

**2025**

# **Title IX and Related Misconduct Policy and Procedures for Students**

**Office of Institutional Equity**



# Title IX & Related Misconduct Policy and Procedures for Students

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# I. INTRODUCTION

Columbia University, Barnard College, and Teachers College are committed to fostering an environment that is free from sexual harassment, sexual assault, intimate partner violence, stalking, sexual exploitation, and retaliation as defined in this Policy. The University recognizes its responsibility to increase awareness of such misconduct, prevent its occurrence, diligently investigate reports, support individuals who experience misconduct, and respond fairly and firmly to violations of University policy. The University is also committed to supporting students accused of misconduct who go through the disciplinary process. In addressing issues of misconduct, all members of the University must respect and care for one another in a manner consistent with our deeply held academic and community values.

## A. Fundamental Principles

Sexual harassment, sexual assault, intimate partner violence, stalking, sexual exploitation, and retaliation are antithetical to Columbia’s mission and values. The University does not tolerate this conduct, and all such conduct, as defined in the Title IX and Related Misconduct Policy and Procedures for Students (“Policy”), is prohibited.<sup>1</sup> This Policy is administered by the Office of Institutional Equity (“Office”) in partnership with the Title IX Coordinator.<sup>2</sup>

Title IX of the Educational Amendments Act of 1972 (“Title IX”) is the federal law that prohibits sex discrimination by any educational institution that receives federal funding. Federal regulations implemented on May 19, 2020, provide detailed rules for addressing sexual harassment, including sexual assault, dating violence, domestic violence, and stalking, as a form of sex discrimination in education programs and activities. Misconduct covered by these federal regulations is referred to as “Title IX Sexual Harassment.” This Policy covers both Title IX Sexual Harassment and Related Misconduct that is not covered by the federal regulations. It is important that the University address both Title IX Sexual Harassment as well as these additional types of Related Misconduct (collectively referred to as “Prohibited Conduct” under this Policy) in order to create and support a safe and non-discriminatory educational environment in a manner that is consistent with federal, state, and local law.<sup>3</sup>

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<sup>1</sup> This Policy applies to misconduct allegedly occurring on or after September 30, 2025. Misconduct allegedly occurring before September 30, 2025, will be addressed using the definitions of Prohibited Conduct in place at the time of the misconduct and, in general, the procedures in place at the time a report is made (though the Office may make appropriate adjustments to procedures in its discretion).

<sup>2</sup> The Office’s Title IX Division operates under the guidance of the Title IX Coordinator and is a centralized resource for addressing all reports of alleged violations of this Policy.

<sup>3</sup> This Policy is consistent with the 2020 Title IX Regulations, the Violence Against Women Act (“VAWA”), the Jeanne Clery Campus Safety Act, New York State Education Law 129-B, and New York State Human Rights Law.

If you have experienced, witnessed, or become aware of conduct that may violate this Policy, the University encourages you to report any and all related information promptly using this [form](#) or by contacting Title IX Coordinator Marjory Fisher<sup>4</sup> [[see Reporting Misconduct](#)].

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Students who experience sexual harassment, sexual assault, intimate partner violence, stalking, or sexual exploitation may pursue criminal or civil processes in addition to, or instead of, the University's process.

This Policy applies regardless of an individual's membership in any protected class.<sup>5</sup> Nothing in this Policy shall be construed to abridge academic freedom and inquiry, principles of free speech, or the University's educational mission.

## **B. Overview of Contents**

The Policy first outlines when and to whom it applies, specifies the definitions of Prohibited Conduct, defines important concepts and terminology used herein, and describes resources available to students and others who experience Prohibited Conduct.

The section on Procedures discusses reporting options, rights and responsibilities of students and others engaged in the resolution process, supportive measures that may be available to assist Parties after a report is made, emergency removals, and available options for the resolution of reports. This section also describes general investigative procedures and the determination, sanctioning, and appellate processes for formal investigations conducted under this Policy. The Procedures specify processes that are specific to Title IX Sexual Harassment as required by federal regulations. Information regarding the retention and/or disclosure of University records and training for individuals involved in the disciplinary process is also provided.

The Appendices include a comprehensive list of resources available to individuals affected by Prohibited Conduct, details about confidential resources and reporting obligations on campus, a glossary of terms, the rules of decorum for Title IX hearings, and illustrative scenarios.

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<sup>4</sup> Any references to the Title IX Coordinator also include a designee or designees.

<sup>5</sup> The [Anti-Discrimination and Discriminatory Harassment Policies and Procedures for Students](#) prohibit discrimination and discriminatory harassment on the basis of an individual's actual or perceived membership in, or association with, a Protected Class.

## II. SCOPE OF THIS POLICY

This Policy governs Title IX Sexual Harassment and Related Misconduct when the accused person (the Respondent) is a Columbia University or Teachers College student at the time report is made.<sup>6</sup> Anyone may report or file a Formal Complaint of Prohibited Conduct regardless of whether they are affiliated with the University.

This Policy governs Title IX Sexual Harassment when the following two criteria are met:

(1) The conduct occurs:

- On any University-owned property in the United States; or
- Off-campus, if it occurs in connection with any University program or activity in the United States. This includes locations, events, or circumstances where the University exercises substantial control over both the Respondent and the surrounding context. Examples include conduct over email, social media, or other online platforms where the University exercises such control, as well as any building owned or controlled by a student organization officially recognized by the University (including, but not limited to, fraternities and sororities)

(2) The conduct is on the basis of sex and involves one or more of the following:

- An employee conditions educational benefits on participation in unwelcome sexual conduct (quid pro quo sexual harassment);
- Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity (hostile environment sexual harassment);
- Sexual Assault;<sup>7</sup>
- Dating Violence;<sup>8</sup>

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<sup>6</sup> For the purposes of this Policy, a student is a person who has gained admission to the University, including a person who is not officially enrolled for a particular semester. Students include, but are not limited to, persons registered in any program or division of the University, whether for courses or research, and whether or not they are candidates for a degree or certificate. They also include persons who are on leave or suspended or continuing matriculants for any degree or certificate, as well as persons registered during any preceding terms and who have not since that time earned the degree or certificate or withdrawn from the University. High school students enrolled in Columbia University programs or activities are also subject to the University's Title IX Policy and Procedures in addition to the applicable codes of conduct for their program (the Related Misconduct definitions and procedures do not apply to high school students).

<sup>7</sup> As defined in the Clery Act.

<sup>8</sup> As defined in the VAWA amendments to the Clery Act.

- Domestic Violence;<sup>9</sup> or
- Stalking<sup>10</sup>

Conduct that does not meet the requirements of Title IX Sexual Harassment may still be covered by this Policy if it meets the definition of Related Misconduct. This includes conduct that may occur on-campus or in connection with a University program or activity but does not meet the definition of Title IX Sexual Harassment. It also includes conduct that occurs outside of University programs or activities or outside of the United States (including but not limited to study abroad programs) regardless of whether the Complainant is affiliated with the University.

All other forms of sex discrimination are addressed in accordance with the University's [anti-discrimination and discriminatory harassment policies and procedures](#).

**If a person accused of Prohibited Conduct is:**

- A Columbia University or Teachers College student, the matter will be addressed under this Policy.
- A Columbia University employee (faculty or staff) or active alumnus,<sup>11</sup> the matter will be addressed under the University's [Anti-Discrimination and Discriminatory Harassment Policies and Procedures for Faculty and Staff](#).
- A Barnard student or employee (faculty or staff), the matter will be addressed under the [Barnard College Policy Against Discrimination and Harassment and Related Procedures](#).
- A Teachers College employee (faculty or staff), the matter will be addressed under the [Teachers College Policies and Procedures](#).
- A high school student enrolled in a Columbia University program or activity, allegations of Title IX Sexual Harassment will be addressed under this Policy (allegations that do not meet the definition of Title IX Sexual Harassment will be addressed under the program's code of conduct).
- Not a member of the University community or their identity is unknown, action by the University may be more difficult and, at times, impossible. Although the University may not, in certain instances, be in a position to conduct an investigation, it will offer impacted individuals appropriate supportive measures, resources, and remedies, such as campus and local support options and/or providing assistance with contacting law

<sup>9</sup> As defined in the VAWA amendments to the Clery Act.

<sup>10</sup> As defined in the VAWA amendments to the Clery Act.

<sup>11</sup> An active alumnus is an individual who graduated from a Columbia University undergraduate or graduate degree-granting program (i.e., non-certificate programs) within the past six months, or an alumnus who is regularly involved in one or more of Columbia University's associations or activities, or an alumnus who represents Columbia University in an official capacity.

enforcement if requested.

### III. PROHIBITED CONDUCT

Title IX Sexual Harassment and Related Misconduct (collectively referred to as “Prohibited Conduct”) can occur between strangers, acquaintances, or people who know each other well, including people involved in a romantic relationship. Misconduct can be committed by anyone regardless of gender identity and can occur between people of the same or a different sex or gender. One form of Prohibited Conduct can occur separately from or simultaneously with another form of Prohibited Conduct.

#### A. Definitions of Prohibited Conduct

The Office will evaluate whether reported misconduct meets the definition(s) of Prohibited Conduct under this Policy. If the Office determines that alleged misconduct is not within the scope of Title IX, it will assess whether the behavior meets the definition of Related Misconduct under this Policy. Conduct may meet the definition of more than one Policy violation and/or may constitute both Title IX Sexual Harassment and Related Misconduct. Behaviors that meet the definition of Title IX Sexual Harassment must be investigated and adjudicated using the Title IX procedures even if those behaviors also constitute Related Misconduct. [Appendix E](#) contains scenarios that help illustrate some applications of the Policy.

#### **Title IX Sexual Harassment**

Title IX Sexual Harassment, as an umbrella category, means conduct on the basis of sex that meets the definition of Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking. The definitions of Title IX Sexual Harassment are mandated by federal law.

#### Title IX Sexual Harassment

- An employee conditioning the provision of an aid, benefit, or service of the University on participation in unwelcome sexual conduct (quid pro quo sexual harassment).
- Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity (hostile environment sexual harassment).

## (1) Title IX Sexual Assault

- Title IX Rape:<sup>12</sup> Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object, without the affirmative consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (except Statutory Rape). Both attempted Rape and completed Rape are prohibited by this Policy.<sup>13</sup>
- Title IX Non-Consensual Sexual Contact:<sup>14</sup> Contact, for the purpose of sexual degradation, sexual gratification, or sexual humiliation, without the victim's affirmative consent, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity, that involves: (i) the intentional touching of the victim's clothed or unclothed body parts; or (ii) the non-consensual touching by the victim of the Respondent's clothed or unclothed body parts (i.e., making the victim touch the Respondent).
- Title IX Incest: Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Title IX Statutory Rape: Non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.

Title IX Dating Violence: Any violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Title IX Domestic Violence: Any felony or misdemeanor crime of violence committed by: a current or former spouse or intimate partner of the victim; a person with whom the victim shares a child in common; a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; a person similarly situated to the spouse of the victim under New York's domestic or family violence laws; or any other person against an adult or youth victim who is protected from that person's acts under New York's domestic or family violence laws.

Title IX Stalking: Engaging in a course of conduct directed at a specific person, on the basis of sex, that would cause a reasonable person to: fear for their safety or the safety of others; or suffer substantial emotional distress.

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<sup>12</sup> This definition reflects the 2025 update to the National Incident-Based Reporting System (NIBRS) User Manual.

<sup>13</sup> Attempted Rape means to make an effort to do, accomplish, or effect a Rape.

<sup>14</sup> This definition reflects the 2025 update to the National Incident-Based Reporting System (NIBRS) User Manual.

For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- A reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

### **Related Misconduct**

Related Misconduct may include, but is not limited to, conduct that occurs off-campus and outside of University programs and activities, outside of the United States, and/or does not otherwise meet the definition of Title IX Sexual Harassment.

Rape: Sexual conduct without the affirmative consent of a person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (except Statutory Rape), that meets any of the following criteria:

- i. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object; or
- ii. Penis to vagina sexual contact, penis to anus sexual contact, or contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina.<sup>15</sup>

Both attempted Rape and completed Rape are prohibited by this Policy.

Statutory Rape: Non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York State, the statutory age of consent is 17 years old.

Non-Consensual Sexual Contact: Contact, for the purpose of sexual degradation, sexual gratification, or sexual humiliation, without the victim's affirmative consent, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity, that involves:

- the intentional touching of the victim's clothed or unclothed body parts;
- the non-consensual touching by the victim of the Respondent's clothed or unclothed body parts (i.e., making the victim touch the Respondent); or

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<sup>15</sup> This definition reflects New York State's Rape is Rape legislation, which went into effect on September 1, 2024.

- the emission of ejaculate on the clothing or body of another person.

Incest: Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Dating Violence: The use of physical violence, coercion, threats, isolation, stalking, or other forms of emotional, psychological, sexual, technological, or economic abuse directed toward a person with whom the Respondent is or has been in a social relationship of a romantic or sexually intimate nature. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Dating violence can be a single act or a pattern of behavior in relationships. Examples of this type of violence include hitting, kicking, punching, strangling, or other violent acts, including violence or threats of violence to oneself under certain circumstances, and violence or threats of violence to one's partner, or the family members, friends, pets, or personal property of the partner.

Domestic Violence: The use of physical violence, coercion, threats, isolation, stalking, or other forms of emotional, psychological, sexual, technological, or economic abuse directed toward:

- a current or former spouse or intimate partner;
- a person with whom one shares a child;
- or anyone who is protected from the Respondent's acts under the domestic or family violence laws of New York.

Domestic Violence includes, but is not limited to, behavior that seeks to establish power and control over another person by causing fear of physical or sexual violence. Domestic violence can be a single act or pattern of behavior, depending on the frequency, nature, and severity of the conduct. Examples of this type of violence include hitting, kicking, punching, strangling, or other violent acts, including violence or threats of violence to oneself under certain circumstances, and violence or threats of violence to one's partner, or the family members, friends, pets, or personal property of the partner.

Sexual Exploitation: Non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or the benefit or advantage of anyone other than the person being exploited, or any other illicit purpose, including situations where there is a reasonable expectation of privacy. Acts of sexual exploitation include, but are not limited to:

- Streaming, sharing, distribution, or "sexting" of images, photography, video, or audio recordings of sexual conduct, nudity, or state of undress, whether authentic or created

or enhanced through technology, without the knowledge and affirmative consent of all participants;

- Explicitly threatening to stream, share, or distribute images, photography, video, or audio recordings of sexual conduct, nudity, or state of undress, whether authentic or created or enhanced through technology, without the affirmative consent of all participants, for any illicit purpose;
- Observing, photographing, videotaping, or making any other visual or audio recording of sexual conduct, nudity, or state of undress, when and where there is a reasonable expectation of privacy, without the knowledge and affirmative consent of all participants;
- Exposing one's genitals in non-consensual circumstances; or
- Inducing incapacitation for the purpose of making another person vulnerable to any form of Prohibited Conduct under this Policy.

Stalking: A course of unwanted attention that is repeated or obsessive, directed toward an individual or a group and that is reasonably likely to cause alarm, fear, or substantial emotional distress. Stalking may take many forms, including, but not limited to, lying in wait for, monitoring, or pursuing contact. Stalking may occur in person or through telephone calls, text messages, unwanted gifts, letters, e-mails, surveillance, or other types of observation and communication.

Sexual Harassment: Sexual harassment is unwelcome conduct of a sexual nature, or based on sex or gender, that creates a hostile environment. A hostile environment arises when the unwelcome conduct unreasonably interferes with a person's ability to participate in or benefit from a University education program or activity, or creates an intimidating, threatening, demeaning, or offensive academic, campus, work, or living environment.

Sexual Harassment encompasses verbal, visual, or physical conduct. A single, isolated incident may, based on the facts and circumstances, constitute Sexual Harassment. When evaluating allegations of Sexual Harassment, the University will consider the totality of the known circumstances from the point of view of a reasonable person, including, but not limited to:

- The frequency, nature, and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the Complainant's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct; and

- Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities.

The following types of conduct may constitute Sexual Harassment under this Policy:

- Submission to unwelcome conduct of a sexual or gender-based nature is made either explicitly or implicitly a term or condition of a person's academic, co-curricular, or student life activities, or is used as the basis for academic evaluation, grades, advancement, or participation/status in student life activities. Sexual Harassment can occur whether a person resists and suffers the threatened harm, or a person submits and avoids the threatened harm, and can occur even if the person delays in reporting the harm.
- Intentional and non-consensual physical contact that serves no legitimate purpose and either (i) involves contact with parts of another person's body that may cause the person to feel degraded or abused, or (ii) is for the purpose of gratifying the Respondent's sexual desire. Such contact includes, but is not limited to, touching, punching, patting, grabbing, poking, or brushing against another person's intimate body parts.
- Unwanted sexual advances, propositions, requests for sexual contact, or other verbal, visual, or physical conduct of a sexual nature or based on a person's sex, gender, gender-identity, or sex or gender stereotypes. This includes, but is not limited to, subtle or obvious pressure for unwelcome sexual activities, or sexually oriented gestures, noises, remarks, jokes, comments, or questions about a person's sexual experience, sexuality, or gender.
- Verbal harassment either for exhibiting what is perceived as a stereotypical characteristic of a person's sex or gender or for failing to conform to stereotypical notions of sex or gender.
- Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic in nature.

Non-Consensual Violence During Sexual Activity: Any violence during sexual activity directed toward a person without the person's affirmative consent. Non-consensual violence during sexual activity may include strangulation, biting, hitting, slapping, kicking, punching, or other forms of physical violence.

Aiding Prohibited Conduct: A person aids Prohibited Conduct if, with the intent to promote or facilitate such conduct, that person helps another person commit the Prohibited Conduct.

Violation of a No-Contact Directive:<sup>16</sup> A person violates a No-Contact Directive if they knowingly violate any of the conditions of a No-Contact Directive issued by the University in connection with a report of Prohibited Conduct under this Policy.

Retaliation:<sup>17</sup> Any adverse action or threatened action, as defined below, taken or made, personally or through a third-party, against a Complainant, a Respondent, or any other individual (such as a witness, third-party reporter, or advisor) because the individual has made a report, engaged with the Office, and/or participated or refused to participate in a resolution process under this Policy.

