



# Title IX Prohibited Conduct and Sexual Misconduct Policy

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## Georgetown College Title IX Prohibited Conduct and Sexual Misconduct Policy

### Introduction

Georgetown College (“College”) prohibits the exclusion of any person, on the basis of sex, from participation in, to be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the College.<sup>1</sup> If not addressed by the College, sexual harassment and other forms of sexual misconduct, as defined below, constitute a form of discrimination on the basis of sex.<sup>2</sup> The purpose of this Title IX Prohibited Conduct and Sexual Misconduct Policy (the “Policy”) is to set forth the prompt and effective steps which the College will take to end sexual harassment, sexual misconduct, and discrimination on the basis of sex, prevent its recurrence, and, as appropriate, remedy its effects.<sup>3</sup> This Policy applies to Title IX sexual harassment, quid pro quo, sex-based discrimination, sexual misconduct, and retaliation involving the College’s students, faculty, staff, visitors, and others who conduct business on campus or with the College, and which occur against a person in the United States.<sup>4</sup> Any provision of any other College policy or handbook which deals with sex-based discrimination in any fashion is hereby superseded, as of the Effective Date herein, by this Policy, so that all forms of sexual misconduct involving the education programs of the College will be subjected to the remedial steps set forth in this Policy.

This Policy is based on definitions set forth in regulations promulgated by the U.S. Department of Education under Title IX of the Education Amendments Act of 1972, and this Policy limits the scope of Title IX Sexual Harassment to, among other things, conduct that occurs within the United States and conduct that occurs within the College’s education program or activity (hereinafter defined). To address incidences of sexual misconduct that do not fall within the definition or the jurisdictional

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<sup>1</sup> 34 CFR §106.31.

<sup>2</sup> 2001 Guidance, p. 2.

<sup>3</sup> 2001 Guidance, p. iii.

<sup>4</sup> 34 CFR §106.8(c).and (d); 34 CFR §106.31(b); 2001 Guidance, p. 13.

requirements of Title IX Prohibited Conduct, this Policy is subdivided into two sections that are correlated to one another and must be read together:

- **Section I - Title IX Prohibited Conduct**

Applies to Sex-Based Discrimination, Sexual Harassment ("Section I"), Sexual Misconduct within the scope of Title IX Sexual Harassment;

- **Section II – Sexual Misconduct**

Applies to Sexual Misconduct ("Section II"), that is outside the scope of Title IX Sexual Harassment but prohibited by Georgetown College.

As used herein, "Section I Title IX Prohibited Conduct collectively refers to the following conduct, as defined in this Policy: Section I Title IX Sex-based Discrimination, Quid Pro Quo, Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Retaliation.

Section II applies to Sexual Misconduct, including Sexual Exploitation, Improper Conduct Related to Sex, (as defined herein), which are forms of sexual misconduct that do not fall under the scope of Title IX or Section I of this Policy. In addition, Section II Sexual Misconduct also includes complaints that must be dismissed under Section I because the complaint does not meet the jurisdictional requirements of Title IX, although it may allege certain conduct that would otherwise be conduct prohibited by Section I. This entire Policy, including Sections I and II, can be accessed through the College's website at <https://www.georgetowncollege.edu/title-ix> and is contained by reference with hyperlinks in the Student Handbook, the College's Policies and Procedures Manual, the Faculty Handbook, College Catalog, and College Honor Code.

Appendix "A" is a glossary of defined terms.

Appendix "B" contains a list of names, physical addresses, email addresses, telephone numbers, and certain other information which may change from time to time. Appendix "A" may occasionally be updated by the Title IX Coordinator without College approval, so as to maintain current information for use by the campus community.

Appendix "C" contains a list of possible sanctions and remedies in case of determination of responsibility.

Appendix "D" contains a flow chart as a visual representation of the Title IX grievance process.

Nothing contained in this Policy shall be deemed to have created a contract between the College and any student, faculty member, or staff member. The College reserves the right to unilaterally change any provision of this Policy without the consent of any other party.

## Notification

The College hereby notifies applicants for admission and employment, students, and employees, that the name of the employee designated as the Title IX Coordinator is set forth in Appendix "A."<sup>5</sup>

The College hereby notifies such persons that (a) the College does not discriminate on the basis of sex in the education programs or activities that the College operates, (b) the College is required by Title IX not to discriminate in such a manner, and (c) the requirement of the College not to discriminate in the education programs or activities extends to employment and admission.<sup>6</sup>

Inquiries about the application of Title IX to the College may be referred to the employee (listed in Appendix A) designated by the College as its Title IX Coordinator or to the Assistant Secretary of the Office of Civil Rights at the United States Department of Education, or both.<sup>7</sup>

A notice of the College's policy of nondiscrimination shall be widely disseminated and the College will display the nondiscrimination policy on its website and in each handbook or catalog that it makes available to applicants for admission and employment, students, employees—and all unions of professional organizations holding collective bargaining or professional agreements.<sup>8</sup> The notice of nondiscrimination shall also state the contact information for the Title IX Coordinator.<sup>9</sup> The College also shall use or distribute a publication stating that the

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<sup>5</sup> 34 CFR §106.8(a).

<sup>6</sup> 34 CFR §106.8(b)(1).

<sup>7</sup> 34 CFR §106.8(b)(1).

<sup>8</sup> 34 CFR §106.8(b)(2)(i); *See also* General Information – Non-Discrimination Statement, Georgetown College Handbook and <https://www.georgetowncollege.edu/campus-life/diversity>

<sup>9</sup> 34 CFR §106.8(b)(2)(i).

College does not treat applicants, students, or employees differently on the basis of sex.<sup>10</sup>

The College has adopted and published grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that is prohibited by Title IX, set forth in Section I (I.2). Additionally, the College's grievance process complies with Title IX §106.45 for formal complaints.<sup>11</sup> The College hereby provides notice of the College's grievance procedures and processes to applicants for admission and employment, students and employees, how to report or file a formal complaint of Section I Title IX Prohibited Conduct, and how the College will respond in such cases, all of which is set forth in Section I of this Policy.<sup>12</sup>

Moreover, the College has adopted and published grievance procedures that provide for the prompt and equitable resolution of student and employee complaints for any alleged action that is prohibited by the College under Section II of this Policy, as set forth in Section II (II.2 and II.3) of this Policy.

## Definitions

As used in this Policy, the phrases and words listed shall have the meanings set forth in Appendix A. Unless otherwise stated in the definition, any of the defined terms which include "Section I" or "Section II" shall expressly limit the definition set forth thereafter to the respective Section to which it refers.

## Title IX Coordinator

The College's current Title IX Coordinator is the individual specified in Appendix A.<sup>13</sup> The current contact information, including the name and title of the Title IX Coordinator, office address, electronic mail address, and telephone number of the Title IX Coordinator can be found in Appendix A, and on the College's website at: [www.georgetowncollege.edu/title-ix](http://www.georgetowncollege.edu/title-ix).<sup>14</sup> The Title IX Coordinator shall coordinate the College's efforts to comply with its responsibilities under this Policy, guidance from the United States Department of Education, and federal statutes and

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<sup>10</sup> 34 CFR §106.8(b)(2)(ii).

<sup>11</sup> 34 CFR §106.8(c).

<sup>12</sup> 34 CFR §106.8(c); See also Georgetown College Complaint Procedures and Student Handbook

<sup>13</sup> 34 CFR §106.8(a).

<sup>14</sup> 34 CFR §106.8(a).

regulations governing misconduct addressed by this Policy.<sup>15</sup> Further, when designating a Title IX coordinator, the College will make efforts to designate a coordinator whose other job responsibilities will not create a direct conflict of interest.

The Title IX Coordinator will coordinate the College's efforts in complying with Title IX and promoting gender equity in education.

The College must inform the Title IX Coordinator of all reports and complaints raising Title IX or sexual misconduct issues under this Policy, and the Title IX Coordinator shall oversee the College's centralized response to ensure compliance with Title IX, the 2022 Amendments to the Violence Against Women Act (VAWA), and this Policy.<sup>16</sup> The Title IX Coordinator shall be informed even if the complaint was initially filed with another individual or office, or if the investigation will ultimately be conducted by another individual or office. Following each report or complaint, the Title IX Coordinator shall conduct an initial assessment to determine whether Section I - Title IX Prohibited Conduct or Section II - Sexual Misconduct applies, and initiate steps accordingly. The Title IX Coordinator shall exercise their oversight of complaints or reports which are conducted outside of the office of the Title IX Coordinator. Offices which conduct investigations or respond to complaints and/or reports for conduct prohibited under Section II of this Policy shall report to the Title IX Coordinator regularly as to the status of such complaints and/or reports referred to those offices and shall be responsive to inquiries from the Title IX Coordinator.

The Title IX Coordinator will assemble a Team of individuals who can perform the duties of Title IX deputy, institution-appointed advisor, investigator, decision-maker, or informal resolution facilitator. Each member of the Title IX Team will be appropriately trained in the area in which they are designated.

The College will ensure that the Title IX Coordinator is appropriately trained and possess comprehensive knowledge in all areas over which the Title IX Coordinator has responsibility in order to effectively carry out those responsibilities, including College policies and procedures on sex-based discrimination and all complaints raising Title IX and sexual misconduct issues throughout the College.

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<sup>15</sup> 34 CFR §106.8(a).

<sup>16</sup> Violence Against Women Act (VAWA)

## College's Response to Prohibited Conduct

The College does not tolerate sex-based discrimination, quid pro quo, sexual harassment, sexual misconduct, or retaliation. All forms of prohibited conduct under this Policy are regarded as serious offenses, and violations may result in discipline, including the possibility of separation from the College. State and federal laws also address conduct that may meet the College's definitions of prohibited conduct under this policy, and criminal prosecution may take place independently of any disciplinary action instituted by the College.

