

TITLE IX POLICIES & PROCEDURES



Title IX Overview

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." -Title IX Educational Amendments of 1972

Title IX is a federal law, enforced by the Office of Civil Rights, which prohibits discrimination on the basis of sex in any federally funded education program or activity. If schools participate in federal student aid programs, they must comply with Title IX, The Clery Act, and the Campus SaVE Act/ Violence Against Women Act (VAWA).

Northwest College of Art & Design (NCAD) carries with it the presumption that students and employees will conduct themselves as responsible members of the campus community, refraining from actions that would endanger the health, welfare or safety of others. NCAD is committed to providing an environment conducive to the pursuit of knowledge and ensuring a positive and safe environment for all members of the NCAD community, including students, faculty, and staff.

Should a violation of any of these policies occur at NCAD, it is important for students, parents, faculty, staff, and the community to understand these policies and the rights and obligations of NCAD and involved parties.

To better understand these policies and procedures at NCAD, please refer to the following pages:

- Sexual Misconduct
- The Clery Act
- Campus SaVE Act
- Student & Employee Prevention/Awareness Programs
- Reporting, Investigation, and Resolution
- Resources
- Definition of Terms
- Title IX Training NCAD Employees

Title IX Coordinator

NCAD's Title IX Coordinator is responsible for coordinating the College's efforts to comply with and carry out its responsibilities under Title IX. Duties may include but are not limited to intake of reports and complaints, initiate formal complaints, implement supportive measures, evaluate and update NCAD Title IX policies and procedures as needed, coordinate and monitor staff and student training programs.

Primary Title IX Coordinator: Julie Perigard

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The Title IX Coordinator will establish a team as needed based on the scope and severity of a reported violation. The team may consist of one or more of the following Designated Officials:

- Deputy Coordinator(s) Duties are same as Primary Title IX Coordinator.
- Investigator(s) Conducts fair, objective and impartial investigation.
- Adjudicator(s) Can include one or more of the following:
 - o Hearing Examiner(s) Evaluate evidence, conduct hearing.
 - o Hearing Panel Make and write decision.
 - o Appeals Board Review appeals and render final decision, if applicable.

Depending on the scope and severity of a reported violation, the Title IX team may be comprised entirely of NCAD staff or some roles may be outsourced to legal counsel. In any event, Title IX Coordinator(s) and Investigator(s) may not serve on the Hearing Panel or Appeals Board.

Sexual Misconduct

Policy Statement

NCAD expressly prohibits discrimination or harassment based upon race, sex, gender, gender identity, gender expression, national origin, ancestry, religion, physical or mental disability, veteran status, age or any other basis protected by federal, state or local law. NCAD also strives to provide a safe and respectful environment for its students, faculty, and staff. As such, sexual harassment or sexual misconduct of any kind, including the crimes of dating violence, domestic violence, sexual assault, and stalking will not be tolerated within the NCAD community. Any student, faculty, or staff who violates this policy is subject to a number of consequences as outlined under Possible Sanctions.

Sexual misconduct includes conduct such as sexual assault or any other nonconsensual sexual activity, dating violence, domestic violence, stalking, sexual exploitation, sexual harassment, and sex-based discrimination.

Conduct constituting a sexual offense, such as rape, sexual assault or sexual harassment, will not be tolerated. Students, staff, or faculty committing sexual offenses in any form can be prosecuted under Washington State criminal statutes. In addition, students can be disciplined under the Student Conduct Code and employees can be disciplined under the Employee Conduct Code.

NCAD reserves the right to sanction students, faculty, or staff based on the procedures discussed herein. NCAD encourages members of our community to report any instances of harassment or discrimination.

The Clery Act

The Clery Act is a consumer protection law that aims to provide transparency around campus crime policy and statistics. It was signed into law in 1990 and named after Jeanne Clery, a college student who was raped and murdered in her dorm room by a fellow student. Her death raised concerns about unreported crime and safety issues on campuses across the country.