- All community members, not just the Parties, are prohibited from engaging in Retaliation. Retaliation can refer to actions or threatened actions by any individual, including students and others who are not engaged with the Office.
- Retaliation includes threatening, intimidating, coercing, harassing, or any other conduct that would discourage a reasonable person from reporting Prohibited Conduct, receiving supportive measures and accommodations, or participating in a resolution process under this Policy.
- Retaliation includes maliciously or purposefully interfering with, threatening, or damaging the academic or professional career of another individual because the individual has engaged or refused to engage with the Office and/or a resolution process under this Policy.
- Reports that are intentionally false or found to have been made in bad faith may constitute Retaliation and/or may be considered by the Sanctioning Officer if a Respondent is otherwise found Responsible for a Policy violation.<sup>18</sup> Reports of Prohibited Conduct made in good faith, even if the Respondent is found Not Responsible or the allegations are ultimately determined not to establish a Policy violation, are not considered Retaliation.
- Retaliation may also include violations of a No-Contact Directive and/or other supportive measures during the course of a resolution process under this Policy.

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<sup>16</sup> Alleged NCD violations may be handled as part of a pending investigation under this Policy or be investigated separately through the Student Conduct process under the University's [Standards and Discipline Policy](#). The determination of whether an alleged NCD violation will be handled under this or any other University policy is within the sole discretion of the Office in conjunction with the appropriate partner office(s).

<sup>17</sup> Alleged Retaliation that occurs between the Parties to a pending matter, or between a Party and another individual, may be handled as part of a pending investigation under this Policy or be investigated separately through the Student Conduct process under the University's [Standards and Discipline Policy](#). The determination of whether alleged Retaliation will be handled under this or any other University policy is within the sole discretion of the Office in conjunction with the appropriate partner office(s).

<sup>18</sup> For example, Retaliation could include a threat of falsely reporting the Complainant or witnesses of having committed Prohibited Conduct to deter them from participating in an imminent or pending resolution process under this Policy.

Nothing in this Policy prevents an individual from discussing their experience from their perspective.

## B. Important Policy-Related Concepts

This section provides additional guidance regarding Prohibited Conduct. The Glossary contained in [Appendix C](#) contains a comprehensive list of definitions for terms used in this Policy.

**Affirmative Consent:** Consensual sexual conduct requires affirmative consent. Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

- It is important not to make assumptions about consent. If there is confusion or ambiguity, participants need to stop sexual activity and communicate about each person's willingness to continue.
- Consent cannot be procured by the use of physical force, compulsion, threats, intimidating behavior, or coercion.
- Consent cannot be obtained from, or given by, a person who is incapacitated.<sup>19</sup>
- Consent is required regardless of whether the person initiating the sexual activity is under the influence of alcohol and/or drugs.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent to engage in sexual conduct with one person does not imply consent to engage in sexual conduct with another person.
- Consent can be withdrawn at any time, including after it is initially given. When consent is withdrawn or can no longer be given, sexual activity must stop.
- The definition of consent does not vary based upon relationship status. Previous relationships or previous consent to sexual activity are not consent to sexual activity at another time. However, established patterns of consent in a specific relationship may be considered when evaluating whether consent was given on a particular

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<sup>19</sup> See definition of Incapacitation.

occasion. Accepting a meal, a gift, or an invitation to socialize, including on dating apps, does not imply or constitute consent to sexual activity.

**Incapacitation:** Incapacitation occurs when a person lacks the ability to knowingly choose to participate in sexual conduct.

- Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, age, temporary or permanent mental or physical incapacity, or if a person otherwise cannot consent.
- Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. See below for additional information on how drugs and alcohol affect consent.
- Whether sexual conduct with an incapacitated person (other than a person deemed legally incapacitated because of their age) constitutes Prohibited Conduct depends on whether the Respondent knew or should have known of the Complainant's incapacitation based on objective and reasonably apparent indications when viewed from the perspective of a reasonable, sober person in the Respondent's position.
- In New York State, the age of consent is 17 years old. This means that a person who is 16 years old or younger is deemed legally incapable of providing consent to sexual conduct regardless of whether they intend to give consent. When incapacity to consent is due to age, it is irrelevant whether the Respondent knew the Complainant was less than 17 years old or whether the Respondent believed that the Complainant was 17 years old or more at the time of the alleged misconduct.

### **How Drugs and Alcohol Affect Consent**

The use of alcohol or other drugs is never an excuse for misconduct and never diminishes anyone's responsibility to obtain affirmative consent. The use of alcohol or other drugs never makes someone at fault for experiencing misconduct.

The impact of alcohol or other drugs varies from person to person and there is no specific amount of alcohol or drugs consumed that leads to incapacitation. The amount of alcohol and/or drugs a person consumes will not ordinarily be sufficient, without other evidence, to prove that they were incapacitated under this Policy. In evaluating whether a person is incapacitated due to alcohol, drugs, or any other intoxicant, the following factors will be considered:

- Whether or not the Complainant understood the “who, what, when, where, why and/or how” of the sexual conduct.
- How the Complainant was physically affected by the consumption of alcohol or drugs, which may include, but is not limited to, slurred or incomprehensible speech, vomiting, unsteady gait, imbalance, bloodshot eyes, combativeness, emotional volatility, or notable change in personality.

Another effect of alcohol or drug consumption can be memory impairment or forgetting the entirety or portions of an event (sometimes referred to as “black-out” or “brown-out”). A person may experience this symptom while appearing to function “normally,” including communicating through words or actions that seem to express an interest in engaging in sexual conduct. Whether sexual conduct with a Complainant who is “blacked-out” constitutes Prohibited Conduct depends on the presence or absence of the observable factors that would indicate to a reasonable, sober person that the Complainant is incapacitated. Total or partial loss of memory, without more, is insufficient to demonstrate incapacitation.

The use of alcohol or drugs can create an atmosphere of confusion and can lower inhibitions. All students should be aware of and carefully consider the potential consequences of alcohol or drug use, and of the potential consequences of engaging in sexual activity when anyone involved may be affected by alcohol or drugs. Every individual is responsible for ensuring there is mutual affirmative consent prior to engaging in sexual conduct regardless of whether their judgment may be impaired by the use of alcohol or drugs.

**Coercion:** Coercion is verbal and/or physical conduct, including intimidation and explicit or implied threats of physical, emotional, or other harm, that would reasonably place a person in fear of immediate or future harm and that is used to compel that person to engage in sexual conduct against their will.

- Coercion is more than an effort to persuade, entice, or attract another person to engage in sexual conduct. When a person makes clear that they do not want to participate in a particular form of sexual conduct, that they want to stop, or that they do not want to go beyond a certain type of sexual conduct, continued pressure can be coercive if it would reasonably place that person in fear of immediate or future harm.
- In evaluating whether coercion was used, the frequency, duration, and intensity of the Respondent’s verbal or physical conduct or threats are all relevant, as is the degree of any confinement or isolation to which the person may have been subjected. Coercion may be evidenced by an interaction that can reasonably be interpreted as indicating

that the Complainant will be harmed or restrained if they do not engage in sexual conduct.

**Intimidation:** Intimidation is any threat of violence or other threatening behavior directed toward another person or group that reasonably leads the target(s) to fear for their physical well-being or to engage in sexual conduct for self-protection. A person's size alone does not constitute intimidation; however, a person can use their size or physical power in a manner that constitutes intimidation.

**Force:** Force refers to the use or threat of physical violence to compel someone to engage in sexual activity. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking, strangulation, and/or brandishing or using any weapon.

### **C. Resources for Students & Others Affected by Prohibited Conduct**

#### **Immediate Assistance**

The University encourages all students and others impacted by Prohibited Conduct to seek assistance. Seeking assistance promptly may be important to ensure physical safety or to obtain medical care and/or emotional support. It may also be necessary to preserve evidence, which can assist the Office and/or law enforcement in responding effectively. Assistance is available twenty-four hours a day, seven days a week, throughout the year. [Appendix A](#) contains contact information for the campus and community resources available to help.

#### **Confidential Resources**

Some resources on campus are confidential and will not share any identifying information with others, except as required by law in certain emergencies [see [Appendix B](#) for more information on confidential resources and reporting obligations]. Confidential resources on campus include Sexual Violence Response, University Chaplains, Counseling and Psychological Services (Morningside), Mental Health Services (CUIMC), Disability Services, the Ombuds Office, and healthcare providers. Confidential resources can provide students with immediate and long-term help. They will listen, help students access assistance if needed, and explain options for obtaining additional support. They can also arrange for medical care or accommodations and accompany students, or arrange for someone to accompany students, to seek such care. These individuals are familiar with the University's resolution processes, can explain what to expect, and provide support while disciplinary or criminal processes are pending. Students may use these confidential resources even if they decide not to make a report or participate in a University resolution or criminal justice process. Off-campus community resources also offer confidential resources to individuals who may be impacted by Prohibited Conduct [see [Appendix A](#) for contact information for both on-campus and off-campus resources].

## **Non-Confidential But Private Resources**

Other resources are required by the University to provide information about Prohibited Conduct to the Office, but will protect privacy to the greatest extent possible and share information only on a need-to-know basis [see [Appendix B](#) for more information on reporting obligations].<sup>20</sup> This includes the Title IX Coordinator(s) and designees who are required by federal law to address allegations of sex discrimination and harassment and to institute corrective measures if they receive information that may indicate a Policy violation. The Office is also a non-confidential neutral resource available to all community members, whether they are a Complainant or Respondent, and is responsible for providing support and assistance immediately following an incident, during any resolution process, and throughout a student's time at the University, as well as investigating, adjudicating, or otherwise resolving reports of Prohibited Conduct. Non-confidential resources also include faculty, most staff, and students engaged in an official capacity, such as Resident Advisors.

## **IV. PROCEDURES**

### **A. Reporting Misconduct**

#### **How to Make a Report**

If you believe you have been subjected to, witnessed, or have otherwise learned of sexual harassment, sexual assault, intimate partner violence, stalking, sexual exploitation, or retaliation you can make a report online, in-person, by mail, email, or phone, twenty-four hours a day, seven days a week, using the contact information listed below.<sup>21</sup> All reports will be automatically forwarded to the Office for review. Students may meet with the Title IX Coordinator or Office staff to learn more about the process before making a report or providing additional information about a previously filed report.

The University recognizes that students may be most comfortable disclosing Prohibited Conduct to a University employee they know well, such as a faculty member, coach, or student engaged in an official capacity, such as Resident Advisors. All University employees, other than those working in a confidential capacity, are required to report Prohibited Conduct to the Office. University employees will protect students' privacy to the greatest extent possible and share information with other staff only on a need-to-know basis.

In cases where Prohibited Conduct is reported by someone other than the individual who

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<sup>20</sup> For example, if the Office is seeking housing accommodations for a student, Office staff must speak to Columbia Residential—thus they are not strictly confidential.

<sup>21</sup> While this Policy identifies the University employees and/or offices that typically perform certain roles or duties, the Title IX Coordinator may designate other University offices, employees, or external professionals to perform any roles or duties described herein.

experienced the alleged misconduct (the Complainant), such as by a faculty member, Resident Advisor, friend, roommate, or anonymous source, the Office will promptly notify the Complainant that a report has been received. The Policy will apply in the same manner as if the Complainant made the initial report.

#### Online Reporting

A report can be made online on the [Sexual Respect](#) or [Office of Institutional Equity](#) websites.

#### Contact Information for Title IX Coordinators and Designees

**Marjory D. Fisher**, Title IX Coordinator and Associate Vice President  
Office of Institutional Equity, Columbia University  
E-mail: [TitleIX@columbia.edu](mailto:TitleIX@columbia.edu) or [mdf2166@columbia.edu](mailto:mdf2166@columbia.edu)  
Phone: 212-853-1276  
Address: 80 Claremont Avenue, 4th Floor, New York, N.Y. 10027

**Joanne Delgadillo**, Interim Nondiscrimination and Title IX Coordinator  
Office of Nondiscrimination and Title IX, Barnard College  
E-mail: [nondiscrimination@barnard.edu](mailto:nondiscrimination@barnard.edu)  
Phone: 212-854-0037  
Address: 49 Claremont Avenue, 1st Floor, New York, N.Y. 10027

**Allison Nicole Antwi**, Title IX Coordinator and Assistant Vice President for Equity and Compliance Office of the Vice President for Diversity and Community Affairs, Teachers College  
E-mail: [Ana2172@tc.columbia.edu](mailto:Ana2172@tc.columbia.edu)  
Phone: 212-678-3391  
Address: 525 West 120th Street, #128C, New York, N.Y. 10027

**Colleen S. Walsh**, Senior Director of Title IX Investigations and Deputy Title IX Coordinator, Student Concerns  
Office of Institutional Equity, Columbia University  
E-mail: [cw3385@columbia.edu](mailto:cw3385@columbia.edu)  
Phone: 212-851-2226  
Address: 80 Claremont Avenue, 4th Floor, New York, N.Y. 10027

**Jazmin Taylor**, Senior Director of Investigations and Deputy Title IX Coordinator, Faculty and Staff Concerns  
Office of Institutional Equity, Columbia University  
Email: [jt2903@columbia.edu](mailto:jt2903@columbia.edu)  
Phone: 212-854-5511  
Address: 80 Claremont Avenue, 4th Floor, New York, N.Y. 10027

**Jacqueline Blackett**, Deputy Athletics Director and Deputy Title IX Coordinator  
Columbia University  
E-mail: [jpb3@columbia.edu](mailto:jpb3@columbia.edu)  
Phone: 212-854-2544  
Address: 3030 Broadway, New York, N.Y. 10027

**Victoria Nazario**, Director of Sponsored Projects Finance and Reporting and Title IX  
Liaison  
Lamont-Doherty Earth Observatory  
E-mail: [vicky@admin.ldeo.columbia.edu](mailto:vicky@admin.ldeo.columbia.edu)  
Phone: 854-365-8495

**Rachel Ferrari**, Executive Director for the Protection of Minors  
Office of Institutional Equity, Columbia University  
E-mail: [rf2814@columbia.edu](mailto:rf2814@columbia.edu)  
Phone: 212-853-3731  
Address: 80 Claremont Avenue, 4th Floor, New York, N.Y. 10027

## **Reporting to the Police**

Nothing in this Policy prevents a person from seeking the assistance of state or local law enforcement in addition to or instead of any University process. Students may report misconduct to the New York City Police Department, the Manhattan District Attorney's Office, New York State Police, or the local law enforcement agency where the misconduct occurred. The University does not require a Complainant to report misconduct to law enforcement; however, the resources list in [Appendix A](#) provides information to assist a Complainant with contacting law enforcement. Additionally, the University's Public Safety personnel, the Title IX Coordinator, and members of the Office are familiar with New York City and New York State law enforcement processes and can help to explain and connect students to those processes. Confidential support resources or University personnel can also accompany any student requesting support to the Police Department or District Attorney's Office. They cannot serve, however, as a substitute for legal advice on these matters and any questions about criminal law violations should be addressed to law enforcement.

The University and criminal justice systems work independently from one another. Law enforcement authorities do not determine whether a violation of this Policy has occurred and the criminal justice system uses different standards related to proof and evidence. A University and criminal justice process may operate simultaneously. The Office may need to temporarily delay an investigation while law enforcement gathers evidence. Temporary delays should not last more than ten (10) days except when law enforcement specifically requests and justifies a longer delay. The Office is not required to wait for the conclusion of any related criminal proceeding to begin or continue its process. If either Party declines to participate in the Office's review of a complaint

due to a concurrent criminal investigation, a statement submitted by the Party after the resolution process has concluded will not be considered “new evidence” for the purpose of appeal.

### **Time for Reporting**

The University encourages students and others to report Prohibited Conduct as soon as possible to maximize the University’s ability to respond promptly and effectively. Although the University does not limit the time for submitting a report, prompt reporting increases the University’s ability to investigate and respond effectively to complaints of misconduct. Additionally, the timing of a report to the University may affect the University’s ability to proceed with an investigation or implement sanctions on a Respondent found responsible for a Policy violation. For example, if a Respondent is no longer enrolled at the University at the time the report is made, the University is limited in the action it can take. The University will still provide support for a Complainant and take steps to end the Prohibited Conduct, prevent its recurrence, and remedy its effects.

### **Public Awareness Events**

The University supports public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, survivor speak outs, and other forums and advocacy meetings that help inform the need for campus-wide education and prevention efforts. In accordance with federal guidance and New York State law, the disclosure of Prohibited Conduct at such events, forums, and meetings is not considered a report to the University for the purposes of prompting an investigation into a particular incident.

## **B. Rights and Responsibilities**

The University provides accessible, prompt, and fair methods of addressing reports of Prohibited Conduct that treat Complainants and Respondents with respect, dignity, and sensitivity, and offers appropriate support.

### **New York State Student Bill of Rights**

Both New York State law and the University’s process give the Complainant and the Respondent the right to:

- Make a report to local law enforcement and/or state police.
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously.
- Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the University.

- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.
- Be treated with dignity and receive from the University courteous, fair, and respectful health care and counseling services, where available.
- Be free from any suggestion that the Complainant is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations.
- Describe the incident to as few University representatives as practicable and not be required to unnecessarily repeat a description of the incident.
- Be protected from retaliation by the University, any student, the Respondent, and/or their friends, family, and acquaintances within the jurisdiction of the University.
- Have access to at least one level of appeal of a determination.
- Be accompanied by an advisor of choice who may assist and advise a Complainant or Respondent throughout the judicial or conduct process, including during all meetings and hearings related to such process.
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the University.

Additional specific rights and responsibilities are afforded to both Parties when a Formal Complaint is filed and throughout the resolution process.

### **Privacy & Confidentiality**

The University will only reveal information, including the identity of any Complainant, Respondent, or witness, to those who need to know the information in order to carry out their duties and responsibilities or as otherwise provided by law.<sup>22</sup> The University will also maintain as confidential any supportive measures provided to a student except as necessary to provide the supportive measures.

