

**2019 INSTITUTE FOR BUSINESS & TECHNOLOGY  
ANNUAL SAFETY AND SECURITY REPORT  
Including Clery Act Disclosures of Campus Security Policy and Crime Statistics  
(Santa Clara, California)**

**Including Calendar Year 2016, 2017 and 2018 Crime Statistics**

To maintain compliance with Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (“Clery Act”) and related Higher Education Act (“HEA”) requirements, and in an effort to continuously promote and improve safety and security measures on campus, the Institute for Business & Technology (“IBT”) collects and publishes information regarding its current safety and security policies, victim services and crime statistics. Once collected, the information is presented annually in this Annual Safety and Security Report (“Report”) to prospective and current students, faculty, staff and the public. **Any questions about this Report should be directed to the IBT Campus Director, Sal Younis, at (408) 727-1060, sal.younis@ibt.edu, 2400 Walsh Ave., Santa Clara, CA 95051.**

**I. COMPLETION AND DISSEMINATION OF THE REPORT**

Prior to October 1 of each year, IBT compiles this Report based on crime, arrest and referral information obtained from local law enforcement agencies and as reported to Campus Director Sal Younis, who also serves as the Campus Security Authority, and can be reached at **(408) 727-1060, sal.younis@ibt.edu, 2400 Walsh Ave., Santa Clara, CA 95051**. Fred Wiehe, Director of Education, serves as the Title IX Coordinator and can be reached at **(408) 727-1060, fred.wiehe@ibt.edu, 2400 Walsh Ave., Santa Clara, CA 95051**. All crime statistics contained in this Report are for Clery Act reportable crimes occurring on IBT’s campus, as defined by 34 C.F.R. § 668.46(a), and on public property, including thoroughfares, streets, sidewalks, and parking facilities, within the campus or immediately adjacent to or accessible from the campus. IBT’s physical campus includes a building with approximately 59,000 square feet, and the surrounding parking lot designated for campus use, located at **2400 Walsh Ave., Santa Clara, CA 95051**. The Report also includes IBT’s current policies required pursuant to the current version of 34 C.F.R. § 668.46 and the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA), Pub. Law 113-4.

IBT annually distributes this Report and/or provides a notification to all enrolled students and current employees that the current version of the Report has been posted to <https://ibt.edu/about/student-consumer-information/> and that a paper copy of the Report will be provided at no cost upon request. Distribution methods for the Report and/or the notification include classroom/office distribution, U.S. Postal Service delivery, and/or electronic mail or text. The Admissions Department provides written notice to all prospective students prior to enrollment regarding the availability and location of the Report. The Human Resources Department provides all prospective employees with information regarding the availability and location of the Report. All prospective employees may receive a copy of the Report by calling the Campus Director. In addition, a copy of the current Report is available to the public on IBT’s website at <https://ibt.edu/about/student-consumer-information/>. The crime statistics contained in this Report, as reported annually to the U.S. Secretary of Education, can also be viewed by searching under IBT’s name in the Department of Education’s Campus Safety and Security Data located at <https://ope.ed.gov/campusafety/#/>.

**II. POLICIES FOR REPORTING AND RESPONDING TO CRIME AND EMERGENCIES**

**A. STUDENT, FACULTY AND STAFF REPORTING PROCEDURES**

## 1. Reporting Emergencies

“Emergency” includes any dangerous situation involving immediate threat to the health or safety of students, faculty, staff or guests occurring on or near the campus, including fire. Upon observing or involvement in any type of emergency, students, faculty, staff and guests should immediately **call 911**. If possible, information about the emergency should also be communicated immediately to the Campus Director, Sal Younis, who can be reached at **(408) 727-1060, sal.younis@ibt.edu, 2400 Walsh Ave., Santa Clara, CA 95051** and/or to other available IBT staff for purposes of expediting IBT’s Emergency Response and Evaluation Procedures as set forth in Section II.B.3 of this Report.

## 2. Reporting Crimes

Crimes that should be reported to the Campus Director or his/her designee by students, faculty and staff include: criminal homicide, murder and non-negligent manslaughter, manslaughter by negligence, rape, fondling, incest, statutory rape, dating violence, domestic violence, stalking, robbery, aggravated assault, burglary, motor vehicle theft, arson, drug and alcohol violations, and illegal weapons possession. Where there is any question about whether an incident is a crime, a report should be made to the Campus Director or his/her designee for assistance in determining the nature of the incident. Witnesses or victims of crimes may report crimes on a voluntary, confidential basis for inclusion in IBT’s annual crime statistics reporting by contacting the Campus Director.

Upon observing or involvement in any type of crime on campus or on public property, including thoroughfares, streets, sidewalks, and parking facilities, within the campus or immediately adjacent to or accessible from the campus:

- ***A student should immediately notify the Campus Director or nearest available IBT staff member. All IBT faculty and staff are trained to notify the Campus Director or his/her designee immediately of all crimes reported to them by students.***
- ***Faculty and staff should immediately notify the Campus Director or his/her designee.***

IBT strongly encourages individuals to report all crimes in an accurate and timely manner to local law enforcement agencies or campus authorities. Upon written request, IBT will disclose to the alleged victim of a crime of violence (as that term is defined in section 16 of title 18, United States Code) the report on the results of any disciplinary proceeding conducted by IBT against a student who is accused 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.

