. There are no buildings or properties owned or controlled by the Academy's student organizations which are recognized by the Academy. TONI&GUY Hairdressing Academy does not provide law enforcement services to off-campus activities on behalf of the school.

## **Firearms**

The possession of any firearms, (e.g., pistols, rifles, shotguns, or crossbows) is prohibited. Any person on campus with a loaded firearm will be prosecuted by local authorities.

## **Timely Warning Policy**

### **What are Timely Warnings?**

Timely warnings are provided to notify students, faculty, and staff of certain crimes or circumstances that may represent a threat to the campus community and to heighten safety awareness.

### **When are Timely Warnings Made? What Type of Situations Do They Warn of?**

Decisions to issue a timely warning are made on a case-by-case basis considering the nature of the situation and the danger posed to the campus. They do not represent an emergency situation, only a situation that students and faculty need to be aware of to heighten safety awareness. A warning is only required when a situation occurs on campus or the area defined as public property surrounding the campus. Some examples of timely warnings that might be issued are severe weather alerts such as a tornado, the theft of a vehicle from the campus, or a suspicious person outside the building.

### **Who Makes Them and How?**

A timely warning is made by the Academy director or designee and the students and staff are gathered together and the announcement is made. The police are also notified if the situation warrants it.

## **Emergency Response Policy**

### **Emergency Response Plan**

TONI&GUY Hairdressing Academy is committed to informing the campus of an emergency, disaster, or potential disaster immediately upon determining the nature of the emergency. When a serious incident occurs

that causes an immediate threat to the campus, the Academy director or designee will contact the police or fire department depending on the emergency. The first responders to the scene are usually the local police department, the state police and the local fire department. If needed, the Academy would contact the state Emergency Management Agency, which may manage the incident. Depending on the nature of the incident, other departments and other local or federal agencies could also be involved in responding to the incident.

### **How the Students and Staff are Notified in an Emergency**

An announcement is immediately made in the Academy to vacate the building or remain inside depending on the circumstances, or in the case of fire, the fire alarm will sound.

## **Evacuation Procedures**

### **When Alarm Sounds**

All students and faculty must vacate the building immediately.

**Pull Alarm Mounting Locations: *USE ONLY WHEN THERE IS A FIRE IN THE ACADEMY.* All fire alarms are clearly marked.**

1. At each main entrance.

### **Emergency Exit Doors**

Once you are aware that evacuation is happening, please proceed to the following exits:

1. The three front exits out of the Academy.

### **Meeting Place**

After evacuating the building, employees and students should proceed to the back section of the main parking lot to ensure the safety of everyone.

### **Annual Evacuation Drill**

The evacuation drill occurs annually on a day during the last week of October between the hours of 9:00 and 10:00am.

### **Fire Extinguishers Locations – All extinguishers are clearly marked**

1. Director's office
2. Student time clock/locker hallway
3. Each transition hallway to back of Academy
4. Each entrance
5. Student breakroom

### **Active Shooter**

In the event of an active shooter, the Academy will contact law enforcement agencies for their assistance. Practiced procedures may be put into action to alert and protect students, staff and clients. Determine whether school will be closed or remain open. Document all actions taken. Try to remain calm and quickly determine the most reasonable way to protect your life – run, hide or fight. Call 911 as soon as possible.

**If shooter is inside the building:** Depending on circumstances, consideration may be given to exiting the

building (either through the front or back doors) as safely and quietly as possible. If evacuation is not possible, try to warn others to take immediate shelter. Proceed to a room that can be locked or barricaded. Turn off lights and silence cell phones. Keep out of sight and take adequate cover/protection. Call 911. Wait until a uniformed police officer provides an “all clear”. Attempts to rescue people should only be attempted if rescue can be accomplished without further endangering the persons inside a secure area.

**If shooter enters your office/classroom:** Try to remain calm. Try not to do anything that will provoke the active shooter. Only as a last resort when it is imminent that your life is in danger, make a personal choice to attempt to negotiate with or overpower the assailant if there is no possibility of escape or hiding. Call 911 if possible. Barricade the room or proceed to a safer location if the active shooter leaves the area.

### **How Staff is Updated on Policies and Procedures**

Yearly, when crime statistics are distributed to the students and staff, a staff meeting is held with employees to discuss policy, procedures and protocol regarding safety at TONI&GUY Hairdressing Academy. A review of the procedures is explained, as well as reviewing how to be responsible for their own security and the security of others.

### **Sex Offender Information:**

The state and local police maintain a record of registered sex offenders. You may also go on the web to [www.mass.gov/eopss/agencies/sorb](http://www.mass.gov/eopss/agencies/sorb).

### **Missing Student Procedure**

The Academy does not provide on-campus housing for students; therefore, is not required to establish official notification procedures for a missing student.

## Crime Statistics

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act the Academy collects crime statistics as the basis for the Annual Security Report that is made available to students, employees, and applicants for enrollment or employment. The following criminal offenses include any crime statistics that occurred on campus, off campus and the public area during the previous three (3) year period. Any crime statistics that are unfounded by the police department are not included.

Criminal Offenses	2018			2017			2016		
	On Campus	Off Campus	Public Property	On Campus	Off Campus	Public Property	On Campus	Off Campus	Public Property
Homicide	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0
Sex Offenses	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	1	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0
Domestic Violence	0	0	0	0	0	1	0	0	0
Dating Violence	0	0	0	0	0	0	0	0	0
Stalking	0	0	0	0	0	0	0	0	0
Disciplinary Referrals(R) and Arrests(A):	2018			2017			2016		
	On Campus	Off Campus	Public Property	On Campus	Off Campus	Public Property	On Campus	Off Campus	Public Property
Weapons Violations	R- 0 A- 0	0 0	0 0	R- 0 A- 0	0 0	0 0	R- 0 A- 0	0 0	0 0
Drug Violations	R- 0 A- 0	0 0	0 0	R- 1 A- 0	0 0	0 0	R- 0 A- 0	0 0	0 0
Liquor Law Violations	R- 0 A- 0	0 0	0 0	R- 0 A- 0	0 0	0 0	R- 0 A- 0	0 0	0 0

### HATE CRIME STATISTICS

2018 – ZERO

2017 – ZERO

2016 – ZERO

Reportable categories are: race, gender, religion, sexual orientation, gender identity, ethnicity/national origin and disability.

## DRUG AND ALCOHOL ABUSE PREVENTION PROGRAM

### Drug Offenses Related to TITLE IV Aid

	Possession of illegal drugs	Sale of illegal drugs
1 <sup>st</sup> Offense	1 year from date of conviction	2 years from date of conviction
2 <sup>nd</sup> Offense	2 years from date of conviction	Indefinite period
3 <sup>rd</sup> plus Offense	Indefinite period	Indefinite period

The student can gain eligibility the day after the period of ineligibility ends or when the student has successfully completed a drug rehabilitation program. If the student has further drug convictions, the student will become ineligible again. Students who have been denied ineligibility for an indefinite period of time can regain eligibility only after successfully completing a rehabilitation program or if the conviction was reversed, set aside, or removed from the student's record so that fewer than two convictions for the sale of illegal drugs or three convictions for possession remain on the student's record. The nature and dates of the remaining convictions will determine when the student can regain eligibility. The student is responsible to self-certify successful completion of a drug rehabilitation program. If The Academy receives conflicting documentation, the Academy will confirm reported information.