Any person may report sex-based discrimination, quid pro quo, sexual harassment, sexual misconduct, or retaliation, (whether or not the person reporting is the person alleged to be the complainant of this prohibited conduct), in person, by mail, by telephone, or by electronic mail using the contact information listed for the Title IX Coordinator or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.<sup>17</sup> Such report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.<sup>18</sup>

### Response to Prohibited Conduct

When the College has actual knowledge of Prohibited Conduct occurring in any of the College's education programs or activities against a person in the United States, the College shall respond promptly in a manner that is not deliberately indifferent.<sup>19</sup> The College will not deprive an individual of rights guaranteed under federal and state law (or federal and state anti-discrimination provisions; or federal and state law prohibiting discrimination on the basis of sex) when responding to any claim brought under this policy.

The College shall treat complainants and respondents equitably by offering supportive measures to a complainant or respondent, and by following the College's grievance policy and procedures as set out below, before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a

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<sup>17</sup> 34 CFR §106.8(a).

<sup>18</sup> 34 CFR §106.8(a)

<sup>19</sup> 34 CFR §106.44(a)



respondent.<sup>20</sup> Additionally, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.<sup>21</sup> A complainant may obtain supportive measures while keeping their identity confidential from the respondent to the extent possible while implementing the supportive measure. Measures are designed to stop the prohibited conduct, prevent its recurrence, and remediate any adverse effects of such conduct on campus or in College-related programs or activities. The College will provide written notification of the complainant's options for, and available assistance in, changing academic, living, transportation, and working situations, if so requested by the complainant, and if such supportive measures are reasonably available regardless of whether the complainant chooses to report the crime to campus safety authority or local law enforcement.<sup>22</sup> The College will respond in the manner described in this section with or without a formal complaint.<sup>23</sup>

In order to address incidents of sexual misconduct that do not fall within the definition of Title IX Sexual Harassment set forth in regulations promulgated by the U.S. Department of Education under Title IX of the Education Amendments Act of 1972 and which limits the scope of Title IX Prohibited Conduct to conduct that occurs within the United States and conduct that occurs within the College's education program or activity, the College has one central Policy (the "Georgetown College Title IX Prohibited Conduct and Sexual Misconduct Policy") concerning all sexual misconduct, containing two (2) sections:

- Section I – Title IX Prohibited Conduct; and
- Section II – Sexual Misconduct

Sections I and II of the Policy are interrelated and must be read together. There may be a circumstance when the allegations forming the basis of a formal complaint, if substantiated, would constitute prohibited conduct under both this Section II - Sexual Misconduct and Section I - Title IX Prohibited Conduct. In that circumstance,

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<sup>20</sup> 34 CFR §106.44(a)

<sup>21</sup> 34 CFR §106.44(a)

<sup>22</sup> 34 CFR §668.46(b)(11)(v)

<sup>23</sup> 34 CFR §106.44(b)(1)

the grievance process set forth in Section I will be applied in the investigation and adjudication of all Title IX allegations.

This "Section II - Sexual Misconduct" applies only to certain conduct prohibited under this Section II. Specifically, Section II applies to forms of sexual misconduct that do not fall under the scope of Section I Title IX Prohibited Conduct but do meet the definition of "Section II Sexual Misconduct" as defined in the Policy.

"Section II Sexual Misconduct" refers collectively to all conduct prohibited by this Section, which includes the following terms as defined in this Policy: Sexual Misconduct, Sexual Exploitation, Improper Conduct Related to Sex, and any alleged conduct that would otherwise be prohibited under Section I (e.g., Quid Pro Quo, Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking) but which must be dismissed under Section I because it does not meet the jurisdictional requirements of Section I and Title IX. Sexual Misconduct not falling under the scope of Section II shall be addressed under other College policies.

## **Anonymity**

Once a report has been shared with the Title IX Coordinator, a complainant may request that their identity not be shared with the respondent (request for anonymity), that no investigation occur, or that no disciplinary action be pursued. The University will carefully balance this request in the context of the University's commitment to providing a safe and non-discriminatory environment for all community members.

When a complainant desires to initiate a grievance process, the complainant cannot remain anonymous or prevent the complainant's identity from being disclosed to the respondent (via written notice of allegations). Fundamental fairness and due process principles require that a respondent knows the details of the allegations made against the respondent, to the extent the details are known, to provide adequate opportunity for the respondent to respond.

## **College's Response to a Formal Complaint**

A formal complaint is a document filed by a complainant or the Title IX Coordinator alleging Title IX prohibited conduct against a respondent and requesting that the College investigate the allegations. At the time of the submittal of a formal

request, the complainant must be participating in, or attempting to participate in, one or more of the College's education programs or activities.

Upon receipt of a formal complaint, the Title IX Coordinator will respond to any immediate health or safety concerns raised. The Title IX Coordinator will then conduct an initial assessment for the sole purpose of determining whether the alleged conduct, if substantiated, would constitute Section I Title IX Prohibited Conduct. The College will seek to complete this initial assessment within ten (10) business days of receipt of the formal complaint. Following the initial assessment, the Title IX Coordinator may take any of the following actions:

- a) If the allegations forming the basis of the formal complaint would, if substantiated, constitute prohibited conduct as defined in this Section I, the Title IX Coordinator shall initiate an investigation of the allegations in a formal complaint under Section I. In addition, the Title IX Coordinator shall implement appropriate supportive measures.
- b) If the allegations forming the basis of the formal complaint would not, if substantiated, constitute prohibited conduct as defined in this Section I, but would constitute Sexual Misconduct as defined in this policy, the Title IX Coordinator may refer the matter to the College's Section II Sexual Misconduct process, as described in Section II of this Policy. In addition, the Title IX Coordinator shall implement appropriate supportive measures.
- c) If the Title IX Coordinator deems the formal complaint appropriate for the informal resolution process and the involved parties concur, the Title IX Coordinator may instead refer the matter to the informal resolution process, as described in Section I (I.3) below. In addition, the Title IX Coordinator shall implement appropriate supportive measures.

## **Dismissal of Formal Complaints**

The College must dismiss a Formal complaint if:

- If the allegations forming the basis of the formal complaint would not, if substantiated, constitute Section I Title IX Prohibited Conduct or Section II Sexual Misconduct, the Title IX Coordinator shall dismiss the formal complaint from the Title IX grievance process, at which time either party may appeal this dismissal set out in Section I (I.5) below; The conduct alleged in the formal complaint did not occur within the College's education programs or

activities over which the College exercises substantial control over both the respondent and the context in which the conduct occurs, or did not occur against a person within the United States.

In addition, at any time prior to the hearing, the College may dismiss a formal complaint if:

- The complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by the College;
- Specific circumstances prevent the College from gathering sufficient evidence to reach a determination as to the formal complaint or the allegations therein.

Upon dismissal, the College shall promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties and their advisors, if any, via electronic format. Both parties will have equal right to appeal the dismissal through the appeal process described in Section I (I.4).

If a complaint is dismissed because the respondent is no longer enrolled or employed by the College, the College reserves the right to resume the complaint upon return of respondent to the College.

The determination regarding dismissal becomes final either on the date that the parties are provided with the written determination of the result of an appeal (if an appeal is filed) or if an appeal is not filed, the date on which an appeal would no longer be considered timely. Once final, a complainant cannot file a formal complaint under this policy concerning the same alleged conduct. When a formal complaint has been filed, the College shall follow all procedures consistent with the College's grievance policies and procedures, as set forth in this Policy.<sup>24</sup>

The College may remove a respondent from the College's education program or activity on an emergency basis, after the College undertakes an individualized safety and risk analysis, and determines that the respondent poses an immediate threat to the physical health or safety of any student or individual arising from the allegations of sexual harassment and provides the respondent with notice and an

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<sup>24</sup> 34 CFR §106.44(b)(1)

opportunity to challenge the decision immediately following the removal.<sup>25</sup> The College may also place a non-student employee respondent on administrative leave during the pendency of a grievance process.<sup>26</sup>

## Supportive Measures

The College shall provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for complainants both on-campus and in the community.<sup>27</sup> The College provides such written notification in Appendix "A". There are a range of supportive measures available to complainants and respondents. Such supportive measures may include but are not limited to:<sup>28</sup>

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass notices
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

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<sup>25</sup> 34 CFR § 106.44(c)

<sup>26</sup> 34 CFR §106.44(d)

<sup>27</sup> 34 CFR §668.46 (b)(11)(iv).

<sup>28</sup> 34 CFR §106.45(b)(1)(ix).

## Confidentiality and Privilege

The College will make every effort to protect the privacy of complainant(s), including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the complainant, to the extent permissible by law.<sup>29</sup> The College shall keep confidential the identity of any individual who has made a report or complaint of prohibited conduct under this Policy, including any individual who has made a report or filed a formal complaint of Section I Title IX Sexual Harassment, any complainant, any individual who has been reported to be the respondent of prohibited conduct under this Policy, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.<sup>30</sup> The College shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures.<sup>31</sup>

The College does not require, allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.<sup>32</sup>

## Amnesty

Georgetown College encourages the reporting of misconduct and crimes by complainants and witnesses. The physical and mental health, safety, and well-being of students and the campus community is of utmost importance to the College. While alcohol and drug violations are not condoned by the College, the College offers students amnesty from minor policy violations, such as underage consumption of alcohol or illicit drug use in order to remove potential barriers to reporting prohibited sexual conduct.

Student complainants who have been drinking or using drugs at the time of the incident will not be disciplined for minor policy violations and should not hesitate to

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<sup>29</sup> 34 CFR §668.46(b)(11)(A).

<sup>30</sup> 34 CFR §106.71(a).

<sup>31</sup> 34 CFR §106.30(a).

<sup>32</sup> 34 CFR 106.45(b)(1)(x).

report a Title IX prohibited conduct or sexual misconduct due to fear for their own conduct.

Students witnesses and reporters may report, participate in the process, or offer their assistance to others in need, without fear that they may implicate themselves. Student witnesses or reporters acting in good faith will not be subject to official disciplinary findings or punitive sanctions, but rather to educational options for minor code of conduct violations that arise from the information they share.

Amnesty will not apply to more serious allegations such as physical abuse of another or illicit drug distribution.

Amnesty does not apply to a student who reports their own commission or complicity in a Title IX prohibited or sexual misconduct incident.

An employee who has violated a minor employee policy violation and then experiences a Title IX prohibited conduct or sexual misconduct may hesitate to report the incident. To encourage employees to report, the College may, at its discretion, offer employee complainant amnesty from minor policy violations related to the incident. Amnesty may also be granted on a case-by-case basis to employee witnesses.