## B. INSTITUTIONAL RESPONSE PROCEDURES

### 1. Response to Reports of Crime or Emergency

Upon receipt of a report of a crime or emergency, the Campus Director or his/her designee will:

- Immediately assess, based on his/her own judgment or after consultation with other IBT employees as needed, whether the situation warrants contacting 911 and/or following the emergency response and evacuation procedures contained in Section II.B.3 of this Report.
- Immediately assess, based on his/her own judgment and/or after consultation with other IBT employees and/or the local police, whether a “timely warning” to the campus community should be issued pursuant to the Timely Warning Policy in Section II.B.2 of this Report.
- With regard to a reported incident that is or may be a sex offense, the Campus Director and/or Title IX Coordinator will also evaluate and respond to the reported sex offense in accordance with

IBT's Sexual Harassment Policies and Procedures contained in Section IX of this Report.

- For all reported crimes, the Campus Director or his/her designee will, within 24 hours of notification of the incident, document all then-available and relevant information including the date, time, location, and description of the incident for purposes of maintaining an accurate record of events and compiling this annual Report. Documentation will be updated as more information becomes available.

## **2. Timely Warning of Reported Crime**

All decisions concerning the issuance of a campus wide "timely warning" will be made on case-by-case basis. In the event that IBT receives notice of a crime reportable pursuant to the Clery Act, either on campus or on public property within the campus or immediately adjacent to or accessible from the campus, that, in the judgment of the Campus Director or his/her designee, constitutes an ongoing or continuing threat to students and employees, a timely warning will be issued as soon as pertinent information is available and/or confirmable. Depending on the particular circumstances of the crime/situation, especially in all situations that could pose an immediate threat to students and employees, IBT will post the timely warning via one or more of the following means of communication: classroom notification, email or text message, the IBT website, social media, and/or verbal or written notice. The specific mean(s) of communication used will be those determined to be the most effective at reaching the campus community quickly given the nature and timing of the warning, as determined by the Campus Director or his/her designee. The warning will withhold as confidential the names and other identifying information of the victims.

**Anyone with information warranting a timely warning should report the circumstances to the Campus Director or his/her designee by phone at (408) 727-1060 or in person.**

## **3. Emergency Response and Evacuation Procedures**

In the event the building needs to be evacuated or locked down due to any emergency or any other dangerous situation involving an imminent threat to the health and safety of students and employees (an "Emergency"), IBT will initiate its emergency and evacuation procedures. Maps of the evacuation route have been posted in each office, common area and classroom. The Campus Director or his/her designee will, without delay, and taking into account the safety of students, faculty and staff, and guests, determine the content of the notification and initiate the notification system. The notification will not be initiated if, in his/her professional judgment, a notification will compromise efforts to assist victims or to contain, respond to, or otherwise mitigate the emergency.

IBT has developed a process to confirm that there is an Emergency, determine who to notify, determine the content of the notification, and initiate the notification system. The Campus Director or his/her designee will contact local law enforcement, campus personnel, and local news sources to obtain as much information as possible. Upon the confirmation of an Emergency, IBT will issue a warning via one or more of the following means of communication: classroom notification, email, text message, the IBT website, social media, other spoken or written verbal announcement, and/or other appropriate means to immediately inform individuals on campus of the need to evacuate and procedures to follow. As necessary, the Campus Director or his/her designee will contact specific sections of the campus and take steps to inform the larger community of the Emergency. The front desk personnel and Campus Director or his/her designee will notify the local police, fire or other appropriate first responder(s) to assist with the Emergency.

IBT tests its emergency response and evacuation procedures at least once annually on an announced or unannounced basis. When tests are conducted, IBT publicizes its Emergency response and evaluation procedures to students, faculty, and staff, including making available a copy of this policy. IBT maintains documentation of each test exercise, including the date and time performed and whether the test was announced or unannounced. Documentation will be completed immediately following testing.

### **III. SCHOOL CLOSURES OR DELAYS – NON-EMERGENCY**

All decisions to close a campus or delay opening for any reason, including for a weather related reason, will be made by the Campus Director or his/her designee after consultation with other IBT officials as appropriate. IBT will announce the decision and any related information as it deems appropriate given the circumstances, by email, text, the IBT website, social media, classroom notification, other spoken or written verbal announcement, and/or on local radio or TV stations on a timely basis for the day classes and for the evening classes respectively. Closings for day and evening classes will be announced separately. When school closings are excessive, or as determined by applicable law and regulations, make up classes may be required.

### **IV. POLICY STATEMENT ADDRESSING COUNSELORS AND COUNSELING SERVICES**

There are no Pastoral or Professional Counselors on Campus. Crisis, mental health and victim resource hotline numbers are available from the Campus Director. Section IX of this policy addresses IBT's policies with respect to support services and confidentiality for victims of sexual violence.

### **V. ACCESS POLICY, SECURITY OF CAMPUS FACILITIES, AND SECURITY CONSIDERATIONS USED IN THE MAINTENANCE OF CAMPUS FACILITIES**

IBT does not maintain residential facilities and does not have any officially recognized student organizations with noncampus locations. The campus building is open to staff, faculty and/or students during business hours (8 am to 10:45 pm daily, Monday-Friday). During non-business hours access to the campus building is by key fob and a security code only or through admittance by a designated staff member for the purpose of staff use, maintenance or cleaning. Security cameras are posted in main areas and doorways for monitoring purposes. IBT evaluates its security policies regarding campus facilities annually.

