

STUDENT SEXUAL MISCONDUCT POLICY

Table of Contents

INTRODUCTION	1
Notice of Nondiscrimination	1
Policy Statement on Sexual Misconduct	1
Title IX Coordinator	1
Scope of Policy	2
Prohibited Conduct	2
RESOURCES AND REPORTING OPTIONS FOR VICTIMS OF SEXUAL MISCONDUCT	3
Immediate Medical Assistance and Counseling	3
Law Enforcement Notification	4
Institute Resources and Reporting	4
Sexual Assault Response Team (SART)	5
Confidentiality	5
Professional and Pastoral Counselors	5
Responsible Employees	6
Accommodations	7
Victim Advocates	7
Reports of Sexual Misconduct from Others or Anonymous Sources	8
Time for Reporting	8
Anti-Retaliation Policy	8
DEFINITIONS WITHIN THE POLICY	8
PROCEDURES FOR RESPONDING TO A COMPLAINT OF SEXUAL MISCONDUCT	10
Initial Steps	11
Intake Meeting with the Complainant	11
Interim Measures	12
Effect of Criminal Proceedings	12
Formal Resolution	13
Fact-Finding	13
Adjudication	14
Advocates for the Complainant and Respondent	14
Pre-Hearing Submissions	14
Conduct of the Hearing	14
Determination	16
Sanction	16
Appeal	17
Informal Resolution	18
PREVENTION AND AWARENESS EDUCATION PROGRAMS	19

STUDENT SEXUAL MISCONDUCT POLICY

INTRODUCTION

Notice of Nondiscrimination and Policy Statement on Sexual Misconduct

Pratt Institute's mission is to educate students to become creative, responsible professionals who will contribute fully to society. The Institute upholds values and standards that support that mission and holds high expectations regarding the conduct of students, faculty, staff, and administrators.

The health, safety, and well-being of all members of the Pratt Institute community are the Institute's primary concerns. In furtherance of the mission of Pratt Institute, and in accordance with Title IX of the Education Amendments of 1972 ("Title IX") and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act"), as amended by the Violence Against Women Act/Campus Sexual Violence Act ("Campus SaVE Act"), the Institute is committed to maintaining a community free from all forms of sex discrimination, including sexual misconduct. In accordance with Title IX, the Institute does not discriminate on the basis of sex, gender, or gender identity in its education programs and activities. Under Title IX, discrimination on the basis of sex includes sexual harassment and sexual violence.

Sexual misconduct will not be tolerated in the Institute's education programs or activities. The Institute strictly prohibits sexual harassment and sexual violence, including the offenses of sexual assault, sexual coercion, sexual exploitation, dating violence, domestic violence, and stalking.

Sexual misconduct can occur between strangers, acquaintances, or people who know each other well, including those who are involved in an intimate or sexual relationship, and can be committed by anyone regardless of sex, gender, or gender identity. The Institute does not tolerate any form of sexual misconduct.

Questions regarding Title IX and the Campus SaVE Act may be referred to the Institute's Title IX Coordinator or to the U.S. Department of Education's Office for Civil Rights.

The Institute's designated Title IX Coordinator is:

Grace Kendall, Director of Special Projects and Executive Assistant to the Vice
President for Student Affairs
Main Building, Lower Level, Room 008
gkendall@pratt.edu, (718) 636-3722

The Title IX Coordinator's responsibilities include, but are not limited to, overseeing the Institute's response to complaints of sexual misconduct, coordinating investigations into allegations of sexual misconduct, and identifying and addressing any patterns or systemic problems of sexual misconduct that arise during the investigation of a complaint of sexual

misconduct. In the event that the Title IX Coordinator is unavailable, her designee will act to initiate and oversee the process on behalf of the Institute.

Scope of Policy

This policy governs sexual misconduct involving Pratt students, and applies to such students regardless of sex, race, national origin, disability, part-time/full-time status, sexual orientation, gender identity, or other protected status. Complaints of discrimination or harassment on the basis of sex that do not involve sexual misconduct are governed by the Institute's Human Rights Policy included in the Student Handbook, The Faculty Handbook, and on the Pratt website at https://www.pratt.edu/uploads/96-human_rights_policy.pdf.

If the respondent is an Institute employee or other person doing business with the Institute, the investigation and disciplinary processes described in the Institute's Employee Sexual Misconduct Policy will apply. For information about this policy, please contact the Title IX Coordinator. Please be aware that it is Pratt's policy to ensure that its work and learning environment is free from intimate, romantic, dating, or other similar relationships between supervisors and their subordinates, and between faculty members and their students.

This policy applies to any allegation of sexual misconduct that takes place on Institute property, including Pratt residence halls, or any other property on which an Institute program or activity takes place. This policy also covers conduct that takes place off of Institute property, but which may have an impact on the Institute community or in which both the complainant and respondent are members of the Pratt community.