## **Disability Accommodations**

Georgetown College will provide reasonable accommodations to students, employees, or others with disabilities to ensure equal access to the College's grievance process. Anyone needing accommodations should contact Disability Services or Human Resources, to begin the interactive process of determining which accommodations are appropriate and necessary for full participation in the grievance process.

## **Retaliation**

The College or any other person of the College community are prohibited from taking adverse action and may not intimidate, threaten, coerce, harass, or discriminate against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint,

testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Sections I or II.<sup>33</sup>

Intimidation, threats, coercion, harassment, or discrimination, including charges against an individual for code of conduct violations that do not involve sex-based discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex-based discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or Sections I or II, constitutes Retaliation under this Policy.<sup>34</sup>

Complaints alleging retaliation may be reported to the Title IX Coordinator and will be promptly investigated, according to the grievance procedures for sex-based discrimination.<sup>35</sup> The College is prepared to take immediate and appropriate action to any report of retaliation to protect individuals who fear having been subjected to retaliation. Acts of retaliation will be investigated and may lead the College to pursue disciplinary action as appropriate.

## SECTION I – TITLE IX PROHIBITED CONDUCT

*This Section I - Title IX Prohibited Conduct, incorporates by reference, all the foregoing (1-4) and all of Section II - Sexual Misconduct (II.1-II.5)) as if fully stated herein.*

### **I.1 Grievance Procedures for Formal Complaints of Section I Title IX Prohibited Conduct**

For purposes of addressing formal complaints of Section I Title IX Prohibited Conduct, the College will comply with the grievance procedures of this provision (I.2). The College's grievance procedures in this Section I (I.2) treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for Section I Title IX Prohibited Conduct has been made against the respondent, and by following a grievance process that complies with this Section I (I.2) before the imposition of any disciplinary sanctions or other

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<sup>33</sup> 34 CFR §106.71(a).

<sup>34</sup> 34 CFR §106.71(a).

<sup>35</sup> 34 CFR §106.71(a)



actions that are not supportive measures against a respondent.<sup>36</sup> Remedies are designed to restore or preserve equal access to the College’s education program or activity.<sup>37</sup>

### *Basic Requirements for Grievance Procedures*

Grievance proceedings shall be conducted by officials who receive annual training on the issues related to quid pro quo, sexual harassment, domestic violence, dating violence, sexual assault, and stalking, and how to conduct an investigation and hearing process that protects the safety of complainants and promotes accountability.<sup>38</sup> Proceedings shall provide a prompt, fair, and impartial investigation and resolution.<sup>39</sup>

The College’s grievance procedures shall use an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence.<sup>40</sup> During the grievance process, credibility determinations may not be based on a person’s status as a complainant, respondent, or witness.<sup>41</sup>

Any individual designated by the College who is to be involved in the College’s grievance procedures, such as a coordinator, investigator, or decision-maker, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.<sup>42</sup> It is presumed that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.<sup>43</sup>

The College’s grievance procedure includes reasonably prompt time frames for the conclusion of the grievance process. This includes filing and resolving appeals and informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent for such delay or extension and the reasons for the action.<sup>44</sup> “Good cause” may include considerations such as

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<sup>36</sup> 34 CFR §106.45(b)(1)(i).

<sup>37</sup> 34 CFR §106.45(b)(1)(i).

<sup>38</sup> 34 CFR §668.46(k)(2)(ii).

<sup>39</sup> 34 CFR §668.46(k)(2)(i).

<sup>40</sup> 34 CFR §106.45(b)(1)(ii).

<sup>41</sup> 34 CFR §106.45(b)(1)(ii).

<sup>42</sup> 34 CFR §106.45(b)(1)(iii).

<sup>43</sup> 34 CFR §106.45(b)(1)(iv).

<sup>44</sup> 34 CFR §106.45(b)(1)(v).

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.<sup>45</sup>

The College's grievance procedures describe the range of possible sanctions and remedies that the College may implement following any determination of responsibility, as outlined in Appendix B.<sup>46</sup>

The standard of proof under this Policy is preponderance of the evidence. This standard of evidence is applied for formal complaints against students as well as formal complaints against employees.<sup>47</sup> It shall be applied to all formal complaints of prohibited conduct under this Policy.<sup>48</sup>

### *Notice of Allegations*

Upon receipt of a formal complaint from a student or employee or upon the initiation of a formal complaint by the Title IX Coordinator on behalf of the College, the College must provide the following written notice to the parties who are known: notice of the College's grievance procedures, including any informal resolution process, and notice of the allegations potentially constituting Section I Title IX Prohibited Conduct, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident if known, the conduct allegedly constituting prohibited conduct under this Section I, and the date and location of the alleged incident, if known.<sup>49</sup>

The College's written notice must also include a statement that the respondent is presumed not responsible for the alleged conduct and that the determination regarding responsibility is made at the conclusion of the grievance process.<sup>50</sup>

The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence. In accordance with the College's Code of Conduct, the College

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<sup>45</sup> 34 CFR §106.45(b)(1)(v).

<sup>46</sup> 34 CFR §106.45(b)(1)(vi).

<sup>47</sup> 34 CFR §106.45(b)(1)(vii).

<sup>48</sup> 34 CFR §106.45(b)(1)(vii).

<sup>49</sup> 34 CFR §106.45(b)(2)(i)(A)-(B)

<sup>50</sup> 34 CFR §106.45(b)(2)(i)(B).

prohibits the parties from making false statements or knowingly submitting false information during the grievance process.<sup>51</sup>

If, in the course of the investigation, the College decides to investigate allegations about the complainant or respondent that are not included in the notice requirements above, then the College will provide notice of the additional allegations to the parties whose identities are known.<sup>52</sup>

### *Investigations of a Formal Complaint*

The College must investigate the allegations in a formal complaint.<sup>53</sup> If the conduct alleged in the formal complaint would not constitute Section I Title IX Prohibited Conduct even if proved, did not occur in the College's education program or activity, or did not occur against a person in the United States, then the College must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX.<sup>54</sup> However, such a dismissal does not preclude action under the College's Section II - Sexual Misconduct policy.<sup>55</sup> Policy and procedures as to an action under the College's Section II - Sexual Misconduct policy are described hereafter in Section II.

When an initial assessment or investigation under this policy identifies additional related possible violations of the College's Sexual Misconduct policy by the same party(ies), the grievance process set forth in this Title IX Prohibited Conduct policy and procedures will apply to all allegations. Under such circumstances, the parties will be provided with written notice containing the following information: (a) the alleged prohibited conduct, and (b) the Section(s) of this Policy under which alleged prohibited conduct falls.

When an initial assessment or investigation under this policy identifies additional related possible violations of College policies (other than Section II of this Policy) by the same party(ies) that would normally be handled by another responsible office (including but not limited to, the Office of Student Life, Office of

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<sup>51</sup> 34 CFR §106.45(b)(2)(i)(B); *see also* Section 11 - Fraud, Georgetown College Code of Student Conduct,

<sup>52</sup> 34 CFR §106.45(b)(2)(ii).

<sup>53</sup> 34 CFR §106.45(b)(3)(i).

<sup>54</sup> 34 CFR §106.45(b)(3)(i).

<sup>55</sup> 34 CFR §106.45(b)(3)(i)

the Provost, and Office of Human Resources), the Title IX Coordinator, with the approval of that responsible office, may:

- direct the grievance process set forth in this Section I (I.2) will apply to all allegations (using the standard of evidence that is applicable to each particular alleged policy violation). Under such circumstances, the parties will be provided written notice containing the following information: (a) the alleged prohibited conduct, and (b) the policy(ies) under which the alleged prohibited conduct falls; or alternatively,
- the Title IX Coordinator, with the approval of the responsible office, may direct investigators under Section I to investigate such other possible violations at the same time that they investigate allegations covered by this Section, after which the responsible office will adjudicate the matter. Under such circumstances, the records from the investigation of the non-Title IX matter shall be provided to the office responsible for adjudicating that non-Title IX matter in accordance with applicable College policies and procedures.

As soon after the initiation of the investigation as possible, the Title IX Coordinator or the designated investigator shall notify all College employees or students who are believed to have documentary, electronic, or tangible evidence to preserve such evidence for the investigation.<sup>56</sup> The College must also notify the complainant of (a) the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order, (b) the agencies to whom the alleged offense should be reported, (c) options regarding law enforcement and campus authorities, including notification of the complainant's option to (i) notify proper law enforcement authorities, including on-campus safety authorities and local police, (ii) be assisted by campus authorities in notifying law enforcement authorities if the complainant so chooses, and (iii) decline to notify such authorities.<sup>57</sup>

When investigating a formal complaint, the College must ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not on the parties, provided that the College cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist,

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<sup>56</sup> 34 CFR §668.46((b)11)(ii)(A)

<sup>57</sup> 34 CFR §668.46((b)11)(ii)(A)

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 College obtains that party's voluntary, written consent to do.<sup>58</sup>

The College must provide both 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 upon which the College does not intend to rely in reaching a determination regarding responsibility 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 the conclusion of the investigation.<sup>59</sup>

The College must also provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.<sup>60</sup> In addition, the College may not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.<sup>61</sup>

The College must provide the parties with the same opportunities to have present or be accompanied by the advisor of their choice to any grievance proceeding or related meeting.<sup>62</sup> The College may not limit the choice of advisor or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding.<sup>63</sup> Advisors are not required to be attorneys.<sup>64</sup> Additionally, the College may not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding.<sup>65</sup> The College may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.<sup>66</sup>

The College must provide to the party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all

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<sup>58</sup> 34 CFR §106.45(b)(5)(i).