Parties reporting sexual misconduct should be aware that under the Clery Act, NCAD administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The school will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

Certain campus officials - those deemed Campus Security Authorities - have a duty to report certain crimes for federal reporting purposes per the Clery Act. All personally identifiable information is kept confidential, but statistical information must be passed along regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the **Annual Security Report**. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. The information to be shared includes the date, the location of the incident (using specific Clery geography) and the Clery crime category which includes Criminal Offenses, Hate Crimes, VAWA Offenses, and Arrests and Referrals for Disciplinary Action. NCAD's **Annual Security Report** is published on the NCAD website each Fall and includes statistics for the previous three calendar years.

Campus SaVE Act

The Campus Sexual Violence Elimination (Campus SaVE) Act refers to Violence Against Women Act (VAWA) amendments to the Clery Act. The Campus SaVE Act is an update to the Clery Act, expanding the scope of this legislation in terms of reporting, response, and prevention education requirements around rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking.

The Violence Against Women Act (VAWA) was enacted in 1994 to raise awareness of domestic violence and assault crimes against Women. VAWA has been amended and modified several times since 1994, always requiring institutions to review and update their current policies and procedures to comply with the new requirements for handling sexual violence on campus.

Under VAWA and The Campus SaVE Act, higher education institutions are required to do the following:

- Report domestic violence, dating violence, and stalking (in addition to other categories the Clery Act mandates).
- Adopt certain student disciplinary procedures, such as for notifying purported victims of their rights.

 Adopt certain institutional policies to address and prevent campus sexual violence.

Student & Employee Prevention/Awareness Programs

Primary Programs: As required by the Clery Act, NCAD has implemented primary prevention and awareness programs for students and employees. NCAD has contracted with SafeColleges training programs. These courses comply with important federal legislation, including Title IX, Clery Act, VAWA, Campus SaVE Act, and more. Prevention programs seek to inform and educate individuals in an effort to stop dating violence, domestic violence, sexual assault, and stalking before they occur by promoting behavior that fosters healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in a healthy and safe direction. Awareness programs share information and resources to prevent violence, promote safety, and reduce perpetration.

Ongoing Programs: The Title IX Coordinator and various school personnel may distribute materials to students and employees; the content is focused on raising the awareness and understanding of what constitutes dating violence, domestic violence, sexual assault, stalking, changing social norms, and advancing prosocial behaviors of individuals and communities. Materials may include additional course content available through SafeColleges, relevant statistics, videos, and resources specific to our campus community. Various school personnel and outside presenters may talk with students and employees on topics such as workplace ethics, antiharassment and discrimination, campus safety and campus culture.

On an annual basis, all students and employees participate in mandatory refresher training through SafeColleges to receive continuing education about Title IX, Clery Act, VAWA, Campus SaVE Act, and more.

Reporting, Investigation, and Resolution

Reporting a Violation

NCAD is committed to seriously investigating any and all incidents that are reported in possible violation of these policies. All students are strongly encouraged to speak with the Title IX Coordinator about any incident that causes them concern. If the student is uncomfortable speaking with the Title IX Coordinator for any reason, speaking with another staff or faculty member is also encouraged.

It is important to note that all staff and faculty at NCAD are "Mandatory Reporters" and therefore are required to report to the Title IX Coordinator all the details of any incident that is reported to them. A report obligates NCAD to investigate the incident, through one of two investigation procedures.

The first is a **formal report,** which will consist of a formal complaint filed in writing with the Title IX Coordinator. A formal report will be followed by an investigation. The Title IX Coordinator will coordinate the investigative process.

The second is an **informal report.** An informal report is reported verbally, with the Title IX Coordinator generating a written report of the informal complaint, which is kept confidential. An investigation will not proceed from an informal complaint, unless it is subsequently elevated to a formal report by the reporting party or the Title IX Coordinator.

