

# COLUMBIA COLLEGE PROCEDURES FOR REPORTS OF PROHIBITED CONDUCT

## I. INTRODUCTION

These are the procedures Columbia College follows when it receives a report alleging Prohibited Conduct. The College uses these procedures to investigate and adjudicate any such allegation and to impose disciplinary sanctions against Students, Employees or Trustees found responsible for violating the Sexual Misconduct Policy (“Policy”).

## II. REPORTING THE INCIDENT TO COLUMBIA COLLEGE

Columbia College urges anyone who becomes aware of an incident of Prohibited Conduct involving a Student, Employee or Trustee to immediately report the incident to the College Title IX Coordinator(s). The Title IX Coordinator(s) are appointed by the President of the College to ensure the school is compliant with Title IX, coordinate the investigation and disciplinary process, and look for patterns of systematic problems with compliance to ensure the College fulfills all federal obligations.

### **Title IX Coordinators:**

Dr. Ezaz Ahmed

Mail Address: 1301 Columbia College Drive, Columbia College, Columbia, SC 29203

Email: [eahmed@columbiasc.edu](mailto:eahmed@columbiasc.edu)

Telephone: 803-786-3833 during business hours and  
803-567-1273 in the evening and on the weekend

Mrs. Julie King

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Telephone: 803-786-3765 during business hours and  
803-386-1458 in the evening and on the weekend

Alternatively, any person may report Prohibited Conduct under this Policy (whether or not the person reporting is the person alleged to be the victim of such conduct), to a Responsible Employee, as defined in this Policy. Responsible Employee(s) who obtains Actual Knowledge of Prohibited Conduct must promptly advise the Title IX Coordinator(s) of any report, allegations or observations of Prohibited Conduct, including the identities of the individuals involved. This is required even if the person reporting the Policy violation is unsure about pursuing a Formal Complaint. Failure of a Responsible Employee to comply with this reporting requirement may result in disciplinary action, up to and including termination.

Similarly, all other College employees are who receive a report, make observations or learn of allegation of Prohibited Conduct must promptly advise the Title IX Coordinator(s) of any report, allegations or observations of Prohibited Conduct, including the identities of the individuals involved. This is required even if the person reporting the Policy violation is unsure about pursuing

a Formal Complaint. Failure of an employee to comply with this reporting requirement may result in disciplinary action, up to and including termination.

There is no time limit to notify the College of an incident of Prohibited Conduct; however, Complainants (an individual who is reporting they were a victim of Prohibited Conduct) are encouraged to report allegations of Prohibited Conduct immediately in order to maximize the College's ability to obtain evidence and conduct a thorough, impartial, and reliable investigation. The College only has jurisdiction over enrolled students, current faculty, current staff members and Trustees. A delay in filing a complaint may compromise the subsequent investigation, particularly if neither the Complainant nor the Respondent (the individual who allegedly committed Prohibited Conduct) is enrolled as a student or employed by the College at the time the complaint is filed.

All cases of reported Prohibited Conduct are held in confidence to the extent possible subject to the College's need to properly investigate allegations of Prohibited Conduct. Reporting Prohibited Conduct does not in any way obligate an individual to pursue legal or institutional disciplinary action; however, Columbia College has the right to pursue disciplinary action at its discretion when there could be a threat to the campus community.

The College will keep the Complainant's identity confidential (including from the Respondent), unless disclosing the Complainant's identity is necessary to provide Supportive Measures for the Complainant (e.g., where a no-contact order is appropriate and the Respondent would need to know the identity of the Complainant in order to comply with the no-contact order, or campus security is informed about the no-contact order in order to help enforce its terms), and except as may be necessary in order to carry out the provisions of this Policy or a related College Policy or to comply with applicable law.

Any person may choose to make a report anonymously. Where a person makes an anonymous report, the College will comply with this Section to the fullest extent possible, but may be limited in its ability to do so if the identity of any Complainant is unknown.

All individuals are encouraged to report sexual misconduct that may also violate criminal law to both the College and to local law enforcement. These processes are not mutually exclusive.

In accordance with South Carolina law, the College **requires** all personnel, including faculty, staff, students, as well as third-Parties, to report suspected child abuse of which they are made aware in their capacity of employment or duties. Any uncertainty about whether reporting Child Abuse should always be resolved in favor of making a report to law enforcement.

### III. INTAKE MEETING WITH TITLE IX COORDINATOR(S)

Upon receipt of notice of any allegation of Prohibited Conduct, the Title IX Coordinator(s) will schedule an individual intake meeting with the Complainant in order to provide the Complainant with a general understanding of the College's Sexual Misconduct Policy and to identify forms of Supportive Measures available to the Complainant. Below are supportive measures that may be taken:

- Academic scheduling or class modifications;
- A change or modification to residence hall;

- On-campus employment change or work schedule modifications;
- Assistance with extra-curriculars, organizations, activities, etc.;
- Police escort to vehicle;
- Other accommodations as deemed appropriate

The Title IX Coordinator(s) will also (1) consider the Complainant's wishes with respect to Supportive Measures; (2) inform the Complainant of the availability of the Supportive Measures with or without the filing of a Formal Complaint; and (3) explain to the Complainant the process for filing a Formal Complaint.

The investigation procedures set forth in this Policy will typically apply only to Formal Complaints made in accordance with the policy. All other reports of Prohibited Conduct will typically be investigated using the procedures set forth in the Student Code of Conduct or the policies applicable to the employees and faculty, within the discretion of the College.