The Office will inform all participants in a resolution process and other University affiliates that they are expected to maintain the privacy of the process. The Office seeks to protect the privacy of Parties and witnesses in a manner that does not restrict the ability of the Parties to gather and

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<sup>22</sup> The University will only share such information in accordance with the Family Educational Rights and Privacy Act (FERPA), FERPA Regulations, and the University's FERPA policies, or as required by law, or to carry out the purposes of the Title IX Regulations or any investigation arising under this Policy. Information collected by the University may be subpoenaed in civil or criminal proceedings.

present evidence and obtain appropriate support. Parties may always seek the assistance of family members, friends, counselors, therapists, clergy, doctors, attorneys, or similar resources. Parties are not prevented from discussing, from their perspective, the incident(s) that are the subject of any resolution process.

### **Privacy Agreements**

Before obtaining access to evidence, an Investigative Report, or participating in a hearing, the Parties and their advisors must sign an agreement:

- To not disseminate any evidence submitted by another Party or witness or obtained from any source other than the Party themselves. This includes evidence provided during the evidence review process, as part of the Investigative Report, or at a hearing;
- To not disseminate any portion of the Investigative Report;
- To not disseminate testimony heard or evidence obtained during a hearing; and
- To not use such testimony or evidence, or any portion of the Investigative Report, for any purpose unrelated to a formal investigation under this Policy that would knowingly or recklessly compromise the integrity of the process.

Witnesses in a Title IX matter must sign a similar agreement prior to the start of a hearing. Once signed, this agreement may not be withdrawn, including if any Party withdraws from the process. Parties to an informal resolution process may also be asked to sign a Privacy Agreement before the commencement of the process, if applicable. The University will take reasonable steps to prevent and address the unauthorized disclosure of information and evidence obtained solely as a result of participation in any resolution process under this Policy. Failure to comply with a signed Privacy Agreement may result in disciplinary action.

### **Redactions**

The Office will redact names and other identifying information of students and other individuals from case materials except to the extent that doing so would interfere with the purpose of Title IX. The Office will provide redacted and watermarked copies of case materials as appropriate in a specific resolution process to Parties and their advisors, if applicable, provided that such persons have signed the required Privacy Agreement. The Office retains sole discretion over redactions consistent with this Policy.

### **Prohibition on Recording**

The unauthorized recording or streaming of any meeting or resolution process or unauthorized copying of any materials related to the resolution process by any means is prohibited. Parties,

advisors, and witnesses are prohibited from recording any meeting or resolution process under this Policy. Unauthorized recording and/or copying includes, but is not limited to, audio or video recording, streaming, photographing, transcribing, downloading, or any other form of duplication that conflicts with the spirit of this directive. Failure to comply with this directive may result in disciplinary action.

## **Advisors**

The Complainant and Respondent may be accompanied to any meeting or resolution process by one advisor of their choice who may be, but is not required to be, an attorney. Witnesses or others involved in the process are not permitted to bring an advisor except that witnesses who have an attorney-advisor may be accompanied by that attorney-advisor to any meeting or hearing.

Advisors may support the Party and provide advice throughout the resolution process. A Party may talk quietly with their advisor or pass notes in a non-disruptive manner during meetings or hearings. The advisor may not intervene in meetings with the Office. During investigative interviews, an advisor may address the Investigative Team to seek clarity, but these interactions should be limited. In addition, while advisors may provide guidance and assistance throughout the process, all written submissions must be authored by the Parties.

Parties are expected to maintain the same single advisor throughout the process and may, but are not required to, bring their advisor to all meetings. Retaining a single, consistent advisor enables the process to move forward in an efficient fashion. Efforts will be made to accommodate the schedules of the Parties and their advisors; however, the process will not be unduly delayed due to an advisor's unavailability. If a Party wants to change their advisor, they must provide written notice to their Case Manager or the Investigative Team.

Advisors are expected to complete required training before any hearing or informal resolution process and abide by these guidelines and others contained in the Rules of Decorum [see [Appendix D](#)].<sup>23</sup> If an advisor fails to abide by the guidelines, they may be prohibited from attending ongoing or future meetings, and the Party may be required to obtain an alternative advisor. Advisors will also be expected to sign the same Privacy Agreement as the Parties prior to receiving any confidential case materials.

### Attorney-Advisors in Formal Investigations

The University will provide, upon request by a student Party to a formal investigation, an attorney-advisor at no cost to the student from a predetermined pool of trained attorney-advisors. Once the University assigns an attorney-advisor, the student may not request a different attorney-advisor from the University, but may independently select another advisor or retain counsel at the Party's

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<sup>23</sup> The required training for an advisor includes a video presentation and a meeting with the Title IX Coordinator or designee.

expense; if that occurs, the attorney-advisor originally provided by the University will withdraw from that role. The Office will notify the other Party if either Party requests an attorney-advisor. If a non-participating Party in a Title IX matter does not have an advisor, the University will assign the Party an attorney-advisor of the University's choice, free of charge, to conduct questioning at the hearing. An advisor is not prohibited from being a witness in a matter.

### Role of Advisors in Informal Resolutions

For matters that begin with an informal resolution process, the Parties may bring their advisor of choice, but a University appointed attorney-advisor will not be provided. Parties to a matter that begins as a formal investigation but proceeds to an informal resolution process may continue with any University-appointed attorney-advisor that was previously assigned to them free of charge. Informal resolutions are Party-driven processes during which an advisor may serve as the Party's support person and may help to prepare participants to engage in the process.

### **Conflict of Interest or Bias**

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. Additionally, no one in an investigative or decision-making position in the process may have a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent.

The University requires any participant in any resolution process, including a Complainant, Respondent, investigator, hearing panelist, sanctioning officer, or appellate officer, to disclose to the Office any potential or actual conflict of interest. A conflict of interest would include, for example, situations where an individual is a Party's family member, close friend, current or former faculty member, advisor, or any other similar relationships.

A Complainant or Respondent who believes that any individual involved in a resolution process has a conflict of interest or bias must submit a written request to the Title IX Coordinator that the individual not participate in the process. This request must be made within two (2) business days after the Office provides notification of the individuals involved in the resolution process and should include a description of the perceived conflict. The Title IX Coordinator will issue a written response to the requesting Party generally within seven (7) business days. If the Title IX Coordinator determines that an actual or potential conflict exists, both Parties will be informed of the determination and any resulting change in assignment.

The fact that an individual is the same or different gender, race, etc., of a Party or individual involved in the process is not a conflict and requests for changes in staffing on this basis will not be considered. The following also do not constitute conflicts of interest or bias under this Policy:

- Submission of a complaint or report in any other harassment or discrimination proceeding.
- Engagement in or facilitation of an investigation in any other harassment or discrimination proceeding.
- Employment status, title, or previous employment.
- Participation in or facilitation of any Title IX or sexual harassment trainings.

If the Title IX Coordinator determines that an actual or potential conflict of interest or bias exists, the University will take steps to address the conflict.

### **Disability and Reasonable Accommodations**

The University adheres to the requirements of the Americans with Disabilities Act of 1990, as amended; Sections 504 and 508 of the Rehabilitation Act of 1973, as amended; and all other federal and state laws and regulations prohibiting discrimination on the basis of disability. The University is committed to providing individuals with disabilities equal access and opportunity and strives in its policies and practices to ensure the full participation of individuals with disabilities in all aspects of University life.

Any student participating in a resolution process under this Policy may request reasonable accommodations for disclosed disabilities from the Office of Disability Services. The Office will work collaboratively with Disability Services to ensure that approved disability-related reasonable accommodations are honored, as applicable, throughout any process under this Policy. Accommodations will be considered if they are appropriate and do not fundamentally alter the process. A student must inform the Office within two (2) business days of submitting a request to Disability Services that a request has been made. The Office encourages students to make any such requests as early in the resolution process as possible to avoid unnecessary delay. The Office will not provide disability accommodations that have not been specifically requested by a student from Disability Services, even where that student may be receiving accommodations in other University programs and activities.

### **Amnesty Policy for Students: Related Alcohol and Drug Violations**

The health and safety of every student at the University is of utmost importance. The University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at or near the time that Prohibited Conduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report Prohibited Conduct to University employees. Students (including Complainants, Respondents, witnesses, and bystanders) acting in good faith who disclose any incident of Prohibited Conduct to a University employee or law enforcement will not

be subject to subsequent disciplinary action by the University for violations alcohol and/or drug use policies occurring at or near the time of the Prohibited Conduct. This does not apply to those who use alcohol or drugs as a weapon or to facilitate an assault.

### **Time Frames**

The University makes every reasonable effort to ensure that complaints are resolved as expediently and efficiently as possible. Many complaints may require extensive review and time frames will vary depending on the complexity of the allegations and the nature of the alleged misconduct. The Office strives to complete the investigation and determination process within 120 business days after receiving a Formal Complaint of Prohibited Conduct. Generally, informal resolution processes are less time intensive than an investigation and determination process. Time frames may be extended for good cause as necessary to ensure the integrity and completeness of the process. The reasons for extension of the time frame may include, but are not limited to: compliance with a request by law enforcement; a limited accommodation of the availability of the Parties, their advisors, and witnesses; students on leave; exam periods, school breaks, or vacations; the need for language assistance or accommodation of disabilities; and the complexities of a specific investigation, including the number of witnesses and volume of information provided by the Parties, whether there is a cross-complaint or allegations of Retaliation, and the severity and extent of the alleged misconduct.

All communications with Parties and witnesses will be sent to their official University-issued email addresses. A Party or witness is deemed to be on notice of the communication on the date the communication was sent. Failure to acknowledge or respond to any communication will not necessarily delay the processes described in this Policy.

To enable prompt and efficient resolution of complaints, the Office requires that any individual involved in a resolution process respond to outreach from the Office within a reasonable time, which the Office generally considers to be two (2) business days. In addition, the Office expects its deadlines to be honored absent extraordinary circumstances. Requests for deadline extensions or to delay any portion of a resolution process, including a hearing, for good cause will be considered by the Office on a case-by-case basis. The Office will consider the reasonableness of the request, whether the requestor provided adequate notice, and whether the delay overly inconveniences any participant(s) in the resolution process. The Title IX Coordinator reserves the ability to consider and grant further pauses in the process. The Office will give periodic status updates to the Parties.

### **Requesting Confidentiality in Connection with a Report**

A Complainant or other student who reports Prohibited Conduct to the Office can request that the Office not disclose their identity to anyone else, including the person who allegedly committed the misconduct. While such a request may limit the University's ability to address the reported

misconduct, the Office will consider the request and honor it whenever possible. Considerations that are taken into account include: the Complainant's or reporter's articulated concerns; the best interests of the University community; fair treatment of all involved individuals; and the University's obligations to provide a safe and non-discriminatory environment for all students. The Office will promptly notify the student whether the University will be able to honor their request for anonymity. Regardless of whether the University is able to grant a request to keep the student's identity confidential, University personnel will not reveal information about reported Prohibited Conduct except to those who need to know in order to carry out their duties and responsibilities.

The Office must share the Complainant's name with the Respondent when a Formal Complaint is filed. The Office must also share the name of any person requesting a No-Contact Directive with the person to whom the No-Contact Directive will apply.

### **Participation**

The Complainant, Respondent, and witness(es) may decline to participate in any portion of the resolution process, including an investigation, hearing, or appeal, at any time without penalty. The Office may continue an investigation and determination process without the Complainant's or Respondent's participation. However, declining to participate or participating in a limited fashion may limit the information that can be formally reviewed and considered or render it impossible for the University to investigate. Additionally, declining to participate or participating in a limited fashion may preclude a Complainant or Respondent from submitting new information following the close of the evidence review, at a hearing, or on appeal. When a Party declines to participate and later returns to the process, the Office may have to take additional investigative steps, which may include an interview and/or evidence review.

Recurring refusal or failure to respond to outreach from the Office within the time frames required under this Policy may be interpreted as declining to participate and may preclude or limit participation in later stages of the process. A Complainant or Respondent may always submit an impact statement at the sanctioning stage, if applicable, without regard to earlier participation in the process. No negative inference will be drawn during any portion of the investigation and determination process from a Party's decision not to participate or respond to outreach. If a Party declines to participate in an investigation, the Office will continue to update each Party throughout the process.

### **Withdrawal From University While a Matter Is Pending**

When a Respondent leaves the University for a specified period of time (such as one semester or term) or withdraws from the University while a matter is pending, the resolution process may continue. A Respondent who permanently withdraws from the University while a matter is

pending will be subject to transcript notations indicating that they have done so during the course of a disciplinary process.

### **C. When a Report Is Made**

The Office is charged with addressing reported violations of this Policy. The following section details the Office's initial response to and assessment of reports.

#### **Case Management**

Complainants and Respondents are assigned different Case Managers to provide support. They serve as neutral resources to help Complainants and Respondents effectively understand their rights under the Policy and navigate the Office's resolution processes.

When a report is made, Case Managers are designated by the Title IX Coordinator to promptly contact the Complainant and, when applicable, the Respondent to discuss the availability of supportive measures, with or without filing a Formal Complaint, and explain the available resolution options under the Policy. Case Managers will also inform the Complainant that they may file a Formal Complaint, if they have not done so already, either at that time or in the future.

Case Managers are skilled in working with Parties to help them through a variety of challenges. Case Managers help Parties understand and navigate different resources available on and off-campus. They coordinate and facilitate referrals for additional outreach, intervention, and supportive resources across campus. Referrals may assist students who are facing crises, experiencing life stressors, or encountering barriers that are impeding their personal, professional, or academic success. Case Managers may also provide support and help with navigating resolution processes, including informal resolutions, investigations, and hearings. Case Managers may continue to provide support throughout the time of a student's enrollment at the University, including after the resolution process has concluded. Case Managers may also provide information about supportive resources to Complainants who may not be currently enrolled or affiliated with the University.<sup>24</sup>

#### **Supportive Measures**

The University will provide appropriate and reasonable supportive measures as needed to Complainants and Respondents regardless of whether a Formal Complaint is filed or the Parties engage in a resolution process. Supportive measures are non-disciplinary, non-punitive individualized services offered without fee or charge to the Parties as appropriate and reasonably available. Supportive measures are designed to restore or preserve equal access to the University's

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<sup>24</sup> Barnard staff will serve as the Case Manager for a Barnard Complainant and will work collaboratively with the Office.

education program or activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties and to prevent the escalation of conflict.

The Office evaluates requests for supportive measures in light of the circumstances and information available at the time of the request. Additional information may sometimes be required to sufficiently evaluate the need or provide for a requested supportive measure. Case Managers conduct outreach and facilitate requests for supportive measures by connecting students with the appropriate decision-making departments within the University. Time frames for evaluating and implementing supportive measures requested may vary depending on the particular circumstances of the request.

Supportive measures may include:

- Counseling and supportive services.
- Extension of deadlines or other course-related adjustments.
- Modifications of work or class schedules.
- Allowing a student to withdraw from or retake a class without penalty.
- Changes in work or housing locations.
- Leaves of absence.
- Campus escort services, as available.
- Increased security and monitoring of certain areas of the campus, as available.
- No-Contact Directives.<sup>25</sup>

The University will maintain as confidential any supportive measures provided to a Complainant or Respondent except as necessary to provide the supportive measures to the Parties. The Office will also provide a written explanation to the Complainant or Respondent if a requested supportive measure is not granted. Complainants or Respondents may request a prompt and reasonable review of the need for and/or terms of any supportive measure that directly affects them and may submit evidence in support of their request. Requests for review of supportive measures must be submitted in writing to the Office. The Title IX Coordinator will respond to such requests in writing generally within seven (7) business days.

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<sup>25</sup> Failure to comply with No-Contact Directives is a violation of this Policy and may lead to additional disciplinary action.

A Complainant who has experienced Prohibited Conduct may also be entitled to remedies under applicable state law. While the University cannot impose legal remedies, such as an order of protection, the University can assist Complainants in contacting law enforcement or legal service organizations to learn about these remedies and their enforcement.

### **Emergency Removal**

The University may remove a Respondent from a University program or activity on an emergency basis when the University: (i) undertakes an individualized safety and risk analysis; (ii) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct justifies removal; and (iii) provides the Respondent with notice and the opportunity to challenge the decision immediately following the removal. Emergency removals will be periodically reviewed and may be revised as appropriate.

The Respondent may challenge the decision by submitting an appeal to the Vice Provost for the Office of Institutional Equity or their designee. The appeal must be in writing and may be no longer than five (5) single-spaced typed pages using size 12-point Times New Roman font. The Vice Provost or their designee will issue a determination in writing to the Respondent generally within seven (7) business days. The imposition of an emergency removal does not indicate that the University has made a determination regarding the allegations.

### **Formal Complaints**

A Formal Complaint of Prohibited Conduct is a document filed by a Complainant alleging Prohibited Conduct by a Respondent and requesting that the University investigate, or a similar written document signed by the Title IX Coordinator.

A Formal Complaint differs from a report or disclosure of alleged misconduct. While a report or disclosure of Prohibited Conduct alerts the Title IX Coordinator about potential misconduct and triggers the Office's outreach to a Complainant (which includes an offer of reasonable supportive measures, information about relevant resolution options, and the process for filing a Formal Complaint) a Formal Complaint initiates a resolution process and the Respondent will be notified of the allegations. A Formal Complaint is required to initiate any resolution process, including both informal resolutions and formal investigations, under these procedures.

The Office will provide a Formal Complaint form to any Complainant upon request, which may be submitted electronically. A Formal Complaint should include: (i) the name and status (e.g., student, employee, non-affiliate) of the Complainant and, if known, the Respondent and any witnesses; (ii) dates and locations of the alleged misconduct; (iii) the nature of the alleged misconduct; (iv) a request that the University investigate or initiate a specific resolution process; and (v) the Complainant's physical or digital signature, or another indication that the Complainant

is the person submitting the Formal Complaint. A Formal Complaint may also be filed with the Title IX Coordinator or designee by e-mail, mail, or in person.

### **Initial Assessment of Reports and Formal Complaints**

After receiving a report or a Formal Complaint of Prohibited Conduct, the Office will conduct an initial assessment.

