

# 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.

**Title IX Coordinator:**

**Name:** Dr. Robin Rosenthal

**Office Location:** Wil Lou Gray 103

**Telephone Number:** 803-786-3142 during business hours and 803-402-6650 in the evenings and on the weekend.

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 and current faculty or staff members. 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. If the survivor chooses to report and pursue criminal charges against an alleged assailant, Columbia College will support and comply with the criminal justice process.

According to the Clery Act, there may be instances when a timely warning must be issued to the entire campus. Also, the College must submit an annual Crime and Fire Safety report with data regarding the number of sexual assault or harassment incidents that have occurred on our campus. A survivor’s name will not be disclosed by Columbia College in either of these incidents.

### **III. INTAKE MEETING WITH TITLE IX COORDINATOR**

The Title IX Coordinator is 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. Upon receipt of notice of any allegation of Prohibited Conduct, the Title IX Coordinator 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 support or immediate interventions available to the Complainant. The intake meeting may also involve a discussion of any immediate accommodations that may be appropriate concerning the Complainant's academic, College housing, and/or College employment arrangements. Below are interim measures that may be taken:

- A No Contact Order;
- 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;
- A thorough, impartial, and timely investigation; and
- Other accommodations as needed.

### **IV. RESOLUTION**

#### **A. COMPLAINANT WISHES TO PURSUE A RESOLUTION**

When a Complainant wishes to pursue a resolution, the Title IX Coordinator will determine the name of the Respondent and the date, location and nature of the alleged Prohibited Conduct, and will schedule an individual intake meeting with the Respondent in order to provide the Respondent with a general understanding of the Sexual Misconduct Policy and to identify forms of support and/or immediate interventions. The Title IX Coordinator will also forward a formal complaint to the assigned Title IX Investigator(s), which will include the name of the Complainant and Respondent and the date, location and nature of the alleged Prohibited Conduct. Both the Complainant and the Respondent may inform the Title IX Coordinator of potential conflicts of interest with the assigned investigators or hearing board members.

#### **B. COMPLAINANT DOES NOT WISH TO PURSUE RESOLUTION OR REQUESTS CONFIDENTIALITY**

If a Complainant is reluctant to participate in the investigative process, the College will make every attempt to follow the wishes of the Complainant, while weighing the interests of the campus community and the possibility of a continuing threat. If the Complainant does not want to participate in the investigative process, but has no aversion to the College pursuing a resolution with respect to the named Respondent, the College will proceed with the investigation to the extent possible. If the Complainant does not want the College to

pursue the report in any respect, the College may investigate further if there is reason to believe that a significant continuing threat to the campus community exists. The following factors will guide the College in its decision to proceed with an investigation:

- (1) The seriousness of the alleged conduct;
- (2) The Complainant's age;
- (3) Whether there have been other conduct complaints about the same individual; and
- (4) The Respondent's right to receive information about the allegations if the information is maintained by the school as an "education record" under FERPA.

Disclosure of Sexual Misconduct by or about a Complainant who is under the age of 18 must be reported to the Richland County Department of Social Services at (803) 714-7300.

### **C. ANONYMOUS OR THIRD PARTY REPORTING OF PROHIBITED CONDUCT**

If a report is made anonymously or by a third party (e.g. not the Complainant or Respondent), the Title IX Coordinator will inquire, gather, and review information about the reported Prohibited Conduct and will evaluate the accuracy, credibility, and sufficiency of the information. Anonymous reporters should provide as much information as possible. Incidents reported by anonymous or third parties will not be forwarded to an Investigator unless there is reasonable cause to believe the Policy has been violated. Reasonable cause is defined as some credible information to support each element of the offense, even if that information is merely a credible witness or Complainant statement.

When an initial report of Prohibited Conduct is reported anonymously or by a third party and the identity of the victim is not available, the Investigator will investigate the reported incident to the fullest extent of the information available. Unsupported allegations that lack reasonable cause will not be forwarded to the Title IX Hearing Board.

### **D. INVESTIGATION**

After the Complainant and Respondent meet with the Title IX Coordinator, the Title IX Investigator(s) (Columbia College faculty or staff members) will conduct a thorough, reliable, and impartial investigation of the reported incident. The investigation includes interviewing the Complainant and Respondent, interviewing witnesses, collecting evidence, and creating timelines. 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).

If the Complainant or Respondent believes there is a conflict of interest with one of the Investigators, they must notify the Title IX Coordinator. An investigation should begin within one week of receipt of the initial report.

At the conclusion of the investigation, the matter will be referred to the Title IX Hearing Board. A hold may be placed on the Student Respondent's account that would prevent the Respondent from receiving his or her transcript until a decision has been rendered from the Title IX Hearing Board. The Complainant and Respondent will be given a copy of the Investigator's report.

The Title IX investigation and hearing should be completed in a timely manner. Every effort will be made to complete the investigation and hearing within 60 days while balancing the interest of fairness to all parties.

## **E. IF RESPONDENT ADMITS RESPONSIBILITY**

In the event the Respondent admits responsibility of a violation under the Policy, appropriate Board will decide the sanction (see subsection IV(G)).

## **F. TITLE IX HEARING**

### **1. PRE-HEARING PROCEDURES**

- i. NOTICE LETTER:** The Title IX Coordinator shall present all charges in writing to the Complainant and Respondent and promptly schedule a hearing after the Complainant and Respondent have been notified of the charges. Maximum time limits for scheduling of hearings may be extended at the discretion of the Title IX Coordinator. 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 Letter. 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 the Title IX Coordinator.
- ii. ATTENDANCE AT HEARING:** If the Respondent and/or Complainant fail(s) to appear for a hearing and the Title IX Coordinator has, 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 witnesses. The College will allow release time from work and/or class for appearance at the hearing.
- iii. 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.

**iv. 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.

**v. 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 to assist them in eliminating redundant information. Thereafter, the Investigator's report will be provided to the Hearing Board in advance of the hearing.

**vi. 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.

**b. 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. Hearings shall be conducted in private, and arrangements can be made so the Complainant and Respondent are not in the hearing room at the same time.
- 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 her own case; therefore, advisors are not permitted to speak or to participate directly in

any part of the hearing. 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.

- vi. 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.
- vii. All procedural questions are subject to the final decision of the Chairperson. The Chairperson may consult with the Title IX Coordinator on procedural issues as the Chairperson deems necessary.
- viii. 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.
- ix. The Complainant, the Respondent, 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.
- x. The parties will be given an equal opportunity to present relevant witnesses and other evidence. This includes the following:
  - a. The privilege to remain silent;
  - b. The privilege to present relevant witnesses of fact and information on her/his behalf;
  - c. The privilege 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 privilege to prepare a written statement concerning the alleged violation(s);
  - e. The opportunity to review all evidence, statements, and the investigative report;
  - f. The privilege to question the other party, witnesses and 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).

**c. DELIBERATIONS:** After the hearing, the Title IX Hearing Board shall convene outside the presence of everyone else and determine by a unanimous vote whether the Respondent has violated the Policy, which he or she has been charged in writing with violating.

- d. STANDARD OF PROOF:** The Department of Education’s Office of Civil Rights has interpreted Title IX to require schools to evaluate evidence of alleged Prohibited Conduct under a “preponderance of the evidence” standard and that is the standard adopted by this Policy. 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.
- e. 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. Parties are not permitted to make their own recordings.

## **G. 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.

## **H. 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.

## **I. APPEALS**

1. A decision or sanction may be appealed by the Student Respondent or Student 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, 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. 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; and
  - b. Newly acquired evidence that was not previously available.

#### **IV. 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.