## IV. FORMAL COMPLAINTS OF SEXUAL MISCONDUCT; SUPPORTIVE MEASURES

### 1. Filing a Formal Complaint

A Complainant may file a Formal Complaint of Sexual Harassment against a Respondent by submitting it to the Title IX Coordinator(s) in person, by mail, or by email, by using the contact information listed above. A Formal Complaint must be a document or electronic submission that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. A Formal Complaint must allege Sexual Harassment against a Respondent and request that the College investigate the allegations of Sexual Harassment. Complainants who seek to file a Formal Complaint may choose to use the Formal Complaint form attached to this Policy as Addendum A, but are not required to do so.

**Reporting Sexual Harassment, whether verbally or in writing, to a Responsible Employee (other than the Title IX Coordinators), or anyone other than the Title IX Coordinators, does not constitute a Formal Complaint.**

Where a Complainant desires to initiate the Grievance Process, the Complainant cannot remain anonymous. The Complainant's identity will need to be disclosed to each Respondent. However, the Title IX Coordinator(s) may file a Formal Complaint based on an anonymous report or complaint, which the College will investigate. Where the Title IX Coordinator(s) signs a Formal Complaint, the Title IX Coordinator(s) is not a Complainant or otherwise a Party under this Policy.

Upon receiving a Formal Complaint, the Title IX Coordinator(s) shall:

- promptly contact the Complainant to discuss the availability of Supportive Measures;
- consider the Complainant's wishes with respect to Supportive Measures

## **2. Emergency Removal**

Prior to removing a Respondent from its education program or activity on an emergency basis, Title IX Coordinator(s), Provost of the College and Dean of Students shall: (1) undertake an individualized safety and risk analysis; (2) determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal; and (3) provide the Respondent and Complainant(s) with notice of the emergency removal and provide the Respondent with an opportunity to challenge the decision immediately following the removal.

A Respondent seeking to challenge a decision ordering emergency removal must submit a written request specifying the reason(s) the emergency removal should be overturned to the Title IX Coordinator(s) within 5 days of receiving notice. A written notification of Title IX Coordinator(s), Provost of the College and Dean of Students' decision as to whether the emergency removal is sustained or overturned will be provided to the Respondent and Complainant(s) within 3 days of receipt of Respondent's written request.

## **3. Administrative Leave**

The College may determine to place a non-student employee Respondent on administrative leave during the pendency of the Grievance Process. The College, in its sole discretion, shall determine whether such leave will be paid or unpaid.

# **V. DISPOSITION OF FORMAL COMPLAINTS & PRE-INVESTIGATION PROCESS**

## **1. Initial Review of Formal Complaint; Dismissal**

Promptly upon receipt of a Formal Complaint, the Title IX Coordinator(s) shall assess whether the Formal Complaint is to be dismissed on a required or permissive basis.

The Title IX Coordinator(s) must dismiss a Formal Complaint, if any time during the investigation or hearing:

- (i) The conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined under this Policy, even if proven;
- (ii) The conduct alleged in the Formal Complaint did not occur in the College's education program or activity; or
- (iii) The conduct alleged in the Formal Complaint did not occur against a person in the United States

The Title IX Coordinator(s) may dismiss a Formal Complaint, if at any time during the investigation or hearing:

- (i) A Complainant notifies the Title IX Coordinator(s) in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- (ii) The Respondent is no longer enrolled at or employed by the College;

- (iii) Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If the Title IX Coordinator(s) decides to dismiss the Formal Complaint, the Title IX Coordinator(s) shall provide a “Notice of Dismissal” to the Parties simultaneously indicating the reasons for the dismissal. The Parties may appeal the dismissal as described below. Unless the Formal Complaint is dismissed, the Title IX Coordinator(s) shall provide notice of the allegations to the Parties as prescribed by Section B.7., within 7 days after receiving the Formal Complaint, and shall keep a written record of the reasons for the decision.

The Title IX Coordinator(s) shall assess whether the allegations meet the definition of Sexual Harassment under this Policy before signing a Formal Complaint and shall not sign a Formal Complaint that would require dismissal.

## **2. Appeal of Dismissal of Formal Complaint**

Any Party may appeal a dismissal of a Formal Complaint by submitting a written notice of appeal of dismissal (“Appeal of Dismissal”), explaining the reasons for the appeal, to the Title IX Coordinator(s) within 3 days of receiving the Notice of Dismissal. A Party may appeal dismissal on the following grounds:

- Procedural irregularity that affected the outcome of the determination;
- New allegations or evidence that was not reasonably available at the time the determination regarding dismissal was made, that could affect the outcome of the determination; or
- The Title IX Coordinator(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 determination.

Promptly upon receiving an Appeal of Dismissal, the Title IX Coordinator(s) shall notify all other Parties in writing and provide them with 3 days to submit a written statement in support of, or challenging, the dismissal. The Title IX Coordinator(s) will submit any Appeal of Dismissal to the Provost of the College and Dean of Students for consideration. The Provost of the College and Dean of Students shall consider any Appeal of Dismissal and simultaneously provide the Parties through the Title IX Coordinator(s), with a written decision, including the reason for the decision, within 10 days after receiving the Appeal of Dismissal or additional written statements in support of, or challenging, the dismissal, whichever is later. This decision is final and not subject to further review.

## **3. Continuing Review**

If at any time, the Title IX Coordinator(s) receives information or evidence that may indicate that the Formal Complaint is required to be dismissed or may be dismissed under this Section, he or she shall assess whether the Formal Complaint is to be dismissed on a required or permissive basis in light of the new information or evidence. If at any time the investigator or member of the Hearing Panel receives information or evidence that may indicate that the Formal Complaint is required to be dismissed or may be dismissed under this Section, they shall immediately notify the Title IX Coordinator(s) and provide the Title IX Coordinator(s) with the new information or evidence, in writing; the Title IX Coordinator(s) shall then assess whether the Formal Complaint is to be dismissed on a required or permissive basis in light of the new information or evidence. If the Title IX

Coordinator(s) determines to dismiss the Formal Complaint, the Title IX Coordinator(s) shall follow the procedure relating to dismissals in Section IV.A. However, if the Formal Complaint being dismissed had been consolidated with allegations of sexual or other misconduct under another College Policy, such allegations of sexual or other misconduct may continue to be investigated or adjudicated in accordance with applicable College Policy, which shall be stated in the Notice of Dismissal. If the Title IX Coordinator(s) determines not to dismiss the Formal Complaint, the Title IX Coordinator(s) shall keep a written record of the reasons the decision.