### **VI. CAMPUS LAW ENFORCEMENT AND RELATED POLICIES**

IBT does not employ security personnel or campus police and IBT employees have no authority to arrest or detain any individual. IBT does not have a written memorandum of understanding or other agreement with local police agencies. IBT faculty or staff will assist in notifying appropriate law enforcement authorities if a student requests assistance in contacting police. Students, faculty, and staff are encouraged to accurately and promptly report all crimes and public safety related incidents to the Campus Director as set forth in Section II.A of this Report and to notify local police when the victim of a crime elects to do so, or is unable to make such a report.

If you are a victim of or witness to a crime and do not want to pursue action through IBT's procedures or the criminal justice system, the School encourages you to consider reporting the incident to the Campus Director for the limited purpose of permitting IBT to include the incident in its crime statistic reporting without revealing your identity. With such information, IBT can keep an accurate record of the number of similar incidents, determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to potential danger. IBT will make its best efforts, to the extent permitted by law, to maintain the privacy of that information and to comply with the Family Educational Rights and Privacy Act of 1974 (FERPA). Police reports are public records under state law, and IBT cannot hold reports of crime obtained from police records in confidence. Policies with respect to victims of sexual violence are contained in Section IX of this Report.

## **VII. SECURITY AWARENESS AND CRIME PREVENTION PROGRAMS**

During new student and new employee (faculty and staff) orientations, students and employees are informed of IBT's safety and security practices and procedures, given this Report, and are encouraged to be responsible for their own security and the security of others. Such orientations and trainings may include an informational handout, a Power Point presentation and/or review of the policies contained in this Report and in the school catalog.

Campus crime statistics are also disclosed on an annual basis (for the previous three calendar years) within this Annual Security Report. The topics of crime prevention and security awareness, as they relate to preventing and responding to sexual harassment/violence (specifically, bystander intervention and risk reduction strategies), are also covered during these orientations and trainings.

## **VIII. POLICY ON POSSESSION, USE AND SALE OF ALCOHOLIC BEVERAGES AND ILLEGAL DRUGS**

All IBT property has been designated "drug free" and the School is committed to full compliance with the Drug-Free Workplace Act and the Drug-Free Schools and Communities Act regulations as contained in 34 C.F.R. Part 86. IBT does not permit the sale, possession or consumption of alcoholic beverages on School property and adheres to and enforces all state underage drinking laws. A complete copy of IBT's six page Drug-Free Schools/Drug-Free Workplace Annual Disclosure containing its policy on possession, use and sale of alcoholic beverages and illegal drugs is included in both the School Catalog and on IBT's website at <https://ibt.edu/about/student-consumer-information/>. At least on an annual basis, students, faculty and staff are provided with a copy of that policy. New students, faculty and staff are provided this information during orientation. Annually students are provided this information by means of the current School Catalog, annual distribution with this Report, and material posted on campus. Current faculty and staff are provided this information with a copy of this Report.

The consumption and/or possession of any alcoholic beverage by any person younger than 21 years of age is forbidden as provided by state law. IBT prohibits the use, possession, manufacture, sale or distribution by its students, faculty and staff of any illegal drug. Students, faculty and staff are reminded that unlawful possession, distribution or use of alcohol or illegal drugs may subject individuals to criminal prosecution. IBT may refer violation of prescribed conduct to the appropriate authorities for prosecution in connection with federal and state laws.

## **IX. POLICY REGARDING SEXUAL HARASSMENT AND SEX OFFENSES**

IBT policy prohibits harassment or discrimination based on race, religion, creed, national origin, ethnicity, ancestry, color, sex, military or veteran status, physical or mental disability, mental condition, marital status, age, sexual orientation, gender, gender identity or expression, genetic information or any other basis protected by federal, state or local law. Additionally, in accordance with Title IX of the Education Amendments of 1972, the School prohibits discrimination based on sex, which includes harassment and sexual violence, and the Institution has jurisdiction over Title IX complaints. To the extent that an employee or contract worker is not satisfied with the IBT's handling of a harassment or discrimination complaint, he or she may also contact the appropriate state or federal enforcement agency for legal relief. In California, employees may notify the Department of Fair Employment and Housing by consulting the government agency listings in the telephone book or online at [www.dfeh.ca.gov](http://www.dfeh.ca.gov). The Department of Fair Employment and Housing will, in appropriate cases, prepare and investigate complaints of harassment or discrimination; after a hearing, the Fair Employment and Housing Commission may award damages to individuals actually injured as a result of such conduct, as well as other remedies.

IBT is committed to creating and maintaining an educational climate that is free from all forms of sex discrimination, including sexual misconduct of all types. Students, faculty and staff should be aware that

discrimination and/or other harassment based on sex, gender identity or sexual orientation is unacceptable. IBT prohibits dating violence, domestic violence, sexual assault, and stalking as defined below. To fulfill its educational mission, IBT has designated Fred Wiehe, Director of Education, as its representative to coordinate IBT's compliance with Title IX of the Education Amendments of 1972, as amended and the Clery Act. **Students, faculty or staff who feel that they have been the victim of sex harassment, sex discrimination, sexual violence or other sexual misconduct should contact the Title IX Coordinator at (408) 727-1060, fred.wiehe@ibt.edu, 2400 Walsh Ave., Santa Clara, CA 95051, and follow the procedures outlined in this section (IX).** Students, faculty or staff may also contact the Campus Director, Sal Younis, who can be reached at **(408) 727-1060, sal.younis@ibt.edu, 2400 Walsh Ave., Santa Clara, CA 95051**, if they prefer or if the Title IX Coordinator is unavailable. For grievances other than those related to Title IX, students should follow the procedure outlined in the Notice of Student Rights in the School Catalog.