When the student regains eligibility, the student may be awarded Pell for the payment period of the award year the student is currently enrolled in. The student will be eligible for Stafford loans for the period of enrollment.

#### Standards for Qualified Drug Rehabilitation Program

- Must include two unannounced drug tests and must satisfy one of the following:
- Be qualified to receive funds from federal, state, or local government programs
- Be qualified to receive funds from federal or state licensed insurance company
- The program must be administered or recognized by a federal, state, or local government agency, licensed hospital, health clinic or medical doctor

All students who will need to enter a drug rehabilitation program will be counseled by The Academy of the above requirements. If the Academy has any doubt that the drug rehabilitation program does not meet these requirements, the Academy will confirm qualifications of the program prior to disbursing Title IV.

#### Academy Drug and Alcohol Policy

Based on the Drug Free Schools and Communities Act Amendments of 1989 (Public Law 101-226), and to express this Academy's commitment to prevent drugs and alcohol abuse in the Academy environment, the Academy has adopted the following Drug and Alcohol Abuse Prevention Policy, which applies to all students and employees.

It is the policy of **TONI&GUY Hairdressing Academy** to prohibit the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in or on any property owned or controlled by the Academy. We are committed to providing a campus environment free of alcohol abuse and illegal use of alcohol and drugs. To strengthen that commitment, the Academy has adopted and implanted a program that seeks to prevent the abuse of alcohol and drugs by the Academy, which includes its employees and students.

The policy contains the following sections: Standards of Conduct; Academy Sanctions; Applicable Legal Sanctions; Health Risks Associated with the Use of Illicit Drugs and the Abuse of Alcohol; Available Drugs and

Alcohol Counseling, Treatment, and Rehabilitation.

## **I. Standards of Conduct**

The unlawful manufacture, dispensation, possession or use of a controlled substance (drugs) and the unlawful possession, use, or both, of alcohol, are prohibited in and on property owned or controlled by this Academy. No employee or student is to report to work, attend class, or participate in any Academy activity while under the influence of illegal drugs or alcohol. The possession and use of alcoholic beverages by employees, students, and guests of the Academy are at all times subject to applicable state alcoholic beverage laws, as well as city ordinances within our service area, and the Academy's policy.

## **II. Academy Sanctions**

Violation of the policy and laws referenced above by an employee or student will be grounds for disciplinary action up to and including termination or expulsion in accordance with applicable Academy policies. Violators may be consistent with local, state, and federal criminal laws. Disciplinary action taken against a student or employee of this Academy does not preclude the possibility of criminal charges being filed against that individual. The filing of criminal charges similarly does not preclude disciplinary action by the Academy. Students or employees who believe disciplinary action was taken in error should follow the grievance procedures outlined in the student or employee handbook as appropriate.

### **Federal Drug-Free Workplace Act Requirements**

The following is required of the **TONI&GUY** Hairdressing Academy and its employees and students:

An employee or student shall notify his or her supervisor or other appropriate management representative of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

The Academy shall notify any federal contracting agency within ten (10) days of having received notice that an employee or student who was engaged in the performance of such a contract or grant, has had a criminal drug statute conviction for a violation occurring in the work place.

The Academy will take appropriate personnel action against any employee or student who is convicted for a violation occurring in the workplace and will require the satisfactory participation of the employee or student in a drug abuse assistance or rehabilitation program if they remain an employee or student.

### **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 administrator 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.

### **III. Applicable Legal Sanctions**

#### **Federal Law**

Federal law prohibits the illegal possession, manufacture, or distribution of a controlled substance. The following information, although not complete, provides an overview of federal penalties for first convictions.

#### **Denial of Federal Benefits (21 U.S.C. #862)**

A federal drug conviction may result in the loss of federal benefits, including Academy loans, grants, scholarships, contracts, and licenses. **Federal drug possession convictions may result in denial of federal benefits for up to one year for a first conviction and up to five years for subsequent convictions. Federal drug trafficking convictions may result in denial of federal benefits for up to five years for a first conviction.**

#### **Forfeiture of Personal Property and Real Estate (21 U.S.C. #853)**

Any person convicted of a federal drug offense punishable by imprisonment for more than one year shall forfeit to the United States any property constituting or derived from any proceeds obtained as a result of such violation or any property used to commit or facilitate such violation.

#### **Federal Drug Possession Penalties (21 U.S.C. #844)**

Federal sanctions for possession of controlled substances range from minimum fines of \$1,000 to \$5,000, and /or imprisonment from up to one year to three years, depending on the number of offenses.

#### **Federal Drug Trafficking Penalties (21 U.S.C. #841)**

Federal drug trafficking penalties vary and are outlined in the charts below, which are also posted on the Drug Enforcement Administration's website at:

**[https://www.dea.gov/sites/default/files/drug\\_of\\_abuse.pdf#page=30](https://www.dea.gov/sites/default/files/drug_of_abuse.pdf#page=30)**

**Chart One**

Schedule	Substance/Quantity	Penalty	Substance/Quantity	Penalty
II	Cocaine 500-4999 grams mixture	<b>First Offense:</b> Not less than 5 yrs. And not more than 40 yrs. If death or serious bodily injury, not less than 20yrs. Or more than life. Fine of not more than \$5 million if an individual, 25 million if not an individual.  <b>Second Offense:</b> Not less than 10 yrs. and not more than life. If death or serious bodily injury, life imprisonment. Fine of not more than \$8 Million if an individual, \$50 million if not an individual.	Cocaine 5 kilograms or more mixture	<b>First Offense:</b> Not less than 10 yrs. and not more than life. If death or serious bodily injury, not less than 20yrs. or more than \$10 million if not an individual, \$50 million if not an individual  <b>Second Offense:</b> Not less than 20 yrs. and not more than life. If death or serious bodily injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual. <b>2 or More Prior Offenses:</b> Life imprisonment. Fine of not more than \$20 million if an individual \$75 million if not individual
II	Cocaine Base 28-279 grams mixture		Cocaine Base 280 grams or more mixture	
IV	Fentanyl 40-399 grams mixture		Fentanyl 400 gram or more mixture	
I	Fentanyl Analogue 10- 99 grams mixture		Fentanyl Analogue 100 gram or more mixture	
I	Heroin 100-999 grams mixture		Heroin 1 kilogram or more mixture	
I	LSD 1-9 gram mixture		LSD 10grams or more mixture	
II	Methamphetamine 5-49 gram pure or 50- 499 gram mixture		Methamphetamine 50 gram or more pure or 500 grams or more mixture	