#### **4. Surviving Allegations after Dismissal of Formal Complaint**

If the Title IX Coordinator(s) determines to dismiss a Formal Complaint, but the Formal Complaint alleges sexual or other misconduct that may violate other College policies, the Title IX Coordinator(s) shall communicate in the Notice of Dismissal that the allegations may violate other College policies and will be addressed in accordance with such policies. Generally speaking, the Respondent's identity will determine whether the allegations will be addressed pursuant to the Student Code of Conduct, or the policies applicable to faculty or employees, which the College shall determine at its discretion.

#### **5. Consolidation; Related Allegations**

The Title IX Coordinator(s) 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 (multiple complaints or counter-complaints), where the allegations arise out of the same facts or circumstances. The decision of whether and how to consolidate Formal Complaints is within the Title IX Coordinator(s)' discretion.

The Title IX Coordinator(s) may also consolidate a Formal Complaint with a report or complaint of Prohibited Conduct that may violate this Policy, or a report or complaint of conduct that may violate another College policy, where the allegations arise out of the same facts or circumstances. The decision of whether and how to consolidate a Formal Complaint with a report or complaint of other Prohibited Conduct or conduct that may violate another College policy is within the Title IX Coordinator(s)' discretion.

The Title IX Coordinator(s) shall endeavor to make decisions regarding consolidation as early in the Grievance Process as possible. When the Title IX Coordinator(s) determines to consolidate Formal Complaints or allegations under this Section, he or she shall advise the Parties of the consolidation in the Notice of Allegations under Section B.7., or in a writing as soon thereafter as practicable.

#### **6. Notice of Allegations**

Within 7 days after a Formal Complaint is filed (or in the event a Party appeals a dismissal, within 3 days of the issuance of a decision reversing the dismissal), the Title IX Coordinator(s) shall provide written notice of the allegations ("Notice of Allegations") to the Parties who are known, which shall include the following:

- (i) Notice of the College's Grievance Process, including its informal resolution process, under this Policy;

- (ii) Notice of the allegations potentially constituting Sexual Harassment as defined in this Policy;
- (iii) Sufficient details surrounding the allegations including the identities of the Parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known;
- (iv) A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the Grievance Process;
- (v) A statement informing the Parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, who may accompany them to any meeting or hearing during the Grievance Process. The statement shall explain that the College shall not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or hearing during the Grievance Process.
- (vi) A list of the names and titles of available advisors from which to choose, and a statement that the Parties must notify the Title IX Coordinator(s) of their choice of advisor within 10 days of the Notice of Allegations; and
- (vii) A statement informing the Parties that they may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility, and including inculpatory or exculpatory evidence whether obtained from a Party or other source;
- (viii) A statement informing the Parties that the College's Student Code of Conduct and employee and faculty policies prohibit knowingly making false statements or knowingly submitting false information during the Grievance Process.

If the Title IX Coordinator(s) consolidated two or more Formal Complaints, the Notice of Allegations must advise the Parties of the consolidation. Similarly, if the Title IX Coordinator(s) consolidated a Formal Complaint with allegations of Prohibited Conduct under this Policy or other misconduct under another College Policies, the Notice of Allegations include a statement of all the charges, specify all provisions and policies alleged to have been violated, and advise the Parties of such consolidation.

The Complainant and Respondent will be called and asked to come to the Title IX Coordinator(s)' Office to sign and pick up the Notice of Allegations. If the Complainant or Respondent is not in a position to come to the Title IX Coordinator(s) office, the Notice Letter will be sent electronically to the Respondent's provided email. The Title IX Coordinator(s) will "Request a Delivery Receipt" and provide documentation when it has been delivered. The Notice Letter will include the names of the Title IX Hearing Board members assigned to their case. If the Complainant or Respondent believes there is a conflict of interest with any of the Hearing Board Members, they must notify in writing the Title IX Coordinator(s).

## **7. Amended Notice of Allegations**

If, in the course of an investigation or Grievance Process, the College receives additional Formal Complaints or learns of additional information or allegations of sexual or other misconduct that arise out of or relate to the same or related facts or circumstances, the Title IX Coordinator(s) may consolidate those matters and provide an Amended Notice of Allegations to the Parties as soon as practicable. If necessary, the Title IX Coordinator(s) may temporarily pause the proceedings to provide an Amended Notice of Allegations.

## **8. Respondent Admits Responsibility**

If, in the course of an investigation or Grievance Process, the Respondent accepts responsibility for the charges by submitting a written notice to the Title IX Coordinator(s), the investigator will continue and conclude the investigation. In such case, an abbreviated hearing will be held in order to consider sanctions only; the Respondent alone may choose whether the sanctions will be determined by the Hearing Officer or a Hearing Panel in accordance with Section IV.C. In consolidated cases involving multiple Respondents where only one or some Respondents accept the charges, or in cases the Respondent only accepts some charges but not others, the Grievance Process shall proceed in the ordinary course with regard to the remaining Respondents or charges.

## **9. Choice of Advisor**

The Parties are entitled to an advisor of their choice, who may be, but is not required to be an attorney. The College maintains a list of advisors that are available to the Parties at no cost. Should a Party choose to engage an advisor that the College does not provide, the Party is responsible for any costs and fees for the advisor.