- Initial Assessments of Reports: The Office will consider whether the alleged conduct, if substantiated, constitutes Prohibited Conduct under this Policy. If so, the Office will inquire as to whether the Complainant wishes to make a Formal Complaint, and may assist them with doing so if requested. If the Complainant declines to make a Formal Complaint, the Title IX Coordinator will determine whether to initiate a Formal Complaint themselves to ensure the safety of the campus community [see [Requests Not to Investigate](#)]. Reports that do not identify a Complainant or are submitted anonymously require the signature of the Title IX Coordinator to initiate an investigation.
- Initial Assessment of Formal Complaints: The Office will consider whether the alleged conduct, if substantiated, constitutes Prohibited Conduct under this Policy. If so, the Office will determine which resolution process(es) may be available, as well as which definitions and procedures apply based on the conduct alleged and the status of the Parties.

The Office may gather additional information and evidence as needed in order to make an initial assessment. The initial assessment is not a finding of fact or responsibility.

### **Dismissals**

Formal Complaints may be dismissed under the limited circumstances outlined below. Both Parties may appeal the determination to dismiss a Formal Complaint.

Grounds for Dismissal of Formal Complaints: The University may dismiss a Formal Complaint if at any time during the investigation or hearing:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- The Respondent is no longer enrolled at the University; or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination.

Additionally, in accordance with federal regulations, a Formal Complaint of Title IX Sexual Harassment cannot proceed as a Title IX matter when any of the following circumstances apply:

- The alleged misconduct does not meet the definition of Title IX Sexual Harassment;
- The alleged misconduct did not occur in the University's education program or activity;
- The alleged misconduct did not occur against a person in the United States; or
- At the time of filing the Formal Complaint, the Complainant was not a student or otherwise participating in or attempting to participate in the University's education program or activity, and the Title IX Coordinator did not file the Formal Complaint.

If, however, the Office determines that the alleged conduct, if substantiated, constitutes any form of Related Misconduct, the Office may proceed with the Formal Complaint using the definitions and procedures for Related Misconduct under this Policy. If the Office determines that alleged misconduct does not meet the definition of Title IX Sexual Harassment or Related Misconduct, the Formal Complaint will be dismissed, but may be referred to other University offices for consideration as appropriate.

#### Appealing a Dismissal

Both Parties will be informed of the Office's decision to dismiss a Formal Complaint in writing. Both Parties may appeal the dismissal of a Formal Complaint (regardless of whether the dismissal was discretionary or mandatory) or the decision that a Formal Complaint may only proceed under the Related Misconduct definitions and procedures. The Parties may not appeal a determination that alleged conduct does not constitute Related Misconduct. The Parties will have five (5) business days from the issuance of a dismissal letter to submit an appeal to the Vice Provost for the Office of Institutional Equity or a designee. Failure to meet the deadline for appeal will result in waiver of the right to appeal. The appeal may not exceed three (3) single-spaced typed pages using size 12-point Times New Roman font and one-inch margins. The appeal must meet one or more of the following criteria:

- Procedural irregularity that affected the decision to dismiss. An appeal based on procedural irregularity must identify with specificity each alleged irregularity within the consideration of the Formal Complaint and the ways in which each specified irregularity affected the decision to dismiss the Complaint.
- New information that was not reasonably available at the time the decision to dismiss was made that could affect the decision to dismiss. An appeal based on new information must explain why this information was not available at the time the decision to dismiss the Formal Complaint was made and how this information could

affect the decision to dismiss the Formal Complaint. Information not provided because a Party declined to participate or withdrew from the process cannot be considered new information for the purpose of appeal. This includes situations where a Party declines to participate on advice of their advisor or due to a concurrent criminal investigation.

- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the decision to dismiss. An appeal based on conflict of interest or bias must explain how the Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the decision to dismiss the Formal Complaint.

After receiving an appeal from a Party, the Office will inform the other Party and provide a copy of the appeal. The non-appealing Party will have three (3) business days from receipt of the appeal to respond should the Party wish to do so. The response may not exceed three (3) single-spaced typed pages using size 12-point Times New Roman font. If both Parties appeal, the appeals will be considered concurrently and each Party will have the opportunity to review and respond to the other Party's appeal within three (3) business days. The Vice Provost for the Office of Institutional Equity will review the appeal and the non-appealing Party's response (if provided). The determination regarding the appeal will be communicated in writing to both Parties, simultaneously, within seven (7) business days of the non-appealing Party's response or the deadline for a response. If the decision to dismiss is reversed, the Formal Complaint will be reinstated and will be resolved through the appropriate resolution process. The determination as to any appeal is final.

### **Consolidation of Formal Complaints**

The University may consolidate Formal Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations arise out of the same facts or circumstances. Behaviors prohibited by any University policy may also be consolidated with a Formal Complaint under this Policy when the conduct is sufficiently linked to Prohibited Conduct. The decision to consolidate Formal Complaints is within the sole discretion of the Office.

Two or more Formal Complaints that have not been consolidated may, in the sole discretion of the Office, be resolved in a single hearing for the sake of expediency if the matters involve the same individuals.

## Requests Not to Investigate

A Complainant may request that an investigation not be undertaken. The Title IX Coordinator will evaluate such a request in light of the University's commitment to provide a safe and non-discriminatory environment for all students. The Office will consider all of the available information, including but not limited to, the following factors:

- Circumstances that suggest there is a risk of the Respondent committing additional acts of Prohibited Conduct, including but not limited to: (i) whether there have been other complaints of Prohibited Conduct against the same Respondent; (ii) an escalation of conduct known to the Office by the same Respondent; or (iii) whether the Respondent has threatened further Prohibited Conduct against the Complainant or others.
- Whether the alleged Prohibited Conduct was committed by multiple perpetrators.
- Whether there was use of a weapon or force in connection with the Prohibited Conduct.
- Whether the University possesses other means to obtain relevant evidence, such as security footage, witnesses, and/or physical evidence.
- Whether available information reveals a pattern of perpetration at a given location or by a particular group.
- Whether the Complainant is less than 17 years old.

The Title IX Coordinator will determine whether the circumstances require an investigation to proceed despite the Complainant's request not to proceed in order to ensure the safety of the campus community. The Title IX Coordinator may determine that it is necessary to sign a Formal Complaint themselves if the Complainant does not wish to make a Formal Complaint, or the Title IX Coordinator may determine that it is necessary to continue an investigation of a Formal Complaint despite a request by a Complainant that the investigation cease.<sup>26</sup> The Title IX Coordinator will notify the Complainant and/or Respondent, if applicable, in writing of its decision.

### **D. Available Options for the Resolution of Reports**

During their initial meeting with a Case Manager and/or Investigator, relevant options for resolution will be discussed with each Party. Options include informal resolutions or a formal investigation and determination. Either Party may request a different form of resolution at any

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<sup>26</sup> The Title IX Coordinator is not a Complainant or a Party regardless of whether they sign a Formal Complaint.

time after a Formal Complaint is filed and before a hearing is scheduled. The Office will review a requested resolution in light of its initial assessment of the available information and will determine if such a resolution is appropriate. The Office will make the final determination regarding the appropriate resolution process and can require a formal investigation of a matter even if the Parties request to engage in a different resolution process.

## **Informal Resolutions**

Informal resolutions are non-punitive processes that do not involve potential disciplinary action. Informal resolutions are available when the Parties do not wish to proceed with a formal investigation and instead seek the Office's assistance to resolve allegations of misconduct without taking disciplinary or punitive action.<sup>27</sup> Both Parties may request that the matter be resolved by an informal resolution at any time before a determination regarding responsibility is made. Generally, these resolution options are less time intensive than an investigation and determination process, while still affording Parties an opportunity to actively participate in a process led by the Office for resolution of their complaints. Both Parties must consent to an informal resolution in writing and the Office must agree that the proposed informal resolution is appropriate in order for the process to move forward. Even when both Parties agree to an informal resolution, the Office may require a formal investigation of a matter to ensure a safe campus environment. During any informal resolution process, any potential investigation and associated deadlines will be stayed.

### Informal Resolution Processes

There are three common types of informal resolution processes: Administrative Resolution, Mediation, and Restorative Justice. Informal resolution processes follow the general guidelines outlined below. The facilitator of any informal resolution process retains the discretion to design and conduct the process in a manner that is reasonable and appropriate based on the circumstances.

#### Administrative Resolution

This form of a non-punitive resolution can include No-Contact Directives, no-contact terms mutually agreed upon by the Parties, the implementation of safety measures, referrals to counseling, and targeted education and training. Administrative Resolution may be appropriate when a Complainant does not want to engage in other resolution processes and the Office, in its discretion and based on the available information, determines that an Administrative Resolution is sufficient to ensure the ability of community members to access the University's education program and activities free from Prohibited Conduct. An administrative resolution will typically

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<sup>27</sup> Should statements made during an informal resolution process highlight aspects of the reported conduct not previously known to the Office, or detail additional violations of the Policy, the Office reserves the right to stop that resolution process and re-evaluate the available resolution options. However, such statements will not be used as evidence in an investigation.

be implemented upon receipt of the Parties' written consent to a mutually agreed-upon resolution that has been approved by the Office.

### Mediation

The purpose of mediation is for the Parties to identify the implications of a Respondent's actions and with the assistance of a trained facilitator (the "mediator") to identify points of agreement and appropriate remedies. The mediation process will typically commence within ten (10) business days after the Office receives written consent to mediate from both Parties. Each Party will be permitted to bring an advisor as a support person to any part of a mediation. The mediator will memorialize in writing the agreement reached between the Parties and approved by the Office. The matter will be closed and any reported violations of the mediation agreement will be addressed by Student Conduct. If a resolution cannot be reached, or the mediation is terminated prior to resolution, the Office will evaluate other options for resolution, including formal investigation.

### Restorative Justice

Restorative Justice ("RJ") is an approach to wrongdoing and interpersonal conflict that emphasizes the impact of challenging behaviors on individuals and communities. Instead of focusing on the appropriate consequence for violating a rule, RJ focuses on how the actions in question affected others and what can be done to make things right moving forward. An RJ process will typically commence within ten (10) business days after the Office receives written consent to proceed from all Parties. Each Party may bring an advisor to participate in the RJ process as a support person. The RJ facilitator will memorialize in writing the agreement reached between the Parties and approved by the Office. The matter will be closed and any reported violations of the resolution agreement will be addressed by Student Conduct. If a resolution cannot be reached, or the RJ process is terminated prior to resolution, the Office will evaluate other options for resolution, including formal investigation.

### **Notice of Allegations and Proposed Informal Resolution**

In order to proceed with any informal resolution process, both Parties must provide voluntary written consent after receiving a Notice of Allegations and Proposed Informal Resolution, which will include:

- The specific allegations and conduct that is alleged to have occurred.
- The requirements of the informal resolution process.
- A statement of any consequences that may result from participation in the informal resolution process, including that records will be maintained in accordance with the University's records retention Policy and will only be shared as required by law.

- A statement that information shared during the informal resolution process, including an acceptance of responsibility in an RJ process (if applicable), cannot be used in a formal investigation under this Policy should the Parties not finalize an agreement.
- The potential terms that may be requested or offered in an informal resolution agreement.
- A statement that any Party has the right to withdraw from the informal resolution process and initiate or resume an investigation at any time before agreeing in writing to a resolution.
- Notice that once the agreement is finalized and signed by the Parties, they cannot initiate or continue an investigation or any other resolution process arising from the same allegations.
- Notice that an agreement resulting from the informal resolution process is binding only on the Parties and is not subject to appeal.
- A statement indicating that the decision to participate in the informal resolution process does not presume that the conduct at issue has occurred.
- A statement that the Respondent is presumed not responsible for violating this Policy unless the Respondent admits to violations of this Policy.
- Information regarding supportive measures, which are available equally to the Parties.

### **Formal Investigations**

Another option for resolution is a formal investigation and determination process. All matters that proceed to a formal investigation and determination follow the same general investigative procedures outlined below. One of two possible hearing processes will be used to reach a final determination. The Title IX Hearing Process is utilized when the Formal Complaint alleges at least one allegation of Title IX Sexual Harassment. The Related Misconduct Hearing Process is utilized when the Formal Complaint solely alleges Related Misconduct and does not include any allegations of Title IX Sexual Harassment.

### General Investigative Procedures

The University will provide for the fair and impartial investigation of Formal Complaints that gives both Parties a meaningful opportunity to be heard. The following investigative procedures apply to all Formal Complaints of Prohibited Conduct.

## The Investigative Team

The Office will designate an impartial and unbiased two-person Investigative Team to investigate whether a Policy violation occurred. The Office may, in its sole discretion, assign appropriate investigators to a matter, including but not limited to, outside investigators who are not employees of the Office. The Investigative Team will have extensive training in investigating and evaluating conduct prohibited by this Policy [see [Training](#)].

A Complainant or Respondent who believes that a member of the Investigative Team has a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent, must submit a written request to the Office that the individual not participate in the process. This request must be made within two (2) business days after the Office provides notification of the individuals involved in the resolution process. Any request should include a description of the perceived conflict [see [Conflicts of Interest or Bias](#)]. The Title IX Coordinator will issue a written response to the requesting Party generally within seven (7) business days. If the Title IX Coordinator determines that an actual or potential conflict exists, both Parties will be informed of the determination and a new investigator(s) will be appointed.

## Burden of Proof

A Respondent is presumed Not Responsible throughout the entirety of an investigation and determination process unless and until a final determination regarding responsibility is made. All investigations and hearings under this Policy apply “preponderance of the evidence” as the standard of proof. The Investigative Team uses this standard of proof to make a recommended finding of whether a Policy violation occurred. A Hearing Panel also uses this standard of proof to reach a final determination. The preponderance of the evidence means that the investigator and decision-maker must determine, based on the evidence presented, whether the Respondent was more likely than not to have engaged in the conduct at issue.

The Investigative Team bears the burden of showing evidence to support its recommendation. The burden is not on the Respondent to prove that they did not engage in misconduct. Likewise, the burden is not on the Complainant to prove that the Respondent engaged in any misconduct. The burden does not rest with either Party and either Party may decide not to share their account of what occurred or not to participate in an investigation or hearing. This does not shift the burden of proof away from the Investigative Team and does not indicate responsibility.

## Notice of Allegations

The Office will send a written Notice of Allegations to the Parties upon receipt of a Formal Complaint and with sufficient time for them to prepare for an initial interview.

The Notice of Allegations will include the following:

- Information regarding the applicable investigation and determination process and any available informal resolution processes.
- Sufficient information available at the time to allow the Parties to respond to the allegations. Sufficient information includes the identities of the Complainant and Respondent; the conduct alleged to constitute a violation; and the date(s), time(s), and location(s) of the alleged incident(s) to the extent that information is available.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding an allegation of Prohibited Conduct is made at the conclusion of the investigation and determination process.
- A statement that the Parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement that prior to a determination, the Parties and their advisors may inspect and review all evidence obtained as part of the investigation that is directly related to the allegations in the Formal Complaint, including evidence that the Investigative Team does not intend to rely upon in the Investigative Report, and evidence that both tends to prove or disprove the allegations, whether obtained from a Party or other source.
- The range of possible sanctions should the Respondent be found responsible for a violation of this Policy following the conclusion of the determination process.
- A statement that any person who knowingly makes a false statement or knowingly submits false information in connection with an investigation may be subject to separate disciplinary action.
- A statement that Retaliation is prohibited.

Importantly, the initial Notice of Allegations may not be the final charges submitted to the Hearing Panel for determination. The final Notice of Allegations is dependent on the information gathered during the investigation. The Office will provide an updated notice at any point it deems necessary and as soon as practicable. If in the course of an investigation the Office decides to investigate additional allegations of Prohibited Conduct that are not included in the initial notice, the Office will provide updated notice of the additional allegations to the Parties.

### Notice of Meetings and Interviews

The Office will provide, to Parties and their advisors whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews, hearings, or other meetings with a Party with sufficient time for the Party to prepare to participate.

## Evidence Gathering

The Parties will meet separately with the Investigative Team and will have an equal opportunity to provide a statement, suggest witnesses, and submit inculpatory and/or exculpatory evidence. The Investigative Team will request that Parties, witnesses, and other interested individuals preserve relevant evidence. Evidence may include, but is not limited to, electronic messages (e.g., emails, text messages, social media and digital app messages, and other relevant writings), videos, and photographs.<sup>28</sup> A Party is not required to identify witnesses or provide particular evidence for an investigation to proceed, nor should a lack of such information dissuade any Party from participating in the process. Transcripts of Party and witness interviews and any documentary evidence submitted to the Investigative Team that is directly related to the investigation will become part of the Investigative Report in redacted form. Intentional manipulation, editing, or other forms of fabricating evidence may result in disciplinary action.

### *Individual Interviews*

The Investigative Team will conduct individual interviews of all Parties and witnesses to ask relevant and not otherwise impermissible questions and follow-up questions, including questions to assess credibility. The Investigative Team will discuss with each Party the nature of the allegation(s), the rights and responsibilities of each Party, the prohibition against Retaliation, and the investigation and determination process before discussing the specific facts alleged in the Formal Complaint. The Investigative Team will typically conduct the initial interview of the Complainant first, followed by the Respondent and any witnesses. During their initial interview, Parties may also propose or submit relevant and appropriate questions to be asked of any Party or witness.<sup>29</sup> Questions may be submitted no later than ten (10) days before the start of the evidence review period. Following the completion of witness interviews, the Investigative Team will conduct follow-up interviews of both Parties. This sequence may vary, however, depending on availability of the Parties and witnesses, the discretion of the Investigative Team, and/or the nature of the investigation.

Individual interviews may be conducted virtually through a video conferencing option or with all participants physically present in the same geographic location. In general, only the Investigative Team, the individual to be interviewed, and their advisor, if applicable, may attend the interview. Additional attendees may be permitted at the discretion of the Title IX Coordinator in connection

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<sup>28</sup> In the event that evidence is gathered during an investigation that is in a language other than English, the Office will procure an official translation via University or external resources. Where the University procures a translation through University resources or an outside company or agency, the translation received will be the official translation for the Investigative Team and, if applicable, the hearing. Parties may offer their own clarifications of any evidence if relevant. The Investigative Team may ask the providing Party for a translation into English at its discretion and in limited circumstances, such as when the text to be translated is not substantively related to the investigation but will assist the Investigative Team or a Hearing Panel with a better understanding of the material.