### **Confidentiality**

All proceedings and records concerning sexual harassment or sexual violence complaints shall be confidential to the extent permitted or required by law, even if the victim does not specifically request confidentiality. In coordination with IBT's executive management and its legal counsel, a victim's personally identifying information will not be included in any publicly available recordkeeping, including Clery Act reporting and disclosures such as this Annual Security Report. Memoranda describing any formal reprimand or disciplinary action for violating this policy will be placed in a student's permanent academic file and an employee's permanent personnel file. IBT will maintain as confidential any accommodations or protective measures provided to the victim; however, in some cases, IBT may need to disclose some information about a victim to a third party to provide necessary accommodations or protective measures. The determination of the need to disclose such information will be made by the Title IX Coordinator in coordination with IBT's legal counsel and the School's executives. The victim will be notified regarding which information will be shared, with whom it will be shared and why prior to IBT sharing the information.

No student, faculty or staff will be subjected to retaliation, threats, intimidation, coercion or otherwise discriminated against by members of the IBT community as a result of filing a Title IX report or grievance, or by serving as a witness or otherwise assisting in a Title IX grievance procedure. Anyone experiencing retaliation should report the incident to the Title IX Coordinator.

### **Sexual Harassment and Sexual Violence**

Sexual harassment and acts of sexual violence, including sexual assault, domestic violence, dating violence and stalking, are prohibited by IBT and will not be tolerated. All members of the IBT community (students, faculty and staff) are encouraged to promptly and accurately report incidents of sexual harassment and sexual violence. This allows IBT to quickly respond to the allegations and offer immediate support to the victim. IBT is committed to protecting the confidentiality of victims, will work closely with individuals who wish to obtain confidential assistance regarding an incident of sexual misconduct, and will maintain the privacy of information to the extent permitted or required by law. Allegations will be investigated promptly and thoroughly as provided by this policy, and both the victim and the respondent will be afforded equitable rights during the investigative process. IBT will include information on crimes of sexual violence in its Clery Act Annual Security Report in a manner that protects the identity of the victim.

Any student who feels that he or she is the victim of sexual harassment including sexual violence has the right to seek redress of the grievance pursuant to this policy. IBT provides these procedures for reviewing and resolving such complaints. Substantiated accusations may result in disciplinary action against the offender, up to and including termination of the employee's employment or the student's enrollment. In addition, complainants who make accusations of sexual harassment in bad faith may be subject to equivalent disciplinary action.

## Key Definitions

**Sexual harassment** is defined as unwelcome advances, requests for sexual favors, other verbal or physical sexual conduct, or any other offensive unequal treatment of an employee, student, or group of employees or students that would not occur except for their sex when:

1. The advances, requests or conduct have the effect of interfering with performance of duties or studies or creating an intimidating, hostile, or otherwise offensive work or academic environment.
2. Submission to such advances, requests or conduct is explicitly or implicitly a term or condition of an individual's employment or academic achievement or advancement.
3. Submission to or rejection of such advances, requests or conduct is used as a basis for employment or academic decisions.

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. seq.), and Title IX of the Education Amendments of 1972 (20 U.S.C. 1691, et. seq.) and is punishable under both federal and state laws. Forms of sexual harassment include, but are not limited to, sexist remarks or behavior, constant offensive joking, sexual looks or advances, repeated requests for dates, unwelcome touching, and/or the promise of reward for sexual favors. Students, faculty or staff who experience sexual harassment should be encouraged to make it clear to the alleged offender that such behavior is offensive. However, failure to comply with this provision does not prevent the school from conducting an investigation of the allegation.

**Sexual violence** means physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. A number of acts fall into the category, including sexual assault or harassment based on sexual orientation, domestic violence, dating violence, and stalking. Alleged sexual violence against another may also constitute a crime resulting in an additional, independent law enforcement investigation falling outside of this Grievance Policy. These acts will not be tolerated at IBT as such acts are inappropriate and create an environment contrary to the goals and mission of IBT. Any such acts will be thoroughly investigated and will subject an individual to appropriate disciplinary sanctions and/or possible action by appropriate law enforcement agencies.

**Sexual assault** is defined as any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault includes any offense that meets the definition of rape, fondling, incest and statutory rape as used in the Federal Bureau of Investigation's Uniform Crime Reporting<sup>1</sup> program and as set forth in Appendix A to Subpart D of Title 34 of the Code of Federal Regulations, Part 668, which defines each offense as follows:

**Rape** is 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. This offense includes the rape of both males and females.

**Fondling** is 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** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent.

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<sup>1</sup> The FBI's UCR definitions are used to describe all crimes reported in the Clery Act Crime Statistics section of this Report.

California law does not specifically define "Sexual Assault."

**Domestic violence** means a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, a person similarly situated to a spouse of the victim under domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or any other person against an adult or youth victim who is protected from that person's act under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Domestic Violence is defined in California Penal Code §13700 as, abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

**Dating violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or threat of such abuse, and dating violence does not include acts covered under the definition of domestic violence.