Substance/Quantity	Penalty
Any Amount of other schedule I & II substances	<p>First Offense: Not more than 20 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine \$1 million if an individual,\$5 million if not an individual.</p> <p>Second Offense: Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual</p>
Any Drug product containing Gamma Hydroxybutyric Acid	
Flunitrazepam (schedule IV) 1 gram	
Any amount of other schedule III drugs	<p>First Offense: Not more than 10 yrs. If death or serious bodily injury, not more than 15 yrs. Fine not more than \$500,000 if an individual. \$2.5million if not an individual.</p> <p>Second Offense: Not more than 20 yrs. If death or serious injury, not more than 30 yrs. Fine not more than \$1 million if an individual, \$5 million if not an individual,</p>
Any amount of all other schedule IV drugs (other than one gram or more of Flunitrazepam)	<p>First Offense: Not more than 5 yrs. Fine not more than \$250,000 if an individual, \$1 million if not an individual.</p> <p>Second Offense: Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.</p>
Any amount of all schedule V Drugs	<p>First Offense: Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual.</p> <p>Second Offense: Not more than 4 yrs. Fine not more than \$200.000 if an individual, \$500,000 if not an individual</p>

**Chart Two**

<p align="center"><b>Federal Trafficking Penalties for Marijuana, Hashish and Hashish Oil, Schedule I Substances</b></p>	
<p><b>Marijuana 1,000 Kilograms or more Marijuana mixture or 1,000 or more marijuana plants</b></p>	<p><b>First Offense: Not less than 10 yrs. or more than life if death or serious bodily injury, not less than 20 yrs. or more than life. Fine not more than \$10 million if an individual, \$50 million if other than an individual.</b></p> <p><b>Second Offense: Not less than 20 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million other than an individual.</b></p>
<p><b>Marijuana 100 to 999 kilograms marijuana mixture or 100 to 999 marijuana plants</b></p>	<p><b>First Offense: Not less than 5 yrs. or more than 40 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine not more than \$5 million if an individual, \$25 million if other than an individual</b></p> <p><b>Second Offense: Not less than 10yrs. or more than life. If death or bodily injury, life imprisonment. Fine not more than \$8 million if an individual, \$50 million if other than an individual</b></p>
<p><b>Marijuana 50 to 99 kilograms marijuana mixture, 50 to 99 marijuana plants</b></p>	<p><b>First Offense: Not more than 20 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine \$1 million if an individual, \$5 million if other than an individual.</b></p> <p><b>Second Offense: Not more than 30 yrs. if death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if other than an individual.</b></p>
<p><b>Hashish More than 10 kilograms</b></p>	
<p><b>Hashish Oil More than 1 kilogram</b></p>	
<p><b>Marijuana Less than 50 kilograms marijuana (but does not include 50 or more marijuana plants regardless of weight)  1 to 49 marijuana plants</b></p>	<p><b>First Offense: Not more than 5 yrs. Fine not more than \$250,000, if an individual, \$1 million if other than an individual.</b></p> <p><b>Second Offense: Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than an individual.</b></p>
<p><b>Hashish 10 kilograms or less</b></p>	
<p><b>Hashish Oil kilogram or less</b></p>	

## **Key Provisions of Massachusetts Drug & Alcohol Laws**

### **Recreational Marijuana**

Effective December 15, 2016, adults age 21 and older may possess and use marijuana for recreational purposes in Massachusetts. MGL Section 94G. Consuming marijuana or marijuana products in a public place is prohibited. Smoking marijuana in an area where smoking tobacco is prohibited is also prohibited. Consumption of marijuana is limited to adults over 21, with limited, specific medical exceptions.

Notwithstanding, the allowable recreational use of marijuana under Massachusetts law, recreational marijuana use is still a criminal act under federal law. Recreational use of marijuana by adults that might otherwise be permissible under Massachusetts law may be subject to criminal penalty under applicable federal laws.

### **Unlawful Possession of Particular Controlled Substances, Massachusetts Controlled Substance Act, MFL Chapter 94c Section 34**

Section 34. No person knowingly or intentionally shall possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the provisions of this chapter. Except as provided in Section 32L of this Chapter or as hereinafter provided, any person who violates this section shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars, or by both such fine and imprisonment. Any person who violates this section by possessing heroin shall for the first offense be punished by imprisonment in a house of correction for not more than two years or by a fine of not more than two thousand dollars, or both, and for a second or subsequent offense shall be punished by imprisonment in the state prison for not less than two and one-half years nor more than five years or by a fine of not more than five thousand dollars and imprisonment in a jail or house of correction for not more than two and one-half years. Any person who violates this section by possession of more than one ounce of marijuana or a controlled substance in Class E of section thirty-one shall be punished by imprisonment in a house of correction for not more than six months or a fine of five hundred dollars, or both. Except for an offense involving a controlled substance in Class E of section thirty-one, whoever violates the provisions of this section after one or more convictions of a violation of this section or of a felony under any other provisions of this chapter, or of a corresponding provision of earlier law relating to the sale or manufacture of a narcotic drug as defined in said earlier law, shall be punished by imprisonment in a house of correction for not more than two years or by a fine of not more than two thousand dollars, or both.

If any person who is charged with a violation of this section has not previously been convicted of a violation of any provision of this chapter or other provision of prior law relative to narcotic drugs or harmful drugs as defined in said prior law, or of a felony under the laws of any state or of the United States relating to such drugs, has had his case continued without a finding to a certain date, or has been convicted and placed on probation, and if, during the period of said continuance or of said probation, such person does not violate any of the conditions of said continuance or said probation, then upon the expiration of such period the court may dismiss the proceedings against him, and may order sealed all official records relating to his arrest, indictment, conviction, probation, continuance or discharge pursuant to this section; provided, however, that departmental records which are not public records, maintained by police and other law enforcement agencies, shall not be sealed; and provided further, that such a record shall be maintained in a separate file by the department of probation solely for the purpose of use by the courts in determining whether or not in subsequent proceedings such person qualifies under this section. The record maintained by the department of probation shall contain only identifying information concerning the person and a statement that he has had his record sealed pursuant to the provisions of this section. Any conviction, the record of which has been sealed under this section, shall not be deemed a conviction for purposes of any disqualification or for any other purpose. No person as to whom

such sealing has been ordered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest, indictment, conviction, dismissal, continuance, sealing, or any other related court proceeding, in response to any inquiry made of him for any purpose.

Notwithstanding any other penalty provision of this section, any person who is convicted for the first time under this section for the possession of marijuana or a controlled substance in Class E and who has not previously been convicted of any offense pursuant to the provisions of this chapter, or any provision of prior law relating to narcotic drugs or harmful drugs as defined in said prior law shall be placed on probation unless such person does not consent thereto, or unless the court files a written memorandum stating the reasons for not so doing. Upon successful completion of said probation, the case shall be dismissed and records shall be sealed.

It shall be a prima facie defense to a charge of possession of marijuana under this section that the defendant is a patient certified to participate in a therapeutic research program described in chapter ninety-four D, and possessed the marijuana for personal use pursuant to such program.