This policy (i) sets forth the available resources and reporting options for victims of sexual misconduct; (ii) specifies and defines the prohibited conduct; (iii) describes the Institute's procedures for responding to complaints of sexual misconduct, including the investigation, hearing, and sanctioning process; and (iv) describes programs implemented by the Institute to educate and increase awareness among the Institute community regarding sexual misconduct.

The following forms of sexual misconduct are prohibited:

- i. sexual harassment
- ii. sexual assault
- iii. sexual coercion
- iv. sexual exploitation
- v. dating violence
- vi. domestic violence
- vii. intimidation
- viii. stalking

RESOURCES AND REPORTING OPTIONS FOR VICTIMS OF SEXUAL MISCONDUCT

Immediate Medical Assistance and Counseling

The Institute strongly urges any student who has been the victim of any form of sexual misconduct to seek immediate assistance. Assistance is available 24 hours a day, 7 days a week, from:

- Local Police and Emergency Assistance – Call 911
- Pratt Campus Safety and Security
Brooklyn Campus (Main Guard Booth) – (718) 636-3540
Manhattan Campus Security Desk – (212) 647-7776
- Safe Horizon Victims' Services and Advocacy
Rape Crisis/Sexual Abuse Hotline – (212) 277-3000 or (866) 698-HELP (4357)
Domestic Violence Hotline – (800) 621-HOPE (4673)
- Woodhull Medical Center Sexual Assault Response Team
760 Broadway, Brooklyn, NY 11206
(718) 963-8000
- Bellevue Hospital Center Sexual Assault Response Team SAFE Center
462 First Avenue, New York, NY 10016
(212) 562-3435
- Kings County Hospital Center Rape Crisis Center
451 Clarkson Ave, Brooklyn, NY 11203
(718) 245-3131
- Beth Israel Medical Center Petrie Campus Rape Crisis Center
First Avenue at 16th Street, New York, NY 10003
(212) 420-2000
- Coney Island Hospital Sexual Assault Response Team SAFE Center
2601 Ocean Parkway, Brooklyn NY 11235
(718) 616-4400
- Queens Hospital Center Sexual Assault Response Team SAFE Center
82-68 164th St, Jamaica, NY 11432
(718) 883-3000
- Elmhurst Hospital Sexual Assault Response Team SAFE Center
79-01 Broadway, Elmhurst, NY 11373
(718) 334-4000

In instances involving physical injury or sexual assault, the Institute strongly encourages obtaining a medical examination to determine the extent of injuries. In addition, the hospital, with the victim's permission, will collect physical evidence in a sexual offense evidence collection kit. Consenting to the completion of a sexual offense evidence collection kit does not obligate pursuing criminal charges with the police; it is a way to preserve evidence should there be a choice to pursue criminal charges at a later time. Hospitals are required by law to preserve such evidence for a minimum of 30 days. If choosing to seek medical assistance:

- It is important to not bathe, wash, shower, douche, brush teeth, comb hair, change clothes, or clean up so that no evidence of the attack is destroyed.
- A specially trained nurse or physician will conduct an interview about the circumstances of the assault.
- The examination will occur in a private examination room; no police personnel will be present during the examination.
- Medications to prevent pregnancy and sexually transmitted infections, including HIV, will be offered and, if any injuries will be treated.

Law Enforcement Notification

The Institute strongly encourages victims of sexual misconduct to promptly report the incident to the police. Timing is a critical factor in collecting and preserving evidence that may assist in proving that the alleged misconduct occurred, or may be helpful in obtaining a protection or restraining order from the police. Campus Security and other Institute representatives, indicated below, are available to assist in notifying law enforcement of an incident of sexual misconduct and in contacting law enforcement or legal service organizations to learn about these remedies. Victims may also decline to notify law enforcement. In all cases where there is a perceived danger to the larger Pratt community, the Institute will notify law enforcement.

Institute Resources and Reporting

The Institute is committed to providing a prompt, fair, and impartial investigation and resolution to all allegations of sexual misconduct. Therefore, the Institute also encourages the reporting of sexual misconduct to an Institute representative in a timely manner. Incidents of sexual misconduct should be reported to the Institute's Title IX Coordinator. Any incident of sexual misconduct reported to another Institute employee, with the exception of those employees designated as confidential, as set forth below, will be reported by the employee to the Title IX Coordinator (see pages 5-6 for information regarding "confidential" and "responsible" employees). When a report of sexual misconduct is made to Security or a Residential Life staff member, contact will be made immediately with the Institute's Sexual Assault Response Team (SART) and, within 24 hours, with the Title IX Coordinator. At the complainant's direction, contact will also be made with the NYPD.

Sexual Assault Response Team

The Pratt Institute Sexual Assault Response Team (SART) is a group of trained Pratt Institute staff members who provide assistance to victims/survivors of sexual misconduct, including sexual assault, sexual harassment, domestic violence, dating violence, and stalking. Assistance may include counseling, advocacy, medical care, academic interventions, and referrals. SART members will explain the available options and resources, and assist survivors to the best of their abilities.

SART members strive to ensure that a survivor has the resources he or she needs, while protecting the victim/survivor's privacy consistent with state and federal law and Institute policy.