<sup>59</sup> 34 CFR §106.45(b)(5)(vi)

<sup>60</sup> 34 CFR §106.45(b)(5)(ii)

<sup>61</sup> 34 CFR §106.45(b)(5)(iii)

<sup>62</sup> 34 CFR §106.45(b)(5)(iv)

<sup>63</sup> 34 CFR §106.45(b)(5)(iv)

<sup>64</sup> 34 CFR §105.45(b)(5)(iv)

<sup>65</sup> 34 CFR §106.45(b)(5)(iv)

<sup>66</sup> 34 CFR §106.45(b)(5)(iv)

hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.<sup>67</sup>

### *Investigative Report*

The College is required to create a preliminary investigative report that fairly summarizes relevant evidence.<sup>68</sup> Prior to completion of the final investigative report, the College must send each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format, or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the final investigative report.<sup>69</sup> The College must then provide a copy of the final investigative report at least 10 days prior to a hearing or other time of determination regarding responsibility and send to each party and the party's advisor, if any, the final investigative report in an electronic format or a hard copy, for their review and written response.<sup>70</sup>

### *Live Hearing*

The College shall, as required under Title IX, conduct a live hearing, either in-person or virtually.<sup>71</sup>

During a live hearing, the College and the College's decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.<sup>72</sup> Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the parties' advisor of choice, notwithstanding the discretion of the College to otherwise restrict the extent to which advisors may participate in the proceedings, however, a party may never personally conduct a cross-examination.<sup>73</sup> If a party does not have an advisor present at the live hearing, the College will provide without fee or charge to that party, an advisor of the College's choice, who may be, but is

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<sup>67</sup> 34 CFR §106.45(b)(5)(v).

<sup>68</sup> 34 CFR §106.45(b)(5)(vii).

<sup>69</sup> 34 CFR §106.45(b)(5)(vi).

<sup>70</sup> 34 CFR §106.45(b)(5)(vii).

<sup>71</sup> 34 CFR §106.45(b)(6)(i).

<sup>72</sup> 34 CFR §106.45(b)(6)(i).

<sup>73</sup> 34 CFR §106.45(b)(6)(i).

not required to be, an attorney, to conduct cross-examination on behalf of that party.<sup>74</sup>

The College must also make all evidence subject to the parties' inspection and review, available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examinations.<sup>75</sup>

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.<sup>76</sup> Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.<sup>77</sup>

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions.<sup>78</sup>

Live hearings may be conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.<sup>79</sup> Colleges must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.<sup>80</sup> At the request of either party, the College must provide for the live hearing to occur with the parties located in

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<sup>74</sup> 34 CFR §106.45(b)(6)(i).

<sup>75</sup> 34 CFR §106.45(b)(5)(vi).

<sup>76</sup> 34 CFR §106.45(b)(6)(i).

<sup>77</sup> 34 CFR §106.45(b)(6)(i).

<sup>78</sup> 34 CFR §106.45(b)(6)(i).

<sup>79</sup> 34 CFR §106.45(b)(6)(i).

<sup>80</sup> 34 CFR §106.45(b)(6)(i).

separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.<sup>81</sup>

## I.2. Determination of Responsibility

For the purpose of determination regarding responsibility, the College shall appoint decision-maker(s) who cannot be the same person as the Title IX Coordinator or the designated investigator(s), if any, as described in the College's grievance procedures set forth above.<sup>82</sup> When making a determination regarding responsibility, the College must apply the standard of evidence as defined above (preponderance of evidence).<sup>83</sup>

The College's decision-makers shall issue a written determination regarding responsibility.<sup>84</sup> The College shall issue the written determination to the parties simultaneously.<sup>85</sup> The College's written determination shall include:

- a) identification of the allegations potentially constituting Section I – Title IX Prohibited Conduct as defined in this Policy;
- b) a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- c) findings of fact supporting the determination;
- d) conclusions regarding the application of the College's code of conduct 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 College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and

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<sup>81</sup> 34 CFR §106.45(b)(6)(i).

<sup>82</sup> 34 CFR §106.45(b)(7)(i).

<sup>83</sup> 34 CFR §106.45(b)(7)(i).

<sup>84</sup> 34 CFR §106.45(b)(7)(i).

<sup>85</sup> 34 CFR §106.45(b)(7)(iii).



f) the College's procedures and permissible bases for the complainant and respondent to appeal.<sup>86</sup>

If the College finds a respondent responsible for sexual harassment, the College will provide remedies to the complainant that are designed by restore or preserve equal access to the College's education program or activity. Remedies may include supportive measures already provided to the complainant, or additional services. Remedies can be disciplinary or punitive and can burden the respondent.<sup>87</sup>

Sanctions, as outlined in Appendix B of this Policy, will consider the seriousness of the prohibited conduct as compared to like cases in the past, the respondent's previous disciplinary history (if any), and institutional principles. Specifically, sanctions will be set by the hearing panel, as follows:

If an undergraduate or graduate student is found responsible for violating Section I of this Policy, the panel of decision-makers shall determine the appropriate sanction(s) and remedies, as listed in Appendix "B" of this Policy. Any sanctions and remedies will be included in the written determination, and sanctions will be subject to appeal under this Section I (I.4). The written determination shall be sent to the Dean of Students.

If a staff or faculty member is found responsible, the case record (consisting of the case file and responses, investigative report and responses, hearing recording, and written determination relating to the finding of responsibility) will be forwarded to the Director of Human Resources, who will determine sanctions and remedies, as listed in Appendix "B" of this Policy, in consultation with appropriate College administrators. In the event that the Director of Human Resources is unavailable, an appropriately trained College official will serve as the substitute. Any sanctions and remedies will be included in the written determination, and sanctions will be subject to appeal under this Section I (I.5).

The College shall list possible sanctions or supportive measures that the College may impose following the results of any College disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking in its annual security report, all of which are listed in Appendix B.<sup>88</sup> The complainant and the respondent shall be simultaneously informed in writing of the outcome of any

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<sup>86</sup> 34 CFR §106.45(b)(7)(ii)(A)-(F).

<sup>87</sup> 34 CFR §106.45(b)(1)(i).

<sup>88</sup> 34 CFR §668.46(k)(1)(k)(iii)

institutional disciplinary proceeding, the institution's procedures for the accused and the complainant to appeal the results of the institutional disciplinary proceeding, any change to the results that occurs prior to the time that such results become final, and when such results become final.<sup>89</sup>

The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.<sup>90</sup>

The Title IX Coordinator is responsible for the effective implementation of any sanctions or remedies.<sup>91</sup>

### **I.3. Informal Resolution Process**

The College shall not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section.<sup>92</sup> Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed.<sup>93</sup> However, at any time prior to reaching a determination regarding responsibility, the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College (a) provides to the parties a written notice disclosing: (i) the allegations, (ii) the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and (iii) any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; (b) obtains the parties' voluntary, written consent to the informal resolution process; and (c) does

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<sup>89</sup> 20 U.S.C. § 1092(f)(8)(B)(iv)(III).

<sup>90</sup> 34 CFR §106.45(b)(7)(iii).

<sup>91</sup> 34 CFR §106.45(b)(7)(iv).

<sup>92</sup> 34 CFR §106.45(b)(9).

<sup>93</sup> 34 CFR §106.45(b)(9).

not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.<sup>94</sup>

#### **I.4. Record Keeping**

The College shall maintain for a period of seven (7) years records of each investigation under this Section I, including any determination regarding responsibility and any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the College’s education program or activity; any appeal and the result therefrom; any informal resolution and the result therefrom; and all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.<sup>95</sup> Materials used to train Title IX Coordinators, investigators, decision-makers, and any persons who facilitate an informal resolution process will be publicly available on the College’s website.<sup>96</sup>

The College shall create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of Section I Prohibited Conduct and/or Section I Title IX Sexual Harassment, as defined in this Policy.<sup>97</sup> In each instance, the College shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the College’s education program or activity.<sup>98</sup> If the College does not provide a complainant with supportive measures, then the College must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.<sup>99</sup> The documentation of certain bases or measures does not limit the College in the future from providing additional explanations or detailing additional measures taken.<sup>100</sup>

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<sup>94</sup> 34 CFR §106.45(b)(9)(i)-(iii).

<sup>95</sup> 34 CFR §106.45(b)(10)(i)(A)-(D).

<sup>96</sup> 34 CFR §106.45(b)(10)(i)(A)-(D)

<sup>97</sup> 34 CFR §106.45(b)(10)(ii).

<sup>98</sup> 34 CFR §106.45(b)(10)(ii).

<sup>99</sup> 34 CFR §106.45(b)(10)(ii).

<sup>100</sup> 34 §CFR 106.45(b)(10)(ii).

## I.5. Appeals

The College shall offer both parties five (5) business days to file an appeal from a determination regarding responsibility, and from a College's dismissal of a formal complaint or any allegations therein, on the following bases: (a) procedural irregularity that affected the outcome of the matter; (b) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or (c) the Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.<sup>101</sup>

As to all appeals, the College must (a) notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties; (b) ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator; (c) ensure that the decision-maker(s) for the appeal complies with the standards set forth in this policy and Title IX; (d) give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome; (e) issue a written decision describing the result of the appeal and the rationale for the result; and (f) provide the written decision simultaneously to both parties.<sup>102</sup>

## I.6. Prevention and Education

The College shall provide education programs to promote the awareness of quid pro quo, rape, acquaintance rape, domestic violence, dating violence, sexual assault, sexual harassment, and stalking, which shall be published in the College's annual security report, and which shall include:

1. Primary prevention and awareness programs for all incoming students and new employees, which shall include:
  - a. A statement that the College prohibits the offenses of quid pro quo, sexual harassment, sexual assault, domestic violence, dating violence, and stalking;

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<sup>101</sup> 34 CFR §106.45(b)(8)(i),

<sup>102</sup> 34 CFR §106.45(b)(8)(iii).

- b. The definition of quid pro quo, sexual harassment, sexual assault, domestic violence, dating violence, and stalking in the Commonwealth of Kentucky;
  - c. The definition of consent, in reference to sexual activity, in the Commonwealth of Kentucky;
  - d. Safe and positive options for bystander intervention that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of domestic or dating violence, sexual assault, sexual harassment, or stalking against a person other than such individual(s);
  - e. Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks.
  - f. Information described in 20 U.S.C. 1092(f)(8)(B)(ii) though (vii); and
2. Ongoing prevention and awareness campaigns for students and employees including the information described in clauses (a) through (f) of subparagraph 1 above.<sup>103</sup>

## I.7. Training

The College ensures that Title IX coordinator(s), investigators, decision-makers, institution-appointed advisors, and any person who facilitates an informal resolution process, receive training on the definition of Section I Title IX Prohibited Conduct and Section II Sexual Misconduct, the scope of the College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.<sup>104</sup> Coordinator(s) should be knowledgeable about other applicable Federal and State laws, regulations, and policies that overlap with Title IX.<sup>105</sup> Additionally, the College ensures that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.<sup>106</sup> Furthermore, the College

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<sup>103</sup> 34 CFR §668.46(j)

<sup>104</sup> 34 CFR §106.45(b)(1)(iii)

<sup>105</sup> OCR Guidance on Title IX Coordinators (April 24, 2015), p. 6.