Investigative Process

- 1. The Title IX Coordinator or Designated Official is informed about a possible violation and a report is completed.
- 2. The Title IX Coordinator or Designated Official determines if the alleged incident constitutes a possible violation.
- 3. If it is determined that there may be a violation, the Title IX Coordinator or Designated Official will conduct an interview with the Complainant and generate a written summary of the complaint. The Complainant will review this written report, make any necessary revisions, and then affirm this report with a signature.
- 4. If the complaint is a violation of federal, state, or local law, such as an instance of rape or sexual assault, and the Complainant wishes to press charges, NCAD will help facilitate contact with police.
- 5. The Title IX Coordinator or Designated Official will meet with the Respondent and will notify them verbally and with a written report containing known details of the alleged incident.
- 6. The Title IX Coordinator or Designated Official will remind the parties of their Title IX rights and options, and provide information on campus or community resources that may be of assistance. Additionally, the Title IX Coordinator or Designated Official will discuss with each party what supportive measures may be available.
- 7. The Title IX Coordinator or Designated Official will coordinate an official investigation. This investigation will be conducted using the Preponderance of Evidence Standard, meaning the evidence suggests that it's more like than not that the alleged incident occurred. This investigation will be conducted independently of any possible law enforcement investigation. This investigation may be comprised of a number of factors including but not limited to conducting interviews with involved parties and witnesses, reviewing security footage, reviewing law enforcement documents (if applicable), and inspection of student and/or personnel files.
- 8. Involved parties will receive a written report of the investigation for their review to which they can each provide a written response.
- 9. A live hearing will take place and each party has the right to appoint an advisor of their choosing to cross-examine the other party. In lieu of an advisor, either party may provide written questions to the Title IX Coordinator or Designated Official to be asked during cross-examination of involved parties or witnesses. At the request of either party, NCAD will arrange for the live hearing to occur with the parties in separate rooms (or remotely) attending via an audiovisual platform such as Zoom. The hearing will be recorded as required under Title IX.

- 10. When the hearing is concluded, the Hearing Examiner will generate a written report. This report may list recommendations for resolutions and possible sanctions or disciplinary action. The Title IX Hearing Panel will render a resolution decision.
- 11. Once a resolution is decided, the Complainant and the Respondent are both informed with a written notice.
- 12. Both parties have a right to appeal the decision. The Appellate Officer will make a decision based on the grounds for the appeal and their decision will be final.
- 13. A final report is generated which combines the details of the investigation, the hearing, the resolution, and any appeals and/or revised resolutions. This report will be kept in the Title IX Coordinator's official records and copies are given to the Complainant and the Respondent.

Possible Sanctions

If the Respondent is found to be responsible for a violation of these policies, sanctions may include, but are not limited to the following:

- Warning: Official written notice to the Respondent stating such conduct is in the violation of NCAD policies. If the conduct or actions continue, NCAD will take further disciplinary action.
- **Probation/Suspension:** This action may include restricted access to campus facilities and/or equipment, participation in campus activities, and any other restrictions deemed appropriate to the situation. If Respondent has already accumulated absences in one or more classes, this action could result in class failures due to attendance, as NCAD's attendance policy will remain in full force and effect. The probation will be for one to three weeks per the determination of Hearing Panel and may include conditions that must be met. At the end of the probationary period, a review of the Respondent's behavior and completion of any required conditions may be conducted by the Title IX Coordinator or Designated Official to determine if the Respondent shall have any or all restrictions lifted.
- **Expulsion:** This action terminates a Respondent's enrollment and the current NCAD Refund Policy will apply based on last date of attendance. This action may include conditions that must be met if Respondent wishes to be considered for reinstatement in the future. The Respondent may apply in writing for reinstatement to the Director of Operations. Written proof documenting completion of any required conditions must be provided with the reinstatement application. Reinstatement is not guaranteed and is up to the discretion of the Direction of Operations and the Admissions Department.
- Mandatory Counseling: Any counseling deemed appropriate by the Hearing Panel.
- **Employee disciplinary action:** This action could be in the form of a warning, probation, or termination as deemed appropriate by the Hearing Panel. Warning and/or probation may have conditions that must be met in order to remain employed by NCAD.

- **No-contact order:** This action restricts the Respondent's ability to communicate with NCAD personnel, the reporting party, and/or witnesses
- **Criminal Trespass:** This action restricts the Respondent's access to NCAD property. Trespassing charges will be filed if this sanction is violated.
- Other actions: Any other actions deemed appropriate by the Hearing Panel.