### **Massachusetts Alcohol Laws**

The legal drinking age in Massachusetts is 21 years of age.

A person over 21 years of age may not buy alcohol for a person under 21 years of age, unless their relationship is that of parent and child or husband and wife, and even in those situations liquor must be bought at a package liquor store, not a restaurant or tavern. Violation of this section may result in a fine of \$2,000, imprisonment up to one year, or both. M.G.L.c.138, Sec. 34

Alcohol may not be purchased or attempted to be purchased by a person under 21 years of age. A person may not lie about his/her age to purchase alcohol, present false identification, or make arrangements with someone older to buy alcohol for him/her. Violation of this section may result in a fine of \$300. M.G.L.c.138, Sec.34A

Any person who transfers, alters, or defaces any such card, or who makes, uses, carries, sells, or distributes a false identification card, or furnishes false information in obtaining such a card, shall be guilty of a misdemeanor. Violation of this section may result in a fine of \$200, imprisonment up to three months, or both. M.G.L. c. 138, Sec.34B

Any person without a license to serve alcohol may not serve someone under 21 years of age, unless their relationship is that of parent and child or husband and wife. Violation of this section may result in a fine of \$2,000, imprisonment up to one year, or both. M.G.L.c.138, Sec.34

Under Massachusetts law, a host of a party may be held liable for the injuries suffered by others if the host knew or should have known that a guest was drunk and nevertheless gave/permitted the guest to take an alcoholic drink and thereafter, because of the guest's intoxication, the guest negligently caused injury to others.

### **The Health Risks Associated with the Use of Illicit Drugs and the Abuse of Alcohol**

The use or abuse of drugs or alcohol increases the risk of health related, behavioral and social problems.

- Acute health problems related to intoxication or overdose.
- Physical and psychological dependence.
- Heart disease or brain damage.

- Ulcers and cancer.
- Fetal alcohol syndrome, stillbirths, and birth defects
- Violent behavior towards others.
- Impaired driving resulting in arrests, accidents, injuries and fatalities.
- Disciplinary actions at work.
- Loss of employment.
- Legal problems including imprisonment.

**Contact Information for Drug and Alcohol Counseling and Treatment**

There are drug and alcohol counseling, treatment and rehabilitation facilities in our area where advice and treatment are available. The telephone numbers of these facilities may be found on the web by searching Drug Abuse and Addiction Treatment, or by going to [www.findtreatment.samhsa.gov](http://www.findtreatment.samhsa.gov).

For example:

- |  |                |
|--|----------------|
| 2. MA Bureau of Substance Abuse Services | 1-617-624-5111 |
| 3. MA Substance Abuse Helpline           | 1-800-327-5050 |

There are national organizations that can also be contacted for help. The National Hotline for Substance Abuse and Mental Health Services Administration is 1-800-662-HELP. It is available 24 hours a day. The National Alcoholism and Substance Abuse Information Center can be reached at 1-800-784-6776.

Results of the biennial review are available in the Business office.

**Academy Flexibility**

The TONI&GUY Hairdressing Academy reserves the right to alter or amend any portion of this policy at any time without prior notice. The Academy 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 Academy are for guidance only and failure of the TONI&GUY Hairdressing Academy to strictly meet any time frame provided herein shall not preclude the Academy 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 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 Academy community should be aware that the Academy is strongly opposed to sexual misconduct, and that such behavior is prohibited by state and federal laws.

As part of the Academy's commitment to providing a working and learning environment free from sexual misconduct, the Sexual Misconduct Policies & Procedures (the "Policy") shall be disseminated widely to the Academy community through publications, the Academy's website, new employee orientations, student orientations, and other appropriate channels of communication. The Academy provides training to key staff members to enable the Academy to handle any allegations of sexual misconduct promptly and effectively. The Academy will respond promptly and equitably 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.

### **Scope of the Policy**

This Policy governs sexual misconduct involving students that occurs on any Academy property or in connection with any Academy-sponsored program or event. Under this Policy, the Academy will assess the effects of off-campus misconduct to evaluate whether there is a hostile environment on campus. This includes a review of misconduct that did not occur in the context of an education program or activity but may have had such an impact. This Policy applies to alleged sex discrimination and harassment carried out by students, employees, and third parties conducting business with the Academy, regardless of the person's gender, gender identity, sexual orientation, age, race, nationality, class status, ability, religion or other protected status. The Academy encourages victims of sexual violence to talk to somebody about what happened – so victims can get the support they need, and so the Academy can respond appropriately. As further described in this Policy, the Academy will seek to respect a victim's request for confidentiality to the extent possible, while remaining ever mindful of the victim's well-being.

### **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 below.

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.**

### **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 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 includes Rape and Sex Offenses as defined below. Sexual assault can occur either forcibly and/or against a person’s will, or when a person is unable to give consent freely.
- 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 - 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.
- 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 – Consent is a voluntary agreement to engage in sexual activity.
  - Past consent does not imply future consent.
  - Silence or an absence of resistance does not imply consent.
  - Consent to engage in sexual activity with one person does not simply consent to engage in sexual activity with another.
  - Consent can be withdrawn at any time.
  - Coercion, force, or threat of either invalidates consent.
  - Someone who is incapacitated cannot consent. Incapacitation refers to a situation in which a person is not capable of providing consent because the person lacks the ability to understand her or his decision. This situation may occur due to the use of drugs or alcohol, when a person is asleep or unconscious, or because of an intellectual or other disability that prevents the student from having the capacity to give consent.
- Complainant – means the person making the allegation(s) of sexual misconduct.
- Respondent – means the person alleged to have committed sexual misconduct

### **Title IX Coordinator**

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

- Knowledgeable and trained in Academy policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a complainant, respondent, or a third party, about Academy and community resources and reporting options;
- Available to provide assistance to any Academy employee regarding how to respond promptly and equitably 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 Academy’s Title IX Coordinator:

Dana Bray  
6 Park Avenue, Worcester, MA 01605  
Ph: 508-756-6060  
email: dbray@tg-ne.com

### **Sexual Assault Education and Prevention Programs**

The Academy engages in comprehensive educational programming to prevent sexual misconduct. Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students and faculty that:

- a. Identifies domestic sexual misconduct;
- b. Defines what behavior constitutes sexual misconduct
- c. Defines what behavior and actions constitute consent to sexual activity;

- d. Provides safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of sexual misconduct against a person other than the bystander;
- e. Provides information on risk reduction so that students and employees may recognize warning signs of abusive behavior and how to avoid potential attacks;
- f. Provides an overview of information contained in the Annual Security Report in compliance with the Clery Act.
- g. The Academy has developed an annual education campaign consisting of presentations that include distribution of educational materials to new students at orientation sessions. In addition, new employees and faculty receive information and materials during initial employment.

