

**Gender-Based Misconduct Policies for Students
(including Sexual Assault, Sexual Harassment Gender-Based
Harassment, Stalking, and Intimate Partner Violence
Policies and Procedures for Students)**

Table of Contents

Introduction.....	1
IMPORTANT NOTE ABOUT CONFIDENTIALITY.....	2
Definitions and Examples.....	2
Examples of Gender-Based Misconduct	2
Definition of Violations.....	2
Examples of Sexual Assault	4
Resources for Students Who Experienced Gender-Based Misconduct.....	5
Where to File a Report Alleging a Violation of the Gender-Based Misconduct Policies	6
Special Note for Barnard College Students	6
Reports involving a Faculty Member, Staff Member, Administrator or Third Party.....	6
Title IX Coordinators.....	7
Disability Accommodations	8
Relevant Government Resources.....	8
Reporting Incidents of Gender-Based Misconduct.....	9
Timeframe.....	9
Jurisdiction.....	9
Unknown/Non-University Offenders	9
Third-Party Reports	10
Complainant Request for Confidentiality/Privacy.....	10
Confidentiality, Privacy, & Non-Retaliation Policy.....	10
Interim Measures	11
Informal Resolution.....	11
Mediation.....	11
Investigation	11
Conflicts of Interest	12
Supporters	12
Refusal of Participation	13
Administrative Resolution.....	13
The Hearing Panel	14
The Hearing Procedure	14
Panel Findings	15
Range of Sanctions	16
The Appeals Process.....	16
Outcome Notification	16

Complainant Rights	17
Respondent Rights	18
File Retention Policy	18
Alternative to a Hearing Panel.....	19
Independent Investigation.....	19

Gender-Based Misconduct Policies for Students (including Sexual Assault, Sexual Harassment, Gender-based Harassment, Stalking, and Intimate Partner Violence Policies and Procedures)

Introduction

Columbia University, Barnard College, and Teachers College are committed to providing an environment free from gender-based discrimination and harassment. As such, the University¹ does not tolerate any kind of gender-based misconduct, which includes sexual assault, sexual harassment, gender-based harassment, stalking, and intimate partner violence. The University is committed to fostering a healthy and safe environment in which every member of the community can realize her or his fullest potential.

Gender-based misconduct is a serious concern on college campuses throughout the country. To address this concern, the University provides educational and preventative programs, services for individuals who have been impacted by gender-based discrimination or harassment, and accessible, prompt, and equitable methods of investigation and resolution.

Students who believe they have been subjected to gender-based misconduct are encouraged to report these incidents. Upon receiving a report, the University will respond promptly, equitably, and thoroughly. In addition, the University will take steps to prevent the recurrence of the misconduct and correct its effects, if appropriate.

Consistent with its commitment to addressing gender-based misconduct, the University complies with Title IX of the Higher Education Amendment of 1972, which prohibits discrimination on the basis of sex in education programs or activities. The University does not discriminate on the basis of sex in admission to or employment in its education programs and activities. Gender-based misconduct, as defined in this document, constitutes forms of sex discrimination prohibited by Title IX.

Gender-Based Misconduct Policies for Students apply regardless of the complainant's or respondent's sexual orientation, sex, gender identity, gender expression, age, race, nationality, class status, ability, religion, or other protected class.

With respect to statements, discussions, or written materials that are germane to classroom subject matter, any reports of discrimination or harassment will be considered in the context of academic freedom. Nothing in this policy shall abridge academic freedom or the University's educational mission.

¹ For the purposes of this Policy, the term "University" refers to Columbia University, Barnard College and Teachers College unless otherwise noted.

IMPORTANT NOTE ABOUT CONFIDENTIALITY

Any University official (e.g., Student Affairs staff, Advising and Residential Programs staff, Officers of Administration, Full-time and Adjunct Faculty, Teaching Assistants, etc.) informed of an allegation of gender-based misconduct against a student is expected to file a report with Student Services for Gender-Based and Sexual Misconduct. Certain University officers who are serving in a privileged professional capacity (i.e., counselors, clergy, medical providers,² and rape crisis counselors) are not bound by this expectation, except as required by law.

Definitions and Examples

Gender-based misconduct comprises a broad range of behaviors focused on sex and/or gender discrimination that may or may not be sexual in nature. Sexual harassment, sexual assault, gender-based harassment, stalking, and intimate partner violence are forms of gender-based misconduct under this policy. Misconduct can occur between strangers or acquaintances, including between people involved in an intimate or sexual relationship. Gender-based misconduct can be committed by anyone regardless of gender identity, and it can occur between people of the same or different sex or gender.

Examples of Gender-Based Misconduct

- Pressure for a date or a romantic or intimate relationship
- Unwelcome touching, kissing, hugging, or massaging
- Pressure for or forced sexual activity
- Unnecessary and unwelcome references to various parts of the body
- Belittling remarks about a person's gender or belittling remarks about a person's sexual orientation based in gender-stereotyping
- Inappropriate sexual innuendoes or humor
- Videotaping and photographing someone or people without consent
- Obscene gestures of a sexual or gender-based nature
- Offensive sexual graffiti, pictures, or posters
- Sexually explicit profanity
- Use of email, the Internet, or other forms of digital media to facilitate any of the above referenced behaviors

Definition of Violations

Sexual harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature constitute sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education or educational activities; or
- submission to or rejection of such conduct by an individual is used as the basis for academic decisions affecting that individual; or
- such conduct has the effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile, demeaning, or offensive academic or living environment.