Appeals

Either party may request an appeal of the outcome or sanctions in writing to the Title IX Coordinator or Designated Official no more than three (3) business days after the receipt of the written notice of the outcome. The appeal request should include detailed information as to why the requesting party believes an appeal is warranted.

If a request for appeal is received, the Title IX Coordinator or Designated Official will provide a copy of the request to the other party. If the other party wishes to submit a response to the appeal request, they must do so in writing to the Title IX Coordinator or Designated Official within three (3) business days from the date they receive a copy of the appeal request. This response will be shared with the party requesting the appeal.

The appeal request, responses, and applicable documentation will be forwarded to the Appeals Board for review. One of the following situations may happen:

- The original findings and any sanctions will remain in force if the Appeals Board determines that an appeal is unwarranted. This decision is final.
- If the Appeals Board determines that an appeal is warranted, they will render a new decision to be delivered in writing to all parties within seven (7) business days from the date of the receipt of the petition and applicable documentation from the Title IX Coordinator. This decision is final.

Confidentiality

NCAD will take every reasonable effort to maintain the confidentiality of every individual and all information pertaining to a sexual misconduct complaint. If at all possible, an individual's identity will not be disclosed. However, it is important to note that in order for NCAD to employ any disciplinary actions, the Respondent of the complaint must be informed of the identity of the Complainant.

Retaliatory Behavior

Retaliatory behavior is strictly prohibited by NCAD. Examples of retaliatory behavior may include intimidation, threats, harassment, or any action, which is taken against a Complainant or witness or their friends or family. It will be considered retaliatory behavior regardless of if the Respondent or a third party perpetrates it. NCAD will take strong, immediate responsive action if retaliatory behavior occurs. Such action may include dismissal from the program.

False Complaints

Knowingly reporting false or misrepresented complaints of sexual misconduct is expressly prohibited and will subject the offender to separate disciplinary action, which may include dismissal from the program. It is important to note that a complaint made in good faith is not judged to be a false complaint because the evidence does not support a formal charge.

Rights of a Complainant

Individuals whose complaints of sexual misconduct are being investigated by NCAD can anticipate that:

- They will be treated with sensitivity, dignity, and respect and in an unbiased manner by all involved administrators, coordinators, investigators and adjudicators.
- They will be informed in writing that their complaint of sexual misconduct is being investigated, and of any other suspected related policy violations being explored through this investigation.
- They will be afforded the same rights and opportunities as the Respondent throughout the investigation and adjudication process.
- They will be given periodic status updates throughout the investigation and adjudication process.
- They may pursue and/or request NCAD's assistance to find resources for medical, counseling or other services at any time.
- They may choose to pursue a formal complaint with external law enforcement authorities or other federal or state agencies at any time.
- They may meet with the Title IX Coordinator or Designated Official in person prior to the official determination of a finding.
- They will be informed in writing, concurrently with the Respondent, of the finding issued by the Hearing Panel.
- They will have the right to appeal the outcome, provided they have participated in the investigation process.

Rights of a Respondent

Individuals responding to complaints of sexual misconduct can anticipate that:

- They will be treated with sensitivity, dignity, and respect and in an unbiased manner by all involved administrators, coordinators, investigators and adjudicators.
- They will be informed in writing that a complaint of sexual misconduct against them is being investigated, and of any other suspected policy violations being explored through this investigation.
- They will be afforded the same rights and opportunities as the Complainant throughout the investigation and adjudication process.
- They will be given periodic status updates throughout the investigation and adjudication process.

- They may pursue and/or request NCAD's assistance to find resources for medical, counseling or other services at any time.
- They may meet with the Title IX Coordinator or Designated Official in person prior to the official determination of a finding.
- They will be informed in writing, concurrently with the Complainant, of the finding issued by the Hearing Panel.
- They will have the right to appeal the outcome, provided that they have participated in the investigation process.