Dating Violence is included in the domestic violence definition in California Penal Code § 13700

**Stalking** means "engaging in a course of conduct (two or more acts including but not limited to acts in which the stalker directly, indirectly, or through third parties, or by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person or interferes with his or her property) that is directed at a specific person and would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress." Reasonable persons means a reasonable person under similar circumstances and with similar identities to the victim. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking is defined in California Penal Code § 646.9 as, (a) Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

**Consent** means voluntary agreement to engage in sexual activity by verbal agreement or active and willing participation in sexual activity. Someone who is incapacitated or under the age of consent under state law cannot consent. 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 imply consent to engage in sexual activity with another. Consent may be withdrawn at any time. Coercion, force, or threat of either invalidates consent.

Consent is defined in California Penal Code § 261.6 as, positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature

of the act or transaction involved. A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261, 262, 286, 288a or 289. Nothing in this section shall affect the admissibility of evidence or the burden of proof on the issue of consent.

### **A. Reporting Sexual Offenses**

Upon observing or involvement in any type of sexual misconduct on campus or on public property, including thoroughfares, streets, sidewalks, and parking facilities, within the campus or immediately adjacent to or accessible from the campus, IBT encourages students, faculty and staff to promptly report the incident to the local police and/or IBT's Title IX Coordinator at **(408) 727-1060, fred.wiehe@ibt.edu, 2400 Walsh Ave., Santa Clara, CA 95051**. A report may be made to either or both the police and the Title IX Coordinator. The Title IX Coordinator is responsible for IBT's compliance with Title IX of the Education Amendments of 1972. In this role, the Title IX Coordinator administers the review, investigation and resolution procedures for reports of sexual misconduct. Where there is any question about whether an incident is a sex offense, a report should be made to the Title IX Coordinator for assistance in determining the nature of the incident.

**Victims of Assault/Violence:** If you are a victim of sexual violence, your first priority should be to get to a place of safety. You should then obtain any necessary medical treatment. Information about the alleged offense should be provided to the Title IX Coordinator as soon as possible. Victims of sexual violence may also wish to seek support services from organizations trained in providing counseling and support services to victims. IBT refers victims of sexual assault to a number of organizations, including the YWCA Silicon Valley's 24-hour Crisis Intervention Hotline, offering support to victims of Sexual Assault, Domestic Violence and Human Trafficking, at (800) 572-2782, and Rape, Abuse & Incest National Network's (RAINN) National Sexual Assault Hotline at 800.656.HOPE (4673).

It is important to preserve evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order. Time is a critical factor for evidence collection and preservation. You don't have to decide if you want to file charges right away, but preserving the evidence helps if you decide to file charges against the perpetrator at a later date. If at all possible:

- Document the details of the incident, such as dates, times, locations, and witnesses.
- Save clothing worn during the assault in separate paper bags.
- Save digital evidence such as harassing or threatening emails, voicemails, text messages, social media posts, etc.
- Take pictures of any injuries or damages and have any injuries looked at and documented by your doctor.

Victims of sexual assault are also encouraged to preserve DNA evidence by obtaining a forensic examination from a medical professional. Victims are not required to file a police report in order to receive a sexual assault forensic exam. These exams are always free and do not require the use of medical insurance. In order to ensure the greatest chance of collecting DNA evidence, a forensic examination should be done as soon as possible after an assault.

IBT strongly advocates that a victim of sexual assault or violence report the incident to police in a timely manner. If requested to do so by the victim, IBT will assist the victim in contacting the police. However, the victim is not required to contact the police, and may pursue the Grievance Procedure contained in this policy or request IBT to conduct an independent investigation under this section regardless of whether the police are contacted.

IBT does not issue orders of protection. However orders of protection and restraining orders are issued by criminal, civil or tribunal courts in IBT's local area upon the application of a complainant and upon a showing of appropriate cause against the respondent. IBT will assist in referring a complainant to the appropriate court or other government office. Further, IBT will strictly comply with and enforce the terms of a protective/restraining order when it becomes aware of such order using such means as requiring the

respondent to stay away from the School pending any court hearing, transferring the respondent to other classes or transferring the respondent to different class attendance times.

**Role of the Title IX Coordinator:** The Title IX Coordinator and has primary responsibility for receiving, evaluating and investigating sexual misconduct reports and for assisting in the maintenance of accurate Clery Act crime statistics. Students, faculty and staff who believe they are the victim of sexual misconduct, or have witnessed an act of sexual misconduct should report the incident to the Title IX Coordinator. Upon receipt of the report, the Title IX Coordinator will provide a written explanation of the victim's rights and options, and the procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred. The Title IX Coordinator also has the following responsibilities:

1. Provide the complainant with a copy of this policy, written information on the availability of IBT's formal investigatory procedures (see Formal Investigatory and Disciplinary procedures below), and written information about local victim support resources (off-campus) for victims including existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available to victims.
2. Maintain the confidentiality of the personally identifying information ("PII") of the victim or other necessary parties by ensuring PII is not included in the Annual Security Report and related disclosures.
3. Provide written notification of options to facilitate changes to academic, externship, and/or transportation situations, if requested, while an informal or formal investigation is pending, including the option to issue a no-contact order. IBT is obligated under federal law to give reasonable accommodations to a victim. Upon the victim's request to the Title IX Coordinator, IBT will facilitate reasonable accommodations, which may include changes to classes, attendance times, parking arrangements, and/or externship location where applicable, as well as extensions of time or other course related adjustments. The respondent may also request reasonable interim accommodations. IBT does not rely on one fixed set of rules regarding interim accommodations. Any specific measures taken will be individualized and determined based the Title IX Coordinator's assessment of the specific situation, the severity and pervasiveness of the allegations, and his/her best judgment of which available measures will reasonably accommodate the requestor's needs and specific requests, while making every effort to avoid depriving any student of his or her education. The Title IX Coordinator may choose to alter the interim measures taken or offer different reasonable accommodations at any point as their understanding of the situation and the needs of the parties involved evolve throughout the investigation. IBT will seek to maintain the confidentiality of the identity of the victim and any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of IBT to provide the accommodations or protective measures. These steps will be taken by IBT regardless of whether the victim chooses to file a formal complaint.
4. Inform the complainant that informal mediation cannot be used by IBT to resolve sexual violence complaints.
5. Inform the complainant of their right to file a separate criminal complaint for allegations relating to sexual violence. IBT will comply with a victim's request for assistance in notifying authorities.