If a Party elects to use an advisor provided by the College, the Party shall notify the Title IX Coordinator(s) within 5 days following receipt of the Notice of Allegations and shall indicate the name of the Party's preferred advisor. A party may list alternate advisors in the event the Party's first choice for advisor is unavailable or otherwise unable to serve as advisor for the Party. If more than one party requests the same College-provided advisor, the Title IX Coordinator(s) shall use a neutral method (such as flipping a coin or placing names in a hat) to determine which Party will be assigned that advisor. If necessary, the Title IX Coordinator(s) will communicate with the Parties to identify alternative advisors.

A Party who chooses to use an outside advisor or attorney may seek to use a different outside advisor or attorney at any time, or may instead seek to request an College-provided advisor, upon written notice to the Title IX Coordinator(s). A Party who chooses to use an College-provided advisor may seek to instead use an outside advisor or attorney at any time, upon written notice to the Title IX Coordinator(s). A Party who chooses to use an College-provided advisor may request a different College-provided advisor at any time by submitting a written request to the Title IX Coordinator(s), including the reasons therefore.

## **VI. INVESTIGATION**

After the Complainant and Respondent meet with the Title IX Coordinator(s), the matter will be referred to a Title IX Investigator. The Title IX Investigator(s) (Columbia College faculty or staff members) will conduct a thorough, reliable, and impartial investigation of the reported incident. If the Complainant or Respondent believes there is a conflict of interest with one of the Investigators, they must notify the Title IX Coordinator(s) when initially notified of the names of the Investigators. An investigation should begin within one week of receipt of the initial report and ordinarily should be complete within a reasonable timeframe (i.e. 30 to 45 days). The Title IX investigation and hearing should be completed in a timely manner and as appropriate while balancing the interest of fairness to all parties. Every effort will be made to complete the investigation and hearing within a reasonable timeframe while balancing the interest of fairness to all parties.



## **1. Evidence and Witnesses**

The investigation includes interviewing the Complainant and Respondent, interviewing witnesses, collecting evidence, and creating timelines. However, the investigator cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the investigator obtains that Party's voluntary, written consent.

The investigator shall provide at least 5 days written notice to a Party or witness whose participation is invited or expected, including the date, time, location, participants, and purpose of all investigative interviews or other meetings or proceedings.

The Parties shall have an equal opportunity to identify witnesses, including fact and expert witnesses, and to present other inculpatory and exculpatory evidence. The Parties shall not be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence. However, no individual shall attempt to alter or prevent a witness's statement or participation.

## **2. Investigative Interviews**

The Parties shall have an equal opportunity to be accompanied by their advisor in any investigative interview or other meeting or proceeding under this Policy; however, advisors may not speak or participate during an investigative interview. A Party may take brief breaks in order to consult with their advisor. No Party shall have the right to attend, or have their advisor attend, an investigative interview of another Party or witness.

## **3. Right to Inspect and Review Evidence**

The investigator shall provide the Parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence the investigator does not intend to include in the investigative report, and inculpatory or exculpatory evidence whether obtained from a Party or other source, so that each Party can meaningfully respond to the evidence prior to conclusion of the investigation. Before completing the investigative report, the investigator shall provide to each Party a copy of the evidence for inspection and review in an electronic format or a hard copy. Neither the Parties nor their advisors shall be permitted to disclose or disseminate the evidence to any person who is not a Party or witness or other participant in the Grievance Process. The investigator shall redact from such evidence any information that is not directly related to the allegations (or that is otherwise barred from use by any provision of this Policy, such as information protected by a legally recognized privilege, or a Party's treatment records if the Party has not given written consent). The Parties shall have 10 days to submit a written response, which the investigator will consider prior to completing of the investigative report.

#### **4. Investigative Report**

The Investigator(s) shall draft a comprehensive report that includes witness statements, electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party).

At the conclusion of the investigation, the matter will be referred to the Title IX Hearing Board. The Complainant and Respondent will be given a copy of the Investigator's report at least ten days prior to the hearing. After receiving the report, the Parties will have 5 days to submit an optional written response to the Title IX Coordinator(s).

#### **5. No Bias or Conflict of Interest**

Neither the Title IX Coordinator(s) nor any individuals designated to serve as an investigator, Hearing Board member, or informal resolution facilitator shall have a bias or conflict of interest for or against Complainants or Respondents generally or an individual Complainant or Respondent. A Party may submit a written letter of concern relating to bias or conflict of interest at any time to the Title IX Coordinator(s); however, if the letter of concern relates to the alleged bias or conflict of interest by the Title IX Coordinator(s), the Party shall submit the letter to the Dean of Students. The Title IX Coordinator(s) or the Dean of Students, shall promptly speak with the individual alleged to have a bias or conflict of interest and conduct any other appropriate inquiry into the matter. The Title IX Coordinator(s) or the Dean of Students shall make a determination as to whether the individual alleged to have a bias or conflict of shall be removed from their role. If the individual alleged to have a bias or conflict is removed from their role, the Title IX Coordinator(s) or the Dean of Students shall appoint an alternate individual to serve in their place.

#### **6. Investigations of Allegations of Misconduct Other than Sexual Harassment**

Allegations of misconduct other than Sexual Harassment will be investigated in accordance with this Section but are not subject to the hearing procedures in Section VI of this Policy; rather, when such allegations are found to be substantiated by the investigator, a decision will be made pursuant to the Student Code of Conduct or policies applicable to faculty or employees, as appropriate.

## **VII. TITLE IX HEARING**

### **1. Pre-Hearing Procedures**

#### **A. Notice of Hearing:**

A live hearing will be scheduled to take place no less than 10 days and no more than 30 days after the investigator sends the investigative report to each Party. The Title IX Coordinator(s) shall give all Parties and witnesses at least 10 days' notice of the hearing specifying the date, time, and place of the hearing, or if the hearing is virtual, the access instructions. Any party or witness that is unable to attend the hearing must immediately notify the Title IX Coordinator(s) of the reasons for the inability to attend.