Privacy Practices

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses, and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve the rights and privacy of the party bringing a grievance. Public records, including the Clery Act reporting and disclosures, will be completed without the inclusion of personally identifying information about the victim.

NCAD will maintain as confidential any accommodations or supportive measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide accommodations or supportive measures.

Resources

Amnesty for Reporting Party and Witnesses

The NCAD community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to school officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interest of this community that reporting parties choose to report to school officials, and that witnesses come forward to share what they know. To encourage reporting, NCAD offers reporting parties and witnesses amnesty from minor policy violations related to the incident.

Supportive Measures

Students and employees may seek supportive measures without pursuing law enforcement or institutional investigations. Supportive measures will be approved if requested and reasonably available.

NCAD will implement initial remedial, responsive, and/or supportive actions upon notice of alleged harassment, retaliation, and/or discrimination. Such actions could include, but are not limited to: no contact orders, counseling and/or medical services, academic support, providing a campus escort, altering academic or work schedule, assignment accommodations, safety planning, or referral to community support resources.

NCAD will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor, who has been found to engage in harassing or discriminatory behavior or retaliation.

Written Notification

NCAD will provide written notification to victims about existing counseling, health, mental health, victim advocacy, student financial aid, protective services, and other services available; both within the institution and in the community.

NCAD will provide written notification to victims about available options and assistance to change academic situations, transportation situations, or work study situations; including how to request these changes and who to contact.

Following a report of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, NCAD will provide the student or employee a written explanation of their rights and options.

Available Support Programs

If you are sexually assaulted, resources are available on and off campus to help you. Talking with an advocate or a counselor is crucial to help explain your options, give you information, and provide emotional support. In addition to talking an NCAD staff member, other resource options include:

For Emergencies call	911
24-hour Pierce County Crisis Line	800.576.7764
24-hour King County Crisis Line	866.427.4747
24-hour Suicide Prevention Lifeline	800.273.TALK (8255)
24-hour Crisis Clinic Suicide Support	206.461.3222/TTY/TDD: 206.461.3219
Crystal Judson Family Justice Center	253.798.4166 or aplaceofhelp.com
Domestic Abuse Women's Network South King County	425.656.STOP (425.656.7867)
Jewish Family Service	206.461.3240
National Sexual Assault Hotline (RAINN)	800.656.HOPE (4673) or rainn.org
National Domestic Violence Hotline	800.799.7233 or thehotline.org
National Teen Dating Abuse Hotline	866.331.9474 or loveisrespect.org
Pierce County Domestic Violence Helpline	253.798.4166
Planned Parenthood	800.769.0045
Sexual Assault Center of Pierce County	800.756.7273 or
	sexualassaultcenter.com
Stalking Resource Center	202.467.8700 or victimsofcrime.org
Tacoma General Hospital	253.403.1000 (SANE nurse available)
Trevor Project	866.488.7386 or thetrevorreport.org
United Way Helpline	877.211.9274
Washington State Domestic Violence Helpline	800.562.6025
YWCA Pierce County	253.383.2593
YWCA Domestic Violence Services	206.461.4882

Registered Sex Offenders

Information about registered sex offenders in Pierce County can be obtained by clicking <u>HERE</u>. Information is searchable by area, first and last name, city, or by non-compliant offenders.

Protection Orders and Accommodations

A victim can file for applicable protection orders through the Pierce County Prosecuting Attorney's Office, located at 930 Tacoma Avenue S, Room 946, Tacoma, WA 98402. Forms can also be accessed online by clicking <u>HERE</u>.

If you wish to pursue a legal protection order and need help, please contact the Crystal Judson Family Justice Center at (253) 798-4166 or online by clicking <u>HERE</u>.

Victims must notify NCAD of granted protection orders to allow the institution to comply. NCAD may enforce an internal no-contact order or arrange for a security escort in an effort to protect a victim or witness when necessary, or when requested by the victim and reasonably available, regardless of whether the victim chooses to report the crime to local law enforcement.