² Medical providers are considered confidential resources in the context of providing medical treatment to a patient.

Gender-based harassment. Acts of verbal, nonverbal, or physical aggression, intimidation, stalking, or hostility based on gender or gender-stereotyping constitute gender-based harassment. Gender-based harassment can occur if students are harassed either for exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity or femininity. In order to constitute harassment, the conduct must be such that it has the effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile, demeaning, or offensive academic or living environment.

Intimate partner violence (also known as “dating violence” or “domestic violence”). The use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual or economic abuse directed towards a partner in an intimate relationship constitute intimate partner violence. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. Intimate partner violence can be a single act or a pattern of behavior in relationships. Intimate partner relationships are defined as short or long-term relationships (current or former) between persons intended to provide some emotional/romantic and/or physical intimacy.³

Stalking. A course of conduct directed at a specific person that would cause a reasonable person to feel fear. Stalking involves repeated and continued harassment made against the expressed wishes of another individual, which causes the targeted individual to feel emotional distress, including fear and apprehension. Stalking behaviors may include: pursuing or following; non-consensual (unwanted) communication or contact - including face-to-face, telephone calls, voice messages, electronic messages, web-based messages, text messages, unwanted gifts, etc.; trespassing; and surveillance or other types of observation.

Sexual assault - non-consensual sexual intercourse. Any form of sexual intercourse (anal, oral, or vaginal), however slight, with any object without consent. Intercourse means: vaginal penetration (however slight) by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact).

Sexual assault - non-consensual sexual contact. Any intentional sexual touching, however slight, with any object without a person's consent. Intentional sexual contact includes contact with the breasts, buttocks, groin, or touching another with any of these body parts, or making another person touch any of these body parts; any intentional bodily contact in a sexual manner.

Other Applicable Definitions

Consent. The presence of consent involves explicit communication and mutual approval for the act in which the parties are/were involved.

- A sexual encounter is considered consensual when individuals willingly and knowingly engage in sexual activity.

³ In cases involving intimate partner violence, the designated investigator(s) will, when necessary, identify the primary aggressor in the relationship. The primary aggressor will be considered the respondent in this process. If other allegations of misconduct are alleged against the complainant in these cases, these other allegations may be investigated through the Dean's Discipline process.

- Consent cannot be procured by the use of physical force, compelling threats, intimidating behavior, or coercion.
- The use of coercion can involve the use of pressure, manipulation, substances, and/or force. Ignoring the objections of another person or pressuring them is a form of coercion.
- Knowingly engaging in sexual activity with someone who is incapacitated (by alcohol or drug use, unconsciousness, disability, or other forms of helplessness) does not constitute consent and is a violation of policy. Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand their decision. Incapacity can result from a person's disability, involuntary physical constraint, sleep, or consumption of alcohol, or and other drugs.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Previous relationships or previous consent for sexual activity cannot imply consent to sexual activity on a different occasion.
- Silence cannot be interpreted as consent.

Force. The use of physical violence and/or imposing on someone physically to gain sexual access. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance.

Coercion. Unreasonable pressure for sexual activity. When someone makes it clear that they do not want to engage in sexual behavior, or that they do not want to go beyond a certain point of sexual interaction, continued pressure beyond that point can be considered coercive.

The use of alcohol and other drugs. The use of alcohol and other drugs can have unintended consequences. Alcohol and other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and affirmatively given. The perspective of a reasonable person will be the basis for determining whether one should have known about the impact of alcohol and other drugs on another person's ability to give consent. The use of alcohol and other drugs never makes someone at fault for being sexually assaulted.

The University is concerned about student safety. Sometimes students are reluctant to report instances of sexual assault because they fear being charged with policy violations, such as underage alcohol consumption. To encourage reporting, any other policy violations may be addressed (if necessary) separately from a sexual assault allegation.

Examples of Sexual Assault

The below examples are for illustrative purposes only and are not exhaustive.

Pat and Dana met at a party. They spent the entire party getting to know each other and dancing. Dana had four shots of tequila and four beers over the course of the evening. They were at the party for approximately three hours. At one point, Dana went to the bathroom. Pat noticed that Dana staggered upon returning from the bathroom. Dana's friend informed Pat that Dana had been vomiting. Pat volunteered to take Dana home. When they arrived at Dana's dorm room, Pat began kissing Dana and proceeded to have sexual intercourse with Dana. At this point, Pat noticed that Dana was barely moving. Upon waking up in the morning, Dana asked Pat what happened that evening. Pat told Dana that they had sex and that Dana had asked to have sex. Dana began crying and said "I didn't want to have sex with you. I have a boyfriend." *This is a violation of policy. A reasonable person*

could have concluded that Dana was incapacitated due to her alcohol use because Dana was stumbling and had vomited in the bathroom. Dana was therefore not able to give consent.