SART is available 24 hours a day, 7 days a week. During business hours, SART may be reached through Health and Counseling (718-399-4542) or the Security Office (718-636-3542). After business hours, please contact SART through Residential Life On-Call Staff or the Main Security Booth (718-636-3540).

Regardless of whether or not an official complaint of sexual misconduct is made, various counseling options are available from the Institute's Health and Counseling Center, located in Suite 117 of Willoughby Hall, 215 Willoughby Avenue, Brooklyn, NY 11205 (719-399-4542). Hours of operation for Health and Counseling can be found at www.pratt.edu/health.

Confidentiality

The Institute understands that, for many victims of sexual misconduct, confidentiality is a primary concern. The Institute values the privacy of all members of the Institute community. However, certain Institute employees are required by state and federal laws to share information from a report of sexual misconduct with the Institute or governmental agencies. The ability of Institute employees to maintain confidentiality is as follows:

Professional and Pastoral Counselors

Professional, licensed counselors and pastoral counselors (ordained clergy) whose official responsibilities include providing mental-health counseling to Institute students, including those who act in that role under the supervision of a licensed counselor, are not required to report any information about an incident of sexual misconduct to the Title IX Coordinator without a victim's permission. State law requires professional counselors to report: (i) when a patient is likely to engage in conduct that would result in serious harm to the patient or to others; or (ii) if there is reasonable cause to suspect that a minor has been sexually abused. The following is a list of the Institute's professional and pastoral counselors:

Professional Counselors (Available at (718) 399-4542):

Dr. Vince Kiefner, Associate Director for Counseling (SART Member)

Dr. Lonette Belizaire, Assistant Director for Counseling

Dr. Sarika Seth, Staff Therapist

Dr. Victoria Chun Kwon, Staff Therapist

Jernee Montoya, Alcohol and Other Drug Coordinator and Staff Therapist
Hali Brindel, Case Manager and Staff Therapist (SART Member)

Pastoral Counselors (Available at (718) 636-3422):

Rabbi Simcha Weinstein

Father Richard Bretone

Responsible Employees

A “responsible employee” is an Institute employee who has the authority to redress sexual misconduct, who has a duty to report incidents of sexual misconduct, or who a student could reasonably believe has this authority or duty. A report of sexual misconduct to a responsible employee will immediately trigger the Institute’s investigation into the alleged sexual misconduct in accordance with the procedure described in this policy. A responsible employee must report all relevant details about the alleged sexual misconduct shared by the victim to the Title IX Coordinator. To the extent possible, information reported to the responsible employee will be shared only with those having a need to know such information in order to respond in accordance with Institute policy.

The Institute is obligated by law to investigate all allegations of sexual misconduct regardless of whether the victim wishes to file a complaint. Therefore, if a complainant reports an incident of sexual misconduct to a responsible employee, but wishes to remain confidential or requests that no investigation into the incident be conducted, the Institute will weigh that request against the Institute’s obligation to provide a safe, nondiscriminatory environment for all members of the Institute community, including the complainant. If the Institute honors the request for confidentiality, the complainant must understand that the Institute’s ability to effectively investigate the incident and pursue disciplinary action against the accused may be limited. In rare circumstances, the Institute may not be able to honor a complainant’s request for confidentiality when doing so would jeopardize the Institute’s responsibility to provide a safe, non-discriminatory environment. The Institute has designated the Title IX Coordinator to evaluate requests for confidentiality once a responsible employee is notified of alleged sexual misconduct.

When weighing a complainant’s request for confidentiality, the Title IX Coordinator will consider a range of factors, including, but not limited to, the following:

- Whether there have been other sexual misconduct complaints about the same respondent;
- Whether the respondent has a history of arrests or records from a prior school indicating a history of violence;
- Whether the respondent threatened further sexual misconduct or other violence against the complainant or others;
- Whether the sexual misconduct was committed by multiple perpetrators;

- Whether the complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- Whether the alleged sexual misconduct was perpetrated with a weapon;
- The age of the complainant;
- Whether the Institute has other means to obtain relevant evidence (e.g., security cameras or personal, physical evidence).

After considering these factors, the Institute may be compelled to investigate the alleged sexual misconduct and, if appropriate, pursue disciplinary action in a manner that may require the Institute to disclose the complainant's identity to the respondent. If the Institute determines that it must disclose the complainant's identity to the respondent, the Institute will promptly inform the complainant.

If, after considering these factors, the Institute determines that it is able to respect the complainant's request for confidentiality, the Institute will nevertheless take all reasonable steps to respond to the complaint consistent with the complainant's confidentiality request, and will determine whether interim measures are appropriate or necessary. The Institute will also consider broader remedial action, such as increased monitoring, supervision of security at locations where the reported sexual misconduct occurred, increasing training, education and prevention efforts, and conducting climate surveys.

Accommodations

Any individual who has been the victim of sexual misconduct may request assistance in changing academic, living, transportation, and working situations. The Institute will grant such accommodations, provided they are reasonable and available, regardless of whether the victim chooses to report the crime to law enforcement. Such accommodations may include moving a student's residence, adjusting a student's academic or Institute work schedule, and issuing a "no-contact" order.