The Title IX Coordinator(s) shall send to the Hearing Officer the investigative report along with the relevant evidence and any timely received written responses to the investigative report at least 5 days prior to the hearing.

### **B. Questions About Process**

All pre-hearing questions regarding hearing procedures shall be directed to the Title IX Coordinator(s). The Title IX Coordinator(s) will share the questions and response with all Parties. During the hearing, procedural questions may be directed to the Hearing Officer.

### **C. Attendance at Hearing**

If the Respondent and/or Complainant fail(s) to appear for a hearing and the Title IX Coordinator(s) has(have), in good faith, exhausted all reasonable efforts to notify the Respondent and/or Complainant, the Title IX Hearing Board shall conduct a hearing in the Respondent's and/or Complainant's absence on the basis of the information made available during the course of the investigation.

Parties are responsible for organizing the attendance of their Advisors. The College will allow release time from work and/or class for appearance at the hearing.

Advisors' participation in hearings is generally limited to cross-examination of the other Party and witnesses, including questions challenging credibility. Only the Advisor(s) can attend the hearing with the party(ies), unless someone else is required by the law. An Advisor(s) can attend the hearing even if the party(ies) they are advising does not attend. If an Advisor and party do not attend the hearing, another provided Advisor can cross-examine the other attending party, resulting in consideration of the appearing party's statement and without any inference being drawn on the non appearance. If both the Advisors representing the parties are absent from the scheduled hearing, The Chairperson of the Hearing Board has the right to postpone the hearing and recommend a new hearing schedule. If neither Party nor their Advisors is present at the hearing, the Hearing Board will attempt to reschedule the hearing a single time. If neither Party nor their Advisors attend the subsequent hearing, the hearing shall be conducted on the basis of the information made available during the course of the investigation. If a Party does not have an Advisor present at the live hearing, the College shall provide without fee or charge to that Party an advisor, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that Party. At the conclusion of each Party's or witnesses' testimony, the Hearing Officer will ask each Party if their advisor has any additional questions for the Party witness. At that time, advisors may request that the Hearing Officer ask additional questions.

### **D. Title IX Hearing Board Chair**

The Title IX Hearing Board Chair ("Chairperson") is a non-voting member of the Title IX Hearing Board. The Chairperson is responsible for resolving all procedural issues and maintaining the fairness of the hearing by ensuring that the Hearing Board receives all relevant evidence necessary to make its determination. The Chairperson is also responsible for drafting the Outcome Letter (discussed further in subsection IV(H)) at the conclusion of the hearing.

### **E. Pre-Hearing Submissions**

Prior to the Hearing, the parties will provide the Chairperson with a list of witnesses they propose to call, copies of documents and a description of any other information they propose to present at the hearing on or before a date set by the Chairperson. Both the parties will be given equal opportunities to inspect and review any evidence(s) that is directly related to the allegations, including both inculpatory and exculpatory evidence and includes protections for medical treatment records and information subject to a privilege. All evidence will be provided and sent in either electronic form or in hard copy to the parties and their advisors.

## **F. Pre-Hearing Meeting**

The Chairperson will schedule a prehearing meeting prior to the hearing date. At the meeting, the Chairperson will review hearing procedures with the parties, separately or jointly, at the discretion of the Chairperson. The Chairperson will also review the complaint of alleged Prohibited Conduct and review the parties' respective lists of proposed witnesses and advisors to assist them in eliminating redundant information. Thereafter, the Investigator's report will be provided to the Hearing Board in advance of the hearing.

## **G. Title IX Hearing Board**

The Title IX Hearing Board is responsible for:

- i. Hearing all evidence presented;
- ii. Making a determination of whether a violation of the Sexual Misconduct Policy has occurred;
- iii. If a violation is determined to have been committed by a Student Respondent, imposing a sanction; and
- iv. Communicating its findings in writing to the Complainant and Respondent via an Outcome Letter.

### **2. Hearing:**

Hearings shall be conducted by the Title IX Hearing Board according to the following guidelines:

- i. All hearings will be conducted in a manner that is fair to all parties.
- ii. The Respondent is presumed not in violation of the Policy until a violation is determined by the Title IX Hearing Board.
- iii. Live Hearings shall be conducted in private and in 'real-time'. Arrangements can be made so the Complainant, Respondent, and their Advisors are able to attend the hearing at the same time through video conferencing or through other technology. A recording of the live hearing will be made available to the parties to inspect and review.
- iv. Cases involving more than one Respondent will be conducted at the same time. Cases involving more than one Complainant may be consolidated into one hearing at the discretion of the Chairperson. The decision to

consolidate will be governed by the relevancy of the evidence and the fairness to both parties.