Taylor and Hong have been dating for a few months. On several occasions, Taylor and Hong have engaged in consensual sexual intercourse. One night, Hong and Taylor were making out when Hong said, “I don’t feel like having sex tonight.” Taylor continued to kiss Hong and took off Hong’s clothing despite Hong’s verbal and physical objections. Eventually, Hong became silent and submitted to Taylor’s insistence to have sex. *This is a violation of policy. Hong objected to having sex and Taylor ignored these objections. Even though Taylor and Hong have previously had sexual intercourse, this is a violation of policy because Hong did not consent to sexual activity on this particular evening.*

Peyton and Jordan were in the hallway of their residence hall with a group of their neighbors on the floor joking around and telling stories. Peyton placed his arms around Jordan’s waist as they continued their conversation. After a while, Peyton moved his hands up to Jordan’s breasts. Jordan then turned around and told Peyton to stop touching her breasts and removed his hands from her body. A few minutes later, Peyton grabbed Jordan’s breasts again stating he did not understand why she was making such a big deal about him touching her. *This is a violation of this policy. Jordan tells Peyton not to grab her breasts and Peyton continued to grope Jordan despite her protests. Therefore this behavior constitutes intentional, physical contact of a sexual nature.*

Resources for Students Who Experienced Gender-Based Misconduct

The University is concerned with the health, safety, and well-being of its students and the community. If you or someone you know may have experienced any form of gender-based misconduct, we urge you to seek immediate assistance. Assistance can be obtained 24 hours a day, 7 days a week from any one or more of the following resources:

- Columbia University Rape Crisis/Anti-Violence Support Center – (212) 854-HELP
- Public Safety:
 - Barnard – (212) 854-3362
 - Columbia – (212) 854-2796
 - CUMC – (212) 305-8100
 - Teachers College – (212) 678-3340
- Health Services – Clinician-on-Call
 - Barnard – 1 (866) 966-7788
 - Columbia – (212) 854-9797
 - CUMC – (212) 305-3400
 - Teachers College – (212) 854-9797
- St. Luke’s Hospital Crime Victims Treatment Center – (212) 523-4728
- Safe Horizon – (212) 523-4728
- New York Police Department – 911

Additional information about gender-based misconduct can be found on the Sexual Violence Response website at <http://www.health.columbia.edu/svprp>.

Where to File a Report Alleging a Violation of the Gender-Based Misconduct Policies

Reports involving a Student

Reports of alleged gender-based misconduct by a student of the University or Colleges should be filed with:

Assistant Director
Student Services for Gender-Based and Sexual Misconduct
108I Wien Hall
(212) 854-1717
ssgbsm@columbia.edu

The Assistant Director is a neutral administrator in the disciplinary process. This person is responsible for coordinating the disciplinary process and for working with all involved parties. The Assistant Director does not determine whether a policy violation occurred. This individual also serves as the Deputy Title IX Coordinator focusing on reports of gender-based misconduct involving situations in which a student is the respondent.

Special Note for Teachers College Students

Teachers College students may also contact the Teachers College Title IX Coordinator to report any incidents involving gender-based misconduct. Based on the information available, the Teachers College Title IX Coordinator in collaboration with Columbia University Student Services for Gender-Based and Sexual Misconduct will determine whether the report is most appropriately resolved under the Gender-Based Misconduct Policies for Students or the Teachers College Policy on the Protection from Harassment (<http://www.tc.edu/policylibrary/protectionfromdiscriminatoryharassment>).

Special Note for Barnard College Students

Barnard College students may also contact the Barnard College Title IX Coordinator to report any incidents involving gender-based misconduct. Based on the information available, the Barnard College Title IX Coordinator in collaboration with Columbia University Student Services for Gender-Based and Sexual Misconduct will determine whether the report is most appropriately resolved under the Gender-Based Misconduct Policies for Students or the Barnard College Grievance Procedures for Sexual and Gender-based Misconduct (<https://barnard.edu/general-counsel/titleix/titleix-grievance-procedures>).

Reports involving a Faculty Member, Staff Member, Administrator or Third Party

Reports of gender-based misconduct by a faculty member, staff member, administrator or third-party affiliated with the University or Colleges should be filed with one of the following offices at the employee's institution:

Columbia University
Office of Equal Opportunity and Affirmative Action
103 Low Memorial Library
(212) 854-5511; <http://eoaa.columbia.edu/report-incident>
<http://eoaa.columbia.edu/student-policies>

Barnard College
Office of the Dean of the College
105 Milbank
(212) 854-2024

Teachers College
Office of the Vice President for Diversity and Community Affairs
128 Zankel
(212) 678-3391
-OR-

Office of the Vice Provost
113 Zankel
(212) 678-3050
Teachers College Policy on Protection from Harassment:
<http://www.tc.edu/policylibrary/protectionfromdiscriminatoryharassment>

Title IX Coordinators

The below persons are designated as the Title IX Coordinators for Columbia University, Barnard College, and Teachers College, respectively. The Title IX Coordinator is responsible for ensuring Title IX compliance at the University and Colleges and responding to questions regarding the application of Title IX and its implementing regulations.