Definition of Terms

- Consent: Consent is a voluntary agreement to engage in sexual activity. Consent cannot be forced, coerced, and cannot be given by a person who is incapacitated, unconscious, unable to make rational decisions, or under the influence of drugs or alcohol. Consent is never implied, and thus past consent does not notate future consent. Silence or a lack of resistance does not imply consent. Consent to engage in one form of sexual activity does not imply consent for another sexual act. Consent is an active and dynamic agreement between cognizant partners and demands verbal communication as well as physical cooperation. Consent can be revoked at any time.
- **Sexual Violence:** Sexual violence is an umbrella term meant to encompass a wide variety of conduct violations, such as sexual harassment, unwanted sexual attention, nonconsensual sexual activity, creation of a hostile environment, intimate partner or domestic assault, and sexual assault/rape.
- **Sexual Harassment:** Sexual harassment is defined as any unwanted or nonconsensual sexual conduct, including but not limited to unwanted verbal or physical contact, physical or emotional intimidation, unwelcome sexual advances or attention, inappropriate exposure of one's body, non-consensual photography or video of sexual activity, requests for sexual favors in exchange for some kind of benefit, unwelcome sexual innuendo or jokes, and stalking. It is important to note that conduct may be classified as harassment whether the conduct was implicit or explicit.
- Nonconsensual Sexual Activity or Rape: Nonconsensual sexual activity consists of any sexual contact that lacks consent. Rape consists of any sexual intercourse or penetration (oral, vaginal, or anal) to any degree with any body part and/or object without consent. Physical force or intimidation does not need to be present in these situations in order to be classified as nonconsensual sexual activity or rape, merely a lack of consent. This definition includes date rape, nonconsensual sexual activity that is

- perpetrated by an acquaintance, friend, or romantic partner, and includes the knowing and willful transmission of HIV/AIDS.
- **Sexual Exploitation:** Sexual exploitation refers to activity that involves nonconsensual sexual activity, but via behavior that may not be covered by the definition of other forms of sexual violence. Examples of sexual exploitation include inducing incapacitation with the intent to rape or sexually violate another, invading sexual privacy, allowing other parties to observe an otherwise consensual act without the consent of the partner, nonconsensual sexual voyeurism, or prostitution of a member of the campus community.
- **Bystander Intervention:** An active bystander is a person who takes action to intervene in order to prevent further harm and/or deescalate a problematic situation. Since direct intervention is not always safe or possible, an active bystander may also help someone get medical attention, help them find a safe place to stay, or assist with reporting the violation.
- Mandatory Reporter: All NCAD staff and faculty are Mandatory Reporters and have the duty to report incidents of sexual misconduct or other student misconduct to the Title IX Coordinator.
- **Complainant:** A Complainant is a person who reports or files a report. A Complainant may be someone other than the person who may have been a victim.
- **Respondent:** The Respondent is the person accused of a violation by the Complainant.
- **Retaliation:** Retaliation is intentional action taken against a Complainant seeking to cause harm and/or intimidation for reporting a possible violation or for participating in an investigation of such violation.

Title IX Training - NCAD Employees

All NCAD staff and faculty participate in annual prevention and awareness training through SafeColleges as outlined under Student & Employee Prevention/Awareness Programs. Additionally, the Title IX Coordinator and any applicable designees participate in the training series listed below and also participate in various relevant webinars and other training as available.

Module 1 - An Introduction to Managing Title IX Sexual Harassment on Campus

Presented by Scott Goldschmidt and Aaron Lacey

Module 2 - Formal Complaints of Title IX Sexual Harassment

Presented by Scott Goldschmidt and Aaron Lacey

Module 3 - Title IX Investigations & Informal Resolutions

Presented by Susan Lorenc, Scott Goldschmidt and Aaron Lacey

Module 4 - Title IX Hearings

Presented by Retired Judge Booker Shaw, Scott Goldschmidt, and Aaron Lacey

Module 5 - Title IX Determinations

Presented by Susan Lorenc, Scott Goldschmidt, and Aaron Lacey

Module 6 - Title IX Appeals

Presented by Retired Judge Booker Shaw, Scott Goldschmidt, and Aaron Lacey