- v. The Complainant and the Respondent both have the right to be assisted by an advisor of their choosing, who does not appear as a witness during the hearing. Both parties are responsible for presenting their own cases and are not allowed to cross examine parties, witnesses or evidences. Advisors are permitted to cross examine the parties and witnesses. Such cross-examination must be conducted directly, orally, and in real time by the Party's advisor of choice and never by a Party personally. In answering a question, the Complainant or Respondent may seek assistance from the advisor. Advisors may be asked to leave the hearing room if they are disruptive or cause an unreasonable delay in the conduct of the hearing. The Chairperson at the hearing must determine whether each question asked during cross-examination is “relevant” and whether it violates rape shield law protections—*before* it is answered. The Chairperson will provide on-the-spot explanation for any decision to disallow a question.
- vi. If a Party or witness does not submit to cross-examination at the hearing, the Hearing Board must not rely on any statement of that Party or witness in reaching a determination regarding responsibility; provided, however, that the Hearing Board cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. This provision does not preclude the Hearing Board from reviewing evidence that may involve the Party or witness who refused to submit to cross-examination for purposes other than relying on a statement of the Party or witness who did not submit to cross-examination in reaching a determination regarding responsibility.
- vii. Admission to the hearing of any person(s) other than the Respondent or Complainant, along with their respective advisor, shall be at the discretion of the Chairperson.
- viii. All procedural questions are subject to the final decision of the Chairperson. The Chairperson may consult with the Title IX Coordinator(s) on procedural issues as the Chairperson deems necessary.
- ix. Statements by parties as part of an investigation who are not cross-examined at the hearing are not be used as evidence.
- x. All evidence presented at the hearing, whether through live testimony or writings and exhibits, must be relevant. The Chairperson has the discretion to decide what evidence is admitted and excluded. Evidence of either party’s prior sexual history will not be permitted at the hearing unless it is relevant to the complaint. Evidence of consent on a prior occasion is not evidence of consent in a subsequent occasion.

- xi. The Complainant, the Respondent, the Advisors and the Chairperson shall have the privilege of calling and questioning witnesses, including those presented by the opposing party. Efforts should be made not to call witnesses who present redundant testimony.
- xii. The parties will be given an equal opportunity to present relevant witnesses and other evidence. This includes the following:
  - a. The opportunity to remain silent;
  - b. The opportunity to present relevant witnesses of fact and information on her/his behalf;
  - c. The opportunity to be informed that any oral or written statements they may make pertaining to the alleged violation may be presented in any subsequent proceedings;
  - d. The opportunity to prepare a written statement concerning the alleged violation(s);
  - e. The opportunity to review all evidence, statements, and the investigative report;
  - f. The opportunity to question the Title IX Investigators through the Chairperson; and
  - g. The privilege to appeal a decision by the Title IX Hearing Board (See Item H: Appeals).

### 3. Deliberations

After the hearing, the Title IX Hearing Board shall convene outside the presence of the individuals who participated in the hearing and determine by a unanimous vote whether the Respondent has violated the Policy, which he or she has been charged in writing with violating. Both parties will be provided with a written determination regarding responsibility explaining how and why the Hearing Board reached the conclusions; The written determination may also include suggestions to implement remedies for the complainant if a respondent is found responsible for sexual harassment. The written determination by the Hearing Board shall also include:

- (a) the allegations constituting sexual harassment;
- (b) the procedural steps taken from the receipt of the formal complaint through the determination;
- (c) findings of fact supporting the determination;
- (d) conclusions regarding the application of this Policy to the Facts;
- (e) a statement of, and rationale for, the result as to each allegation; including a determination regarding responsibility, any disciplinary sanctions the Hearing Panel determines to impose on the Respondent, and whether Supportive Measures will be provided for the Complainant; and
- (f) procedures and permissible bases for appeal

If the charges in the Notice of Allegations or Amended Notice of Allegations included other charges of Prohibited Conduct under this Policy or of other misconduct under another College Policy that were consolidated in the same proceeding, the Written Determination shall also provide a statement of and rationale for the result as to each additional allegation and what sanctions, if any, are being imposed.

If an appeal is not timely filed, the determination regarding responsibility becomes final on the date on which the appeal would no longer be considered timely. If an appeal is timely filed, the determination regarding responsibility becomes final on the date that the Title IX Coordinator provides the Parties with the Appeal Decision.

#### **4. Standard of Proof**

Columbia College adopts the “preponderance of the evidence” as the standard for its Title IX policy and procedure. A preponderance of the evidence means that the information shows that it is “more likely than not” that the Respondent violated this Policy. In the context of a hearing hereunder, the Respondent will be found to be responsible for the alleged Prohibited Conduct if the Panel, by a unanimous vote, concludes that such Prohibited Conduct more likely than not occurred based upon careful review of all information presented.

#### **5. Record of Hearing**

There shall be a single verbatim record, such as an audio recording, of all hearings before the Title IX Hearing Board. The record shall be the property of the College. All records of the Title IX proceeding will be kept secured for at least seven years with the College. Parties are not permitted to make their own recordings.

### **VIII. INFORMAL RESOLUTION**

Subject to voluntary consents from both the Complainant and Respondent, the College allows the complaint to be resolved informally. Voluntary consent means that there will be no conditions placed on the parties in exchange for their consent — i.e., there will be no conditional promise of continued enrollment or employment in exchange for consent to informal resolution. Informal resolution processes is an alternative to a full investigation and adjudication of the formal complaint. The College will not offer informal resolution to the parties unless a formal and written complaint is filed or lodged with the Title IX Coordinator(s). Informal resolution is not allowed to proceed in case of Complainant being a student and Respondent is either a faculty, staff or Trustee. Either party has the right to withdraw from informal resolution and request to resume a grievance process at any time before agreeing to a resolution. Informal resolution does not equal no sanction and sanctions listed under Section 9 of this document can be a sanction proposed as part of an informal resolution process as can also be lesser sanctions. The suggested sanction(s) through the informal resolution process, shall be imposed if both parties agree to it as part of the resolution. Without prior written consent(s) from the party(ies), the College will not consider, disclose or otherwise use any medical treatment or other information. The College also protects any legally recognized privilege from being compromised or pierced during the informal resolution process.