Title IX Coordinator for Columbia University
Melissa Rooker, Associate Provost
Office of Equal Opportunity and Affirmative Action
Columbia University
103 Low Library
(212) 854-5918
mrooker@columbia.edu

Title IX Coordinator for Barnard College
Amy Zavadil, Associate Dean for Equity
Barnard College
105 Milbank Hall
(212) 854-0037
azavadil@barnard.edu

Title IX Coordinator for Teachers College
Janice Robinson, Vice President, Diversity and Community Affairs

Teachers College
128 Zankel
(212) 678-3391
jrobinson@tc.edu

Disability Accommodations

Students seeking accommodations for a disability in connection with this process should contact the office responsible for disability services at their school:

Columbia University, Disability Services
(212) 854-2388
<http://www.health.columbia.edu/ods>

Barnard College, Office of Disability Services
(212) 854-4634
<http://www.barnard.edu/disabilityservices>

Teachers College, Office of Access and Services for Individuals with Disabilities
(212) 678-3689
<http://www.tc.columbia.edu/oasid/staff.html>

Relevant Government Resources

The below government agencies may provide additional resources for students wishing to file an external complaint of gender-based misconduct or students with inquiries regarding the application of Title IX and its implementing regulations:

U.S. Department of Education, Office for Civil Rights
<http://www.ed.gov/ocr>

US Department of Education
Office for Civil Rights
New York – Region II
32 Old Slip, 26th Floor
New York, NY 10005
646-428-3800
OCR.NewYork@ed.gov

U.S. Department of Justice, Office on Violence Against Women
<http://www.ovw.usdoj.gov>

US Department of Justice
Office on Violence Against Women
145 N Street, NE, Suite 10W.121
Washington, DC 20530
(202) 307-6026

Reporting Incidents of Gender-Based Misconduct

All gender-based misconduct reports involving matriculated Columbia University students will be received and processed by Student Services for Gender-Based and Sexual Misconduct. Reports can be submitted by calling the Assistant Director for Student Services for Gender-Based and Sexual Misconduct (or designee) or in writing via a secure Web form available at the following website: <http://www.columbia.edu/cu/dpsa>. Those reporting can click on the link to “File a report with Student Services for Gender-Based and Sexual Misconduct.”

Students who wish to submit a report alleging gender-based misconduct can meet with the Assistant Director for Student Services for Gender-Based and Sexual Misconduct to learn more about the process and procedure. Students should be advised that the Assistant Director is obligated to act on any report of alleged gender-based misconduct.

Students may also choose to file a report with the New York City Police Department or the local law enforcement agency where the misconduct occurred. The University system and police/legal system work independently from one another. Students can file reports with the University, with law enforcement, or with both systems. Because the standards for finding a violation of criminal law are different from the standards in this policy, criminal investigations or reports are not determinative of whether or not gender-based misconduct, under this policy, has occurred.

Timeframe

The University does not limit the timeframe for filing a report of gender-based misconduct. Reports can be submitted at any time following an incident, although the University’s ability to take action may be limited by the matriculation status of the alleged respondent.

Every effort will be made to reach a resolution within sixty (60) calendar days after the receipt of the initial report. Timelines may vary depending on the details of the case and at certain times of the academic year (e.g. during break periods, final exam time, etc.).

Jurisdiction

Under this policy, the University is able to investigate alleged incidents of gender-based misconduct:

- that occurred on campus, or
- that occurred off campus, but have migrated to or have created a hostile environment on campus; or
- that were part of University programs (regardless of location), or
- where the respondent is affiliated as a current matriculated undergraduate, graduate, or professional student⁴

Unknown/Non-University Offenders

If the offender is unknown, or is not a member of the University community (including an individual who has graduated from a University program), University staff will assist students in identifying appropriate campus resources or local authorities if the student would like to file a report. In addition,

⁴ Questions about an individual’s student status at the University can be directed to the Assistant Director for Student Services for Gender-Based and Sexual Misconduct. Students, including those on leave, are considered to be matriculated until their degree is awarded by their school unless they are withdrawn from the University. In some unique circumstances where a person may be considered an employee and a student, the University will determine which policy and procedure should be used.

the University may investigate to the fullest extent possible and take other actions to protect the student and others in the University community.

Third-Party Reports

In cases where the gender-based misconduct is reported to Student Services for Gender-Based and Sexual Misconduct by a third party (e.g., faculty member, residence program staff member, advising dean, etc.), the complainant⁵ will be notified that a report has been received by the Assistant Director for Student Services for Gender-Based and Sexual Misconduct. The Assistant Director will make every effort to meet with the complainant to discuss her/his options and resources at the University and in the community.

Complainant Request for Confidentiality/Privacy

A complainant may make a request for confidentiality/privacy at any point. This type of request means that the complainant does not want their identity known to the respondent and witnesses, or that the complainant wishes to withdraw a report. If at any point the complainant requests privacy, the University will make all reasonable attempts to comply with this request. In situations where a complainant requests privacy, the University's ability to investigate and respond to the allegations may be limited.

The University is required by Title IX to weigh the complainant's request for confidentiality/privacy with the University's commitment to provide a reasonably safe and non-discriminatory environment. The Assistant Director for Student Services for Gender-Based and Sexual Misconduct will notify the complainant if the University cannot maintain the complainant's confidentiality/privacy. The complainant's identity will only be revealed to those individuals who need to know the name of the complainant in order for an investigation to occur.

In situations where the University becomes aware of a pattern of behavior by one or more respondents, the University will take appropriate action in an attempt to protect the University community.