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

The Academy has procedures in place that serve to be sensitive to those who report sexual misconduct, including informing individuals about their right to file criminal charges as well as the availability of medical, counseling, and support services, and additional remedies to prevent contact between a complainant (also known as victim) and an accused party, such as academic, transportation, and working accommodations, if reasonably available. To file a complaint, students and employees should contact the Title IX coordinator at the school. The Title IX coordinator will provide written notification to victims about options available.

### **Reporting Options / Procedures**

TONI&GUY Hairdressing Academy strongly encourages all members of the Academy 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 Academy and/or to law enforcement.

### **Reporting to the Academy**

An incident of sexual misconduct may be reported directly to the Academy's Title IX Coordinator. If the Academy's Title IX Coordinator is the alleged perpetrator of the sexual misconduct, the report should be submitted to the Academy's Business Manager. Filing a report with an Academy official will not obligate the victim to prosecute, nor will it subject the victim to scrutiny or judgmental opinions from police officers.

While there is no time limit for reporting, reports of sex discrimination or harassment should be brought forward as soon as possible. All incidents should be reported even if significant time has elapsed, but prompt reporting will better enable the Academy to respond, investigate, provide an appropriate remedy, and impose discipline if appropriate. The Academy 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 Academy will respond to all reports in a manner that treats each individual with dignity and respect and will take prompt steps to prevent recurrence of any sex discrimination or harassment found to have occurred, and to correct its discriminatory effects on the complainant and others, if appropriate.

### **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. At the complainant's request, the Academy will assist the complainant in contacting law enforcement. If the complainant decides to pursue the criminal process, the Academy 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. 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)

## **Evidence Preservation**

After an incident of sexual assault and domestic violence, the victim should consider seeking medical attention as soon as possible. Local emergency rooms may provide physical evidence recovery and access to Forensic Nurse Practitioners and Sexual Assault Nurse Practitioners. In Massachusetts, evidence may be collected even if you chose not to make a report to law enforcement. It is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen where they were assaulted if the offense occurred within the past 96 hours so that evidence necessary to prove criminal activity may be preserved. In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease. 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 to Academy hearing boards, investigators, or police. Although the Academy strongly encourages all members of its community to report violations of this policy to law enforcement, it is the victims' choice whether or not to make such a report and victims have the right to decline involvement with the police. The Title IX coordinator will assist any victim with notifying local police if they so desire.

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

The Academy encourages students to report all instances of sexual misconduct. The Academy will take into consideration the importance of reporting sexual misconduct in addressing violations of the Academy's alcohol and drug policies. An individual who participates as a complainant or witness in an investigation of sexual misconduct will not be subject to disciplinary sanctions for a violation of the Academy's student conduct policies at or near the time of the incident, unless the Academy determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

## **Assistance for Victims: Rights & Options**

Sexual Harassment is a violation of Section 703 of Title VII of the Civil Rights Act of 1964 as amended in 1972, (42 U.S.C s2000e, et, Sequa). This is punishable under both federal and state laws.

Regardless of whether a victim elects to pursue a criminal complaint, the Academy will assist victims of sexual assault, domestic violence, dating violence and stalking. The Academy will provide each victim with a written explanation of their rights. In Massachusetts, a victim of domestic violence, dating violence, sexual assault or stalking has the following rights:

## **Victim's Bill of Rights**

To provide victims a meaningful role in the criminal justice system, victims and witnesses of crime, or in the event the victim is deceased, the family members of the victim, Massachusetts law provides the following basic and fundamental rights, to the greatest extent possible and subject to appropriation and to available resources, with priority for services to be provided to victims of crimes against the person and crimes where physical injury to a person results:

- (a) for victims, to be informed by the prosecutor about the victim's rights in the criminal process, including but not limited to the rights provided under this chapter. At the beginning of the criminal justice process, the prosecutor shall provide an explanation to the victim of how a case progresses through the criminal justice system, what the victim's role is in the process, what the system may expect from the victim, why the system requires this, and, if the victim requests, the prosecutor shall periodically apprise the victim of significant developments in the case;
- (b) for victims and family members, to be present at all court proceedings related to the offense committed against the victim, unless the victim or family member is to testify and the court determines that the person's testimony would be materially affected by hearing other testimony at trial and orders the person to be excluded from the courtroom during certain other testimony;
- (c) for victims and witnesses, to be notified by the prosecutor, in a timely manner, when a court proceeding to

which they have been summoned will not go on as scheduled, provided that such changes are known in advance. In order to notify victims and witnesses, a form shall be provided to them by the prosecutor for the purpose of maintaining a current telephone number and address. The victim or witness shall thereafter maintain with the prosecutor a current telephone number and address;

(d) for victims and witnesses, to be provided with information by the prosecutor as to the level of protection available and to receive protection from the local law enforcement agencies from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(e) for victims, to be informed by the prosecutor of financial assistance and other social services available to victims, including information relative to applying for such assistance or services;

(f) for victims and witnesses, to a prompt disposition of the case in which they are involved as a victim or a witness;

(g) for victims, to confer with the prosecutor before the commencement of the trial, before any hearing on motions by the defense to obtain psychiatric or other confidential records, and before the filing of a nolle prosequi or other act by the commonwealth terminating the prosecution or before the submission of the commonwealth's proposed sentence recommendation to the court. The prosecutor shall inform the court of the victim's position, if known, regarding the prosecutor's sentence recommendation. The right of the victim to confer with the prosecutor does not include the authority to direct the prosecution of the case;

(h) for victims and witnesses, to be informed of the right to request confidentiality in the criminal justice system. Upon the court's approval of such request, no law enforcement agency, prosecutor, defense counsel, or parole, probation or corrections official may disclose or state in open court, except among themselves, the residential address, telephone number, or place of employment or school of the victim, a victim's family member, or a witness, except as otherwise ordered by the court. The court may enter such other orders or conditions to maintain limited disclosure of the information as it deems appropriate to protect the privacy and safety of victims, victims' family members and witnesses;

(i) for victims, family members and witnesses to be provided, by the court as provided in section 17 of chapter 211B, with a secure waiting area or room which is separate from the waiting area of the defendant or the defendant's family, friends, attorneys or witnesses and separate from the district attorney's office; provided, however, that the court shall designate a waiting area at each courthouse; and provided further, that designation of those areas shall be made in accordance with the implementation plan developed by the task force.