<sup>29</sup> The Investigative Team retains sole discretion to determine if and when relevant proposed questions should be asked.

with an approved disability-related accommodation. The Investigative Team will record and transcribe all formal interviews conducted in every investigation under this Policy and transcripts will be provided to both Parties during the evidence review. Audio/visual recordings of formal interviews are not shared with either Party or the Hearing Panel. The Parties, advisors, and witnesses may not record any interview or meeting conducted as part of this process [see [Prohibition on Recording](#)]. All Parties and witnesses are obligated to be honest and act in good faith. Any person who knowingly makes a false statement in connection with the investigation may be subject to disciplinary action.<sup>30</sup>

### *Witnesses*

The Complainant and the Respondent have the right to identify any individuals who may be witnesses to the alleged misconduct or may have other relevant evidence, including but not limited to fact, character, and expert witnesses. The Parties should be aware that it is possible for both the Respondent and the Complainant to list the same people as witnesses. The Investigative Team will attempt to contact and interview any witness identified by the Parties who may have relevant information and may contact and interview additional witnesses believed to have relevant information.

If the Investigative Team determines that expertise on a topic may assist the Hearing Panel in making a determination, the Investigative Team may include in the investigative record medical, forensic, technological, or other expert testimony and materials (such as writings and recordings) that the Investigative Team deems relevant. A Complainant or Respondent may also suggest a witness to be interviewed by the Investigative Team as an expert. A Party suggesting an expert witness must provide the Investigative Team before the interview with the witness's curriculum vitae and any materials upon which the witness intends to rely. The Investigative Team will inform the other Party that an expert witness will be interviewed, provide both Parties with the witness's curriculum vitae and any materials upon which the witness intends to rely, and permit both Parties to submit written questions to be asked of the witness if deemed appropriate at the discretion of the Investigative Team. If the Investigative Team interviews one or more expert witnesses identified by a Party, or otherwise deems it necessary, it may interview additional expert witnesses at its discretion. The Investigative Team will determine what, if any, expert testimony and materials will be included or referenced in the Investigative Report.

Any attempt to threaten, intimidate, or otherwise improperly influence a witness's testimony may result in disciplinary action, either under this Policy (if it could constitute Retaliation) or other University policy.

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<sup>30</sup> Reports or denials of misconduct made in good faith are not considered knowingly false solely because the outcome of an investigation and determination is contrary to those reports or denials.

### *Protected Types of Information*

Statements and other evidence related to sexual history, medical and mental health records, and information protected by a legally recognized privilege will not be considered except under the limited circumstances outlined below.

#### **(1) Sexual History**

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are generally irrelevant and prohibited, subject to the following two limited exceptions: (i) where questions and evidence of the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged misconduct; or (ii) if the questions and evidence are specifically about the Parties' shared sexual history and are offered to prove consent.

Similarly, a Respondent's prior sexual behavior with individuals other than the Complainant is generally irrelevant and will typically be excluded on that basis. The Respondent has the right to exclude information regarding their own prior sexual behavior except to the extent the Investigative Team is required to consider such information in accordance with federal law when it may be relevant to allegations of Title IX Sexual Harassment.

During the evidence review period, the Parties may respond to the Investigative Team's decision to include evidence of either Party's prior sexual history. Evidence of a Party's prior sexual history that has been determined by the Investigative Team to be impermissible will be redacted from the evidence shared with the Parties and will not be included in the Investigative Report or provided to the Hearing Panel.

#### **(2) Medical and Mental Health Records and Information**

Any Party's medical, psychiatric, psychological, or similar records cannot be accessed, considered, disclosed, or otherwise used in an investigation or determination process without the Party's voluntary written consent. Even when a Party provides voluntary written consent, information contained in an otherwise relevant record that is not directly related to the allegations may be redacted from any documents shared with the other Party or their advisor.

Each Party also has the right to exclude information regarding their own mental health treatment/diagnosis when offered by the other Party and/or any witness, except to the extent the Investigative Team is required to consider such information in accordance with federal law when it may be relevant to allegations of Title IX Sexual Harassment, provided that it is not obtained from a medical, psychiatric, psychological, or similar record for which the Party has not provided voluntary written consent.

### **(3) Legally Recognized Privilege**

Any information protected by a legally recognized privilege (i.e., attorney-client) is deemed irrelevant and will not be considered unless properly waived by the Party who holds the privilege.

#### *Prior Bad Acts, Character Evidence and Pattern Evidence*

The Investigative Team will objectively evaluate all relevant evidence, including the Complainant's and Respondent's relevant prior bad acts and relevant character evidence, if presented with such information during the investigation. The Investigative Team will also objectively evaluate evidence of a Respondent's prior conduct as pattern evidence, if presented with such information during the investigation, to the extent it is relevant to the present investigation. The propensity to engage in misconduct is not a relevant purpose and is not a valid basis for the inclusion of such evidence.

Prior determinations of responsibility for Prohibited Conduct are irrelevant and will not be considered in the Investigative Report or at a hearing.<sup>31</sup> The University is committed to ensuring each Party a meaningful opportunity to be heard in any given case; for this to occur, the investigation and determination of one complaint must be based on facts relevant to that complaint and may not be influenced by determinations in a separate complaint. However, while a prior determination of responsibility is irrelevant, the factual circumstances of the prior matter may become relevant to an investigation and included in the Investigative Report.

#### *Determining Relevance*

The Parties, witnesses, and other individuals may provide information to the Investigative Team. The Investigative Team retains sole discretion during the investigation to determine whether statements or other evidence are relevant and/or directly related to the allegation(s). Statements and other evidence are relevant if they help to show that the allegation is more or less likely to be true. The Parties must articulate a reasonable basis to the Investigative Team regarding why statements or other materials are relevant before the Investigative Team will consider such evidence.

Only relevant evidence will be summarized in the Investigative Report. Evidence that is irrelevant but directly related to the allegations will be included in the Appendices to the Investigative Report. Evidence obtained during the investigation that is determined in the reasoned judgment of the Investigative Team to be irrelevant and not directly related to the allegations will be provided to both Parties during the evidence review and the Parties will have the opportunity to assert that particular evidence is relevant and/or directly related. If any Party asserts a reasonable basis to include evidence deemed irrelevant and not directly related to the allegations, such evidence will

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<sup>31</sup> Prior determinations of responsibility and disciplinary history will be considered during sanctioning, if applicable.

be provided to the Hearing Panel for its consideration. If neither Party contests the determination of the Investigative Team that particular evidence is irrelevant and not directly related to the allegations, such evidence will not be provided to the Hearing Panel.

Evidence of a Complainant's prior sexual history, medical and mental health records, or other evidence that is protected by a legally recognized privilege is prohibited unless an exception or waiver applies. Such evidence will not be provided to either Party or the Hearing Panel.

### *Evaluating Evidence and Credibility*

The Investigative Team will consider the weight and credibility of all relevant evidence. The weight of evidence is based on its believability or persuasiveness. Particular evidence may have different weight in inducing belief as to the facts and circumstances to be proved. For example, evidence that is indefinite, vague, refuted, or improbable is given less weight than evidence that is direct and unrefuted, and evidence given by a witness who speaks from personal observation is of greater weight than evidence offered by a witness whose statement is from some other source.

When assessing the credibility of Parties and witnesses, the Investigative Team may consider factors including but not limited to: (i) consistency or inconsistency of accounts of events over time; (ii) potential for bias in favor of a specific Party or outcome; (iii) any corroborating evidence; and (iv) whether their statements were reasonable and logical. Credibility assessments will not be based on a person's status as a Complainant, Respondent, or witness.

### **Evidence Review**

The Parties will have an equal opportunity to inspect and review the evidence obtained during the investigation. The purpose of the evidence review is to provide each Party with an opportunity to meaningfully respond to the evidence prior to the conclusion of the Investigation.

The Parties and witnesses must submit any evidence they would like the Investigative Team to consider before the evidence review process begins. All evidence gathered during the investigation will be made available to both Parties during the evidence inspection and review aside from evidence that is prohibited absent a limited exception or waiver. This includes: (i) all relevant and/or directly related evidence, including inculpatory and exculpatory evidence and evidence on which the Investigative Team does not intend to rely in reaching its determination; and (ii) evidence considered by the Investigative Team to be irrelevant and not directly related to the allegations. During the evidence review, both Parties will have an equal opportunity to submit a written response to the evidence, raise concerns about relevancy determinations made by the Investigative Team, and assert the relevancy of any particular evidence deemed irrelevant by the Investigative Team.

The Parties will also be provided with a copy of the Factual Summary prepared by the Investigative Team based on interviews and other relevant evidence obtained during the investigation. The Parties may, in their written response, provide clarifications to their statements, argue that the Factual Summary is inaccurate, request that relevant information be included, and provide corrections to typos and/or other minor factual errors.

The Parties and each advisor must sign a Privacy Agreement prior to obtaining access to any evidence [see [Privacy Agreements](#)]. The Office will make the evidence available for each Party and their advisor through an electronic format. The Office is not required to use any specific process or technology to provide the evidence and will have the sole discretion to determine the format and any restrictions or limitations on access.

The Parties will have ten (10) business days to inspect and review the evidence and Factual Summary and submit a written response to the Investigative Team. Any portions of a Party's written response that are irrelevant and not directly to the allegations may be subject to redaction. The Parties will then have five (5) business days to suggest any additional witnesses and/or submit any additional evidence following their review of the evidence and Factual Summary. The Parties' written responses and any additional evidence will be provided to both Parties as soon as is practicable given the nature and volume of the additional evidence. The Parties will have five (5) additional business days to respond in writing to any additional evidence, the other Party's initial written response, and/or relevancy determinations made by the Investigative Team with respect to the additional evidence and/or the Parties' initial written responses. The Investigative Team will disclose the second written responses to both Parties and include all written responses and additional relevant and/or directly related evidence in the Appendices to the Investigative Report.

The Investigative Team may adjust the time period of the evidence review to accommodate the nature of a specific investigation and the volume of evidence. The Investigative Team will consider the Parties' written responses and any new evidence before completing the Investigative Report.

### [Investigative Report](#)

The Investigative Team will create an Investigative Report that includes:

- A Final Notice of Allegations containing a description of the alleged Policy violations that the Investigative Team considered and that will be submitted to the Hearing Panel, if applicable.
- A Factual Summary that fairly summarizes the relevant evidence, including Party and witness statements and documentary evidence, obtained by the Investigative Team. The Investigative Report is not a catalog of all evidence obtained by the Investigative Team, but rather is intended only to provide a fair summary of the relevant evidence, including both inculpatory and exculpatory evidence.

- A credibility assessment of the Parties and witnesses when credibility is at issue.
- An analysis of the allegation(s) and evidence, and recommendation(s) regarding responsibility.

The Investigative Team will make appropriate redactions to the Investigative Report, including names and other identifying information, and will remind the Parties and each advisor that the Privacy Agreement signed at the start of the investigation remains in effect [see Privacy & Confidentiality]. The Investigative Report will be made available to each Party and their advisor through an electronic format. Neither the Parties nor their advisors shall download, copy, publish, distribute, or forward the Investigative Report.<sup>32</sup> A Party or advisor who has not signed the Privacy Agreement will not be permitted to access the Investigative Report.

The Parties will have ten (10) business days to review the Investigative Report and submit a written response to the Investigative Team prior to a hearing. Any written response must be prepared by the Party and be no more than ten (10) single-spaced typed pages using size 12-point Times New Roman font and one-inch margins. Attachments or exhibits will not be accepted and written responses that include information that is outside the scope of review by the Hearing Panel may be redacted. The Investigative Team will disclose the written responses to both Parties and include the responses in the Appendices to the Investigative Report.

### Determination Process

Both the Title IX and Related Misconduct hearing processes follow many of the same procedures, as outlined below, but with some important differences that are mandated by federal regulations and noted herein.

*Title IX Hearing Requirement:* The Office will not issue a disciplinary sanction arising from an allegation of Title IX Sexual Harassment without holding a hearing. All Formal Complaints that contain one or more allegation(s) of Title IX Sexual Harassment are required to follow the Title IX Hearing Process. Formal Complaints that contain allegations of both Title IX Sexual Harassment and Related Misconduct will be adjudicated using the Title IX Hearing Process.

*Related Misconduct Hearing Options:* Formal Complaints that allege Related Misconduct and do not include any allegation of Title IX Sexual Harassment may be resolved without a hearing or at a hearing using the Related Misconduct Hearing Process.<sup>33</sup> Following the issuance of the Investigative Report, the Investigative Team will ask each Party to a matter involving only Related Misconduct allegations to complete a Disciplinary Action Agreement. The Disciplinary Action Agreement asks whether the Party would like the matter to be referred to a Hearing Panel for a

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<sup>32</sup> To “copy” includes, but is not limited to, audio or video recording, streaming, photographing, scanning, transcribing, or any other method of recording or reproduction that conflicts with the letter and spirit of this directive.

<sup>33</sup> This includes Formal Complaints that allege Related Misconduct and a violation(s) of any other University policy.

final determination. Each Party must submit their Disciplinary Action Agreement to the Office in writing within three (3) business days of receipt and will be notified of the other Party's response. If neither Party requests a hearing within three (3) business days, the Investigative Team's recommended findings will become the final determination, with each Party retaining their right to appeal any sanction, if applicable [see Appeals]. If either Party requests a hearing within three (3) business days, the matter will proceed to a hearing using the Related Misconduct Hearing Process.

### Notice of Hearing

Following the issuance of the Investigative Report, the Parties and their advisors will be provided with a Notice of Hearing, which will include information regarding: the date and location of the hearing, which may be conducted virtually or with participants physically present in the same geographic location;<sup>34</sup> the identity of the Hearing Chair and, if known, the two additional members of the Hearing Panel;<sup>35</sup> the process to be used at the hearing and any applicable deadlines; and the date and time of their Pre-Hearing Conference.

Within two (2) days of receipt of the Notice of Hearing, either Party may object to the Hearing Panelists on the basis of a perceived conflict of interest or bias [see [Conflicts of Interest or Bias](#)]. Any objection must be submitted in writing to the Title IX Coordinator and should include a description of the perceived conflict. The Title IX Coordinator will issue a written response to the requesting Party generally within seven (7) business days. If the Title IX Coordinator determines that an actual or potential conflict exists, both Parties will be informed of the determination and a new Hearing Panelist(s) will be appointed.

### Pre-Hearing Conference

In order to promote a fair and expeditious hearing, each of the Parties and their advisors will attend a Pre-Hearing Conference with the Hearing Chair. A Deputy Title IX Coordinator will also be in attendance, but the Hearing Chair is responsible for directing the Pre-Hearing Conference. The purpose of the Pre-Hearing Conference is to promote the Parties' and their advisors' understanding of the parameters of the hearing and applicable hearing process, and to allow for significant issues to be addressed in advance of the hearing as needed. The Hearing Chair will also address the conduct expectations for the Parties and advisors at the hearing [see [Appendix D: Rules of Decorum](#)]. The Hearing Chair will issue a Pre-Hearing Memorandum to both Parties summarizing the Pre-Hearing Conference.

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<sup>34</sup> The Office retains sole discretion to determine the location of the hearing. The Office will make efforts to accommodate the reasonable requests of any participant regarding their appearance at the hearing.

<sup>35</sup> Parties will be informed of the identities of the two additional members of the Hearing Panel as soon as practicable and with sufficient time to assert challenges to their service based on a perceived conflict of interest.

## The Hearing Panel

The Hearing Panel is a three-member panel that will issue a determination regarding responsibility following the completion of the applicable hearing process. The Hearing Chair is a voting member of the Hearing Panel and is responsible for the facilitation and moderation of the hearing process. The Hearing Chair has sole discretion to make relevancy determinations at a hearing. The Hearing Chair is also responsible for the oversight of the Rules of Decorum and has the authority to remove a hearing participant for egregious or repeated violations of the Rules of Decorum. The University will, in its sole discretion, assign an appropriate Hearing Chair and panelists to a matter, who may be drawn from specially trained staff or external sources, excluding individuals involved in the investigation.

All panelists receive relevant training at least once a year [see [Training](#)]. No member of the Hearing Panel will have a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent. The Parties will be informed of the Hearing Panel's membership before the hearing process begins and will be afforded an opportunity to raise any perceived conflicts of interest before the hearing. Determinations regarding conflict of interest concerns raised by the Parties will be made by the Title IX Coordinator [see [Conflicts of Interest or Bias](#); [Notice of Hearing](#)].

## General Procedures for Hearings

### *Appearing at a Hearing*

The hearing is a closed proceeding and no one other than the participants listed in this Policy and necessary University personnel may be present in the hearing room or the participants' physical locations (where hearings are conducted virtually) except as authorized pursuant to an approved disability accommodation. For hearings that occur with Parties in the same geographic location, each Party will be placed in a separate room for the duration of the hearing and may view the proceedings via video conference. Each Party will appear separately before the Hearing Panel and may have their advisor in the room with them at all times. Hearings may also be conducted virtually in a manner that enables the Hearing Panel and Parties to simultaneously hear and see any participant while that person is speaking.

### *Recording*

All hearing proceedings will be recorded through audiovisual recording and transcribed. The recording and transcript will be available to the Parties for inspection and review upon request within seven (7) business days of the hearing absent extenuating circumstances. Participants are prohibited from recording any portion of the hearing process [see [Prohibition on Recording](#)]. Cell phones and/or recording devices may not be used in the hearing room unless approved by the Hearing Panel in advance.

### *New Evidence*

The Hearing Chair may, only in exceptional circumstances, grant requests to present evidence at the hearing that is not already in the investigative file and retains complete authority to determine how such new evidence may impact the hearing (e.g., whether the hearing must be continued until a later date for the Investigative Team to review and present the new evidence to the Parties). This includes documentary evidence submitted and/or witnesses identified to the Investigative Team following the issuance of the Investigative Report.

### **Evidentiary Considerations and Determinations Regarding Responsibility**

The Hearing Panel will use the “preponderance of the evidence” as the standard of proof to determine whether a Policy violation occurred [see [Burden of Proof](#)]. The Hearing Panel will find a Respondent responsible or not responsible based on a majority vote after a review of the Investigative Report, the written responses submitted by the Parties, and the statements, testimony, and evidence at the hearing. Determinations regarding responsibility may be based in part or entirely on documentary, audiovisual, and/or digital evidence as warranted in the reasoned judgment of the Hearing Panel.