Confidentiality, Privacy, & Non-Retaliation Policy

When a report of gender-based misconduct is filed, the complainant, the respondent, and all identified witnesses who are named in the investigation, will be notified of the University's expectation regarding confidentiality, privacy, and non-retaliation.

The University will make all reasonable efforts to maintain the confidentiality and privacy of parties involved in gender-based misconduct investigations, restricting information to those with a legitimate need to know. Individuals participating in an investigation, proceeding, or hearing are encouraged to maintain the privacy of the process in order to assist the office in conducting a thorough, fair, and accurate investigation. Individuals are also encouraged to seek appropriate administrative support on-campus. Strictly confidential on-campus resources include counseling services, medical care providers, the Rape Crisis/Anti-Violence Support Center, and clergy members. All other University administrators, such as faculty and advising staff, cannot promise strict confidentiality but can provide private support.

⁵ A "complainant" is the student who files a report or the person who a report is filed on behalf of by a third party. A "respondent" is the student who is alleged to have violated a policy and is responding to the allegations.

Retaliation against any person involved in the investigation, including the complainant, respondent, witnesses, or the investigators, is strictly prohibited and may result in disciplinary action, including additional interim or permanent measures. The University defines retaliation as any adverse action taken against an individual who has participated in any manner in an investigation, proceeding, or hearing under these policies and procedures. Reports of retaliation should be directed to the Assistant Director for Student Services for Gender-Based and Sexual Misconduct and will be managed through an administrative process as determined by the Assistant Director.

Interim Measures

During the investigation and until resolution of the matter, interim measures may include but are not limited to: restrictions on contact between the complainant and the respondent, restrictions from areas of campus, and/or removal or relocation from the residential areas. Failure to comply with the parameters of any interim measures is a violation of this policy and may lead to additional disciplinary action.

Informal Resolution

In instances where it is deemed possible and safe, the University may choose to resolve reports through informal means. If it is determined that an informal resolution may be appropriate, the Assistant Director will speak with the complainant about this option. If the complainant agrees, the Assistant Director will speak with the person alleged to have engaged in the misconduct. If a satisfactory resolution is reached through this informal process, the matter will be considered completed. If these efforts are unsuccessful, the formal investigation process will commence.

Mediation

Mediation is not an option for resolution in cases involving allegations of sexual assault. In cases involving other forms of alleged gender-based misconduct, the Assistant Director for Student Services for Gender-Based and Sexual Misconduct will determine whether mediation is an appropriate mechanism of resolution based on information provided about the incident.

In cases where mediation is deemed to be an option, students wishing to pursue this form of resolution should contact the Assistant Director for Student Services for Gender-Based and Sexual Misconduct in writing. The parties should not contact each other to discuss mediation. Mediation will be pursued only with the consent of both parties, and either party has the right to terminate the mediation process and begin the formal investigation process at any time. The mediation process will typically commence within ten (10) business days after receiving consent for mediation from both parties and will continue until the mediation process is concluded or either party terminates the mediation process.⁶ If the mediation results in a resolution, the formal disciplinary process will be concluded and the case will be closed. If the parties are unable to reach a resolution, the disciplinary process will proceed.

Investigation

Reports of gender-based misconduct will be investigated in a thorough and prompt fashion. The investigation will typically commence within five (5) business days after receiving a report. Following the receipt of a report, the respondent will be notified that a report has been filed and will be given written notice of the allegations. The respondent and complainant will be given the opportunity

⁶ The University may need to extend the timeframes described throughout this Policy in circumstances where individuals are not available at certain times of the academic year (e.g. during break periods, final exam time, etc.).

to meet separately with the Assistant Director for Student Services for Gender-Based and Sexual Misconduct (or designee) to review the policy and procedure.

A specially trained investigator(s) designated by the Assistant Director will interview the complainant, respondent, and any witnesses. The investigator(s) will not interview witnesses whose sole purpose is to provide character information. This investigator(s) will also gather any pertinent documentation materials. The investigator(s) will then prepare a report detailing the relevant content from the interviews and the documentation materials gathered.

Directly following the conclusion of the investigation, a determination of whether or not to proceed to the administrative resolution (see below) phase will be made. This determination will be based on whether reasonable cause exists to believe that a policy violation may have occurred. If reasonable cause does not exist, the disciplinary process will be concluded at this point. However, the University may institute other forms of remedial, community-based efforts such as educational initiatives and/or trainings.

Information Regarding Romantic or Sexual History in Cases Involving Sexual Assault. The romantic or sexual history of either the respondent or the complainant will not be admissible in cases involving allegations of sexual assault, except for relevant testimony offered by the respondent or the complainant about their own sexual history. If such information is offered and deemed relevant by the investigator(s), the other party has the right to respond to the testimony. If the respondent and complainant have or had a romantic or sexual history, testimony and questions about this history is permitted if it is deemed relevant by the investigator(s).

Previous conduct. While previous conduct violations of the respondent are generally not admissible as information about the present alleged violations, the Dean of Students (or designee)⁷ may supply information about the respondent's prior conduct history to the investigator(s) and the hearing panel only if:

- The respondent was previously found to be responsible;
- The previous incident was substantially similar to the present allegation and/or the information indicates a pattern of behavior by the respondent.