<sup>106</sup> 34 CFR §106.45(b)(1)(iii)

ensures that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.<sup>107</sup>

The College uses training materials that do not rely on sex stereotypes to train coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.<sup>108</sup> The College also uses materials that promote impartial investigations and adjudications of formal complaints of sexual harassment to train coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.<sup>109</sup>

## SECTION II – SEXUAL MISCONDUCT

*This Section II - Sexual Misconduct, incorporates by reference, all of the foregoing (1-4, College's Response to Prohibited Conduct, and Section I – Title IX Prohibited Conduct (I.1-I.7)) as if fully stated herein.*

### **II.1 Grievance Procedures for Formal Complaints of Section II Prohibited Sexual Conduct**

Section II Sexual Misconduct is conduct that otherwise meets the definition of Section I Title IX Prohibited Conduct but fails to meet the jurisdictional requirements of Title IX as set out in Section I, and any conduct which is one of the following acts/behaviors as defined herein: (1) Section II Sexual Misconduct, (2) Section II Sexual Exploitation, and (3) Section II Improper Conduct Related to Sex as defined on page 7ff.

For purposes of addressing formal complaints of Section II Prohibited Sexual Conduct, the College will follow the grievance procedures as described in Section II of this policy.

The College shall treat complainants and respondents equitably by offering appropriate supportive measures to a complainant or respondent, and by following the College's grievance policy and procedures as set out below, before the imposition of any remedies or disciplinary sanctions that are not supportive measures against a respondent. It is presumed that the respondent is not responsible for the alleged

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<sup>107</sup> 34 CFR §106.45(b)(1)(iii).

<sup>108</sup> 34 CFR §106.45(b)(1)(iii)

<sup>109</sup> 34 CFR §106.45(b)(1)(iii)

conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Supportive measures are non-disciplinary, non-punitive individualized services designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment or deter sexual harassment<sup>110</sup>.

Sanctions are disciplinary measures or consequences imposed against a respondent who was found responsible for the prohibited behavior as alleged. Sanctions are based on the nature and gravity of the misconduct, any record of prior discipline for similar violations, or both. They may include remedies designed to restore or preserve the complainant's equal access to the College's education program or activity. Sanctions and remedies may pose a burden to the respondent. The College's grievance procedures describe the range of possible remedies and sanctions that the College may implement following any determination of responsibility, as listed in Appendix B.

When an initial assessment or investigation under this Policy identifies additional related possible violations of Section I of this Policy by the same party or parties, the grievance process set forth in Section I (I.2) will apply to all allegations. Under such circumstances, the parties will be provided written notice containing the following information: (a) the alleged prohibited conduct, and (b) the Section(s) under which the alleged prohibited conduct falls.

Section II Sexual Misconduct that otherwise meets the definition of Section I Title IX Prohibited Conduct but fails to meet the jurisdictional requirements of Title IX as set out in Section I shall be adjudicated following the grievance process as described in Section I.<sup>111</sup>

Section II Sexual Misconduct shall be referred to the appropriate office(s) that will adjudicate the matter under the applicable procedures.

- Student complainant – student respondent conduct shall be referred to Student Life, and II.2 grievance process will be followed;
- Employee complainant - employee respondent conduct shall be referred to Human Resources, and II.3 grievance process will be followed;

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<sup>110</sup> 34 CFR 106.30(a) "Supportive measures"

<sup>111</sup> 34 C.F.R. § 106.45(b)(3)(i)

- Student complainant – employee respondent conduct shall be referred to Human Resources and Student Life, and II.3 grievance process will be followed;
- Employee complainant – student respondent conduct shall be referred to Student Life and Human Resources, and II.2 grievance process will be followed.

### *Basic Requirements for Grievance Procedures*

Grievance proceedings shall be conducted by officials who receive regular training on the issues related to inappropriate behavior as defined in the Georgetown College Policy and Procedures Manual<sup>112</sup>, the Faculty Handbook<sup>113</sup> or the [Student Code of Conduct in the Student Handbook](#)<sup>114</sup>.

The appointed Designee (Human Resources or Student Life) shall conduct a prompt investigation of the allegation(s) to obtain the facts from any and all parties involved, including obtaining signed statements of the parties and of any witnesses. The appointed designee, investigator(s), or hearing officer(s) shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Proceedings shall provide a prompt, fair, and impartial investigation, and resolution. The College's grievance procedures shall use an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. During the grievance process, credibility determinations shall not be based on a person's status as a complainant, respondent, or witness.

To maintain the neutral nature of the investigation and to avoid any appearance of favoritism toward one party or the other, the designee will be the only person who may question the complainant and respondent. Any other persons involved in the investigation process will be able to provide any questions they feel are relevant to the investigation to the designee. The designee will determine the appropriateness of any questions submitted, as well as the appropriate way to pose the question to the individual. The privacy and confidentiality of any complainant

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<sup>112</sup> This manual will be made available upon request. Please contact the Office of Human Resources (502-863-8035 or [Debbie\\_clark@georgetowncollege.edu](mailto:Debbie_clark@georgetowncollege.edu)) for further information.

<sup>113</sup> This manual will be made available upon request. Please contact the Provost's Office (502-863-8146 or [Provost@georgetowncollege.edu](mailto:Provost@georgetowncollege.edu)) for further information.

<sup>114</sup> <https://handbook.georgetowncollege.edu/student-code-of-conduct>



and respondent will be protected and only those who have a "need to know" will be involved.

Whether a hearing for conduct prohibited by this Section II is conducted by the Office of Student Life or through the Office of Human Resources, those offices shall,

- Provide both parties an equal opportunity to review the summary of the investigation that is directly related to the allegations raised in a formal complaint.
- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- Provide the parties with the same opportunities to have others present during any grievance proceeding;
- Provide to the party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

The College's grievance procedure includes reasonably prompt time frames for the conclusion of the grievance process, including a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent for 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, the College's holiday schedule, or the need for language assistance or accommodations for disabilities.

The standard of proof under this Policy is the preponderance of the evidence. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all the relevant evidence and reasonable inferences from the evidence, that the respondent violated this policy. This standard of evidence is applied to complaints against students as well as complaints against employees, including administration. It shall be applied to all formal complaints of conduct prohibited under this Policy.

## II.2 Student-Student or Employee-Student Misconduct

Section II.2 will follow the Student Code of Conduct process as outlined below.

If the complainant and the respondent are both students, the Title IX Coordinator may refer the conduct allegation to the Office of Student Life.

If the complainant is an employee and the respondent is a student, the conduct allegation may be referred to both, the offices of Student Life and Human Resources. The Office of Student Life will then coordinate with the Office of Human Resources to address the complaint.

### *Investigations of a Complaint*

As soon after the initiation of the investigation as possible, the Title IX Coordinator or the designated investigator(s) shall notify the College employees or students who are believed to have documentary, electronic, or tangible evidence to preserve such evidence for the investigation. The College must also notify the complainant of (a) the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order, (b) the agencies to whom the alleged offense should be reported, (c) options regarding law enforcement and campus authorities, including notification of the complainant's option to (i) notify proper law enforcement authorities, including on-campus safety authorities and local police, (ii) be assisted by campus authorities in notifying law enforcement authorities if the complainant so chooses, and (iii) decline to notify such authorities.

When investigating a formal complaint, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not on the parties. Unless the College has a party's voluntary, written consent, it cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, therapist, 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. In addition, the College may not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

## *Adjudication and Hearings*

When a student is the respondent in a formal complaint under Section II, hearings shall be held by the Office of Student Life, following the Student Code of Conduct process pursuant to the policies and procedures set forth in the [Student Handbook](#).

## *Determination of Responsibility*

The hearing board will apply the standard of preponderance of evidence when making a determination regarding responsibility. The hearing board will issue the written determination to the complainant and to the respondent. Sanctions, as outlined in Appendix B of this Policy, will consider the nature of the evidence supporting the complaint, the seriousness of the prohibited conduct as compared to like cases in the past, the respondent's previous disciplinary history (if any), and institutional principles.

The provision of the [Family Educational Rights and Privacy Act](#), FERPA, allows information to be shared with College officials who have a legitimate educational interest to know. Student Code of Conduct information may be shared with other College personnel, including appropriate coaches.

The Office of Student Life is responsible for the effective implementation of any sanctions or remedies.

## *Appeals*

Any dismissal, sanction, or remedy implemented by the Office of Student Life following referral by the Title IX Coordinator is appealable only through this respective office, and in accordance with that office's policies and procedures.

If a student wishes to appeal a decision, they may submit an appeal to the Dean of Students for review. The request for appeal must be initiated in writing within 48 hours of the decision and must state the reason for the appeal. Appeals may be submitted on the following bases: (a) procedural irregularity that affected the outcome of the matter; (b) new evidence that was not available at the time of the hearing; (c) the decision reached was not supported by the information provided in the hearing; and/or (d) the imposed sanction(s) is unduly severe compared to the nature of the violation. The Dean of Students or a substitute designated by the Dean of Students will review the appeal. The resulting finding will stand as final in the matter.

## II.3 Employee-Employee or Student-Employee Misconduct

If the complainant and respondent are employees, the Title IX Coordinator may refer the conduct allegation to the Office of Human Resources. If the respondent is an employee, and the complainant a student, the conduct allegation may be referred to both, the offices of Human Resources and Student Life. The Office of Human Resources will then coordinate with the designee in Student Life to address the complaint.

