

**Memorandum of Understanding  
between  
Fashion Institute of Technology  
and  
United College Employees of Fashion Institute of Technology**

*Re: Title IX Regulations (85 Fed. Reg. 30026 (May 19, 2020) (“Final Rule”) and Procedures of Section 28.28 of the Collective Bargaining Agreement*

In order to comply with the requirement of the Title IX Regulations issued on May 19, 2020 by the U.S. Department of Education, the Parties agree to the following changes in **bold** to § 28.28 Disciplinary Procedure of the Collective Bargaining Agreement, effective August 14, 2020, that will apply in cases involving allegations of misconduct covered by the Title IX Regulations:

**28.28.0 DISCIPLINARY PROCEDURE**

(a) No employee may be disciplined except for just cause. Just cause shall include, but is not limited to, poor job performance, misconduct, insubordination, sexual harassment, discrimination, and violation of College policy.

(b) An employee proposed to be disciplined in accordance with this procedure shall be furnished by the Office of Human Resources, a detailed written statement describing the cause requiring disciplinary action. A copy shall be given to the President or the President's designee, the Senior Administrator of the area, the Union, and the employee's supervisor. (S)he shall further be informed by the Office of Human Resources of his/her rights under this procedure by furnishing a copy of these procedures.

(c) Should the Senior Administrator and/or Human Resources believe that the offense is so serious as to require immediate suspension with pay, Human Resources may recommend such action to the President prior to fact finding and due process described below.

(d) The charges against the employee shall be reviewed by the Union/Administration Disciplinary Committee consisting of two (2) individuals, one member selected by the Union, and one member selected by Administration. The Committee shall promptly investigate the matter by interviewing all concerned parties, reviewing appropriate and related documents, and submitting a recommended disposition to the President for his/her action.

(e) The Committee shall deliver its recommendations to the President no later than sixty (60) work days from the date the charges are filed. Upon request, the President may grant the Committee, for good cause shown, up to an additional thirty (30) days to submit its report. For the purposes of Disciplinary procedure, “work day” is defined as any day on which classes are officially in session during the fall and spring semesters, except Saturdays and Sundays. The clock will stop on the Committee's work beginning July 1st through the day before the fall semester convocation or beginning January 1 st through the day before spring semester convocation unless the two members of the Committee agree to continue working through all or part of this period. Should the Committee not be ready to submit a recommendation to the

President by the deadline, the Union will have five (5) work days to submit information about the disciplinary action to the President.


**(e)(i) For cases involving conduct covered by Title IX, a hearing will be held consistent with the Title IX Regulations (85 Fed. Reg. 30026 (May 19, 2020) (“Final Rule”)). At that hearing a decision will be made as to responsibility prior to the President taking disciplinary action based on all available materials and pursuant to 28.28(f).**

(f) Upon receipt of the committee report, the President may take disciplinary action. **[In cases involving conduct covered by Title IX a hearing will be held, as described in 28.28(e)(i), prior to the President’s decision regarding penalty.]** Penalty may include, but is not limited to, reprimand or recommendation to the President, to suspend with or without pay, or termination. If the President’s decision is to terminate a tenured employee, s/he will utilize the process described in the Education Law Section 2587, and the process described in the Board of Trustees By-Laws, Section VC, 1a and 1b. If the President’s decision is to terminate a part-time employee who is a bargaining unit member and who holds a certificate of continuous employment (CCE), the College and Union will refer the case to an outside arbitrator for final and binding determination.

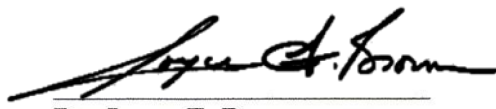
**(f)(i) For cases involving conduct covered by Title IX, requests for appeal may be granted and heard consistent with the Title IX Regulations (85 Fed. Reg. 30026 (May 19, 2020) (“Final Rule”)). If termination is not a possible sanction, the appeal process will be held after the President determines sanction upon reviewing all materials pursuant to 28.28(f). If termination is a possible sanction, the appeal process will be held after the hearing outlined in section 28.28(e)(i) but prior to the Board of Trustees’ appointment of a trial committee (for tenured full-time employees) or arbitration (for tenured part-time CCE employees).**

(g) The Committee recommendation, the President's action and other findings, if any, shall be placed in the employee's file unless the charges are ultimately rejected.

(h) These sections do not replace or amend the provisions of Education Law, Section 2587, governing dismissal of tenured employees.

  
Roberta Elins  
President, UCE of FIT

  
Date

  
Dr. Joyce F. Brown  
President, Fashion Institute of Technology

As of August 14, 2020  
Date

Cc: Cynthia Glass, Vice President, Human Resource Management & Labor Relations