6. For incidents other than allegations of sexual violence, undertake, with permission of or at the request of the complainant, to resolve the conflict informally by informing the individual alleged to have caused the grievance in writing that the complaint has been filed; seek to find out the facts; and, if both parties desire it, arrange a meeting to try to resolve the differences. All individuals who are involved in an investigation as the respondent, complainant or witness have a duty to keep all information confidential to the extent permitted by law. Persons who violate the confidentiality rights of other individuals may be subject to disciplinary action.

In the event that an attempt at informal resolution of the problem is unsuccessful, or if the complainant, respondent, or IBT deems that informal resolution is undesirable or not permitted by law, the Title IX Coordinator will stop the informal resolution process and assist the complainant in filing of a formal complaint or self-initiate a formal investigation.

### **B. Formal Investigatory and Disciplinary Procedures for Students and Employees**

All reports of sexual violence received by the Title IX Coordinator must be resolved through this formal investigatory and disciplinary procedure. IBT is committed to providing a fair, prompt and impartial proceeding from investigation initiation to final result that is conducted by officials who do not have a conflict of interest or bias for or against the complainant or the respondent. If a victim discloses an incident but wishes to maintain confidentiality or request that no formal investigation be conducted or disciplinary action taken, IBT must weigh that request against its obligation to maintain a safe campus environment. When IBT honors the complainant's request for confidentiality, the complainant must understand that IBT's ability to meaningfully investigate the incident and pursue disciplinary action against the respondent may be limited. In the case of sexual violence, IBT may be required to formally investigate and, if appropriate, pursue disciplinary action under this policy. If IBT determines it cannot maintain the victim's confidentiality, it will so inform the victim prior to initiating the investigation and will, to the extent possible, share as limited information as possible in an effort to protect the victim's identity. IBT may not require a victim to participate in a formal investigation or hearing that it has initiated.

Any student, faculty or staff, or group of same, alleging that an act of sexual harassment or violence has taken place has the right to seek redress of the grievance by means of these formal procedures. In order to ensure availability of witnesses and fresh memories of the alleged discriminatory event, all grievances or investigations covered by these formal procedures should be filed as promptly as possible after the alleged discriminatory conduct. Except in instances of sexual violence, informal resolution of the conflict is always an option if all parties involved voluntarily agree to participate. However, an attempt at informal resolution is never a prerequisite to filing a formal grievance or to IBT's obligation to investigate a reported event.

To initiate this procedure, a student or employee should direct a written complaint to the Title IX Coordinator that states in detail the nature of the complaint, any relevant dates, and the names of any potential witnesses, and any request for confidentiality. In a situation deemed to be an emergency by the Title IX Coordinator, IBT will issue a timely warning and the individual alleged to have caused the grievance or complaint may be temporarily transferred or put on leave pending the outcome of IBT's investigation. The Title IX Coordinator need not wait for the conclusion of a criminal investigation or criminal proceeding to begin an investigation where warranted.

After report of the grievance, the Title IX Coordinator will:

1. Provide the complainant with a copy of this policy and information about local victim support resources. Victims of sexual violence will be provided information about evidence preservation.

2. Provide options to facilitate changes to transportation, working, academic and/or living situations, if requested, while an informal or formal investigation is pending, including the option to issue a no-contact order.
3. Inform the complainant of their right to file a separate criminal complaint for allegations relating to sexual violence and that IBT can assist the victim in doing so if requested.
4. Inform the respondent in writing that the grievance has been filed. The written notification will include a copy of this policy, the specific allegation including the date and location of the alleged conduct, the specific portion of the policy violated by the alleged conduct, and the identities of the parties involved.

The Title IX Coordinator will initiate an investigation within ten days of receipt of the formal grievance to determine whether there is a reasonable basis for taking action. At a minimum, this investigation will consist of interviewing the complainant, the individual alleged to have caused the grievance, and any witnesses to the conflict. Within 30 days, the Title IX Coordinator must prepare a written report summarizing the relevant exculpatory and inculpatory evidence and recommending one of three actions:

1. Concluding that the complaint is without merit and that no further action is warranted.
2. Recommending efforts to bring about an informal resolution under this policy if warranted, agreed to by all parties involved, and permitted by law.
3. Initiation of a formal grievance hearing to evaluate possible disciplinary action against the individual alleged to have caused the grievance.