### *Investigations of a Complaint*

As soon after the initiation of the investigation as possible, the Title IX Coordinator or the designated investigator(s) shall notify the College employees or students who are believed to have documentary, electronic, or tangible evidence to preserve such evidence for the investigation. The College must also notify the complainant of (a) the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order, (b) the agencies to whom the alleged offense should be reported, (c) options regarding law enforcement and campus authorities, including notification of the complainant's option to (i) notify proper law enforcement authorities, including on-campus safety authorities and local police, (ii) be assisted by campus authorities in notifying law enforcement authorities if the complainant so chooses, and (iii) decline to notify such authorities.

When investigating a formal complaint, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not on the parties. Unless the College has a party's voluntary, written consent, it cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, therapist, 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. In addition, the College may not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

### *Adjudication and Hearings*

If a staff member is a respondent in a formal complaint under Section II, hearings shall be held by the Office of Human Resources pursuant to the policies and procedures set forth in the [Georgetown College Policy and Procedures](#)

[Manual](#)<sup>115</sup>. If a faculty member is a respondent in a formal complaint under Section II, hearings shall be held by the Office of Human Resources and pursuant to the policies and procedures set forth in the [Georgetown College Faculty Handbook](#)<sup>116</sup>.

### *Determination of Responsibility*

Human Resources will consult with the appropriate Executive Cabinet member relative to any disciplinary action and/or steps to be taken or not taken. A formal written decision will be provided to the complainant and to the respondent.

Appropriate action will depend on the nature of the evidence supporting the complaint and other surrounding circumstances. Any disciplinary action taken as the result of the failure of any employee to comply with this policy shall require the approval of the President.

The Office of Human Resources is responsible for the effective implementation of any sanctions or remedies.

### *Appeals*

Any dismissal, sanction, or remedy implemented by the Office of Human Resources following referral by the Title IX Coordinator is appealable only through this respective office, and in accordance with that office's policies and procedures.

If a staff employee wishes to appeal a decision, they may submit a request for appeal in writing to the President for review. The decision of the President will stand as final.

If a faculty employee wishes to appeal a decision, they may submit a request for appeal in writing to the President, who will transmit the record of the case to the Board of Trustees. The process will be followed as outlined in the [Georgetown College Faculty Handbook](#). The decision of the Board of Trustees will stand as final.

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<sup>115</sup> This entirety of this manual will be made available upon request. Please contact the Office of Human Resources (502-863-8035 or [Debbie\\_clark@georgetowncollege.edu](mailto:Debbie_clark@georgetowncollege.edu)) for further information.

<sup>116</sup> This entirety of this manual will be made available upon request. Please contact the Provost's Office (502-863-8146 or [Provost@georgetowncollege.edu](mailto:Provost@georgetowncollege.edu)) for further information.

## II.4. Remedies and Sanctions

Should a party be found responsible for violating this Section II, a determination regarding sanctions and remedies shall be made, as follows, prior to finalization of the written determination:

- If an undergraduate or graduate student is found responsible for violating this Section II, the case record from the Title IX Office and the Office of Student Code of Conduct will be provided to the Dean of Students, who will determine sanctions and remedies pursuant to the Georgetown College Code of Conduct. If the Dean of Students is unavailable, an appropriately trained College official will serve as the substitute designated by the Dean of Students. Any application or recommendation of sanctions and any remedies pursuant thereto will be subject to the policies and procedures as outlined in the Georgetown College [Student Handbook](#).
- If a faculty member or other individual appointed through the Office of the Provost is found responsible, the case record from the Title IX Office, Office of the Department of Human Resources, and/or Office of the Provost, will be forwarded to the Provost, who will determine sanctions and remedies in consultation with appropriate College administrators according to the [Georgetown College Faculty Handbook](#). If the Provost is unavailable, an appropriately trained College official will serve as the substitute designated by the Provost. Should the Provost propose a sanction of suspension or dismissal, the Provost will refer the matter to an elected faculty committee and Trustees, in accordance with the Georgetown College Faculty Handbook. Any application or recommendation of sanctions and any remedies pursuant thereto will be subject to the policies and procedures as outlined in the Georgetown College Faculty Handbook.
- If a staff member is found responsible, the case record from the Title IX Office and the Office of the Department of Human Resources will be forwarded to the Director of Human Resources, who will determine sanctions and remedies in consultation with appropriate College administrators in accordance with the Georgetown College Policies and Procedures Manual. If the Director of Human Resources is unavailable, an appropriately trained College official will serve as the substitute as designated by the Director of Human Resources. Any application or recommendation of sanctions and any remedies pursuant thereto will be subject to the policies and procedures as outlined in the [Georgetown College Policies and Procedures Manual](#).

## **II.5. Record Keeping**

The College shall maintain for a period of seven years all records of each Section II Prohibited Conduct investigation, including the outcome(s). Records regarding employee respondents will be kept in the Office of Human Resources and records regarding student respondents will be kept in the Office of Student Life. Records of investigations adjudicated under Section I proceedings will be kept in the Office of Title IX.

## Appendices

### Appendix A – Definitions

#### *Actual Knowledge*

Notice of Section I Title IX Sexual Harassment or allegations of Section I Title IX Sexual Harassment to the College's Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the College with actual knowledge is the respondent. The mere ability or obligation to report Section I Title IX Sexual Harassment or to inform a student about how to report Section I Title IX Sexual Harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the College. "Notice" as used in this paragraph includes, but is not limited to, a report of Section I Title IX Sexual Harassment to the Title IX Coordinator as described in this Policy.<sup>117</sup>

#### *Advisor*

An individual who assists a Complainant or Respondent in the Title IX hearing process. An advisor may, but need not be, an attorney.

#### *Campus*

Any building or property owned or controlled by the College within the same reasonably contiguous geographic area and used by the College in direct support of, or in a manner related to, the College's educational purposes, including residence halls. Any building or property that is within, or reasonably contiguous to, any building or property owned or controlled by the College within the same reasonably contiguous geographic area and used by the College in direct support of, or in a manner related to, College's educational purposes, that is owned by the College but controlled by another person, is frequently used by students, and supports College purposes such as a food or other retail vendor.<sup>118</sup>

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<sup>117</sup> 34 CFR §106.30(a).

<sup>118</sup> 34 CFR § 668.46(a).



## *Campus Safety Authority*

A campus safety authority of the College is any individual or individuals who have responsibility for campus safety but who do not constitute a campus police department or a campus safety department, such as an individual who is responsible for monitoring entrance into College property. Any individual or organization specified in the College's statement of campus safety policy as an individual or organization to which students and employees should report criminal offenses. An official of the College who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings.<sup>119</sup>

## *Complainant*

An individual who is alleged to be the target of conduct that could constitute Section I - Title IX Sexual Harassment or Section II –Sexual Misconduct (hereafter defined).<sup>120</sup>

## *Consent*

Consent is an active giving of permission to engage in activity. Consent is clear, knowing and voluntary. Consent may be given through words or actions. Silence is not and should not be interpreted as consent. Absence of protest is not consent. Previous history does not imply consent for future activity. Likewise, consent to one activity does not imply consent to another. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Consent cannot be given under pressure, force, threats, intimidation, coercion or while incapacitated due to the influence of alcohol and/or drugs. In order to give consent, one must be of legal age and not incapacitated mentally or physically. Lack of consent occurs when:

- a) A person is forced to submit.
- b) The person does not expressly or implicitly agree with the respondent's conduct under circumstances other than forcible compulsion or incapacity to consent.

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<sup>119</sup> 34 CFR § 668.46(a).

<sup>120</sup> 34 CFR §106.30(a).

- c) A person is deemed to be incapable of consenting if he/she is less than 16 years old, is mentally challenged, suffers from mental illness, or is physically helpless or is totally incapacitated.
- d) A person is rendered temporarily incapable of appraising or controlling his/her conduct as a result of a controlled or intoxicating substance administered to him/her with or without consent or knowledge.
- e) A person is unable to consent when he/she is unconscious, or for any other reason is physically unable to communicate unwillingness to act.<sup>121</sup>

### *Dating Violence*

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the reporting party'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 or physical abuse or the threat of such abuse. "Dating violence" does not include acts covered under the definition of domestic violence. Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.<sup>122</sup>

### *Decision Maker*

The administrator(s) who oversee(s) any hearing or appeal which takes place as part of the formal resolution process. The Decision Maker(s) determine(s) whether College policy has been violated.

### *Domestic Violence*

A felony or misdemeanor crime of violence committed by: (a) a current or former spouse or intimate partner of the victim, (b) a person with whom the complainant shares a child in common, (c) a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner, (d) a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (e) any other person against an adult or youth complainant who is protected from that

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<sup>121</sup> 34 CFR §106.30(a) The Assistant Secretary will not require Colleges to adopt a particular definition of consent with respect to sexual assault, as referenced in this section.

<sup>122</sup> 34 CFR §668.46.

person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.<sup>123</sup>

### *Education Program or Activity of the College*

Locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.<sup>124</sup>

### *Formal Complaint*

A document filed by a complainant or signed by the Title IX Coordinator alleging conduct, which is prohibited under Section I this Policy, against a respondent and requesting that the College investigate the allegation(s). At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the College with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator in Appendix "A", and by any additional method designated by the College. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party under 34 CFR 106 or under 34 CFR 106.45, and must comply with the requirements of 34 CFR 106, including 34 CFR 106.45(b)(1)(iii).<sup>125</sup>

### *Hostile environment*

An environment where the conduct of one or more individuals is sufficiently serious that it denies or limits a student's, employee's, or applicant's ability to participate in or benefit from the College's program based on sex. In determining whether a hostile environment exists, the College shall consider all relevant circumstances, including the following factors: (a) the degree to which the conduct

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<sup>123</sup> 34 CFR § 668.46.

<sup>124</sup> 34 CFR §106.44(a).

<sup>125</sup> 34 CFR §106.30(a).

affected the College's educational programs, (b) the type, frequency, and duration of the conduct, (c) the age and sex of the alleged harasser and the subject or subjects of the harassment, (d) the location of the incidents and the context in which they occurred, (e) other incidents at the College, and (f) incidents of gender-based, but nonsexual harassment.