The same standards applied by the Investigative Team to considerations of sexual history, prior bad acts, character evidence, pattern evidence, medical or mental health records, and information protected by a legally recognized privilege will also be applied by the Hearing Panel. The Hearing Panel will make its own determination regarding relevance, the weight afforded to particular evidence, and credibility. Formal rules of evidence do not apply to University hearings. The Hearing Panel will adhere to the following principles:

- The Hearing Panel will not draw inferences regarding credibility based on a Party’s status as a Complainant, Respondent, or witness, nor will it base its judgments on stereotypes about how a Party or witness would or should act under the circumstances. Generally, credibility judgments will rest on the plausibility and consistency of an individual’s statements/testimony and the reliability of statements/testimony in light of corroborating or conflicting evidence. Credibility judgments will not rest on whether statements/testimony are non-linear or incomplete, or if the individual displayed stress or anxiety.
- The weight of evidence is based on its believability or persuasiveness. Particular evidence has different weight in inducing belief as to the facts and circumstances to be proved. The Hearing Panel affords the highest weight to first-hand statements/testimony by individuals who speak from personal observation regarding their own memory of specific facts. Third-party knowledge of the facts at issue is generally permissible but afforded lower weight than statements/testimony based on

direct knowledge of specific facts. Evidence that is indefinite, vague, refuted, or improbable is given less weight than evidence that is direct and unrefuted.

- The Hearing Panel affords less weight to non-factual statements/testimony of expert and character witnesses relative to fact witnesses. The Hearing Panel similarly affords less weight to polygraph tests and statements/testimony about such processes relative to statements/testimony of fact witnesses.
- The Hearing Panel will not draw any inferences regarding responsibility based solely on the decision of a Party and/or witness to not participate or their refusal to answer questions. The Hearing Panel may at their discretion consider any statements/testimony of a Party and/or witness made before their decision to not participate and give weight to such information as they determine is appropriate under the circumstances.

The Hearing Panel will render a written determination that explains its findings and analysis within fifteen (15) business days of reaching a decision [see [Hearing Decision](#)].

### [Title IX Hearing Process](#)

Formal Complaints that contain one or more allegations of Title IX Sexual Harassment are required to follow the Title IX Hearing Process, which adheres to the following guidelines.

#### *Submission of Witnesses and Evidence*

Parties in a Title IX hearing may request that witnesses and/or the Investigative Team appear at the hearing to be questioned by advisors. Parties will be asked to submit the names and contact information of witnesses they would like to participate in the hearing at the Pre-Hearing Conference. It is important that the Parties promptly inform the Office of the names and contact information of any requested witnesses so the Office can attempt to secure the witnesses' availability for the hearing. The Office will make every attempt to accommodate witnesses' schedules, but a hearing will not be delayed due to a witness's unavailability, absent extenuating circumstances and in the sole discretion of the Office.

The Parties may also request in advance that specific evidence contained in the Investigative Report be made available at the hearing to be used during advisor questioning. Any such requests must be made promptly to enable the Office to prepare for the use of the evidence at the hearing.

#### *Participants in a Title IX Hearing*

The Complainant, the Respondent, advisors, witnesses, and the Investigative Team may participate in a Title IX hearing. The Office strongly encourages Parties and witnesses to participate in a hearing, but will not threaten, coerce, intimidate, or discriminate against any person

in an attempt to secure their participation. All hearing participants are required to abide by the Rules of Decorum [see [Appendix D](#)]. Below are important points with regard to the role of hearing participants:

- **Complainant and Respondent:** The Parties cannot waive the right to a hearing. The Office may proceed with the hearing in the absence of a Party and may reach a determination regarding responsibility without their participation in the hearing. The Parties may always be accompanied by their advisor and may bring notes for their reference.<sup>36</sup>
- **Advisors:** Advisors in a Title IX hearing are responsible for conducting cross-examination of the other Party and/or witness(es). If a Party declines to participate, does not select an advisor, and/or the Party's advisor does not appear, the Office will select an attorney-advisor to serve in this role for the limited purpose of conducting cross-examination at no fee or charge to the Party [see [Advisors](#)].
- **Witnesses:** The Parties and/or Hearing Panel in a Title IX hearing may request that specific witnesses participate in the hearing. Witnesses cannot be compelled to participate in the hearing and have the right to be free from retaliation regardless of whether they participate or do not participate. Witnesses will be provided prior to the hearing with a copy of their interview transcript, if applicable, after signing a Privacy Agreement and may bring notes for their reference. Witnesses who have an attorney-advisor may be accompanied by their advisor throughout the hearing.

#### *Hearing Format*

The Hearing Chair will open and establish the rules and expectations for the hearing. In general, all Title IX hearings will proceed as follows:

- Complainant's opening statement.
- Respondent's opening statement.
- Questioning of Complainant by Hearing Panel followed by other Party's advisor.
- Questioning of Respondent by Hearing Panel followed by other Party's advisor.
- Questioning of witnesses by Hearing Panel followed by Complainant's and Respondent's advisors, respectively.

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<sup>36</sup> The Hearing Panel may ask any individual for a copy and inspection of their notes.

- Hearing Panel members and advisors may be permitted to ask limited follow-up questions of the Parties based on the testimony of any witnesses.
- Complainant's closing statement.
- Respondent's closing statement.

### **(1) Opening and Closing Statements**

The Complainant and Respondent may provide opening and closing statements to the Hearing Panel. The presentation of an opening or closing statement may not exceed seven (7) minutes. The Parties' advisors may assist them with drafting an opening or closing statement and the Parties may read from a written document. However, a Party's advisor may not present the opening or closing statement on the Party's behalf. Unless explicitly requested by the Hearing Panel, the Complainant and the Respondent may not submit any such written statement as additional evidence for consideration.

### **(2) Questioning by the Hearing Panel**

The Hearing Panel may ask relevant questions of the Parties, witnesses, and/or Investigative Team. Questions will generally focus on statements made by the Parties or witnesses, information contained in the Investigative Report, the Investigative Team's analysis, and any other information provided to the Hearing Panel. The Hearing Panel will pose any initial questions they have to the hearing participants before any advisor-conducted questioning and may ask any follow-up questions thereafter.

### **(3) Questioning by Advisors**

Each Party's advisor may question the other Party, witnesses, and/or the Investigative Team. Advisors are not permitted to question their own advisee. Such questioning must be conducted directly, orally, and in real-time by the Party's advisor and never by a Party personally. Before a participant answers a question, the Hearing Chair will determine whether the question is relevant or irrelevant (and therefore impermissible). Relevant questions include those questions that tend to show that the allegation(s) is/are more or less likely to be true and may aid the Hearing Panel in determining whether the Policy was violated. If the Hearing Chair excludes a question, they will provide an explanation as to why the question is irrelevant, and the advisor will have the opportunity to offer a brief explanation in response. The Hearing Chair may accept or reject that explanation without any additional explanation or discussion.

Questions that are unclear or harassing of the Party or witness are not permitted. If the Hearing Chair determines that a question is unclear, or harassing, the Hearing Chair may ask the advisor to rephrase the question in an appropriate form. The Hearing Panel may choose to place less or no weight upon statements by a Party or witness who refuses to respond to relevant questions.

The Hearing Panel will not draw an inference about whether the alleged misconduct occurred based solely on a Party's or witness's refusal to respond to such questions.

### [Related Misconduct Hearing Process](#)

Formal Complaints that allege Related Misconduct and do not include any allegation of Title IX Sexual Harassment will be resolved using the hearing procedures outlined below if either Party requests a hearing in their Disciplinary Action Agreement. The Related Misconduct Hearing Process is similar to the Title IX Hearing Process in many ways but for the important distinctions noted below.

#### *Participants in a Related Misconduct Hearing*

The Complainant, the Respondent, their advisors, and the Investigative Team may participate in a Related Misconduct hearing. Witnesses are not involved in the Related Misconduct hearing process. The Office strongly encourages Parties to participate in a hearing, but will not threaten, coerce, intimidate, or discriminate against any Party in an attempt to secure their participation. All hearing participants are required to abide by the Rules of Decorum [See [Appendix D](#)]. Below are important points with regard to the role of hearing participants:

- **Complainant and Respondent:** The Parties may always be accompanied at the hearing by their advisor and may bring notes for their reference.<sup>37</sup> The Parties can waive the right to a hearing, but a hearing will occur if requested by either Party. In cases where either Party decides not to participate in a hearing after having previously requested a hearing in their Disciplinary Action Agreement, the other Party may request that a hearing not be held, and the Hearing Panel may render a decision based on the Investigative Report and any written responses from the Parties. The Office may also proceed with the hearing in the absence of a Party and may reach a determination regarding responsibility without their participation in the hearing. If a Party declines to participate in a Related Misconduct hearing, their advisor may not appear at the hearing on their behalf.
- **Advisors:** Advisors in a Related Misconduct hearing are not permitted to ask questions of any Party. They participate in the same capacity at a hearing as in earlier stages of the investigative process, providing support and advice to their advisee [see [Advisors](#)].

#### *Hearing Format*

The Hearing Chair will open and establish the rules and expectations for the hearing. In general, all Related Misconduct hearings proceed as follows:

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<sup>37</sup> The Hearing Panel may ask any individual for a copy and inspection of their notes.

- Complainant’s opening statement.
- Respondent’s opening statement.
- Questions by the Hearing Panel to the Complainant (if the Panel deems necessary).
- Questions by the Hearing Panel to the Respondent (if the Panel deems necessary).
- Questions by the Hearing Panel to the Investigative Team (if the Panel deems necessary).
- Complainant’s closing statement.
- Respondent’s closing statement.

**(1) Opening and Closing Statements:**

The Complainant and Respondent may provide opening and closing statements to the Hearing Panel. The presentation of an opening or closing statement may not exceed seven (7) minutes. The Parties’ advisors may assist them with drafting an opening or closing statement and the Parties may read from a written document. However, a Party’s advisor may not present the opening or closing statement on the Party’s behalf. Unless explicitly requested by the Hearing Panel, the Complainant and the Respondent may not submit any such written statement as additional evidence for consideration.

**(2) Questioning by the Hearing Panel**

Only the Hearing Panel may ask questions of the Complainant, Respondent, and/or Investigative Team. Questions generally will focus on statements made by the Parties and the information and analysis contained in the Investigative Report.

Impact Statements

Each Party may submit a written impact statement for consideration by the Sanctioning Officer discussing how the alleged misconduct has impacted them. The written statement must be prepared by the Party and be no more than five (5) single-spaced typed pages using size 12-point Times New Roman font and one-inch margins. The statements must be submitted within three (3) business days following the hearing, or, if there is no hearing, three (3) business days following the date of notice that neither Party requested a hearing. Impact statements will only be considered by a Sanctioning Officer and shared with the other Party if there is a finding of responsibility.

### **(3) Hearing Decision**

The Hearing Panel will generally render a written determination within fifteen (15) business days after reaching a decision. The decision will include:

- A description of the allegations that were the subject of the hearing.
- A description of the procedural steps taken from the receipt of the Formal Complaint through determination.
- Findings of fact supporting the determination.
- Conclusions regarding the application of the Prohibited Conduct definitions to the facts.

For each allegation:

- A decision regarding the Hearing Panel's conclusion as to each allegation and the rationale for that decision.
- A sanction determination for any allegation for which there is a finding of responsibility.
- A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant.
- The procedures and bases for an appeal.

### **Sanctions And Other Remedies**

A disciplinary sanction arising from an allegation of Prohibited Conduct will not be issued unless and until a formal investigation is conducted and a final determination of responsibility, in accordance with the applicable hearing process, is made.

#### How Sanctions Are Determined

In determining a sanction, the Sanctioning Officer of the Respondent's school, after consultation with the Office, will impose sanctions that are:

- € Fair and appropriate, given the facts of the particular case.
- € Adequate to promote the safety of the campus community.
- € Reflective of the seriousness of the Prohibited Conduct found to have occurred.

When a Respondent is found responsible for a Policy violation, relevant factors will be considered when imposing a sanction, including but not limited to: the type of Prohibited Conduct at issue; the circumstances accompanying the lack of consent, if applicable (e.g., force, threat, coercion, incapacitation); the Respondent's state of mind (e.g., intentional, knowing, bias-motivated, reckless, negligent); the Respondent's prior disciplinary history, if any; previous sanctions imposed on the Respondent in other matters involving similar conduct, if any; the impact of the offense on the Complainant; and the safety of the University community.

The Sanctioning Officer from the Respondent's school, in consultation with the Office, will render a sanctioning decision within fifteen (15) business days after a decision is reached by the Hearing Panel, or, if there is no hearing, fifteen (15) business days following the date that impact statements were due to be submitted. Time frames for sanctioning decisions may be adjusted based on the availability of the Sanctioning Officer. The sanctioning decision and the rationale will be issued to both Parties in writing and, if a hearing is held, as part of the hearing decision.

There will be no sanction notice if there is not a finding of responsibility.

#### List of Sanctions

The University may impose one or more of the following sanctions on a Respondent determined through a process conducted under this Policy to have violated this Policy and/or another University policy:

- Reprimand/Disciplinary Warning.
- Conditional Disciplinary Probation.
- Disciplinary Probation.
- Disciplinary Suspension (suspension for a fixed period of time or an indefinite suspension).
- Expulsion.
- Withholding or deferral of issuance of degree.
- Revocation of degree.
- Revocation of alumni privileges.
- Revocation of honors, awards, and/or certificates.

- Admission revocation (e.g., undergraduate student admitted to a University graduate or professional program, or admitted student who has not yet enrolled).
- Restriction of access to University facilities or activities (e.g., student activities and campus organizations and buildings).
- Removal from and/or restricted participation in academic or extracurricular activities and/or University organizations, or restriction from University services.
- Dismissal or restriction from University employment.
- Removal from student housing.

In addition to any other sanction (except where the sanction is withholding of degree, expulsion, or revocation of degree after a Respondent has graduated), the University will require any student determined to be responsible for a violation of the Policy to receive appropriate education and/or training related to the misconduct at issue. The University may also recommend counseling or other support services for a Respondent.

When a sanction includes a disciplinary suspension, the student must submit a request to be considered for return to the University. The request must be prepared by the student and submitted to the Title IX Coordinator, for consideration in conjunction with the Dean of the student's school, and in consultation with any other appropriate University partners. The request should be submitted no later than forty-five (45) days prior to the end of a fixed suspension period, or, for indefinite suspensions, April 1 if the request is for readmission for the fall semester and November 1 if the request is for readmission for the spring semester. While there are no specific content requirements, requests must include a personal statement and be no more than ten (10) single-spaced pages with size 12-point Times New Roman font and one-inch margins. Information that may be submitted in support of requests for readmission may include, though is not limited to, the following:

- Letters of support.
- Proof of community involvement.
- Certified completion of related individual or group treatment programs (e.g., alcohol or other drug, anger management, individual counseling).
- Any other indicators of changes in life circumstances or personal growth.

When a sanction includes disciplinary suspension or expulsion, the student may be removed from a campus residence, severely restricted in their movements on campus, and/or barred completely

during the entirety of the appeal-filing period and appeal process. If a student is eligible to return to campus while a Complainant remains on campus, the Complainant will, at the earliest possible date, be notified in writing of the Respondent's intention to return. While on a disciplinary suspension, the student may not obtain academic credit elsewhere toward the completion of a Columbia degree.

If a sanction of disciplinary probation, disciplinary suspension, expulsion, withholding of degree, or revocation of degree is issued, the student will be considered "not in good disciplinary standing." If a student receives a sanction of expulsion, they will be permanently separated from the University, and will not be permitted to return at any time.

### Transcript Notations

Upon conclusion of the disciplinary appeal process, a permanent transcript notation will be indicated on a student's record in cases resulting in suspension or expulsion. Students who withdraw from the University without resolving a pending disciplinary matter will also be subject to a transcript notation. Notations on transcripts will be indicated as follows:

- Disciplinary Suspension
- Disciplinary Expulsion
- Withdrawn With Disciplinary Action Pending

Students may make a formal request for a notation to be removed by submitting an appeal via email to the Office after the minimum time period has elapsed—at least one year following the completion of a suspension or withdrawal. Transcript notations for expulsions are not eligible for appeal. Requests will be reviewed by the Title IX Coordinator and the Dean of the student's school. While there are no specific content requirements, requests must include a personal statement and be no more than ten (10) single-spaced pages with size 12-point Times New Roman font and one-inch margins. Information submitted in support of such requests may include, but is not limited to, the following:

- Letters of support.
- Proof of community involvement.
- Certified completion of related individual or group treatment programs (e.g., alcohol or other drug, anger management, individual counseling).
- Any other indicators of changes in life circumstances.

Requests will not be considered prior to the expiration of the minimum time period. A student may make a total of two requests per transcript notation before they are no longer eligible to appeal.

### Ongoing Supportive Measures for Students

Whatever the outcome of the investigation, hearing, or appeal, the Complainant and the Respondent may request ongoing or additional supportive measures. The Office, in consultation with the designated administrator of the Party's school, will determine whether such measures are appropriate. Ongoing supportive measures that do not unreasonably burden a Party may be considered and provided even if the Respondent is found not responsible for violating this Policy. Supportive measures and additional remedies may also be available for Complainants who choose not to file a Formal Complaint or participate in an investigation, hearing, or appeal. Potential ongoing supportive measures may include the following accommodations as appropriate and reasonably available:

- Issuing or maintaining a No-Contact Directive.
- Providing an escort for the Party.
- Moving the Party's residence.
- Changing the Party's academic schedule.
- Adjusting the Party's work schedule.
- Allowing the Party to withdraw from or retake a class without penalty.

### Additional Remedies

The University may also determine that additional remedies are appropriate to respond to the effects of an incident on the University community. Additional remedies for the benefit of the University community may include:

- Increased monitoring, supervision, or security at locations or activities where the misconduct occurred.
- Additional training and educational materials for: students; campus organizations, including but not limited to, clubs, teams, and Greek organizations; and employees.
- Revision of the University's policies related to Prohibited Conduct.
- Climate surveys regarding Prohibited Conduct.