### **C. Hearing Procedure**

A Grievance Committee composed of two senior level management personnel who are appointed by the CEO will be convened to review the Title IX Coordinator's recommendations and to receive any oral or written testimony from the complainant, the individual alleged to have caused the grievance, any relevant witnesses from both parties, and any other relevant evidence. The School's General Counsel will act as the legal advisor to the committee. The standard of evidence used in the hearing will be "clear and convincing evidence," meaning that IBT will evaluate whether it is highly and substantially more likely than not that the alleged conduct occurred. Both the complainant and the respondent will be timely notified in writing of all hearings at which either may appear, and both complainant and respondent will be afforded equal and timely access to any information that will be used at the hearing, including the investigation report. Both the complainant and the respondent may be accompanied to any related meeting or disciplinary proceeding by an advisor of their choice acting strictly in a support capacity, provided the involvement of said advisor does not result in the postponement or delay of any such meeting or proceeding as scheduled. A support capacity means that the advisor is not permitted to speak to or address the Grievance Committee or to question any other attendees, including witnesses.

In all cases, the Title IX Coordinator will maintain regular communications with both the complainant and respondent and provide both parties with equal opportunity to provide information, witness statements, evidence, and other information that may be necessary for the Title IX Coordinator and the Grievance Committee to fully evaluate the alleged offense. The Committee will decide:

1. Whether the complaint is without merit and that no further action is warranted.
2. What, if any, remedial action is necessary.
3. The nature, scope and timing of any proposed disciplinary action against the respondent.

The determination of the merits of the complaint by the Grievance Committee will be final. IBT will inform both parties simultaneously, in writing, of its final determination, the procedures for appeal, any change to the result, and the date the results become final.

The Title IX Coordinator will, barring extenuating circumstances, complete the investigation and make a determination regarding any necessary discipline of respondent and remedies to complainant within 60 days of the date that the report is first received by the Title IX Coordinator.

The Campus Director will determine if the incident is indicative of systemic issue related to the sex offense and, if so, work with IBT staff to recommend changes to the School's policies, procedures or training to prevent re-occurrence.

#### **D. Appeals Procedure**

The Respondent and Complainant may request an appeal of the decision and sanctions rendered by the Grievance Committee on one of the following three grounds:

1. A party believes a procedural error occurred, which that party feels may change or affect the outcome of the decision;
2. A party has substantive new evidence that was not available to the Grievance Committee at the time of the hearing and that may change the outcome of the decision;
3. A party feels that the severity of the sanction is substantially disproportionate given the facts of the case.

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

The request for an appeal, including the grounds upon which the request is based, should be submitted in writing to the Appeals Panel (as identified in the outcome letter) within five (5) business days following the date on the outcome letter. The other party will be notified if an appeal request is submitted and be provided the opportunity to submit a written statement to the Appeals Panel within five (5) business days of notification.

Appeals will be conducted in an impartial manner by two senior level management personnel who are appointed by the CEO and did not sit on the original Grievance Committee without conflict of interest or bias for or against either party. The School's General Counsel will act as the legal advisor to the committee. A party with a concern about a conflict of interest or bias should contact the Title IX Coordinator. The Appeals Panel can determine whether a change in the Grievance Committee's decision is warranted and make a final decision.

The decision of the Appeals Panel is final and binding on the parties and is not subject to further consideration or appeal. Appeals decisions will be rendered within fifteen (15) business days after the receipt of the formal request for appeal. Both parties will be notified in writing of appeals outcome.

#### **E. Disciplinary Options**

**Penalties:** Substantiated accusations of sexual violence may result in disciplinary action against the offender, up to and including termination of the employee's employment or the student's enrollment. Other potential penalties include: suspension for up to 6 months, community service, probation, no-contact order, or violence prevention training. In case of any formal proceedings against either a student accused of violating this policy or an employee brought before a Grievance Committee proceeding, the penalties shall be as proposed by the Grievance Committee. In addition, complainants who make accusations of sexual harassment in bad faith may be subject to equivalent disciplinary action.

**Complaint Record and Notice of Outcome:** All proceedings and records will be confidential to the extent permitted by law. However, both parties will be notified concurrently in writing about the outcome of the complaint by the Grievance Committee. Memoranda describing a reprimand will be placed into the files of any student or employee in the event disciplinary action is taken against one of the parties. At the request of the individual alleged to have caused the grievance, a memorandum recognizing a finding of non-harassment or nondiscrimination will be placed into the file of the student or employee.

## **F. Education and Training**

In an effort to promote a safe environment and to prevent acts of sexual misconduct, IBT engages in primary prevention and awareness training regarding sexual violence, including dating violence, domestic violence, sexual assault and stalking. The programing will cover the following subjects:

- identifies domestic violence, dating violence, sexual assault and stalking as prohibited conduct;
- defines using definitions provided both by the Department of Education as well as state law what behavior constitutes domestic violence, dating violence, sexual assault, and stalking;
- defines what behavior and actions constitute consent to sexual activity;
- provides a description of safe and positive options for bystander intervention. Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;
- provides information on risk reduction. Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence;
- outlines procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including topics such as how to report such crimes, the importance of preserving evidence, options for involving law enforcement, services and protective measures available to victims;
- reviews information about how the institution will protect the confidentiality of victims and other necessary parties;
- provides an overview of information contained in the ASR, including procedures for institutional disciplinary action in cases of sexual assault.

IBT educates the student community about this policy, sexual violence prevention programs and related school policies during all group orientations held for new students upon the onset of a class. The Title IX Coordinator and persons appointed by the CEO to serve on the Grievance Committee will receive annual training on issues related to sexual violence. The Title IX Coordinator is responsible for training current students and all school faculty and staff about IBT's Title IX policies and conducting the new student training.

## **G. Bystander Intervention and Risk Reduction**

IBT urges all members of the campus community to help prevent crimes, including crimes of sexual violence, and promote a safe campus environment for themselves and others by practicing bystander intervention and risk reduction.