Requests for accommodations in connection with incidents of sexual misconduct should be made to the Institute's Title IX Coordinator. The Institute will provide information about the student's request for accommodations only to those having a need to know such information in order to implement the accommodations.

Victim Advocates

Any individual who has been the victim of sexual misconduct will be appointed a Victim Advocate through SART. The Victim Advocate can assist the victim in seeking accommodations, accessing medical or counseling services, reporting to local law enforcement, and understanding options for filing a complaint on-campus. The Victim Advocate does not take part in either formal or informal resolution of a Title IX complaint.

Reports of Sexual Misconduct from Others or Anonymous Sources

If the Institute receives a report of alleged sexual misconduct by someone other than the alleged victim (e.g., by a friend or roommate, resident advisor) or from an anonymous source, the Institute's Title IX Coordinator will promptly notify the alleged victim of the report, and inform the alleged victim of the available resources and assistance. The Institute will respond to the report of sexual misconduct as if the victim had made the initial report.

Time for Reporting

There is no time limit for reporting sexual misconduct. Nevertheless, any member of the Institute community who believes that he or she has been a victim of sexual misconduct is encouraged to report the alleged sexual misconduct immediately in order to maximize the Institute's ability to obtain evidence and conduct a thorough, impartial, and reliable investigation.

Under no circumstances will the Institute allow an impending graduation to compromise its resolution of a sexual misconduct complaint. The conferral of a degree may, therefore, be held, if necessary, until proper resolution of any sexual misconduct charges, provided that a hearing opportunity will be scheduled for the earliest possible date that can accommodate the parties and their witnesses.

Anti-Retaliation Policy

The Institute prohibits retaliation against any person who reports sexual misconduct or participates in the investigation of any allegation of sexual misconduct, including testifying as a witness. Retaliation should be reported promptly to the Institute's Title IX Coordinator. Reports of retaliation will be investigated in accordance with the appropriate Institute policy, and such conduct may result in disciplinary action independent of the sanction(s) or interim measures imposed in response to the underlying allegations of sexual misconduct.

DEFINITIONS WITHIN THE POLICY

"Complainant" means the individual making the allegation(s) of sexual misconduct.

"Consent" means an informed, knowing, and voluntary decision to engage in a mutually agreed upon sexual activity. Consent to engage in one form of sexual activity does not imply consent to other forms of sexual activity. Past consent to engage in sexual activity does not constitute present or future consent. Consent cannot be obtained from coercion, force, intimidating behavior or threats. An individual who is inebriated or otherwise incapacitated (by alcohol or drug use, unconsciousness or sleep, or disability) or otherwise helpless cannot consent. Silence or lack of resistance is not deemed consent. Consent can be revoked at any time.

"Dating Violence" means violence or coercive behavior 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 the complainant's statement and with

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 includes, but is not limited to, sexual, physical, or psychological abuse, or the threat of such abuse.

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

“Intimidation” means implied threats or acts that reasonably cause another to fear for his/her safety or well-being.

“No-Contact Order” means a directive prohibiting contact between or among designated individuals through any means, direct or indirect, including personal contact, email, telephone, text message, social media, or by means of a third party.

“Respondent” means the individual alleged to have committed acts constituting sexual misconduct.

“Retaliation” means taking any adverse action or attempting to take adverse action, including intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint of sexual misconduct or participation in an investigation or proceeding related to alleged sexual misconduct.

“Sexual Assault” includes non-consensual sexual intercourse and non-consensual sexual contact. “Non-consensual sexual intercourse” means any form of sexual penetration or intercourse (vaginal, anal, or oral), however slight, with any object by an individual upon another individual without consent and/or by force. Intercourse means: vaginal or anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact). “Non-consensual sexual contact” means any intentional sexual touching, however slight, with any body part or object by an individual upon another individual without consent. Intentional sexual contact includes contact with the breasts, buttocks, or groin, or touching another with any of these body parts; making another person touch any of these body parts; and any intentional bodily contact in a sexual manner.

“Sexual Coercion” is the application of unreasonable pressure, including emotionally or physically manipulative actions or statements, or direct or implied threats, in order to compel the person to engage in sexual activity.

“Sexual Exploitation” means abuse or exploitation of another person's sexuality without consent, for the perpetrators own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Sexual Exploitation includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person; causing the prostitution of another person; electronically recording,

photographing, or transmitting intimate or sexual utterances, sounds or images of another person; allowing third parties to observe sexual acts; engaging in voyeurism; distributing intimate or sexual information about another person; and/or knowingly transmitting a sexually transmitted infection, including HIV, to another person.

“Sexual Harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic or physical conduct of a sexual nature, when: (1) submission to, or rejection of, such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, education or campus life activities, or used as the basis of any academic, student life or employment decision (quid pro quo); or (2) such conduct is sufficiently severe, persistent or pervasive such that it limits an individual’s ability to participate in, or benefit from, the Institute’s education or work programs or activities (hostile environment).