(j) for victims and witnesses, to be informed by the court and the prosecutor of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;

(k) for victims and witnesses, to be provided, where appropriate, with employer and creditor intercession services by the prosecutor to seek employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process, and to seek consideration from creditors if the victim is unable, temporarily, to continue payments;

(l) for victims or witnesses who have received a subpoena to testify, to be free from discharge or penalty or threat of discharge or penalty by his employer by reason of his attendance as a witness at a criminal proceeding. A victim or witness who notifies his employer of his subpoena to appear as a witness prior to his attendance, shall not on account of his absence from employment by reason of such witness service be subject to discharge or penalty by his employer. Any employer or agent of said employer who discharges or disciplines or continues to threaten to discharge or discipline a victim or witness because that victim or witness is subpoenaed to attend court for the purpose of giving testimony may be subject to the sanctions stated in section fourteen A of chapter two hundred and sixty-eight;

(m) for victims and witnesses, to be informed of the right to submit to or decline an interview by defense counsel or anyone acting on the defendant's behalf, except when responding to lawful process, and, if the victim or witness decides to submit to an interview, the right to impose reasonable conditions on the conduct of the

interview;

- (n) for victims, to confer with the probation officer prior to the filing of the full presentence report. If the victim is not available or declines to confer, the probation officer shall record that information in the report. If the probation officer is not able to confer with the victim or the victim declines to confer, the probation officer shall note in the full presentence report the reason why the probation officer did not make contact with the victim;
- (o) for victims, to request that restitution be an element of the final disposition of a case and to obtain assistance from the prosecutor in the documentation of the victim's losses. If restitution is ordered as part of a case disposition, the victim has the right to receive from the probation department a copy of the schedule of restitution payments and the name and telephone number of the probation officer or other official who is responsible for supervising the defendant's payments. If the offender seeks to modify the restitution order, the offender's supervising probation officer shall provide notice to the victim and the victim shall have the right to be heard at any hearing relative to the proposed modification.
- (p) for victims, to be heard through an oral and written victim impact statement at sentencing or the disposition of the case against the defendant about the effects of the crime on the victim and as to a recommended sentence, pursuant to section four B of chapter two hundred and seventy-nine, and to be heard at any other time deemed appropriate by the court. The victim also has a right to submit the victim impact statement to the parole board for inclusion in its records regarding the perpetrator of the crime;
- (q) for victims, to be informed by the prosecutor of the final disposition of the case, including, where applicable, an explanation of the type of sentence imposed by the court and a copy of the court order setting forth the conditions of probation or other supervised or unsupervised release within thirty days of establishing the conditions, with the name and telephone number of the probation officer, if any, assigned to the defendant;
- (r) for victims, to have any personal property that was stolen or taken for evidentiary purposes, except contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, returned by the court, the prosecutor or law enforcement agencies within ten days of its taking or recovery if it is not needed for law enforcement or prosecution purposes or as expeditiously as possible when said property is no longer needed for law enforcement or prosecution purposes;
- (s) for victims, to be informed by the parole board of information regarding the defendant's parole eligibility and status in the criminal justice system;
- (t) for victims, to be informed in advance by the appropriate custodial authority whenever the defendant receives a temporary, provisional or final release from custody, whenever a defendant is moved from a secure facility to a less-secure facility, and whenever the defendant escapes from custody. The victim shall be informed by the prosecutor about notification rights and the certification process required to access the criminal offender record information files. Persons requesting such notice must provide the appropriate authority with current information as to their address and telephone number;
- (u) for victims, to be informed that the victim may have a right to pursue a civil action for damages relating to the crime, regardless of whether the court has ordered the defendant to make restitution to the victim.
- (v) for one family member of a victim of a homicide, which the matter before the court is related, to possess in the courtroom a photograph, that is not of itself of an inflammatory nature, of the deceased victim that is not larger than eight by ten inches; provided, however, that at no time may the photograph be exposed or in any way displayed in the presence of any member of the jury, or the jury pool from which a jury is to be selected in a particular matter; provided, further, that nothing in this section shall preclude the admission into evidence of a photograph that the court deems relevant and material.
- (w) Where the victim or witness is an employee of the department of youth services, no law enforcement agency, prosecutor, defense counsel or parole, probation or corrections official shall disclose or state the residential address, telephone number or place of employment or school of the victim, a victim's family member or a witness, except as otherwise ordered by the court. The court may enter such other orders or conditions to

maintain limited disclosure of the information as it deems appropriate to protect the privacy and safety of victims, victims' family members and witnesses.

<https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleIV/Chapter258B/Section3>

### **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 Academy's disciplinary or criminal process. *TONI & GUY Hairdressing Academy does not provide counseling or health care services. Personal counseling offered by the Academy will be limited to initial crisis assessment and referral.*

You may need the services of an appropriate agency in the community for counseling or other services. Some examples are:

- |                                       |                |
|---------------------------------------|----------------|
| 1. RAINN Center (National)            | 1-800-656-HOPE |
| 2. DOVE (Domestic Violence Ended)     | 1-888-314-DOVE |
| 3. National Domestic Violence Hotline | 1-800-799-SAFE |

The Academy's Title IX Coordinator will work with all students affected by sexual misconduct to ensure their safety and support their well-being. 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 Academy may be able to provide additional interim measures to victims while an investigation is pending, such as no contact orders. Interim measures will be individualized and appropriate based on the information gathered by the Title IX Coordinator, making every effort to avoid depriving any student of his or her education. The measures needed by each student may change over time, and the Title IX Coordinator will communicate with each student throughout the investigation to ensure that any interim measures are necessary and effective based on the students' evolving needs. 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 Academy will work with the student and the applicable court to assist in the enforcement of any such protective orders.

### **Anti-Retaliation**

TONI&GUY Hairdressing Academy will not retaliate or allow any retaliation against any person for filing a good-faith complaint or for participating or assisting in good faith in an investigation under this policy. An employee or student who retaliates will be subject to disciplinary action, up to and including termination from TONI&GUY Hairdressing Academy. Any student or employee who feels that he or she has been subject to retaliation in violation of this policy should report the matter immediately to the Title IX Coordinator.

### **Personal Protection Order Compliance**

Further, TONI&GUY Hairdressing Academy complies with Massachusetts Law in recognizing Personal Protection Orders. Any person who obtains a Personal Protection Order from Massachusetts or any reciprocal state should provide a copy to the Title IX Coordinator. A complainant may then meet with the Title IX Coordinator to develop a safety action plan, which is a plan for the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, changing classroom location or other academic arrangements. Personal Protection Orders may be available through the local circuit court.

To the extent of the victims' cooperation and consent, Academy offices will work cooperatively to provide reasonable assistance so that the complainant's health, physical safety, work and academic status are protected,

pending the outcome of a formal Academy investigation of the complaint. For example, if reasonably available, a complainant may be offered changes to academic, or working situations in addition to counseling, health services, and assistance in notifying local law enforcement. Additionally, personal identifiable information about the victim will be treated as confidential and only shared with persons with a specific need to know who are investigating/adjudicating the complaint or delivering resources or support services to the complainant.

### **Academy Policy on Confidentiality**

The Academy encourages victims of sexual misconduct to talk to somebody about what happened – so victims can get the support they need, and so the Academy 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 Academy 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. *The 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 5 of this Policy.

A victim who at first requests confidentiality may later decide to file a complaint with the Academy 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 Academy, they may have reporting or other obligations under state law.

**ALSO NOTE:** If the Academy determines that the alleged perpetrator(s) pose a serious and immediate threat to the Academy community, the Campus President 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 Academy employee who has the authority to redress sexual misconduct, who has the duty to report incidents of sexual misconduct 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 Academy 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 Academy 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 Academy'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 Academy's responsible employees include any Academy employee that a student can reasonably believe has the authority or duty to redress and/or report incidents of sexual misconduct, including, but not limited to, Instructors,

Academy Director, Admissions Representative, Financial Aid Coordinator, Business Manager and Regional Director.