### *Improper Conduct Related to Sex*

Conduct that is unprofessional or inappropriate that does not fall under Section I Title IX Prohibited Conduct, Section II Sexual Misconduct, or Section II Sexual Exploitation, but that nevertheless is sexual and/or sex-based in nature and has the effect of unreasonably interfering with an individual's educational experience, working conditions, or living conditions.

### *Incapacitation*

Any situation in which a person is incapable of giving consent due to the student's age, state of consciousness, use of drugs or alcohol, or an intellectual or other disability.

### *Intimidation*

The intentional act of coercing or frightening someone to engage or not engage in conduct of a sexual nature against the person's will.

### *Investigator*

An individual assigned by the Title IX Coordinator to investigate the alleged Sexual Harassment and oversee the investigative hearing.

### *Mandatory Reporter*

All Georgetown College employees, other than those listed as confidential employees, are required to report to the Title IX Coordinator any knowledge or disclosure of sexual harassment, sex-based discrimination, retaliation, or sexual misconduct that involves a Georgetown College student, employee, applicant, or visitor. Exempt are confidential employees from Health Services, Counseling Center and Campus Ministry.

### *Non-consensual Sexual Contact*

Any physical touching of a sexual nature which is not preceded by consent or which continues after a previous consent is withdrawn.

### *Non-consensual Sexual Intercourse*

Any sexual intercourse which is not preceded by consent or which continues after previous consent is withdrawn.

### *Party or parties*

Refers to the complainant(s) and the respondent(s).

### *Quid Pro Quo*

Refers to conduct or acts of an employee of the College conditioning the provision of aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct.

### *Preponderance of Evidence*

Preponderance of evidence means that it is more likely than not, based on all the relevant evidence and reasonable inferences from the evidence, that the respondent violated this policy.

### *Report*

Refers to information brought to the attention of a campus safety authority alleging conduct prohibited under Section I or Section II, a report is not considered to be a formal complaint. A party may bring a report and then subsequently file a formal complaint, as defined in this Policy.

### *Respondent*

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute conduct which is prohibited under this Policy.<sup>126</sup>

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<sup>126</sup> 34 CFR §106.30(a). <https://definitions.uslegal.com/r/retaliation/> (July 19, 2019).

## *Retaliation*

Retaliation is generally the act of seeking revenge upon another person.<sup>127</sup> The College expressly prohibits any form of retaliatory action against any member of the College community who in good faith: (1) files a report, complaint, or grievance under Sections I or II (or with an external entity); (2) opposes in a reasonable manner an action or policy believed to constitute a violation of Sections I or II; or (3) participates in College investigations, compliance reviews, or discipline proceedings under Sections I or II. Depending on the circumstances referenced above, retaliatory acts may include (but are not limited to): (a) Adverse employment action; (b) Adverse action relating to participation in an educational or working program; (c) Unreasonably interfering with the academic or professional career of another individual; (d) Engaging in conduct which constitutes stalking, harassment, or assault; (e) Engaging in efforts to have others engage in retaliatory behavior on one's behalf.

## *Section I Title IX Prohibited Conduct*

Refers to and is expressly limited to, conduct which is prohibited by Title IX, meets the Title IX jurisdictional requirements set out in Section I, and is one of the following acts/behaviors (1)-(8) as defined herein: (1) sex-based discrimination; (2) quid pro quo sexual harassment; (3) sexual harassment, defined as unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the College's education program or activity; (4) sexual assault, which includes: (a) rape, (b) sodomy, (c) sexual assault with an object, (d) fondling, (e) incest, and (f) statutory rape; (5) domestic violence; (6) dating violence; (7) stalking, and (8) Section I retaliation.

## *Section II Sexual Misconduct*

Conduct that otherwise meets the definition of Section I Title IX Prohibited Conduct but fails to meet the jurisdictional requirements of Title IX as set out in Section I, shall be "prohibited conduct" under Section II, and any conduct which is one of the following acts/behaviors as defined herein: (1) sexual misconduct, (2)

sexual exploitation, and (3) improper conduct related to sex, and (4) Section II retaliation.

### *Sex-based Discrimination*

Treating a student, employee, applicant, or visitor unfavorably because of that person's sex.

### *Sexual Assault*

Any sexual act directed against another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes and/or genders. This includes the following:

- a) Rape: The carnal knowledge of a person, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- b) Sodomy: Oral or anal sexual intercourse with another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- c) Sexual Assault with an Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- d) Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- e) Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or

- f) Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.<sup>128</sup>

### *Sexual Exploitation*

Any act whereby one individual violates the sexual privacy of another or takes unjust or abusive sexual advantage of another who has not provided consent, and that does not constitute non-consensual sexual penetration or non-consensual sexual contact. Examples may include (but are not limited to): (1) recording, photographing, transmitting, viewing, or distributing intimate or sexual images or sexual information without the knowledge and consent of all parties involved; or (2) voyeurism (i.e., spying on others who are in intimate or sexual situations).

### *Sexual Harassment*

Unwelcome conduct, determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity

### *Sexual Intercourse*

Vaginal or anal penetration by a penis, object, tongue, or finger, and oral copulation.

### *Sexual Misconduct*

Unwelcome verbal or physical behavior that is directed at an individual based on sex, when these behaviors are sufficiently severe or pervasive to have the effect of unreasonably interfering with an individual's educational experience, working conditions, or living conditions by creating an intimidating, hostile, or offensive environment. Examples of conduct that can constitute sexual misconduct if based on an individual's sex include (but are not limited to): (1) Unwelcome jokes or comments (e.g., sexist jokes); (2) Disparaging remarks about sex, gender identity, or gender expression (e.g., negative or offensive remarks or jokes about an individual's self-presentation); (3) Displaying negative or offensive posters or

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<sup>128</sup> 34 CFR § 668.46(a); These offenses are defined as used in the FBI's UCR program.



pictures about sex; (4) Electronic communications, such as e-mail, text messaging, and internet use, that violate Section II.

### *Sexual Violence*

Physical sexual acts perpetrated against a person's will or with a person who suffers from incapacitation. It also means same-sex conduct that violates the College's prohibition on sexual violence.

### *Stalking*<sup>129</sup>

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person's safety or the safety of others or (b) suffer substantial emotional distress.<sup>130</sup> 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.<sup>131</sup>

### *Standard of evidence - preponderance of the evidence*

A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all the relevant evidence and reasonable inferences from the evidence, that the respondent violated this policy.

### *Supportive measures*

Non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the

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<sup>129</sup> 34 CFR § 668.46(a).

<sup>130</sup> 34 CFR § 668.46(a).

<sup>131</sup> 34 CFR § 668.46(a).

parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain, as confidential, any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.<sup>132</sup>

### *Title IX Coordinator*

The person designated as such by the College's President or the person temporarily designated by the Title IX Coordinator to serve in that capacity during the Title IX Coordinator's incapacity or absence from the College's campus.

### *Title IX Sexual Harassment*

An umbrella category, that includes the actual or attempted offenses of the following: (a) Quid Pro Quo; (b) Sexual Harassment; (c) Sexual Assault, (d) Dating Violence; (e) Domestic Violence; and (f) Stalking.<sup>133</sup>

### *Unwelcome conduct*

Conduct is unwelcome if an individual did not request or invite it and regarded the conduct as undesirable or offensive. Acquiescence in the conduct or the failure to complain does not always mean that the conduct was welcome.<sup>134</sup>

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<sup>132</sup>34 CFR §106.30(a)

<sup>133</sup> 34 CFR § 106.30(a)

<sup>134</sup> 2001 Revised Sexual Harassment Guidance, pp. 7-8.

## Appendix B – Title IX and Resources Information

### *Georgetown College Title IX Staff - Contact Information*

Lisa Ladanyi, Title IX Coordinator

Address: Highbaugh Hall, first floor, 400 East College Street, Georgetown, KY 40324

Direct Email: [lisa\\_ladanyi@georgetowncollege.edu](mailto:lisa_ladanyi@georgetowncollege.edu)

Department Email: [titleix@georgetowncollege.edu](mailto:titleix@georgetowncollege.edu)

Telephone: 502.863.7073

### *On-Campus Confidential Counseling / Mental Health Confidential Services*

Georgetown College Counseling Center

Address: 407 Hollyhock Lane, Georgetown, KY 40324

Email: [counseling@georgetowncollege.edu](mailto:counseling@georgetowncollege.edu)

Telephone: 502.863.8062

Campus Ministry

Address: John L. Hill Chapel, 400 East College Street, Georgetown, KY 40324

Email: [bryan\\_langlands@georgetowncollege.edu](mailto:bryan_langlands@georgetowncollege.edu) or

[hollis\\_dudgeon@georgetowncollege.edu](mailto:hollis_dudgeon@georgetowncollege.edu)

Telephone: 502.863.8153

Peer Counseling

Email: [Peer\\_Counseling@georgetowncollge.edu](mailto:Peer_Counseling@georgetowncollge.edu)

### *Off-Campus Confidential Counseling / Mental Health Confidential Services*

Georgetown Counseling Services

Address: 401 E Washington Street, Georgetown, KY 40324

Email: [counseling@georgetowncollege.edu](mailto:counseling@georgetowncollege.edu)

Telephone: 502.642.8046

New Vista – Community Mental Health Center

Address: 110 Roach Street, Georgetown, KY 40324

Telephone: 502.863.4734

24/7 Crisis Helpline: 1.800.928.8000

### Life Stance Health

Address: 105 Windsor Path, #5, Georgetown, KY 40324

Telephone: 606.898.6030

### GC Employee Assistance Program

Email: [info@humandev.com](mailto:info@humandev.com)