“Sexual Misconduct” means a range of unwelcome behavior of a sexual nature that is committed without consent or by intimidation, coercion, threat or force. Sexual Misconduct includes, but is not limited to, sexual harassment, sexual assault, sexual coercion, sexual exploitation, dating violence, domestic violence, and stalking.

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.

For purpose 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.

“Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

“Reasonable person” means a person under similar circumstances and with similar identities to the victim.

Conduct that violates the Institute policy may also violate New York State laws and subject the perpetrator to criminal prosecution. Sex Offenses under New York law are described in Sections 130.00 to 130.96 of the New York State penal Code, available at <http://public.leginfo.state.ny.us/menugtf.cgi?COMMONQUERY=LAWS>

PROCEDURES FOR RESPONDING TO A COMPLAINT OF SEXUAL MISCONDUCT

The Institute is committed to providing a prompt, fair, and impartial investigation and resolution to all allegations of sexual misconduct. Incidents of sexual misconduct should be reported to the Institute’s Title IX Coordinator. If an incident of sexual misconduct is reported to another Institute employee, with the exception of those employees designated above as confidential, such employee will report the incident to the Title IX Coordinator.

Initial Steps

Intake Meeting with Complainant

Upon notice of any allegation of sexual misconduct, the Title IX Coordinator will schedule an individual intake meeting with the complainant within one business day of receiving notice. At the intake meeting, the Title IX Coordinator will provide the complainant with a general understanding of this policy, and identify forms of support or immediate assistance available to the complainant (e.g., referrals to appropriate law enforcement agencies; referrals for medical treatment at local hospitals and trauma centers). The Title IX Coordinator will also provide the complainant with a written explanation of his or her rights and options with respect to his or her report of sexual misconduct. The intake meeting may also involve a discussion of any accommodations that may be appropriate concerning the complainant's academic schedule, Institute housing, and/or Institute employment arrangements. Additional information regarding interim accommodations is set forth in the Interim Measures section below.

At the initial intake meeting, the Title IX Coordinator will seek to determine how the complainant wishes to proceed, i.e., whether the complainant wishes to pursue Formal Resolution, Informal Resolution (not available for complaints of sexual violence), or does not wish to pursue resolution of any kind. Regardless of how the complainant chooses to proceed, the Institute seeks to resolve every report of sexual misconduct within 60 calendar days of the initial report, excluding any appeal. The time frames included in this policy may vary depending on the details of the complaint and, in some cases, the time of the academic year (e.g., during Institute breaks or final exams). The Institute may extend any time frame for good cause, provided the complainant and respondent are given a written explanation as to the reason for such extension.

If the complainant wishes to proceed with either Formal Resolution or Informal Resolution, the Title IX Coordinator will ascertain the name of the respondent, and the date, location, and nature of the alleged sexual misconduct. The Title IX Coordinator will ask the complainant to submit a written statement to the appointed Investigator of her/his narrative of the incident within 1 business day and to schedule a meeting with the Investigator.

If the complainant does not wish to pursue Formal Resolution or Informal Resolution, and either requests that his or her complaint remain confidential, or refuses to participate in the initial intake meeting with the Title IX Coordinator, the Title IX Coordinator will inform the complainant that the Institute's ability to respond may be limited. In such scenarios, Title IX nevertheless requires the Institute to evaluate the complainant's request(s) for no action in the context of the Institute's commitment to provide a reasonably safe and non-discriminatory environment for the entire Institute community. The Institute will make every effort to honor a complainant's request for anonymity, and the Title IX Coordinator will explain the potential for conclusions to be drawn about the complainant's identity should a Formal Resolution process be determined to be necessary to protect the campus community.

Interim Measures

In all complaints of alleged sexual misconduct, on behalf of the Institute, the Title IX Coordinator will initiate an appropriate inquiry and take immediate protective measures to support and protect the complainant, including taking appropriate interim steps before the final outcome of the investigation and hearing, if any. Accordingly, after the intake meeting, the Title IX Coordinator may impose a “no-contact” order, which typically will include a directive that the parties refrain from having contact with one another, directly or through proxies, whether in person or via electronic means, pending the fact-finding and, if applicable, the adjudication.

Any student who has been the victim of sexual misconduct may request assistance in changing academic, living, transportation, and working situations after a report of sexual misconduct. The Title IX Coordinator will evaluate and ensure such accommodations are made, provided they are reasonable and available, regardless of whether the victim chooses to report the crime to law enforcement. When taking such steps to separate the complainant and the respondent, the Institute will, to the extent practical, minimize the burden on the complainant.

To ensure the safety and well-being of the complainant, the Title IX Coordinator may also take any further protective action that he or she deems appropriate concerning the interaction of the parties pending the hearing, which may include directing appropriate officials to alter the students’ academic, transportation, Institute housing, and/or Institute employment arrangements, or other appropriate protections.

Violation(s) of the Title IX Coordinator’s directives and/or protective actions will constitute related offenses that may lead to additional disciplinary action.