Conflicts of Interest

If the investigator(s) or any member of the hearing panel believes there is a potential or actual conflict of interest regarding their role in the investigation, they must disclose this conflict in advance to the Title IX Coordinator or Assistant Director for Student Services for Gender-Based Misconduct and Sexual Assault. Likewise, if a complainant or respondent believes that a conflict of interest is present regarding the investigator(s) or any member of the hearing panel, the complainant or respondent must disclose this conflict in advance to the Title IX Coordinator or Assistant Director. If the Title IX Coordinator or Assistant Director determines that a valid conflict of interest exists, steps will be taken to remedy or eliminate the conflict in order to ensure an impartial process.

Supporters

Both the respondent and the complainant are entitled to have a supporter present during any meetings regarding the process. The supporter's function is to provide support to the student. During meetings

⁷ On limited occasions or when circumstances exist that prohibit a timely response, a Dean of Students may need to designate a senior-level administrator to act on their behalf throughout the process.

and hearings, the supporter may talk quietly with the student or pass notes in a non-disruptive manner. The supporter may not, in any way, intervene in the meeting/hearing or address the investigator/hearing panel.

The supporter must be a current member of the University community (i.e., faculty, administrator, student). The supporter cannot be someone who has a current formal role (e.g., advisor, coach, faculty member) with either the respondent or complainant. Neither party is entitled to have legal representation (as that term is commonly understood) present during a meeting/hearing but parties are allowed to seek legal advice outside of the process. A supporter from the University community may be an attorney by training, but is only permitted to act as a supporter (as described above) during the process.

Refusal of Participation

In cases where a complainant and/or respondent refuses to participate in the investigative process and/or the disciplinary process, the University may continue the process without the complainant and/or respondent's participation. Where it is determined that reasonable suspicion exists to believe a policy may have been violated, a hearing panel will convene and determine a finding based on the information available to them. In most cases, refusal to participate in the investigative process will preclude a party's ability to participate in the hearing panel.

Administrative Resolution

If reasonable suspicion exists to move to the administrative resolution phase of the process, this phase of the process will typically begin within ten (10) business days following the completion of the investigative report. The respondent and complainant will each have the opportunity to review the investigative report and the documentation from the investigation. Given the sensitive nature of the information provided in the investigative report, the review of the report must occur in the presence of the Assistant Director for Student Services for Gender-Based and Sexual Misconduct. The Assistant Director will ensure that ample time is afforded to the complainant and respondent, within reason, to review the report prior to responding to the allegations.

Following the review of the investigative report, the respondent will be given the opportunity to respond to the alleged violation of policy in the following ways: 1) No response; 2) Not Responsible; or 3) Responsible.

If the respondent accepts responsibility, the Dean of Students⁸ of the respondent's school will be notified and will determine the sanction based on the evidence provided in the investigative report and documentation. The complainant and respondent will be made aware of the sanctioning decision within five (5) business days whenever possible and will be provided an opportunity to meet with the Dean of Students to review the sanctioning decision. The respondent and complainant will then have the opportunity to appeal the Dean of Students' sanctioning decision. The acceptance of responsibility, however, is not appealable (see Appeals Process).

If the respondent declines responsibility, or chooses not to respond, a hearing panel will be convened.

⁸ In most cases, the Dean of Students serves as the sanctioning officer and the Dean of the School serves as the appellate officer.

The Hearing

Every effort will be made to convene a hearing panel as soon as practicable following the conclusion of the investigation – ideally within thirty (30) calendar days after the receipt of the initial report. Whenever possible, the complainant and respondent will be given at least five (5) calendar days' notice to prepare for the hearing. The hearing is a closed proceeding, meaning that anyone other than participants and supporters is not allowed to be present in the hearing room(s) during the proceeding. The Assistant Director for Student Services for Gender-Based and Sexual Misconduct will work with other University officials to ensure that any student whose presence is required is able to participate in the hearing.

The Hearing Panel

The hearing panel is charged with determining whether there is a violation of the Gender-Based Misconduct Policies for Students. Once a determination is reached, the panel's findings are provided to the Dean of Students for the respondent's school for sanctioning.

Whenever practicable, the hearing panel will consist of two deans and/or senior-level administrators and one student chosen from a specially trained pool of panelists. All three panelists will have no school affiliation or other connection with either of the parties. The complainant and respondent will be informed of the panel's constitution prior to the commencement of the hearing. A party may challenge a panel member's participation in writing if the party believes that the panelist is acquainted or associated with the case in any way or otherwise poses a conflict of interest. This written challenge must be received by the Assistant Director for Student Services for Gender-Based and Sexual Misconduct within three (3) business days after the notification of the panel's constitution. If both the respondent and complainant agree, the student panelist may be replaced by another dean or senior-level administrator. During certain times of the academic year (e.g. during break periods, final exam time, etc.), the panel may consist of three deans and/or senior-level administrators without a student representative.

The Hearing Procedure

The hearing panel will have the opportunity to thoroughly review the investigative report and documentation submitted by the investigator(s) prior to the hearing.