When the Parties have indicated to the Title IX Coordinator(s) their assent to engage in an informal resolution process, the Title IX Coordinator(s) shall provide the Parties with a written notice of informal resolution (“Notice of Informal Resolution”) which shall include:

- (i) a statement of the allegations;
- (ii) a statement that no Party is required to participate in an informal resolution process;
- (iii) a statement that any Party may withdraw from the informal resolution process and resume the Grievance Process with regard to a Formal Complaint arising from the same allegations at any time prior to signing a resolution agreement;
- (iv) a statement that the Parties are required to keep all information and communications relating to the informal resolution process confidential both during and after the informal resolution process;
- (v) a statement that any statements or admissions disclosed during the informal resolution process shall remain confidential and shall not be used in a subsequent investigation or proceeding arising out of the same or any other Formal Complaint;
- (vi) a statement that records relating to the informal resolution process will be maintained by the Title IX Coordinator(s) and may only be shared or disclosed in accordance with this Policy, FERPA and other applicable federal or state laws;
- (vii) a statement that notwithstanding the confidentiality requirements of the informational resolution process, should the informal resolution process fail to satisfactorily resolve the matter, or if any Party withdraws from the informal resolution process, no Party shall be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence after the matter is referred back to the Title IX Coordinator(s) for investigation or adjudication under this Policy;
- (viii) a statement that all Parties must provide their voluntary, written consent to engage in to the informal resolution process to the Title IX Coordinator(s);
- (ix) a statement that a record of the outcome, including a resolution agreement, if any, will be maintained by the Title IX Coordinator(s); and
- (x) A statement that should the informal resolution process fail to satisfactorily resolve the matter, or if any Party withdraws from the informal resolution process, the matter shall be promptly referred back to the Title IX Coordinator(s) for investigation or adjudication under this Policy.

Upon receipt of each Party's voluntary written consent to participate in an informal resolution process, the Title IX Coordinator(s) shall refer the matter to an informal resolution facilitator. The informal resolution facilitator shall promptly contact the Parties in writing to commence the informal resolution process, which may occur in person or virtually.

The College is not required to provide the Parties with advisors prior to entering into an informal resolution process, nor must it ensure that the Parties confer with advisors prior to entering into an informal resolution process. Advisors are not permitted to participate in an informal resolution process.

In the event a Formal Complaint is not resolved by way of an informal resolution process, the informal resolution facilitator shall not serve as a witness in a related investigation or hearing.

Outcomes of an informal resolution process may include, but are not limited to, any of the following (or any combination thereof):

- Make the Respondent aware that the Respondent's behavior is being perceived as Sexual Harassment, and make clear that the behavior is prohibited by this Policy;



- Make the Respondent aware that the purpose of this discussion is to achieve a change in behavior;
- Make clear that Policy forbids any Retaliation against the Complainant, or against anyone who participates in any process under this Policy.
- Suggest possible resolutions of the problem, including but not limited to: a change in the offensive behavior, counseling, an apology to the Complainant, a reevaluation of a grade, extension of deadlines or other course-related adjustments, modifications of work or class schedules, leaves of absence, campus escort services, increased security and monitoring of certain areas on campus, mutual restrictions on contact between the Parties or a change in the relationship between the Parties (i.e., changed advisor, class enrollment, athletic travel or hotel accommodations, or work or housing assignments);
- Provide or continue Supportive Measures for the Complainant;
- Disciplinary measures designed to educate or deter further inappropriate conduct by the Respondent.

A resolution reached by way of an informal resolution process shall become final and binding upon all Parties signing a resolution agreement. Any resolution agreement shall be reduced to a writing signed by the Parties and the informal resolution facilitator as witness, and shall continue the requirement that the Parties keep all information and communications relating to the informal resolution process confidential. Any resolution agreement may contain additional confidentiality requirements as agreed by the Parties.

The informal resolution process should be completed within 10 days of the time a Notice of Informal Resolution is sent to the Parties. Should the informal resolution process fail to satisfactorily resolve the matter, or if any Party withdraws from the informal resolution process, the matter shall be promptly referred back to the Title IX Coordinator(s) for investigation or adjudication under this Policy.

## **IX. SANCTIONS**

### **1. Where the Respondent is a Student**

Prior to considering sanction, both parties will have an opportunity to address the hearing panel, via either a victim impact statement or a mitigation statement. The Title IX Hearing Board is required to consider suspending or expelling any person found responsible for violating the Sexual Misconduct Policy and removing them from the residence hall if the student lives on campus. Such suspension/expulsion sanctions will be reflected on the student's transcript as "disciplinary suspension" or "disciplinary expulsion." However, the Title IX Hearing Board may impose any other sanction(s) that it finds to be fair and proportionate to the violation(s) and the attending circumstances. Matters that may be considered when deciding on the appropriate sanction include:

1. The record of past violations of any College policy, as well as the nature and severity of such past violations;

2. The acknowledgment of wrongdoing by and the commitment of the Respondent to conform her/his conduct to acceptable standards in the future;
3. If the Respondent poses a continuing risk to the Complainant and/or College community;
4. The impact on the Complainant;
5. The impact on the College community; and
6. The severity or pervasiveness of the violation.

Sanctions imposed by the Title IX Hearing Board are not final until the resolution of any timely appeal of the decision. If advisable to protect the welfare of the Complainant or the College community, the Title IX Hearing Board may determine that any probation, suspension, or expulsion be temporarily enforced and continue in effect until such time as the appeal process ends or the time for appeal expires.

## **2. Where the Respondent is an Employee**

The Employee Grievance Board will determine the sanction when an Employee is found to be in violation of this Policy. The Chairperson shall forward the Outcome Letter (discussed in subsection H) to the Grievance Board within three days of the conclusion of the hearing. The Grievance Board shall convene a hearing within two days of receiving the Outcome Letter. Prior to considering sanction, both parties will have an opportunity to address the Grievance Board, via either a victim impact statement or a mitigation statement. In addition to the factors outlined in subsection IV(G)(1), the Grievance Board will be governed by Title VII and any applicable contractual provisions. The Grievance Board will then draft a written statement of sanctions imposed, which it will forward to the Complainant and Respondent.