Effect of Criminal Proceedings

Sexual misconduct may constitute a violation of both law and Institute policy. The Institute encourages students to report alleged sexual misconduct promptly to local law enforcement agencies. Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. The standards for finding a violation of criminal law are different from the standards for finding a violation of this policy. Therefore, criminal investigations or reports are not determinative of whether sexual misconduct, for purposes of the policy, has occurred. In other words, conduct may constitute sexual misconduct under this policy even if law enforcement agencies lack sufficient evidence of a crime and decline to prosecute.

The filing of a complaint of sexual misconduct under this policy is independent of any criminal investigation or proceeding. The Institute will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or take any necessary interim measures to protect the complainant and the Institute community. However, the Institute may temporarily delay its investigation to enable law enforcement to gather evidence and to engage in a preliminary investigation of sexual misconduct matters that may also violate the state criminal code.

Formal Resolution

The Formal Resolution process includes three phases: 1) fact-finding, 2) adjudication, and 3) determination. In most cases, all three phases will occur. However, in cases in which no respondent is identified or where a victim wishes to remain confidential or does not wish to pursue corrective action, and the Title IX Coordinator has determined, after reviewing the incident and/or complainant's request against the factors listed in the Confidentiality section above, that the respondent does not pose a risk to the community, only the fact finding phase may occur.

Fact-Finding

If the complainant wishes to proceed with Formal Resolution, the Title IX Coordinator will promptly initiate an official investigation and will immediately appoint an Investigator to conduct the Fact-Finding for the complaint and provide the Investigator with the names of the complainant and respondent and the date, location, and nature of the alleged sexual misconduct. The Title IX Coordinator, in consultation with the appointed Investigator, will send letters directing the respondent and any complainant-identified witnesses to schedule meetings with the Investigator.

Fact-finding will commence within one business day of the Title IX Coordinator's appointment of the Investigator. In most cases, the investigation will be conducted by a trained Investigator appointed by the Title IX Coordinator. In some cases, the Title IX Coordinator may conduct the fact-finding phase.

Fact-finding is separate and distinct from the Adjudication phase. During the fact-finding phase, no documents or statements will be given to any individual questioned in order to provide for more objective testimonies; a key aspect to the adjudication phase. The purpose of fact-finding is to gather any and all information related to a report of sexual misconduct.

The Investigator will meet individually with parties involved, and may interview witnesses and collect and review such evidence as the Investigator deems necessary or helpful to his or her investigation into the alleged sexual misconduct, including written statements from the parties involved.

Once the investigation is complete, the Investigator will provide a written report of the findings of his or her investigation to the Title IX Coordinator, including a recommendation regarding applicable charges. The Title IX Coordinator will review the Investigator's report and will determine, based on the above-mentioned criteria, whether the case will be adjudicated and make a final determination regarding charges. The Title IX Coordinator will contact the complainant with the final charges and confirm a desire to move forward before proceeding to adjudication as permissible within the constraints of ensuring campus safety.

Adjudication

If there is a decision to adjudicate, the Title IX Coordinator will appoint and notify a trained Adjudicator to conduct the hearing and provide all documentation related to the complaint.

Advocates for the Complainant and Respondent

Upon the decision to adjudicate, the Title IX Coordinator will appoint an Advocate to each complainant and respondent. The complainant and respondent will meet separately with their respective advocates to review their rights and responsibilities and the hearing procedures. The complainant and respondent will also receive this information in writing. The parties may decline to meet with the appointed advocate or request the appointment of a different person if a prior conflict exists.

In addition, the Title IX Coordinator will send the complainant and respondent an official letter that outlines the allegations of the complaint, identifies the Adjudicator, and stating the date, time, and location of the hearing with the Adjudicator at least 5 business days in advance of the hearing date. A party wishing to challenge the participation of the Adjudicator must notify the Title IX Coordinator, in writing, within three business days of receipt of the notice of the Adjudicator, stating the specific reason(s) for the party's objection. The Title IX Coordinator will determine whether the challenge has merit and, if so, will assign a new Adjudicator. Complainant and respondent will be given the choice to be present at the hearing or submit official written statements should they wish to remain anonymous, however, all parties will have access to all written statements, so anonymity cannot be guaranteed.

Pre-Hearing Submissions

At least three business days prior to the hearing, the parties will provide the Adjudicator with a list of witnesses they wish to be called, copies of documents, and a description of any other information they propose to present at the hearing. The Adjudicator will provide each party with a copy of the list of witnesses and identification or copies of documents or other information submitted by each party prior to the hearing.

In the absence of good cause, as determined by the Adjudicator, the parties may not introduce witnesses, documents, or other information at the hearing that were not provided at least three business days prior to the hearing.

Prior to the hearing, the Title IX Coordinator will provide the Adjudicator all information gathered during the fact-finding phase.

Conduct of the Hearing

The hearing will take place on the date and time specified in the notice of hearing. If circumstances arise that require a change in the hearing date or time, the Title IX Coordinator

will provide both parties with written notice explaining the reason for such change. The Institute may arrange for the hearing to be recorded, and may arrange for the preparation of any transcript of the recording that the Institute deems appropriate.

