

Student Sexual Misconduct Resolution Process

This document explains the procedures the College follows in investigating and adjudicating reports of Sexual Misconduct (as described in the Sexual Misconduct Policy) when both the complainant and the respondent are students.

This document uses the term “complainant” to refer to any person who may have been or was subject to Sexual Misconduct, even if they choose not to enter a Resolution Process. This document uses the term “respondent” to refer to any person who could potentially be or has been charged with Sexual Misconduct.

A. Reporting Incidents of Sexual Misconduct.

The College encourages anyone who has experienced Sexual Misconduct to report the incident to the College. The College takes all reports of Sexual Misconduct seriously and will take action in response to these reports. Anyone may report Sexual Misconduct to the College by:

- Contacting the Title IX Coordinator: 507-222-4028
- Completing a Community Concern Form:
http://apps.carleton.edu/dos/sexual_misconduct/get_help/reporting/ccf/
- Contacting Security Services: 507-222-4444 (for immediate incident response)

Reports can be made by telephone, via email or in person.

During an initial conversation regarding a report of Sexual Misconduct, a reporter need only share names and detailed information if they choose.

Community members who are not ready to make a report to the College may choose to discuss an incident or concern, on a confidential basis, with a Confidential Support Person (Student Health and Counseling practitioners and Chaplains). For additional information about Confidential Support Persons, see http://apps.carleton.edu/dos/sexual_misconduct/get_help/support/on-campus_resources/confidential_carleton_resources/.

The College has an obligation to take appropriate action when it becomes aware of a Sexual Misconduct allegation. If a College employee, other than a Confidential Support Person, has information about a potential incident of Sexual Misconduct, the employee has a responsibility to report that information.

The College makes every effort to safeguard the identities of anyone who reports Sexual Misconduct or seeks help. Dissemination of information relating to any case involving allegations of Sexual Misconduct will be limited to persons the College determines have a need to know.

There are no time limitations for reporting or seeking resolution of a Sexual Misconduct matter.

However, the College's ability to effectively investigate and respond to reports may be limited by the passage of time. Thus, the College encourages prompt reports.

A report of Sexual Misconduct becomes a Sexual Misconduct complaint only when a complainant or the College decides to pursue an Adjudicated Resolution Process under Section C.2 below.

B. Responding to a Report

1. Response. The Title IX Coordinator is primarily responsible for coordinating responses to reports of possible Sexual Misconduct, determining interim measures, directly overseeing the Resolution Process, as described in Section C, and coordinating possible remedial actions or other responses designed to reasonably minimize the recurrence of the alleged conduct as well as mitigate its effects. The Title IX Coordinator also assists in answering any other questions related to the Sexual Misconduct Policy or these procedures. The Title IX Coordinator will ensure prompt, fair, and impartial resolution of all cases.

The College will treat all parties connected with a Sexual Misconduct report with dignity. The College will not suggest that a complainant is at fault or should have done something differently to avoid an incident.

Most cases of Sexual Misconduct will be resolved within 60 days; however, a longer period may be needed in cases that require more time to complete the resolution. In the event that the resolution exceeds the 60-day time frame, the College will notify all parties of the reason for the delay and the expected adjustment in time frames.

The College will advise students that filing a Sexual Misconduct report is not a substitute for legal action. In cases where Sexual Misconduct may constitute a crime as well as a violation of College policy, the College encourages individuals to report the alleged Sexual Misconduct to both the College as set forth in this policy and to law enforcement authorities. An individual may be assisted by College authorities in notifying law enforcement or obtaining a legal no contact order if the individual chooses. The College also recognizes the right of individuals to decline to notify law enforcement authorities.

The College will also provide all parties complete and prompt assistance, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a Sexual Misconduct incident. The College will also provide all parties assistance in preserving materials relevant to campus disciplinary proceedings.

The filing of a Sexual Misconduct report under College policy is independent of any criminal investigation or proceeding, and, except in cases where the College determines that a temporary delay is necessary while the criminal investigators are gathering evidence, the College will not wait for the conclusion of any criminal proceedings to respond to a report and take needed interim or resolution measures. Making a report to law enforcement is not necessary for the College to proceed with a resolution.

Students will be advised that retaliation for making a report is strictly prohibited, that any retaliation should be promptly reported, and that the College will take appropriate action if retaliation occurs.

If the College obtains information about possible Sexual Misconduct, the College may respond, and may commence a Resolution Process, even in the absence of a specific complainant.

2. Support. Fair and responsible support services will be provided to all parties. Students who wish to seek support after an incident of Sexual Misconduct, want to discuss options for addressing an incident of Sexual Misconduct, are considering entering the Resolution Process, or have any questions about the Resolution Process, should talk to a member of the Title IX Lead Team, a Sexual Misconduct Support [SMS] Adviser, or a Confidential Support Person. Contact information for these resources can be found at go.carleton.edu/sexual_misconduct. These resources can also provide information regarding campus and community counseling, health care, mental health care, victim advocacy services, legal assistance, visa and immigration assistance, student financial aid assistance, and other support services. Additional information on these matters is available at http://apps.carleton.edu/dos/sexual_misconduct/get_help/.