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 Academy will consider the request, but cannot guarantee that the Academy 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 Academy 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 Academy 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 Academy'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 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 Academy will consider the request, but cannot guarantee that the Academy 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 Academy 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 Academy 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 Academy must weigh that request against the Academy's obligation to provide a safe, non-discriminatory environment for all students, including the victim.

If the Academy honors the request for confidentiality, a victim must understand that the Academy'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 Academy 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 Academy 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 Academy 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 Academy to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the Academy will likely respect the victim’s request for confidentiality.

**If the Academy determines that it cannot maintain a victim’s confidentiality**, the Academy will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the Academy’s response. The Academy 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 Academy employees, will not be tolerated. The Academy 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 Academy may not require a victim to participate in any investigation or disciplinary proceeding.

Because the Academy 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 Academy 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/surveys; and/or revisiting its policies and practices.

**If the Academy determines that it can respect a victim’s request for confidentiality**, the Academy will also take immediate action as necessary to protect and assist the victim. A victim’s request for confidentiality will likely limit the Academy’s ability to investigate a particular matter. The Academy 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 Academy’s policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

## 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 Academy 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 Academy 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 5 of this Policy

### **Investigation & Adjudication Procedures and Protocols**

The Academy's Title IX Coordinator oversees the Academy's investigation, response to, and resolution of all reports of prohibited sexual misconduct, and of related retaliation, involving students, faculty, and staff.

As soon as practicable after receiving a report, the Title IX Coordinator will make an initial assessment of the report to determine whether the report, on its face, alleges an act prohibited by this Policy. If the Title IX Coordinator determines the report states facts which, if true, could constitute a violation of this Policy, the Title IX Coordinator will assess whether the complaint should proceed through the voluntary resolution process or formal investigation process (see below). The Title IX Coordinator will communicate the determination regarding the initial assessment in writing to the complainant. If the Title IX Coordinator determines the complainant's report does not state facts that, if true, could constitute a violation of the Policy, the complainant may still file a report with the federal Office for Civil Rights, the police, or seek available civil remedies through the judicial system. The complainant may also re-file the report with the Academy upon discovery of additional facts.

### **Notice**

After the initial assessment, if the Title IX Coordinator determines that the complaint may appropriately be resolved through voluntary resolution, the Title IX Coordinator will ask the complainant and respondent, separately, whether they would agree to pursue resolution of the complaint informally. If either party does not agree to pursue voluntary resolution, or if the complainant, respondent, or Academy, at any time, determines that voluntary resolution is not or no longer appropriate, the Title IX Coordinator will promptly inform the complainant and respondent in writing that the complaint will proceed through formal investigation.

After the initial assessment, the Title IX Coordinator may determine the complaint must proceed through formal investigation. The Title IX Coordinator will notify the complainant and respondent with written notice of the formal investigation, including the allegation(s). The complainant and respondent will be given the opportunity to meet separately with the Title IX Coordinator to review the Policy.

### **Voluntary Resolution**

Voluntary resolution, when selected by all parties 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 safety and welfare of the Academy community. If all parties voluntarily agree to participate in an informal resolution that does not involve a full investigation and adjudication after receiving a full disclosure of the allegation(s) and their options for formal resolution and if the Academy determines that the particular Title IX complaint is appropriate for such a process, the Academy will facilitate an informal resolution to assist the parties in reaching a voluntary resolution. The Academy retains the discretion to determine which cases are appropriate for 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; and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy.

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 Academy 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 Academy will not compel parties to engage in mediation or to participate in any particular form of informal resolution. 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.

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

### **Formal Investigation Process**

The Title IX Coordinator will designate a specially trained 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.

The Academy'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 the date that written notice of the investigation was sent to the complainant and respondent. Adjudication through the hearing panel (see below), if applicable, 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 Academy 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 Academy 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; and no contact orders. Interim measures will be individualized and appropriate based on the information gathered by the Title IX Coordinator, making every effort to avoid depriving any student of his or her education. The measures needed by each student may change over time, and the Title IX Coordinator will communicate with each student throughout the investigation to ensure that any interim measures are necessary and effective based on the students' evolving needs.

### **Investigation Report**

The investigator will prepare a report that includes a statement of the allegations and issues, the positions of the complainant and respondent, a summary of the evidence (including from interviews and documentation gathered), an explanation why any proffered evidence was not investigated, assessment of individual credibility, and findings of fact and an analysis of whether a violation of the Policy has occurred. The investigator 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 the investigator 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. The complainant and respondent will be simultaneously notified of the completion of the investigation and provided with the investigator's report.

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 10, 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.

### **Hearing Panel**

If requested by either complainant or respondent following the distribution of the investigative report, the Academy 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 consist of three members who will be individuals associated with the Academy. The hearing panel may include the Title IX Coordinator unless the Title IX Coordinator was designated as the investigator of the complaint. The hearing panel members may include administrators, 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, or the Academy President if the challenge is against the Title IX Coordinator, at least 48 hours prior to the commencement of the hearing. At its discretion, the Title IX Coordinator, or the President if applicable, 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 unreasonable 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. Both the complainant and the respondent shall be provided with an opportunity to review any information gathered by the investigator during the investigation process prior to the hearing. 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. The Title IX Coordinator may arrange to hold the hearing at an off-campus location. 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 Academy personnel may be present during the proceeding. The Academy Director will work with Academy 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. 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. The panel will ensure an adequate, reliable, and impartial investigation of the complaint.

- 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 submitted questions that it deems are inappropriate or irrelevant to the proceedings. The hearing panel will inform the party that submits an inappropriate or irrelevant question of the reason(s) why the question was revised or not asked.
  - 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.

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

### **Panel Determinations/Standard of Proof**

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. 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. 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 below, both parties shall have the option to appeal the hearing panel's determination.

### **Sanctions and Other Remedies**

The Title IX Coordinator shall be responsible for imposing sanctions that are:

- Fair and appropriate given the facts of the particular case;
- Consistent with the Academy'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 Academy 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 Academy 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 Academy 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 Academy employment
- Suspension (limited time or indefinite)
- Expulsion

In addition to any other sanction (except where the sanction is expulsion), the Academy 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 Academy 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 Academy may also determine that additional measures are appropriate to respond to the effects of the incident on the Academy community. Additional responses for the benefit of the Academy 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 Academy's policies relating to sexual misconduct
- Climate surveys regarding sexual misconduct

### **Appeals**

Either the respondent or the complainant or both may appeal the determination of the hearing panel and/or the sanctions. Appeals are decided by the President of TONI&GUY Hairdressing Academy. The three grounds for appeal are:

1. A procedural error affecting the determination or sanction;
2. New information that was not available at the time of the investigation or hearing and that may change the determination or sanction; and
3. Excessiveness or insufficiency of the sanction.