The general course of the hearing procedure will be as follows, whenever possible:

- Complainant statement
- Respondent statement
- Questions to the complainant
- Questions to the respondent
- Witness testimony and questioning (if the hearing panel determines it is necessary)
- Clarification from the investigator (if the hearing panel determines it is necessary)
- Closing statement by complainant
- Closing statement by respondent

The panel may impose time limits on any stage of the procedure, including, but not limited to the duration of breaks. In most circumstances, the opening statements should be five to seven (5-7) minutes in length and the closing statements should be no longer than five (5) minutes. The panel may determine the relevance of and may place restrictions on any witnesses or information presented. When the complainant and respondent are not able to be present for the hearing panel, arrangements will be made for the parties to participate via alternate means (e.g. phone).

In cases where the respondent and/or complainant have chosen not to participate in the hearing procedure, the panel will commence and hear from the party (if one exists) who has chosen to participate in the process.

Testimony via Closed-Circuit Television. All testimony and interactions with the panel are conducted using closed-circuit television. Therefore, only the person providing the testimony (and that person's supporter, if applicable) is in the hearing room with the hearing panel during the testimony. Each party is able to view the live testimony from a separate, private room via closed-circuit television.

Questioning. Only the panel may ask questions of the parties and of any witnesses. Both parties have the opportunity to put forth questions of the other party and of witnesses. This is done by submitting questions to the panel in written format. The panel may determine which questions are relevant and which are duplicative in nature. The panel reserves the right to revise or remove submitted questions.

Hearing Recording. An audio recording of the hearing will be kept for the use of the panel, for sanctioning, and for purposes of appeal. This recording may be transcribed at the request of the panelists, the Dean of Students, or Dean for the respondent's and complainant's schools. The recording will be kept in the case file.

Witnesses.

The hearing panelists will determine the witnesses (if any) from whom they would like to hear testimony based on the investigative report and documentation.

Cell Phones and Recording Devices.

Cell phones and recording devices are not allowed to be used in the hearing room(s) unless approved by the panel in advance. If a participant or supporter otherwise wishes to use their cell phone, they must exit the hearing room(s) during breaks.

Panel Findings

The panel will use "preponderance of evidence" as the standard of proof to determine whether a policy violation occurred. Preponderance of evidence means that a panel must be convinced based on the information provided that a policy violation was more likely to have occurred than to not have occurred in order to find a student responsible for violating a policy.

Based on this standard, the panel may find a student responsible for an alleged violation of policy based on a majority vote. The panel may also vote by majority to dismiss the charge based on the same evidentiary standard. The panel will render a decision within five (5) business days following the conclusion of the hearing.

Upon finding a student responsible, the panel will submit its rationale to the Dean of Students of the respondent's and complainant's schools and to the respondent and complainant. The Dean of Students for the respondent's school will then determine the appropriate sanctions. Consideration may be given to the nature of and circumstances surrounding the violation, prior disciplinary violations, precedent cases, University safety concerns, or any other information deemed relevant by the Dean of Students. The Dean of Students will render a sanctioning decision within five (5) business days following the receipt of notice of the panel's decision.

Range of Sanctions

A student who has been found to have violated the Gender-Based Misconduct Policies for Students may be subject to sanctions including, but not limited to, reprimand/warning, disciplinary probation, suspension, and dismissal. A student also may be barred from certain University facilities or activities, or required to attend educational programming. Sanctions are determined by the Dean of Students of the respondent's school in accord with the University guidelines.

The Appeals Process

The respondent and complainant may appeal: 1) the decision made by the hearing panel, and/or 2) the sanctions determined by the Dean of Students of the respondent's school. The three grounds upon which an appeal of the decision and/or sanctions may be made are:

1. The student believes a procedural error occurred, which the student feels may change or affect the outcome of the decision;
2. The student has substantive new evidence that was not available at the time of the hearing and that may change the outcome of the decision;
3. The student feels that the severity of the sanction is inappropriate given the details of the case.

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

The appeal should be submitted in writing to the Dean of the respondent's school within five (5) business days following the date on the sanctioning letter. The Dean will collaborate with the Dean of the complainant's school to determine the resolution of the appeals process in cases where the respondent and the complainant are in different schools

Both the complainant and the respondent will be notified if either party submits an appeal and will be informed of the grounds of the appeal by the Assistant Director. After this notification, the party may submit a short written response to the request for appeal. This statement will be reviewed by the Dean during the appeals process. The Assistant Director will determine an appropriate deadline by which this response will be written.

The Dean can determine whether a change in the hearing panel's decision is warranted. If a change in hearing panel's decision is necessary, the Dean will reconvene the hearing panel to reconsider the finding. The hearing panel will review the appeal and Dean's rationale for this request and make a final decision. This final decision is not appealable.

The Dean of the respondent's school in collaboration with the Dean of the complainant's school, when applicable, may also change the sanction making it either less or more severe. Regardless of the outcome of the appeal, the Dean will notify the complainant and respondent of the final decision in writing. If both a complainant and a respondent appeal, the appeals will be considered concurrently. Appeals will not be reviewed or considered beyond the Dean of the respondent's school. Appeals decisions will be rendered within ten (10) business days after the receipt of the formal appeal is filed.