Telephone: 502.589.HELP (4357) – Monday -Friday 9 am to 5 pm

### *On-Campus Healthcare Services*

#### Georgetown College Health Clinic

Address: 407 Hollyhock Lane, Georgetown, KY 40324

Telephone: 502.863.8201

### *Off-Campus Healthcare Services*

#### Georgetown Family Physicians Express Care

Address: 1502 Oxford Dr, Ste. 100, Georgetown, KY 40324

Telephone: 502.570.3785

#### The Little Clinic

Address: 106 Marketplace Circle, Georgetown, KY 40324

Telephone: 859.317.6075

#### CVS Minute Clinic

Address: 101 West Showalter Dr, Georgetown, KY 40324

Telephone.: 502.868.6101

#### Scott County Health Department

Address: 300 East Washington St., Georgetown, KY 40324

Telephone: 859.234.5090

#### Georgetown Urgent Care

Address: 111 Osbourne Way, Ste. 101, Georgetown, KY 40324

Telephone: 502.570.0007

#### Georgetown Community Hospital (Emergency Department Available)

Address: 1140 Lexington Rd, Georgetown, KY 40324

Telephone: 502.868.1100

## *Emergency Medical Services*

### Emergency

Dial **911**

### Georgetown Fire & Rescue

Physical Address: 141 S. Broadway, Georgetown, KY 40324

Telephone: 502.863.783

## *On-Campus Safety Resources*

### Campus Safety

Physical Address: Cralle Student Center, Second Floor

Email: [campussafety@georgetowncollege.edu](mailto:campussafety@georgetowncollege.edu)

Telephone: 502.863.8111

## *Off-Campus Safety Resources*

### Emergency

Dial 911

### Georgetown Police Department

Address: 550 Bourbon Street, Georgetown, KY 40324

Telephone.: 502.863.7826 & 911

### Georgetown Fire & Rescue

Address: 141 S. Broadway, Georgetown, KY 40324

Telephone: 502.863.7831 & 911

### Scott County Sheriff's Office

Address: 120 N. Hamilton, Georgetown, KY 40324

Email Address: [info@scott.kysheriff.org](mailto:info@scott.kysheriff.org)

Telephone: 502.863.7855 & 911

### Kentucky State Police HQ

Address: 919 Versailles Road, Frankfort, KY 40601

Email: [ksp.webmaster@ky.gov](mailto:ksp.webmaster@ky.gov)

Telephone: 502.782.1800

### *Off-Campus Victim Advocacy Services*

Ampersand Sexual Violence Resources Center of the Bluegrass

Address: 2025 Regency Road, Suite 100, Lexington, KY 40503

<https://ampersandky.org>

Telephone: 859.253.2615

Support Line: 859.253.2511

24/7 Crisis Line: 800.656.4673

#### Elizabeth's Village

Address: 107 Court Street, Georgetown, KY 40324

Email Address: [info@elizabethsvillage.org](mailto:info@elizabethsvillage.org)

Telephone: 502.863.0800

#### Victim's Advocate, Georgetown Police Department

Address: 550 Bourbon Street, Georgetown, KY 40324

Email Address: [lyndsay.deaver@georgetownpolice.org](mailto:lyndsay.deaver@georgetownpolice.org)

Telephone: 502.863.7826

#### Pride Center

Address: 389 Waller Ave. Suite 100, Lexington, KY

[www.lexpridecenter.org](http://www.lexpridecenter.org)

Email: [casey@lexpridecenter.org](mailto:casey@lexpridecenter.org)

Telephone: 859-379-2115

### *Local Crisis Hotline for Domestic/Sexual Violence*

Green House 17 – Domestic Violence/Intimate Partner Abuse

<https://greenhouse17.org>

Telephone: 1.800.544.2022

### *National Crisis Hotlines*

RAINN (Rape, Abuse & Incest National Network)

<https://www.rainn.org>

Telephone: 1.800.656.HOPE (4673)

National Suicide & Crisis Lifeline

Dial: 988 or Text: GO to 741-741

National Domestic Violence Hotline

Telephone: 1.800.799.SAFE (7233)

Text: START to 88788

[Trevor Project LGBTQ+ Affirming](#)

Telephone: 1.866.488.7386

Text: START to 678-678

[Trans Lifeline](#)

Telephone: 1.877.565.8860

## Appendix C – Sanctions and Remedies

Factors considered when determining a sanction or /responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent’s disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive and may be in addition to other actions taken or sanctions imposed by external authorities.

### *Sanctions Applicable to Students*

Any of the following sanctions, or combinations of sanctions, may be imposed on a student responsible for a Title IX Prohibited Conduct violation or a violation of Section II of the Sexual Misconduct Policy. Disciplinary action other than those outlined below may be taken as the situation warrants. A temporary suspension by an official of the College for a designated period of time may be issued in instances where students are judged to be disruptive in conduct to the educational mission and/or pose a substantial threat to the health or safety of themselves or others. An interim suspension is made pending a hearing on the alleged offense. Failure to abide by the imposed sanction may result in additional violations and/or sanctions. The examples of sanctions in this list are illustrative and should not be read as a comprehensive list; other sanctions may be issued to a student found responsible for a violation of policy as deemed appropriate.

- (a) Reprimand: A formal oral statement to a student that they are violating or have violated institutional policies. No reprimand shall be entered as a



permanent part of the student's record unless issued by the appropriate Student Conduct personnel, at which time it will be entered as a part of their judicial file and permanent record.

- (b) Warning: Notice given in writing that continuation or repetition of inappropriate conduct within a period of time stated in the warning may be cause for more severe disciplinary action or additional sanctioning.
- (c) Education Course: A course specifically designed to educate students who violate institutional policies. The education course may be assigned in the form of an online program designed to inform students on the consequences of behaviors that violate policy; or may be assigned in the form of mandated meeting(s) with a predetermined staff or faculty member.
- (d) Counseling\*: A required intake counseling session with staff of the Counseling and Health Center. The student may be required to complete additional meetings as recommended by the Counseling and Health staff.  
*\*The Student Conduct staff are only notified of the completion of the counseling session, not of the discussion or contents of the sessions.*
- (e) Mentor Meetings: A student is required to complete a predetermined number of check- in meeting(s) with a designated or requested staff and/or faculty mentor.
- (f) Fines: An appropriate fine may be charged to the student's account for policy violations, damages incurred, or failure to complete a sanction, in an amount as deemed appropriate by the Student Conduct hearing officer or Student Conduct hearing board.
- (g) Restitution: Repayment for loss encumbered by an individual or the College as a result of the student's Code of Conduct violation. The restitution amount will be charged to the student's account.
- (h) Required Change of Residency: The student will be required to move housing assignment from one residence hall area to another. This sanction will be required of those students that reside in upscale housing whose policy violations exceed the number required for eligibility to live at Hambrick Village, Rucker Village, or East Campus as outlined in the housing policies of the Student Handbook.
- (i) Loss of On-Campus Housing: A requirement for a student to vacate campus housing by a designated time as determined by the Student Conduct hearing officer or Student Conduct hearing board.
- (j) Trespass Notice: The student is prohibited from visiting or returning to a part or all of any residence hall, administrative building, property, or designated

area of campus. If the student returns, they may be subject to arrest for trespassing and/or additional disciplinary action through the College.

- (k) **Restriction of Access to Space, Resources, and Activities:** When appropriate in cases involving behavioral misconduct between members of the community, restrictions may be placed on access to space and/or resources or on participation in activities so as to limit opportunities for contact among the parties.
- (l) **Campus Work:** Participation in educational programs or projects may be assigned with one or more departments on campus. There will a \$20.00 per hour fee for campus work hours not completed, and this amount will be charged to the student's account.
- (m) **Service to the Community:** Volunteer service to a community organization, as designated by the Student Conduct hearing officer or Student Conduct hearing board. If this sanction is issued, it will be the responsibility of the student to contact, make arrangements, and provide proof of completed service hours. Distance from campus for students without motor transportation will be considered.
- (n) **No Contact Order:** A no contact order may be issued between two parties on campus when deemed necessary by a Student Life administrator, or by request from one involved party. A no contact order when issued serves as an official directive that the named party may not have contact with or be in the same relative vicinity of another party. This includes no contact in person, by telephone, email, text message, or other electronic means of communication, including various social media platforms, or through a third party (other than an attorney) until further notice.
- (o) **Probation:** Official notice that should violations of policy or the Student Code of Conduct occur during the probation period, then additional sanctioning may be implemented; including but not limited to deferred suspension, suspension, or expulsion. Probation may include exclusion from participation in privileged or extracurricular College activities as set forth in the notice of probation.
- (p) **Withholding of Degree:** In cases involving seniors or graduate students in their final semester, the College may withhold a student's Georgetown College degree for a specified period of time. This sanction is imposed instead of suspension at the end of a student's senior year or final year of graduate study when all other degree requirements have been met. A withheld degree is recorded on a student's transcript. Relevant information remains on the student's permanent record at the College and may be disclosed by the Office of Student Conduct or the Vice President of Student Life in response to requests for which the student has given permission or as otherwise legally required.

- (q) **Deferred Suspension:** Students are suspended but are allowed to continue as a student under specific conditions as outlined by the Student Conduct hearing officer or Student Conduct hearing board. Any subsequent violation may result in immediate removal from the college.
- (r) **Suspension<sup>135</sup>:** Exclusion from classes and other privileges or activities or from the College, as set forth in the notice of suspension, for a defined period of time. A third violation of the Alcohol and/or Drugs policies may result in a suspension period of at least one academic year.
- (s) **Expulsion<sup>136\*</sup>:** Termination of student status for an indefinite period of time.

### *Sanctions Applicable to Employees*

For violations of this policy by College employees, disciplinary sanctions may include, in accordance with the [Georgetown College Faculty Handbook](#) and/or the [Georgetown College Policies and Procedures Manual](#), any of the following: (a) counseling; (b) training; (c) verbal or written warning; (d) paid or unpaid leave of absence; (e) suspension (or recommendation for suspension); (f) demotion; or (g) termination (or recommendation for termination).

The College may place a faculty or staff member on administrative leave during the pendency of a grievance process, in accordance with applicable policies as outlined in the College Faculty Handbook or the Policies and Procedures Manual, provided that such action shall not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

### *Sanctions Applicable to Non-Members of the College Community*

For violations of this policy by non-members of the College community, including alumni, disciplinary sanctions may include being temporarily or permanently barred from the University or subject to other restrictions.

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<sup>135</sup> Students who are suspended are trespassed from all College property and College-sponsored events, violation of a trespass due to suspension or expulsion may result in prosecution under relevant state and local laws.

<sup>136</sup> Students who are expelled are trespassed from all College property and College-sponsored events, violation of a trespass due to suspension or expulsion may result in prosecution under relevant state and local laws.

## Appendix D – Visual Representation of Title IX grievance process