Disagreement with the finding or sanctions is not, by itself, grounds for appeals.

The appealing student must submit the appeal in writing to the President within five business days after receiving the sanctioning notice. If either the complainant or respondent submits an appeal, the Title IX Coordinator will notify the other that an appeal has been filed and the grounds of the appeal. The non-appealing student may submit a written response within five business days after notice of an appeal.

If the President concludes that a change in the hearing panel's determination is warranted based on the three grounds for appeal described above, the President may enter a revised determination, reconvene the panel to reconsider the

determination, or return the matter for additional investigation. After consultation with the Title IX Coordinator, the President may also change the sanction. If both the complainant and respondent appeal, the appeals will be considered concurrently.

The President will notify the complainant and respondent of the final decision in writing. Appeals decisions will be rendered within 15 days after the receipt of the written appeal. All appeal decisions are final.

### **Records Disclosure**

Disciplinary proceedings conducted by the Academy 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 Academy 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 Academy's website at [www.toniguy.edu](http://www.toniguy.edu).

The Academy 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 Academy 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.

### **Amendments**

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

### **Hazing**

**Massachusetts General Laws Chapter 269, Sections 17, 18 and 19 state:**

**Section 17:** Whoever is a principal organizer or participant in the crime of hazing, as defined herein, shall be punished by a fine of not more than three thousand dollars or by imprisonment in a house of correction for not more than one year, or both such fine and imprisonment.

The term "hazing" as used in this section and in sections eighteen and nineteen, shall mean any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or other person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation. Notwithstanding any other provisions of this section to the contrary, consent shall not be available as a defense to any prosecution under this action.

**Section 18:** Whoever knows that another person is the victim of hazing as defined in section seventeen and is at the scene of such crime shall, to the extent that such person can do so without danger or peril to himself or others, report such crime to an appropriate law enforcement official as soon as reasonably practicable. Whoever fails to report such crime shall be punished by a fine of not more than one thousand dollars.

In addition to above cited penalties, students engaged in the act of hazing will be subject to expulsion.

**Section 19:** Each institution of secondary education and each public and private institution of post-secondary education shall issue to every student group, student team or student organization which is part of such institution or is recognized by the institution or permitted by the institution to use its name or facilities or is known by the institution to exist as an unaffiliated student group, student team or student organization, a copy of this section and sections seventeen and eighteen; provided, however, that an institution's compliance with this section's requirements that an institution issue copies of this section and sections seventeen and eighteen to unaffiliated student groups, teams or organizations shall not constitute evidence of the institution's recognition or endorsement of said unaffiliated student groups, teams or organizations.

Each such group, team or organization shall distribute a copy of this section and sections seventeen and eighteen to each of its members, plebes, pledges or applicants for membership. It shall be the duty of each such group, team or organization, acting through its designated officer, to deliver annually, to the institution an attested acknowledgment stating that such group, team or organization has received a copy of this section and said sections seventeen and eighteen, that each of its members, plebes, pledges, or applicants has received a copy of sections seventeen and eighteen, and that such group, team or organization understands and agrees to comply with the provisions of this section and sections seventeen and eighteen.

Each institution of secondary education and each public or private institution of post-secondary education shall, at least annually, before or at the start of enrollment, deliver to each person who enrolls as a full time student in such institution a copy of this section and sections seventeen and eighteen.

Each institution of secondary education and each public or private institution of post-secondary education shall file, at least annually, a report with the board of higher education and in the case of secondary institutions, the board of education, certifying that such institution has complied with its responsibility to inform student groups, teams or organizations and to notify each full time student enrolled by it of the provisions of this section and sections seventeen and eighteen and also certifying that said institution has adopted a disciplinary policy with regard to the organizers and participants of hazing and that such policy has been set forth with appropriate emphasis in the student handbook or similar means of communicating the institution's policies to its students. The board of higher education and, in the case of secondary institutions, the board of education shall promulgate regulations governing the content and frequency of such reports, and shall forthwith report to the attorney general any such institution which fails to make such report.

## Definitions of Sexual Misconduct under Massachusetts 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.

Massachusetts law provides the following definitions with respect to incidents of sexual assault:

MGL Chapter 265, Section 22: Rape, generally; weapons; punishment; eligibility for furlough, education, training or employment programs

(a) Whoever has sexual intercourse or unnatural sexual intercourse with a person, and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury and if either such sexual intercourse or unnatural sexual intercourse results in or is committed with acts resulting in serious bodily injury, or is committed by a joint enterprise, or is committed during the commission or attempted commission of an offense defined in section fifteen A, fifteen B, seventeen, nineteen or twenty-six of this chapter, section fourteen, fifteen, sixteen, seventeen or eighteen of chapter two hundred and sixty-six or section ten of chapter two hundred and sixty-nine shall be punished by imprisonment in the state prison for life or for any term of years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

(b) Whoever has sexual intercourse or unnatural sexual intercourse with a person and compels such person to submit by force and against his will, or compels such person to submit by threat of bodily injury, shall be punished by imprisonment in the state prison for not more than twenty years; and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term or years.

Whoever commits any offense described in this section while being armed with a firearm, rifle, shotgun, machine-gun or assault weapon, shall be punished by imprisonment in the state prison for not less than ten years. Whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years.

No person serving a sentence for a second or subsequent such offense shall be eligible for furlough, temporary release, or education, training or employment programs established outside a correctional facility until such person shall have served two-thirds of such minimum sentence or if such person has two or more sentences to be served otherwise than concurrently, two-thirds of the aggregate of the minimum terms of such several sentences.

For the purposes of prosecution, the offense described in subsection (b) shall be a lesser included offense to that described in subsection (a).

MGL Chapter 265, Section 43:

Stalking; punishment

(a) Whoever (1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall be guilty of the crime of stalking and shall be punished by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$1,000, or imprisonment in the house of correction for not more than 2 1/2 years or by both such fine and imprisonment. The conduct, acts or threats described in this subsection shall include, but not be limited to, conduct, acts or threats conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, any device that transfers signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications.

MGL Chapter 265, Section 13M. Assault or assault and battery on a family or household member; second or subsequent offense; penalty

(a) Whoever commits an assault or assault and battery on a family or household member shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$5,000, or both such fine and imprisonment.

(b) Whoever is convicted of a second or subsequent offense of assault or assault and battery on a family or household member shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or by imprisonment in the state prison for not more than 5 years.

(c) For the purposes of this section, "family or household member" shall mean persons who (i) are or were married to one another, (ii) have a child in common regardless of whether they have ever married or lived together or (iii) are or have been in a substantive dating or engagement relationship; provided, that the trier of fact shall determine whether a relationship is substantive by considering the following factors: the length of time of the relationship; the type of relationship; the frequency of interaction between the parties; whether the relationship was terminated by either person; and the length of time elapsed since the termination of the relationship.

Massachusetts law does not define "Dating Violence." However, persons in a substantive dating or engagement relationship are included in the definition of "family or household member" under MGL Chapter 265, Section 13M.