**Bystander Intervention** means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking.

Members of the campus community can help prevent dating violence, domestic violence, sexual assault, and stalking by identifying potentially harmful situations and intervening on a potential victim's behalf when the intervention is not likely to put the bystander themselves in danger. A concept known as the three Ds of Bystander Intervention provides several useful strategies for intervention:

**Direct:** In some situations, you may feel comfortable intervening directly by asking the potential victim if they are okay, expressing concern, or telling the potential offender(s) to stop their behavior.

**Distract:** Another strategy is to interrupt the situation without direct confrontation by providing a distraction. Cut off the conversation with a diversion: you're about to leave the party, would the potential victim like a ride? Or, we're about to order pizza do you want any? Or just say that you or someone else needs to speak to the potential victim urgently.

**Delegate:** If you are too wary or shy to intervene directly, notify someone who might be in a better position to intervene, for example friends of the potential victim, or someone who has the authority to intervene, such as a school official or manager.

In addition, if you witness what you believe to be a situation that may lead to the commission of a crime, IBT urges all members of the campus community to call 911 or to contact an IBT employee immediately.

**Risk Reduction** means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

IBT urges members of the campus community to take steps to reduce the chances of themselves or another person becoming a victim of a crime, including but not limited to the following:

- Lock doors and secure items of value.
- Walk in pairs at night and travel to events or parties with others rather than attending by yourself; check in with one another frequently and leave together.
- Avoid impairment caused by alcohol or drugs and/or offer to call a cab for someone if you see they are intoxicated.
- Keep your cell phone charged and with you at all times in case you need to call for help, for yourself or for someone else.
- Be aware of your surroundings and avoid isolated or dimly lit places.
- Trust your own intuition and don't be afraid to call for help or let someone know if you are worried about your safety or the safety of another.

IBT urges all members of the campus community to work together to promote a safe campus environment for everyone. IBT includes training on bystander intervention and risk reduction in all student orientation training.

#### **H. Additional Information**

Questions regarding this policy should be directed to the Title IX Coordinator. In addition, the U.S. Department of Education Office of Civil Rights ("OCR") investigates complaints of unlawful harassment of students in educational programs or activities. This agency may serve as a neutral fact finder and will

attempt to facilitate the voluntary resolution of disputes with all parties involved. For more information, visit the OCR website at: <https://www2.ed.gov/about/offices/list/ocr/index.html>.

**X. POLICY STATEMENT ADDRESSING SEX OFFENDER REGISTRATION INFORMATION.**

The local Police Department provides a link to the California Sex Offender Registry. IBT is required to inform students and employees about where law enforcement information provided by a State concerning registered sex offenders may be obtained. The law also requires sex offenders already required to register in a State to provide notice to each institution of higher education in that State at which the person is employed, carries a vocation, or is a student. In California, information about convicted sex offenders is available at [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov).

**XI. CLERY ACT CRIME REPORT STATISTICS**

**INSTITUTE FOR BUSINESS & TECHNOLOGY – Santa Clara, CA Campus:**

OFFENSE	PROPERTY	2016	2017	2018
Murder and Non-Negligent Manslaughter	On-Campus Property	0	0	0
	Public Property	0	0	0
Negligent Manslaughter	On-Campus Property	0	0	0
	Public Property	0	0	0
Rape	On-Campus Property	0	0	0
	Public Property	0	0	0
Fondling	On-Campus Property	0	0	0
	Public Property	0	0	0
Incest	On-Campus Property	0	0	0
	Public Property	0	0	0
Statutory Rape	On-Campus Property	0	0	0
	Public Property	0	0	0
Robbery	On-Campus Property	0	0	0
	Public Property	0	0	0
Aggravated Assault	On-Campus Property	0	0	0
	Public Property	0	0	0

Burglary	On-Campus Property	0	0	0
	Public Property	0	0	0
Motor Vehicle Theft	On-Campus Property	0	0	0
	Public Property	0	0	0
Arson	On-Campus Property	0	0	0
	Public Property	0	0	0
VAWA Offense: Domestic Violence	On-Campus Property	0	0	0
	Public Property	0	0	0
VAWA Offense: Dating Violence	On-Campus Property	0	0	0
	Public Property	0	0	0
VAWA Offense: Stalking	On-Campus Property	0	0	1
	Public Property	0	0	0
Hate Crimes: Related to any of the above listed crimes, and/or involving simple assault, larceny-theft, intimidation or destruction/damage/vandalism of property, within one/more of the following bias categories: race, gender, gender identity, religion, sexual orientation, ethnicity, national origin, or disability	On-Campus Property	0	0	0
	Public Property	0	0	0
Arrests: Weapons: Carrying, Possessing, etc.	On-Campus Property	0	0	0
	Public Property	0	0	0
Disciplinary Referrals: Weapons: Carrying, Possessing, etc.	On-Campus Property	0	0	0
	Public Property	0	0	0
Arrests: Drug Abuse Violations	On-Campus Property	0	0	0
	Public Property	0	0	0
Disciplinary Referrals: Drug Abuse Violations	On-Campus Property	0	0	0
	Public Property	0	0	0
Arrests: Liquor Law Violations	On-Campus Property	0	0	0
	Public Property	0	0	0

Disciplinary Referrals: Liquor Law Violations	On-Campus Property	0	0	0
	Public Property	0	0	0
Unfounded Crimes	On-Campus Property + Public Property	0	0	0
Institute for Business & Technology does not have any noncampus property.				