The hearing will be conducted as follows:

- As a non-adversarial process, the hearing will not follow a courtroom model, and formal rules of evidence will not be observed. The format of the hearing follows that of a student conduct administrative hearing except the 'board' consists of only one trained faculty or staff member acting as Adjudicator.
- Consideration will be given to witnesses who may wish to submit or verify previously submitted statements in lieu of being present for the hearing.
- The complainant and respondent will be instructed to report for the hearing at a specific day and time. All contact between them will be limited/eliminated.
- If either party fails to attend the hearing, the Adjudicator may proceed and determine the complaint on the basis of the evidence available, provided the absent party was duly notified of the scheduled hearing date.
- Both the complainant and the respondent may have an advisor, of their own choosing, present to support and assist them during the pre-hearing, hearing, and appeal stages of the Formal Resolution process. The advisor may be, but does not have to be the advocate appointed earlier in the process. An advisor may not direct questions to the Adjudicator or witnesses at the hearing, but may consult with the party that he or she is assisting. The Adjudicator will not allow an advisor's presence to inhibit the parties' sharing of information or the conduct of the hearing.
- After reviewing all documents pertaining to the case, the Adjudicator will interview the complainant, respondent, and any witnesses in an order that makes sense to the Adjudicator. As necessary, the Adjudicator may recall hearing participants for additional questioning.
- At no time will the complainant and respondent be questioned at the same time or be permitted to question each other; however, at the discretion of the Adjudicator, the complainant or respondent may be permitted to question his/her witnesses.
- At any time during the adjudication phase, the Adjudicator may interview witnesses and collect and review such evidence as the Adjudicator deems necessary or helpful to his or her investigation into the alleged sexual misconduct.
- At the conclusion of the Adjudicator's questioning of all parties and witnesses, both the complainant and respondent will be given the opportunity to present to the Adjudicator any statements or information not previously covered at the hearing.

- If the Adjudicator determines that unresolved issues exist that would be clarified by the presentation of additional information, the Adjudicator may suspend the hearing and reconvene it in a timely manner to receive such information. A delay may not be based on the failure of witnesses to appear without good cause or on the proposed introduction of documents or other information that should have been presented at the pre-hearing meeting.

In order to comply with the Family Education Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99), and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public. Accordingly, documents prepared in anticipation of the hearing, documents, testimony, or other information introduced at the hearing, and any transcript of the hearing itself may not be disclosed outside of the hearing proceedings, except as may be required or authorized by law and/or Institute policy.

Determination

In all investigations into alleged sexual misconduct, the Institute will evaluate evidence under a “**preponderance of the evidence**” standard. A preponderance of the evidence means that information shows it is “**more likely than not**” that the respondent violated this policy and that sexual conduct occurred without consent.

The respondent will be found to be responsible for the alleged sexual misconduct if the Adjudicator concludes, based upon careful review of all information presented, that it is more likely than not that such sexual misconduct occurred. The Adjudicator shall determine whether the respondent is responsible for sexual misconduct, and will recommend the corrective measures and/or sanctions necessary for ensuring the protection of the complainant and the community to the Vice President for Student Affairs. The Adjudicator will provide a written statement of these determinations to the Title IX Coordinator and the Vice President for Student Affairs. After reviewing the Adjudicator’s written statement, the Vice President for Student Affairs will determine the sanction.

Sanction

The Vice President for Student Affairs may consider suspension or expulsion for any student found responsible for sexual misconduct; however, he or she may impose any of the following sanction(s) that are determined to be fair and proportionate to the violation:

- Reprimand or warning
- Changing the respondent’s academic schedule
- Disciplinary probation
- Revocation of honors or awards
- Restricting the respondent’s access to Institute facilities or activities
- Community service

- Issuing a “no-contact” order to the respondent or requiring that such an order remain in place
- Changing the respondent’s housing assignment
- Dismissal from or restricting or reassignment of Institute employment
- Removing the responding from student housing
- Suspension (limited time or indefinite)
- Expulsion
- Revocation of degree

In determining an appropriate sanction(s), the Vice President for Student Affairs will consider any existing record of past violations of Institute policies, as well as the nature and severity of such past violation(s). The Vice President for Student Affairs will consider as part of the deliberations whether the respondent poses a continuing risk to the complainant and/or the Institute community. Any sanction imposed will be explained and supported in the written decision of the Vice President for Student Affairs.

Within five business days from the conclusion of the hearing, Vice President for Student Affairs will issue a determination letter to the respondent and the complainant. Both parties, concurrently, will receive a copy of this determination letter.

The determination letter will contain only the following information: (i) the name of the respondent; (ii) whether the respondent has been found responsible or not responsible for specific violation(s) of the sexual misconduct policy; (iii) the sanction imposed, if any; (iv) the Institute’s appeal process; (v) any change to the results that occurs prior to the time that the results become final; and (vi) when the results become final. Both the respondent and the complainant have a right to this information. The determination letter may not be disclosed except where disclosure is authorized or required by law.