## Appeals

Complainants and Respondents may appeal a Hearing Panel decision and/or the sanction(s) within ten (10) business days after receipt of the determination and sanctioning notice (if applicable) by filing an appeal in writing to the Office.

Appeals are decided by an Appellate Panel majority vote. The Appellate Panel consists of three Deans of schools: the Dean of the Respondent's school, the Dean of the Complainant's school, and a Dean from another school. Should the Complainant and the Respondent attend the same school or should the Dean from a Party's school have a conflict of interest, two Deans will be added from other schools. Should the Parties both be students of a graduate or professional school, Deans from graduate or professional schools will comprise the panel. Should one Party be an undergraduate student and another Party a graduate or professional student, the Appellate Panel will consist of the Dean of the Respondent's school, the Dean of the Complainant's school, and a Dean of a School from the academic level of the Respondent.<sup>38</sup> All Deans will receive relevant training at least once a year on how the adjudicatory and appeal process works, the elements essential to a fair and balanced review, and the sensitive issues involved in reviewing cases alleging Title IX and Related Misconduct.

The four grounds for appeal are:

- Procedural irregularity that affected the outcome of the matter. An appeal based on procedural irregularity must identify with specificity each alleged irregularity within the investigative and/or hearing process and the ways in which the specified irregularity or irregularities substantially affected the decision of the Hearing Panel and/or Sanctioning Officer to the detriment of the appealing Party. Disagreement with the finding or sanction is not, by itself, a ground for appeal.
- New evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter. An appeal based on new information must explain why this information was not available or not provided to the Investigative Team in a timely manner, and how this information would have substantially altered the decision by the Hearing Panel. If a Party declined to participate or withdrew from the process, the panel will not consider information that the Party could have provided if they had fully participated in the process. This includes situations where a student declines to participate on the advice of their advisor or due to a concurrent criminal investigation.
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual

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<sup>38</sup> The Office retains discretion to appoint an otherwise qualified and sufficiently trained Dean who does not meet these descriptions when other Deans are unable to serve due to conflicts of interest or other reasons.

Complainant or Respondent that affected the outcome of the matter. An appeal based on conflict of interest or bias must explain how the Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter. The Parties are afforded multiple opportunities throughout the process to appeal based on potential conflicts of interest or alleged bias and must indicate any potential conflict of interest or alleged bias through these opportunities (such as upon receiving notice of the investigators or Hearing Panelists assigned to the matter) so that they are immediately addressed before the process moves forward. As such, only newly known or newly apparent conflicts of interest or bias will be considered.

- Excessiveness or insufficiency of the sanction. An appeal based on the imposed sanction must explain why the sanction is inappropriate based on the weight of the information provided during the investigation, hearing, and/or sanction phases of the process.

Attached to their appeal, a Party may provide a written submission for consideration by the Appellate Panel. The written statement must be prepared by the student and be no longer than five (5) single-spaced typed pages using size 12-point Times New Roman font and one-inch margins. No attachments or exhibits will be accepted; references to evidence should be made to cited portions of the Hearing Panel's decision, the Investigative Report, or to materials included with the Investigative Report.

If either the Complainant or the Respondent submits an appeal, the Office will notify the other Party within five (5) business days after receipt. The Office will provide the non-appealing Party an opportunity to review the appeal and submit a written response. This response must be written by the student and be no more than five (5) single-spaced typed pages using size 12-point Times New Roman font and one-inch margins, and be submitted within ten (10) business days after a notice of appeal is issued. If both the Complainant and the Respondent appeal, the appeals will be considered concurrently and each Party will have the opportunity to review and respond to the other Party's appeal.

The purpose of an appeal is not to initiate a review of substantive issues of fact or for a new determination of whether a violation of the Policy has occurred. The Appellate Panel is strictly limited to determining if an appeal should be granted based on the above four grounds for appeal. In making a determination, the Appellate Panel will have access to and the ability to review all applicable documents, including the complete Investigative Report, all exhibits, written statements submitted to the Hearing Panel, impact statements, a recording and transcript of the hearing (if applicable), and any other case-related materials that may aid the Appellate Panel in its determination. The Appellate Panel may also request additional information from the Investigative

Team, the Title IX Coordinator, and/or Hearing Panel regarding issues of procedural irregularity or new evidence. Additionally, in the event that inaccurate facts or information outside the scope of the Policy or the investigative record is submitted to the Appellate Panel, those portions of the information may be redacted and/or the Title IX Coordinator may provide clarification. The Appellate Panel may take the following actions:

- Affirm the decision and/or sanction.
- Revise the sanction.
- Vacate the decision and/or sanction and send the matter back to the Hearing Panel or Investigative Team, or a different Hearing Panel or Investigative Team for further consideration.
- Take other action as deemed appropriate by the Appellate Panel.

If the matter is returned to a Hearing Panel or Investigative Team, the Appellate Panel will provide instructions regarding the nature and extent of the reconsideration. Following reconsideration by the Hearing Panel or Investigative Team, further proceedings will be conducted as appropriate.

The Appellate Panel will notify the Complainant and the Respondent of their decision in writing. Appeal decisions will be rendered generally within fifteen (15) business days after the Appellate Panel meets to consider the appeal, depending on the availability of the Appellate Panel. The Office will notify the Parties if there is a delay. There is no further recourse beyond the decision of the Appellate Panel.

## **V. UNIVERSITY RECORDS**

### **A. Records Retention and Disclosure**

The information compiled to review allegations of Prohibited Conduct is part of a student's educational record and is maintained by the Office. This record generally contains a description of the alleged violation, supporting documentation, written submissions, official case-related correspondence, and as applicable, the Investigative Report with exhibits, hearing decision, and appeal decision.

Disciplinary proceedings conducted by the University are subject to the Family Educational Records and Privacy Act ("FERPA"), a federal law governing the privacy of student information. FERPA generally limits disclosure of student information outside the University without the student's consent. FERPA provides, however, for release of student disciplinary information without a student's consent in certain circumstances. It is important to note that the release of student disciplinary records is permitted without prior consent, for example, to University officials

with legitimate educational interest (such as a student’s academic advisor, Columbia Athletics if the involved student is an athlete, and under other circumstances as permitted by FERPA). The University will also release information when a student gives written permission for information to be shared.

Any information gathered by the Office may be subpoenaed by law enforcement authorities as part of a parallel or subsequent investigation into the same conduct or required to be produced through other compulsory legal processes.

Unless otherwise specified by the student, the University will respond to third-party requests for a student’s disciplinary records (such as requests by graduate schools or employers) by disclosing only records of disciplinary matters that result in the change of a student’s good disciplinary standing at the University. Matters that resulted in Disciplinary Probation are reported for seven years from the date that the student was found responsible for a violation of University policy. Matters that result in a Disciplinary Suspension or Expulsion from the University are reported as a part of the student’s permanent education record. This disclosure includes the student’s violation(s), the corresponding sanction(s), and the date of determination. Matters where students maintained good disciplinary standing are not reported unless otherwise specified by the student.

Students and alumni may inquire about their disciplinary record by visiting: [Student Records](#). Additional information about FERPA can be found at:

- Columbia University’s [Essential Policies for the Columbia Community](#).
- Barnard College’s [Policy and Guidelines Regarding Student Records Under the Family Educational Rights and Privacy Act of 1974 \(FERPA\)](#).
- Teachers College’s [Student Records and Family Education Rights and Privacy Act \(FERPA\) Statement](#).

## **B. Reporting of Crime and Disciplinary Statistics**

A federal law called the Jeanne Clery Campus Safety Act (“Clery Act”)<sup>39</sup> requires the University to record and report certain information about campus safety, including the number of incidents of certain crimes on or near campus, some of which constitute Prohibited Conduct under this Policy. Many employees who receive reports of Prohibited Conduct are required by the Clery Act to notify University Public Safety about such incidents for statistical reporting purposes only; these notifications may include the classification and location of the reported crime, but do not identify the students involved. The University is also obligated to issue timely warnings of crimes enumerated in the Clery Act that occur on or near campus and represent a serious or continuing

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<sup>39</sup> For purposes of the Clery Act, Columbia University, Barnard College, and Teachers College separately report Clery data.

threat to community members, except in those circumstances where issuing such a warning may compromise current law enforcement efforts, or when the warning itself could potentially identify the reporting individual.

New York State law also requires annual statistical disclosures about reports of Prohibited Conduct. Additionally, the University annually reports aggregate information to the University community concerning reported incidents of Prohibited Conduct and the results of student disciplinary proceedings. Such disclosures and reports do not contain information identifying individual student participants.

## **VI. TRAINING**

### **A. Investigative Team**

The University ensures that all investigators receive extensive and continuing annual training on the federal Title IX Regulations, applicable New York State law, and University policies and procedures. Investigators are trained on how to investigate and evaluate conduct in accordance with this Policy. Such training includes but is not limited to: the scope of the University's education program or activity; how to conduct an initial assessment, investigation, hearing, appeal, and informal resolution processes; the relevance of questions and evidence; trauma-informed interview practices; how to serve impartially, including by avoiding prejudging the facts at issue; conflicts of interest and bias; and the use of any necessary technology.

### **B. Hearing and Appellate Panel**

All panelists receive relevant training at least once a year. In addition to training on how the adjudicatory process works, the training includes, but is not limited to: specific instruction on how to evaluate evidence impartially; bias and conflict of interest; how to approach people about sensitive issues that may arise in the context of alleged Prohibited Conduct; issues of relevance of questions and evidence, including when questions and evidence about the Complainant's prior sexual behavior are not relevant; evaluating the weight to be given to particular evidence; and any applicable technology.

### **C. All Employees**

All employees will receive annual training required by New York State law on the University's obligation to address sex discrimination in its education program and activities. The training will cover the scope of conduct that constitutes sex discrimination, including sexual harassment, the duty to report, the duty to act, and confidential/non-confidential employees.

#### **D. Training Materials**

All materials used to train the Title IX Coordinator(s), investigators, decision-makers, and any person who facilitates an informal resolution process will be publicly available on the Office's website.

### **VII. UNIVERSITY AUTHORITY & AMENDMENTS**

The University may amend the Policy or the Procedures periodically. Nothing in the Policy or Procedures shall affect the inherent authority of the University to take such actions or alter, change or modify this Policy or its Procedures as it deems appropriate to further the University's educational mission or to protect the safety and security of the University community. The information in this Policy is intended to be explanatory and not contractual in nature.

### **VIII. APPENDICES**

## Appendix A: Campus & Community Resources

### Office of Institutional Equity RESOURCES FOR STUDENTS

#### ON-CAMPUS RESOURCES

The University Health Services Student Fee covers the on-campus resources that are available to students enrolled in their school's health service program. Services are available during normal business hours, 9:00 a.m.-5:00 p.m., unless otherwise noted.

#### CONFIDENTIAL

##### Sexual Violence Response & Rape Crisis/ Anti-Violence Support Center\*

- ☒ **Morningside:** Alfred Lerner Hall, Suite 700
- **CUIMC:** 60 Haven Ave, Bard Hall, Suite 206
- **Barnard:** 105 Hewitt Hall, 1<sup>st</sup> Floor
- ☒ **Helpline:** 212-854-HELP (4357) (*Available 24 hours a day year-round*)

##### Ombuds Office

- **Morningside:** 660 Schermerhorn Ext. | 212-854-1234
- **CUIMC:** 154 Haven Ave, Room 412 | 212-304-7026

##### Medical Services

- ☒ **Morningside:** John Jay, 4<sup>th</sup> Floor | 212-854-7426 | Mon–Thur 9am-4:30pm | Fri 8am – 3:30pm
- **CUIMC:** 100 Haven Ave, Tower 2, 2<sup>nd</sup> Floor | 212-305-3400
- **Barnard:** Lower Level Brooks Hall | 212-854-2091

##### University Counseling and Psychological Services

- ☒ **Morningside:** Alfred Lerner Hall, 5<sup>th</sup> and 8<sup>th</sup> Floors | 212-854-2878
- **CUIMC:** 100 Haven Ave, Tower 2, 3<sup>rd</sup> Floor | 212-305-3400
- **Barnard:** 100 Hewitt Hall, 1<sup>st</sup> Floor | 212-854-2092  
After hours 855-622-1903

##### University Pastoral Counseling

- **Office of the University Chaplain:** (*Ordained Clergy*)  
W710 Lerner Hall | 212-854-1493
- **Columbia Religious Life:** (*Ordained Clergy*) 303  
Earl Hall | 212-854-2184

##### Columbia Office of Disability Services

(*Confidential Resource for Columbia Only*)

- **Morningside:** Wien Hall, Suite 108A | 212-854-2388
- **CUIMC:** 105 Bard Hall | 212-304-7029  
<http://www.health.columbia.edu/disability-services>

☒ Indicates that facility supports Teachers College.

The medical treatment resources listed above can provide treatment for injuries and for potential exposure to sexually transmitted diseases. They also provide emergency contraception and other health services. They can assist in preserving evidence or documenting any injuries, including by helping find a Sexual Assault Nurse Examiner, who is specially trained to collect evidence. Taking these steps promptly after an incident can be very helpful in later criminal proceedings and/or in seeking a protective order.

#### ADDITIONAL RESOURCES (NON-CONFIDENTIAL)

##### Center for Student Success and Intervention (“CSSI”)

- Case Management and Community Engagement [CSSI@columbia.edu](mailto:CSSI@columbia.edu) | 212-854-1717

##### Office of Institutional Equity (“OIE”)

- [institutionalequity@columbia.edu](mailto:institutionalequity@columbia.edu) | 212-854-5511

##### University Title IX

- Columbia University: Marjory Fisher, Associate Vice President | [mdf2166@columbia.edu](mailto:mdf2166@columbia.edu) | 212-853-1276
- Barnard: Joanne Delgadillo, Director of Nondiscrimination and Title IX | Elliott Hall, 1st Floor | [jdelgadi@barnard.edu](mailto:jdelgadi@barnard.edu) | 212-854-0037
- Teachers College: Allison Nicole Antwi, Assistant Vice President for Equity and Compliance | Zankel 128 | [ana2172@tc.columbia.edu](mailto:ana2172@tc.columbia.edu) | 212-678-7508

##### University Public Safety

- Morningside: 212-854-2797
- Manhattanville: 212-853-3301
- CUIMC: 212-305-8100
- Barnard: 212-854-3362
- Teachers College: 212-678-3333

##### International Students and Scholars Office (“ISSO”)

- 524 Riverside Drive, 1st Floor  
<https://isso.columbia.edu/> | 212-854-3587

##### Requesting Accommodations for a Disability at Barnard and Teacher’s College

- Teachers College Office of Access and Services for Individuals with Disabilities: Zankel 301  
<http://www.tc.columbia.edu/oasid> | 212-678-3689
- Barnard Office of Disability Services: 101 Altschul Hall <http://www.barnard.edu/disabilityservices> | 212-854-4634

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## OFF-CAMPUS RESOURCES\*\*

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Unless otherwise noted, all facilities listed below are available 24 hours a day.

☾ Crescent moon - indicates facilities that are not available 24 hours a day. \*\*Fees may apply.

### Off-Campus Advocacy, Counseling and Health Services

- **Safe Horizon**  
Sexual Assault Hotline: 212-227-3000  
Domestic Violence Hotline: 800-621-HOPE (4673)
- ☾ **Mt. Sinai St. Luke's Hospital Crime Victims Treatment Center** 1-212-523-4728 *by appointment only* (sexual assault advocates available 24 hours a day).
- **New York-Presbyterian/CUIMC Emergency Room**  
1-212-305-6204
- **New York City Anti-Violence Project**  
1-212-714-1184
- **New York State Office of Victim Services** 1-800-247-8035
- **New York State Office of Campus Safety** 1-518-474-6460
- **New York State Office for the Prevention of Domestic Violence** 1-800-942-6906
- **It's On Us** 1-202-908-5226 [www.itsonus.org](http://www.itsonus.org)

#### Neighboring Hospitals with SAFE Centers:

- **Mt. Sinai St. Luke's Hospital** (CHP Group)  
1111 Amsterdam Avenue at West 113<sup>th</sup> Street
- **Mt. Sinai West Hospital** (CHP Group)  
1000 10th Avenue at West 58<sup>th</sup> Street
- **Bellevue Hospital** (HHC Group)  
462 First Avenue at East 27<sup>th</sup> Street
- **Harlem Hospital** (HHC Group),  
506 Malcolm X Boulevard at West 135<sup>th</sup> Street
- **Metropolitan Hospital Center** (HHC Group)  
1901 First Avenue at 96<sup>th</sup> Street
- **Mount Sinai Medical Center** (Mount Sinai), 1 Gustave L Levy Place (Fifth Avenue) at East 98<sup>th</sup> Street
- **New York-Presbyterian - Columbia** (NYP)  
622 West 168<sup>th</sup> Street
- **New York-Presbyterian - The Allen Pavilion** (NYP),  
5141 Broadway at West 221<sup>st</sup> Street
- **New York-Presbyterian - Weill Cornell** (NYP), 525 East 68<sup>th</sup> Street at York Avenue

Mt. Sinai St. Luke's Hospital's Emergency Room at 1111 Amsterdam Avenue (West 113<sup>th</sup> Street between Amsterdam and Morningside Avenues) and New York-Presbyterian Hospital/CUIMC Emergency Room at 630 West 168<sup>th</sup> Street (at Broadway) can provide treatment for injuries and for potential exposure to sexually transmitted infections, emergency contraception, and other health services. They can assist in preserving evidence or documenting any injuries and have personnel who are specially trained to collect evidence.