## **3. Where the Respondent is a Trustee**

The Board of Trustees will determine the sanction when a Trustee is found to be in violation of this Policy. The Chairperson shall forward the Outcome Letter (discussed in the following subsection) to the Board of Trustees within three days of the conclusion of the hearing. The Board of Trustees shall convene a hearing within two days of receiving the Outcome Letter. Prior to considering sanction, both parties will have an opportunity to address the Board of Trustees, via either a victim impact statement or a mitigation statement. In addition to the factors outlined in subsection IV(G)(1), the Board of Trustees will be governed by the Columbia College Bylaws. The Board will then draft a written statement of sanctions imposed, which it will forward to the Complainant and Respondent.

## **4. Notification Regarding Title IX Hearing Board Decision**

The Complainant and Respondent (and the applicable Boards as referenced in subsection IV (G)) will be notified in writing of the outcome of the Title IX hearing via an Outcome Letter. The Outcome Letter will provide the Respondent's name; the violations of this Policy for which the Respondent was found responsible, if any; any essential findings supporting the Panel's decision on the issue of responsibility; and in the case of a Student Respondent, the sanction imposed, if any.

The Respondent and Complainant will be asked to pick up and sign for the Outcome Letter from the Title IX Coordinator's Office. Information for the appeals process will be included in both parties' letter. The College will not require a party to abide by a nondisclosure agreement, in writing or

otherwise, that would prevent the re-disclosure of information related to the outcome of the proceeding.

## **5. Appeals**

1. A decision or sanction may be appealed by the Respondent or Complainant within five business days of the date of the Outcome Letter. Such appeals shall be in writing and shall be delivered to the Title IX Coordinator(s), who will forward the appeal to the President for consideration. The President may refer the appeal to the Board of Trustees of the College, as set forth in the Columbia College Bylaws.
2. Within 3 days of receiving any Appeal of Determination, the Title IX Coordinator(s) will conduct an initial review to determine if it is timely. If the appeal is not timely, the original Written Determination will stand and the decision is final, and the Parties shall be notified in writing. The Title IX Coordinator(s) shall promptly provide copies of all Appeal of Determinations and additional written statements to all other Parties. After the 5-day period, the Title IX Coordinator(s) will submit the Appeal of Determination, and any additional written statements to the Appellate Officer for consideration.
3. An appeal shall be limited to review of the verbatim record of the initial hearing and supporting documents for one or more of the following purposes:
  - a. A procedural defect that would very likely impact the outcome of the matter;
  - b. Newly acquired evidence that was not previously available that would affect the outcome of the matter; and
  - c. Bias or conflict of interest that impedes the procedure and influence the outcome.

The disciplinary sanction will remain in place during the appeal process.

## **X. FERPA and Title IX**

According to the Department of Education's 2001 Guidance, FERPA (The Family Educational Rights and Privacy Act) permits a school to disclose to the Complainant student information about the sanction imposed upon the Respondent(s) who were found to have engaged in Prohibited Conduct when the sanction directly relates to the Complainant. This includes an order that the Respondent stay away from the Complainant or that the Respondent is prohibited from attending school for a period of time or transferred to other classes or another residence hall.

## **XI. OTHER CONSIDERATIONS**

### **1. Confidentiality**

The College must keep confidential the identity of Complainants, Respondents and witnesses, except as may be permitted by FERPA, as required by applicable law or as necessary to carry out a proceeding under this Policy. To the extent disclosure of the identity of Complainants, Respondents, or witnesses is required by applicable law or is necessary to carry out a proceeding under this Policy, the College will make such disclosure only to the extent necessary.

Parties, advisors, and witnesses are prohibited from photographing, scanning or recording by audio, video or other means the evidence, or disseminating the evidence to third Parties or to the public. Should dissemination become necessary for litigation or other legal proceedings, the individual contemplating disclosure must advise all relevant Parties or other interested participants in writing of the pending disclosure and allow a reasonable time for such persons to contest the disclosure.

The Title IX Coordinator(s) may, within his or her discretion, require the Parties, advisors, or witnesses to sign appropriate non-disclosure agreements.

The College retains the discretion to determine what additional measures, if any, are reasonably appropriate to allow the Parties to respond to and use the evidence at a hearing, while preventing the evidence from being used in an impermissible manner as long as such measures apply equally to both Parties and do not restrict the ability of a Party to discuss the allegations under investigation or to gather and present relevant evidence. For example, such measures may be used to address sensitive materials such as photographs with nudity.

Nothing in a non-disclosure agreement, or in this Section or any other Section of this Policy, shall restrict the ability of a Party to discuss or communicate about the allegations under investigation (e.g., with a parent, friend, or other source of emotional support), or to gather and present relevant evidence.

## **2. Access to Records.**

Parties may request access to records under this Policy by submitting such request in writing to the Title IX Coordinator(s). In considering such requests, The Title IX Coordinator(s) shall assess the request in light of FERPA and any other applicable federal or state laws. If the request is granted, the Title IX Coordinator(s) may grant the requesting Party the opportunity to review and inspect such records, which may be made available in redacted form. The Title IX Coordinator(s) shall respond to requests for access to records within 25 days.

## **3. Interpretation and Construction**

The headings and subheadings employed in this Policy are provided for ease of reference only, and shall not be construed to limit the rights and responsibilities set forth in this Policy. In all cases, this Policy shall be interpreted consistent with the spirit and purpose of Title IX.

## **4. Timeframes and Deadlines**

The timeframes prescribed under this Policy may be subjected to limited extension of time frames for good cause upon written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a Party, a Party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. Decisions relating to extensions and delays shall be made by the Title IX Coordinator(s).

When any deadline or prescribed time period under this Policy falls on a Saturday, Sunday or holiday recognized by the College, the deadline or prescribed time period shall be extended to the next business day.