Outcome Notification

Every effort will be made to ensure that both the complainant and respondent are updated at several points during the investigation and procedure. Both the complainant and respondent will be notified in writing at the following times:

Conclusion of the Investigation

- After the conclusion of the investigation – both parties will be allowed to review the investigative materials

Administrative Resolution

- If the respondent accepts responsibility for being “in violation”
- The sanctions determined by the Dean of Students after the respondent accepts responsibility

Hearing Panel

- If the respondent denies responsibility or declines to respond, both parties will be notified of the date and time of the hearing and list of hearing panelists
- The hearing panel’s finding of “responsible” or “not responsible”
- If the panel’s finding is “responsible,” the sanctions determined by the Dean of Students

Appeals Process

- If an appeal has been filed by either party at any point in the outcome phase
- The final resolution of the appeals process

Complainant Rights

Complainants are afforded the following rights in this process:

- To be treated with respect, dignity, and sensitivity throughout the process.
- To seek support services at the University.
- To confidentiality and privacy to the extent provided under applicable law. The University will make all reasonable efforts to ensure preservation of privacy, restricting information to those with a legitimate need to know.
- To be informed of the University’s Gender-Based Misconduct Policies and Procedures for Students.
- To a prompt and thorough investigation of the allegations.
- To an adequate amount of time to prepare for the hearing. Participants shall be given at least five (5) calendar days’ notice prior to the hearing except in rare circumstances.
- To review all applicable documents prior to the hearing in the Student Services for Gender-Based and Sexual Misconduct office.
- To challenge investigator(s) or any hearing panel member if a possible conflict of interest is present.
- The right to replace the student panelist with a dean or senior-level administrator if both parties agree.
- To be accompanied at the hearing by a supporter.
- To participate or decline to participate in the investigation or hearing panel process. However, the disciplinary process will continue with the information available, and not participating in the investigation may preclude participation in the hearing panel.
- To refrain from making self-incriminating statements. However, the disciplinary process will continue with the information available.
- To appeal the decision made by the hearing panel and sanctions determined by the Dean of Students.

- To be notified, in writing, of the case resolution – including the outcome of any appeal.
- To report the incident to law enforcement if they wish to do so at any time.
- To understand that information collected in this process may be subpoenaed in criminal or civil proceedings.

Respondent Rights

Respondents are afforded the following rights in this process:

- To be treated with respect, dignity, and sensitivity throughout the process.
- To seek support services at the University.
- To confidentiality and privacy to the extent provided under applicable law. The University will make all reasonable efforts to ensure preservation of privacy, restricting information to those with a legitimate need to know.
- To be informed of the University’s Gender-Based Misconduct Policies and Procedures for Students.
- To a prompt and thorough investigation of the allegations.
- To an adequate amount of time to prepare for the hearing. Participants shall be given at least five (5) calendar days’ notice prior to the hearing except in rare circumstances.
- To review all applicable documents prior to the hearing in the Student Services for Gender-Based and Sexual Misconduct office.
- To challenge investigator(s) or any hearing panel member if a possible conflict of interest is present.
- The right to replace the student panelist with a dean or senior-level administrator if both parties agree.
- To be accompanied at the hearing by a supporter.
- To participate or decline to participate in the investigation or hearing panel process. However, the disciplinary process will continue with the information available, and not participating in the investigation may preclude participation in the hearing panel.
- To refrain from making self-incriminating statements. However, the disciplinary process will continue with the information available.
- To appeal either the hearing panel’s decision or the sanctions determined by the Dean of Students.
- To be notified, in writing, of the case resolution – including the outcome of the appeal.
- To understand that information collected in this process may be subpoenaed in criminal or civil proceedings.

File Retention Policy

The University will maintain disciplinary files and release information contained in those files with appropriate permissions for seven years (or longer if the student continues as a student beyond this seven-year period). After this maximum file retention period, the files will no longer be available except in cases resulting in expulsion or suspension.

Disciplinary proceedings conducted by the university are subject to the Family Educational Rights and Privacy Act (FERPA, also called the “Buckley Amendment”). There are several important exceptions to FERPA that will allow the University to release information to third parties without a student’s

consent. For example, it is important to note that the release of student disciplinary records is permitted without prior consent to: University officials with legitimate educational interest such as a student's Advising Dean; and Columbia Athletics for student athletes. The University will also release information when a student gives written permission for information to be shared.

Please refer to *Essential Policies for the Columbia Community* for a complete list of exceptions under FERPA.

Alternative to a Hearing Panel

In some unique circumstances, the University may choose an administrative hearing as an alternative to a full hearing panel. In these instances, the University will attempt to gain approval from both parties whenever possible. An administrative hearing consists of two University administrators who will review the investigative report and relevant documentation, meet with both the complainant and respondent individually, and determine whether a policy violation occurred based on the preponderance of the evidence standard. This hearing does not utilize closed circuit television and is commonly used in cases where one party has declined to participate or when space and/or panelists are unavailable at certain times of the academic year (e.g. during break periods, final exam time, etc.). Except as described in this paragraph, this alternative process will follow the time frames, sanctioning, appeals and other processes set forth elsewhere in this Policy.

Independent Investigation

The University and Colleges, at the discretion of the appropriate General Counsel, may conduct an investigation independent of, or in addition to, the procedures provided herein at any time. The investigation may involve complaints or allegations concerning gender-based misconduct against the University, the Colleges, or any of their employees or students.

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