Appeal

Either party may appeal the determination of the Adjudicator and/or the disciplinary decision of the Vice President for Student Affairs. A party has three grounds under which to appeal the Institute’s determination: (i) the Adjudicator committed procedural errors that had an impact on the decision, (ii) there is new evidence that was not reasonably available at the time of the hearing before the Adjudicator, or (iii) the sanctions are not consistent with past practices or the severity of the alleged sexual misconduct.

Final sanctions are in effect until any timely appeal of the decision is resolved. The Vice President for Student Affairs may suspend the determination pending exhaustion of appeal, allow the student to attend classes or other activity on a supervised or monitored basis, or make such other modifications to the determination as may be advisable. Interim measures will remain in effect until the appeal is resolved.

The procedure to file an appeal is as follows:

1. A party wishing to appeal the determination of responsibility and/or the sanction must file a **notice of intent to appeal** within five business days of the date the party is notified of the Adjudicator's findings and the sanctions of the Vice President for Student Affairs. The intention to file an appeal must be submitted in writing (either email or hard-copy) to the Title IX Coordinator. This notice of intent to appeal must contain the party's grounds for the appeal.
2. Within two weeks of filing a notice of intent to appeal, the party's formal appeal must be filed. The party should submit copies of any and all material the party wishes to provide as evidence for his/her appeal.
3. An Appeal Officer will be appointed by the Title IX Coordinator to review the appeal. Except for appeals brought under (ii) above, the Appeal Officer's entire review process will be based on the party's appeal and the Adjudicator's record of the case. Otherwise, no additional evidence is allowed and no witnesses may be heard.
4. The Appeal Officer will make a final determination on the appeal. The Appeal Officer shall render his or her decision regarding the appeal within 20 calendar days, and will provide written notice of such determination to the Vice President for Student Affairs, and issue a final determination letter to the respondent and the complainant. Both parties, concurrently, will receive a copy of this final determination letter.

Informal Resolution

A complainant who wishes to file a formal complaint but who does not wish to pursue Formal Resolution may request a less formal proceeding, known as "Informal Resolution." The Informal Resolution procedure is only available for complaints of sexual harassment.

If the complainant wishes to proceed with Informal Resolution the Title IX Coordinator will ascertain the name of the respondent, and the date, location, and nature of the alleged sexual misconduct, and, within two business days, will schedule an individual intake meeting with the respondent in order to provide to him or her with a general understanding of the policy.

Informal Resolution provides an opportunity for the complainant to confront the respondent in the presence of, and facilitated by, a presiding officer, and to communicate his or her feelings and perceptions regarding the incident, the impact of the incident, and his or her wishes and expectations regarding protection in the future. The respondent will have an opportunity to respond. The respondent is expected to attend this meeting and participate in the Institute's investigation.

The complainant and the respondent each may bring an advisor to the Informal Resolution. Advisors are subject to the same restrictions set forth for advisors in Formal Resolution, outlined above. The Vice President for Student Affairs will preside over the Informal Resolution and may elect to be assisted by another staff member.

If, in the course of the Informal Resolution, the respondent admits to violating the Institute's Student Sexual Misconduct Policy, that admission will serve as a finding of responsibility that is final and cannot be appealed. The Vice President for Student Affairs will recommend a sanction, which the respondent can accept or reject. The sanctions that may be imposed as the result of the Informal Resolution process are the same as those outlined in the Formal Resolution process above. If the recommended sanction of Vice President for Student Affairs is accepted, the process is concluded. If the recommended sanction is rejected, the complaint will proceed to the Formal Resolution sanctioning process. In such case, all information gathered during the Informal Resolution process will be made available to the Adjudicator in the Formal Resolution sanctioning process.

Informal Resolution may result in the imposition of protective actions agreed upon by the parties, or (with or without such agreement) based on information derived from the Informal Resolution taken together with any other relevant information known to the Institute at the time of the Informal Resolution.

The Institute may, at any time, elect to end such proceedings and initiate Formal Resolution instead. Statements or disclosures made by the parties in the course of the Informal Resolution may be considered in the Formal Resolution.

In order to promote honest, direct communication, information disclosed during Informal Resolution must remain private, except where disclosure may be required by law or authorized in connection with duties on behalf of the Institute.

PREVENTION AND AWARENESS EDUCATION PROGRAMS

Creating a safe and respectful environment is the responsibility of all members of the Institute community. To promote and maintain this environment, the Institute engages in comprehensive educational programming to prevent sexual misconduct, including sexual harassment, domestic violence, dating violence, sexual assault, stalking, and retaliation. The Institute provides primary prevention and awareness programs for all incoming students and employees, and ongoing prevention and awareness campaigns for all students and employees.

The Institute educates the student community about sexual misconduct through the following programs:

- All new students complete a mandatory on-line tutorial about Consent and Bystander Intervention to prevent sexual violence
- Educational materials and programming are provided throughout the year through the Health Promotions Office.