### Off-Campus Law Enforcement

- **New York City Police Department (NYPD)**  
Emergency: 911  
26th Precinct: 212-678-1311
- **New York County District Attorney's Office**  
Child Abuse and Family Violence: 212-335-4308  
Intimate Partner and Sexual Violence: 212-335-9373
- **New York Campus Sexual Assault Victims Unit**  
**Hotline** 1-844-845-7269
- **Sex Crimes Report Hotline** 212-267-7273

#### Additional Government Resources

The government resources listed here may provide additional assistance for students wishing to file an external complaint of misconduct or students with inquiries regarding the application of Title IX and its implementing regulations:

- ☾ **NYC Family Justice Center – Manhattan**  
• <https://www.nyc.gov/site/ocdv/programs/family-justice-centers.page>  
212-602-2800 | 80 Centre St New York, NY 10013
- ☾ **New York State Office of Victims Services**  
<https://ovs.ny.gov/> | 1-800-247-8035
- ☾ **U.S. Department of Education, Office for Civil Rights** | <http://www.ed.gov/ocr>  
646-428-3800 | New York – Region II, 32 Old Slip, 26<sup>th</sup> Floor | [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)
- ☾ **U.S. Department of Justice, Office on Violence Against Women** | <https://www.justice.gov/ovw>  
202-307-6026 | 145 N St, NE, Suite 10W.121  
Washington, D.C. 20530
- **National Domestic Violence Hotline**  
1-800-799-SAFE
- ☾ **National Crime Victim Center**  
<http://www.ncvc.org> | 855-484-2846 (8:30 am – 7:30 pm)

#### Overseas Services

In an emergency, contact the nearest U.S. Embassy or Consulate, or call these numbers:

- From Canada: 1-888-407-4747
- From Overseas: +1-202-501-4444-4747

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See the chart on the following page for an explanation of these resources' reporting obligations. Up-to-date contact information can be found on the University's *Sexual Respect* website at <http://sexualrespect.columbia.edu>.

## Appendix B: Confidentiality Protections & Reporting Obligations

### CONFIDENTIALITY PROTECTIONS & REPORTING OBLIGATIONS

Confidential resources will not share information with some exceptions. Exceptions to confidentiality are listed below.

TYPE	PERSONNEL	REPORTING OBLIGATIONS
CONFIDENTIAL	<b>University Chaplains</b> <i>(Ordained Clergy)</i>	<ul style="list-style-type: none"> <li>• None, unless acting in a role described below.</li> </ul>
	<b>Counseling and Psychological Services</b>	<ul style="list-style-type: none"> <li>• If a patient’s clinical state poses a substantial risk of harm to the patient or others, as manifested by conduct, this resource must report to County Mental Health officials. (NY Mental Hygiene Law)</li> <li>• If there is reasonable cause to suspect that a minor has been sexually abused, this resource will report to the requisite state officials. (NY Social Services Law)</li> </ul>
	<b>Physicians and Other Health Professionals</b>	<ul style="list-style-type: none"> <li>• This resource will report incidents on an aggregate periodic basis without any identifying information to the Office to enable the University to understand the existence and extent of the problem. (Title IX)</li> <li>• If a patient’s clinical state poses a substantial risk of harm to the patient or others, as manifested by conduct, these resources will report to New York County Mental Health officials. (NY Mental Hygiene Law)</li> <li>• If there is reasonable cause to suspect that a minor has been sexually abused, this resource will notify the requisite state officials. (NY Social Services Law)</li> </ul>
	<b>Sexual Violence Response &amp; Rape Crisis/Anti-Violence Support Center</b>	<ul style="list-style-type: none"> <li>• This resource will report incidents on an aggregate periodic basis without any identifying information to the Office to enable the University to understand the existence and extent of the problem. (Title IX)</li> <li>• If there is reasonable cause to suspect that a minor has been sexually abused, this resource will notify University leadership. (NY Social Services Law)</li> <li>• When disclosure may prevent harm to self or others where the danger is imminent (i.e. suicide or homicide) N.Y. [Mental Hygiene] Law</li> <li>• If there is reasonable cause to suspect abuse or neglect of an Incompetent or Physically Disabled Person (defined as persons who are unable to care for themselves because of physical disability, mental disease or defect). (Article 260, NYS Penal Law &amp; Soc. Services)</li> </ul>
	<b>Disability Services</b> <i>(for Columbia only)</i>	<ul style="list-style-type: none"> <li>• This resource will report incidents on an aggregate periodic basis <b>without any identifying information</b> to the Office to enable the University to understand the existence and extent of the problem. (Title IX)</li> </ul>
	<b>University Ombuds Offices</b>	<ul style="list-style-type: none"> <li>• If a patient’s clinical state poses a substantial risk of harm to the patient or others, as manifested by conduct, these resources will report to New York County Mental Health officials. (NY Mental Hygiene Law)</li> <li>• If there is reasonable cause to suspect that a minor has been sexually abused, this resource will notify University leadership. (NY Social Services Law)</li> </ul>

## CONFIDENTIALITY PROTECTIONS & REPORTING OBLIGATIONS

Non-confidential resources are required to protect students' privacy to the greatest extent possible and will only disclose identifying information on a need-to-know basis.

TYPE	PERSONNEL	REPORTING OBLIGATIONS
<b>ADDITIONAL RESOURCES (NON-CONFIDENTIAL)</b>	<b>Center for Student Success and Intervention</b>	<ul style="list-style-type: none"> <li>• Unless a complainant requests otherwise and the request is granted, this resource will investigate and respond to reported misconduct incidents (Title IX)</li> <li>• If the incident may be a crime, this resource will report it without any identifying information to Campus Public Safety for inclusion in the daily crime log and annual statistical report and for issuance of any required timely warning. (Clery Act)</li> <li>• This resource will share information with University personnel who need to know it in order to carry out University policies and procedures</li> </ul>
	<b>Title IX Coordinators</b>	
	<b>Office of Institutional Equity</b>	
	<b>Public Safety Personnel</b>	<ul style="list-style-type: none"> <li>• Public Safety will report to the Office all information received about misconduct incidents so the University can investigate and respond. (Title IX)</li> <li>• If the incident may be a crime, Public Safety will include it in a crime log and annual crime statistics without identifying the alleged victim. (Clery Act)</li> <li>• If the incident may be a crime and poses a serious or continuing threat, Public Safety will issue an emergency notification or timely warning. (Clery Act)</li> <li>• If there is reasonable cause to suspect that a minor has been sexually abused, Public Safety will notify University leadership. (NY Social Services Law)</li> <li>• Public Safety will share information with University personnel who need to know it in order to carry out University policies and procedures</li> </ul>
	<b>Other University Personnel</b>	<ul style="list-style-type: none"> <li>• Will report to the Office all information received about misconduct incidents so the University can investigate and respond. (Title IX)</li> <li>• If the incident may be a crime, a “campus security authority” will report it without any identifying information to Campus Public Safety for inclusion in the daily crime log and annual statistical report and for issuance of any required timely warning. (Clery Act)</li> <li>• If there is reasonable cause to suspect that a minor has been sexually abused, other University personnel will notify University leadership. (NY Social Services Law)</li> <li>• Other University personnel will share information with University personnel who need to know it in order to carry out University policies and procedures.</li> </ul>
<b>Disability Services</b> <i>Barnard and Teacher’s College</i>		

## Appendix C: Glossary

**Active Alum:** An active alumnus is an individual who graduated from a Columbia University undergraduate or graduate degree-granting program (i.e., non-certificate programs) within the past six months, or an alumnus who is regularly involved in one or more of Columbia University's associations or activities, or an alumnus who represents Columbia University in an official capacity.

**Advisor:** An individual chosen by a Party who may be, but need not be, an attorney and who may accompany that Party to any meeting or interview.

**Attorney-Advisor:** An advisor who is an attorney. The University assigns attorney-advisors to students who are a Party in a formal investigation under this Policy upon request or as needed to conduct questioning in a Title IX hearing.

**Complainant:** An individual who is alleged to be the victim of conduct that could constitute Prohibited Conduct under this Policy.

**Confidentiality:** Confidentiality may be offered by an individual who is not required by law to report known incidents of Prohibited Conduct to University officials, in a manner consistent with state and federal law.

**Cross-Complaint:** A case in which a Complainant and a Respondent each makes allegations of Prohibited Conduct by the other presents a cross-complaint. In such cases, the Parties will be referred to as Party A and Party B instead of as "Complainant" and "Respondent." Each Party will have all of the same rights and be subject to the same procedures that apply to Complainants and Respondents. Cross-complaint allegations will be investigated and resolved simultaneously, other than in exceptional circumstances or at the discretion of the Investigative Team when that approach will create an undue delay. Cross-complaints involving a Columbia University student and a Barnard student may be investigated pursuant to a joint investigation, in the discretion of the Columbia and Barnard Title IX Coordinators, during which information may be shared between the Office and Barnard's Office of Nondiscrimination and Title IX as necessary.

**Disciplinary Probation:** The student is no longer in good disciplinary standing for a specific period of time. The student is permitted to continue academic progress at the University.

**Disciplinary Suspension:** The student is temporarily separated from the University for a specified period of time. During this period, the student is ineligible to participate in any Columbia University affiliated academic or extracurricular activities. Additionally, the student is not permitted to enroll in classes at any other institution for the purpose of transferring credit back to Columbia University.

**Expulsion:** The student is permanently separated from the University and will not be permitted to return at any time.

**Formal Complaint:** A document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the University investigate.

**Party:** A Complainant or Respondent. The Complainant(s) and Respondent(s) are referred to collectively as the “Parties.” In a case where the Title IX Coordinator signs and files a complaint, the Title IX Coordinator is not a “Party.”

**Privacy:** Privacy may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a Party or witness more than necessary to comply with applicable laws, including informing appropriate University officials. Even University offices and employees who cannot guarantee confidentiality will maintain privacy to the greatest extent possible.

**Relevant:** Helping to show that an allegation of Prohibited Conduct is more or less likely to be true.

**Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute Prohibited Conduct under this Policy.

**Sanction:** A consequence imposed upon a Respondent who has been determined to be Responsible for Prohibited Conduct.

**Student:** A person who has gained admission to the University, including a person who is not officially enrolled for a particular semester. Students include, but are not limited to, persons registered in any program or division of the University, whether for courses or research, and whether or not they are candidates for a degree or certificate. They also include persons who are on leave or suspended or continuing matriculants for any degree or certificate, as well as persons registered during any preceding terms and who have not since that time earned the degree or certificate or withdrawn from the University.

**University:** Columbia University only, not including Barnard College or Teachers College.

## Appendix D: Rules of Decorum Title IX and Related Misconduct Hearings

The University's resolution processes are designed to be educational. Hearing participants are expected to act in accordance with their role as it is described in the Policy and in accordance with the Rules of Decorum set out here.

The Hearing Chair is responsible for conducting the hearing and maintaining decorum so that the hearing takes place fairly and effectively. If the Hearing Chair determines that decorum is broken and the hearing has become disorderly, the Hearing Chair may recess or pause proceedings to address the behavior. Misconduct during the hearing can take many forms, both minor and egregious. It is within the Hearing Chair's discretion to discourage or penalize Parties, witnesses, or advisors who demonstrate a lack of decorum.

The following rules apply equally to all hearing participants, including Parties, witnesses and advisors regardless of sex, gender or other protected class, and regardless of whether they are in the role of Complainant, Respondent, or witness.

### Rules of Decorum

1. If an advisor, Party, or witness is referencing another person, including the hearing participants, as much as possible the person's name or role (i.e., Complainant, Respondent) should be used.
2. Anyone referring to another person should refer to that person by their gender as they identify it. No participant may intentionally mis-gender another person.
3. During cross-examination, the Hearing Chair must approve all questions before the Party or witness responds. As much as possible, the Hearing Panel and advisors are expected to restrict the use of irrelevant questions (e.g., questions that are redundant, compound, or do not seek relevant information).
4. Hearing participants are prohibited from:
  - Interrupting other participants.
  - Using profanity directed toward another participant.
  - Using objectively offensive or aggressive gestures.
  - Harassing another participant.
  - Yelling, screaming, badgering.
  - Physically "leaning in" to the personal space of another participant.

- Approaching a participant without the express permission of the Hearing Chair.
- Taking any action that a reasonable person would see as intended to intimidate a participant or to meaningfully modify someone's participation in the process.
- Engaging in any other behavior to deliberately disrupt the hearing.

The Hearing Chair has sole discretion to pause or interject during the process and all hearing participants are expected to comply with any direction provided. If a hearing participant violates the Rules of Decorum or otherwise becomes disorderly, the Hearing Chair may recess or pause proceedings to address the behavior.

If a hearing participant violates the Rules of Decorum, the Hearing Chair may issue a penalty to that hearing participant. Specifically, the Hearing Chair may give a verbal warning, pause the hearing process, or remove a hearing participant. If an advisor is removed for egregious or repeated violations of the Rules of Decorum, the respective Party may have the opportunity to immediately replace the advisor or the Office will assign an advisor to the Party for the purpose of completing cross-examination. Reasonable delays, including the temporary adjournment of the hearing, may be anticipated should an advisor be removed. A Party cannot pose cross-examination questions themselves in such a circumstance.

If the Hearing Chair determines that an advisor violated the Rules of Decorum in the course of asking a relevant question, the violation will not affect the question's relevancy. The Hearing Chair will notify the advisor of the violation and permit the question to be re-asked (or permit a replacement advisor to ask the question in cases where the advisor has been removed for the violation of the Rules of Decorum).

#### **Notification of Rules of Decorum Violation and Removal Process**

If the Hearing Chair determines that a participant has violated the Rules of Decorum, the Hearing Chair will first notify the offending person of the violation. Upon a second or further violation, the Hearing Chair has the discretion to remove the offending participant. The Hearing Chair will document any decision to remove a participant as part of the written determination regarding responsibility.

## Appendix E: Scenarios

The following scenarios help illustrate some applications of the Policy:

Pat and Dana, Columbia University students, 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. At one point, Dana went to the bathroom and Pat noticed that Dana stumbled when walking back into the room. Dana's friend told Pat that Dana had been vomiting. Pat volunteered to take Dana home. When they arrived at Dana's room, Pat began kissing Dana and proceeded to have sex with Dana. When Dana woke 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.

*A reasonable person could have concluded that Dana was incapacitated due to her alcohol use because Pat saw Dana stumbling and knew Dana had vomited in the bathroom. Dana was therefore unable to affirmatively consent to sexual activity and Pat having sex with Dana while Dana was incapacitated constitutes Prohibited Conduct under this Policy. If the incident happened on-campus, in a dorm room or University apartment, it may meet the definition of Title IX Rape. If the incident happened at an off-campus location or outside the United States, including on a study abroad program, it may constitute Rape and be addressed under the process for Related Misconduct.*

\*\*\*

Taylor, a Columbia student, and Hong, a Barnard student, have been dating for a few months. On several occasions, Taylor and Hong have engaged in consensual sexual intercourse. One night, in Taylor's off-campus apartment, Taylor and Hong 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.

*Taylor did not have Hong's affirmative consent to engage in sexual intercourse, which is a violation of this Policy. Hong objected to having sex and Taylor ignored these objections. Although Taylor and Hong were in an intimate relationship and had previously had consensual sexual intercourse, Hong did not consent to sexual conduct on this particular evening. Hong's silence does not imply consent. This conduct may constitute Rape and would be addressed under the process for Related Misconduct because it occurred at an off-campus apartment.*

\*\*\*

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. During the conversation, Peyton casually commented that Jordan was hot, but Jordan did not say anything in response. Peyton placed his arms around Jordan's waist as they continued their conversation and then touched Jordan's breasts. Jordan removed Peyton's hands from her body. A few minutes later, Peyton said he did not understand why Jordan was making such a big deal about Peyton touching her.

*Peyton touched Jordan without Jordan's affirmative consent and under circumstances that suggest the touching was for the purpose of sexual gratification. Because this conduct occurred inside a Columbia University residence hall, it may meet the definition of Title IX Non-Consensual Sexual Contact, which includes touching under or over clothes.*

\*\*\*

Kai and Lee met at an off-campus location and quickly realized they were both Columbia students. Lee asked Kai for their number and suggested that they meet for lunch on campus. A few hours later, Lee began to call and text Kai, asking Kai out on a date. Kai told Lee repeatedly that they are not interested and did not want to date them. After that, Lee found Kai's campus address and began to send cards and flowers to Kai's room. Kai wrote to Lee after the first card arrived and asked Lee to leave them alone. Then Lee waited for Kai outside of their class to invite them to dinner.

*Lee's repeated contact with Kai after Kai told Lee that they were not interested and asked Lee to leave them alone may constitute Title IX Stalking because it occurred on campus.*

\*\*\*

Melissa and Joe, a Ph.D student at Columbia, are married and live in an off-campus housing. After a stressful meeting with his advisor concerning his dissertation, Joe came back to the apartment and berated Melissa about the apartment being messy. Joe grabbed the dinner that Melissa ordered and threw it in her direction, though he did not hit her. When Melissa tried to leave the apartment, Joe grabbed her by the wrist. In the struggle to get away from Joe, Melissa fell and hit her head on the table.

*Joe's actions are Domestic Violence. Any use or threat of physical violence toward a domestic partner or spouse constitutes domestic violence. Because this incident occurred off-campus, it would be addressed under the process for Related Misconduct, which applies regardless of whether Melissa has any relationship to the University.*

\*\*\*

Bette and Tina had been dating for a few months. Tina, an aspiring photographer, asked Bette to pose nude for her portfolio. Bette and Tina got into an argument regarding Tina's photography. Shortly after they broke up, a mutual friend informed Bette that Tina had posted Bette's nude photographs on Facebook.

*The distribution of photographs of another person's unclothed body or body parts, without affirmative consent, regardless of whether they originally consented to the taking of the photographs, constitutes Sexual Exploitation and is prohibited by this Policy. This incident would be addressed under the process for Related Misconduct.*

\*\*\*

Noam, a Teachers College student, and Xiang, a Barnard student, have been dating for a couple weeks. On several occasions, Noam and Xiang have engaged in consensual sexual intercourse with a condom. One night, Noam asked Xiang to have sex without a condom, and Xiang said no. Noam and Xiang began having consensual intercourse with a condom, but Noam removed the condom without Xiang's knowledge.

*Noam removing the condom while having sex with Xiang (sometimes referred to as "stealthing") constitutes Prohibited Conduct under this Policy. Xiang consented to sex with a condom. Contrary to Xiang's wishes, Noam deliberately removed the condom without Xiang's knowledge. Noam did not have Xiang's affirmative consent to engage in this type of sexual interaction. Whether this incident would be addressed under the Title IX Process or the process for Related Misconduct depends on the location where the conduct occurred. Had they agreed to have sex with a condom, and the condom fell off without either of their knowledge unintentionally, this would not be "stealthing," nor would this impact Xiang's affirmative consent given before they had sex.*

## Office of Institutional Equity



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