3. Consideration of Options. After a report of Sexual Misconduct, the Title IX Coordinator will meet with the complainant to discuss how the complainant wishes to proceed – whether the complainant wishes to pursue an Adjudicated Resolution Process, prefers to resolve the allegation with a Non-Adjudicated Resolution Process, or does not wish to pursue a Resolution Process of any kind.

As outlined in section C.2, if the complainant wishes to proceed with an Adjudicated Resolution Process and, after an investigation, the Title IX Coordinator determines there is sufficient information to proceed, then a hearing will be conducted.

If the complainant wishes to proceed without an Adjudicated Resolution Process, the Title IX Coordinator may elect to initiate a Non-Adjudicated Resolution Process, as outlined in section C.1. However, a complainant (a) will never be required to work out a problem or resolve an issue directly with the respondent; and (b) will be advised of the right to end the Non-Adjudicated Resolution Process at any time and to begin to pursue an Adjudicated Resolution Process. Mediation is not an appropriate method, even on a voluntary basis, for resolving sexual assault allegations. Both the complainant and the respondent must mutually consent to the use of a Non-Adjudicated Resolution Process. The Title IX Coordinator may determine that a Non-Adjudicated Resolution Process is not in the best interest of the involved parties or the College.

Even if the complainant does not wish to pursue resolution, requests that no action be taken, or requests to remain confidential or to not participate in the process, the College has an obligation to respond to reports of Sexual Misconduct. The College's ability to respond may be limited if a complainant wishes to remain anonymous and/or chooses not to participate in the process. No guarantees can be made to a complainant regarding absolute confidentiality, but the College will consider and honor a request for confidentiality to the extent reasonably possible, consistent with

its obligation to take appropriate action in response to a report of Sexual Misconduct or information that the College may otherwise have regarding alleged Sexual Misconduct. A student will not be required to make a complaint if the student is not ready to do so.

On some occasions, the College may need to move forward with a response regardless of the complainant's preference. A request for confidentiality or no action will be considered in the dual contexts of 1) the College's commitment to providing a safe living and learning environment free from Sexual Misconduct; and 2) the right of respondents to be informed of the allegations against them. Some level of disclosure may be necessary to ensure a complete and fair investigation, although the College will comply with requests for confidentiality to the extent possible. The College will consider various factors, including the following, in deciding the extent to which disclosure of information may be necessary: the seriousness of the alleged Sexual Misconduct, the complainant's age, the respondent's age, whether there have been other complaints of Sexual Misconduct against the same respondent, the ability to conduct an investigation without revealing identifiable information, and the extent of any threat to the College community.

4. Response When No Complainant is Identified. In some circumstances, the College acquires information about a potential violation of the Sexual Misconduct Policy through a Community Concern Form or other source that identifies a potential respondent, but does not identify the person who was subject to the conduct. In this situation, the Title IX Coordinator may take a variety of steps, including meeting with the initial reporter and meeting with the potential respondent, to determine an appropriate response. The College may be limited in its ability to respond to an anonymous report unless sufficient information is furnished to enable the College to conduct a meaningful and fair inquiry.

5. Advisers. Throughout a Resolution Process, students may each have an adviser of their choice to be present and provide support. An adviser may be an attorney or any member of the Carleton or external community. The role of an adviser is to serve as a support to a student, not to act as a student's representative, spokesperson, or advocate in the Resolution Process.

Students have the option to choose a SMS Adviser to support and guide them through the Resolution Process. SMS Advisers are members of the College staff who have volunteered serve as advisers to students and been trained on the Resolution Process. For more detailed information about SMS Advisers and the role of advisers in the Resolution Process, see Adviser Guidelines and Expectations document available at [this link](#).

6. Interim Measures. The Title IX Coordinator or a designee may issue interim restrictions, including, but not limited to, the following: no-contact or stay away orders between the complainant and the respondent; interim suspension; temporary exclusion from areas of campus; removal from or relocation to another residence hall; changes in academic/course schedules; or limiting participation in certain events, gatherings, or activities.. Interim restrictions should not be construed to suggest that any decision has been made about the merits of the case.

Accommodations may also be provided to individuals involved, regardless of whether a Resolution Process is instituted or whether an individual reports to law enforcement. Accommodations may include academic/course schedule changes; academic assistance; campus employment schedule changes; housing reassignments; safety escorts; safety/crime prevention briefings; and other protective or safety measures.

Interim restrictions and accommodations are considered on a case-by-case basis by the Title IX Coordinator. To request interim restrictions or accommodations, individuals should contact the Title IX Coordinator.

The College will maintain as confidential any interim restrictions or accommodations put in place following allegations of Sexual Misconduct, to the extent that maintaining such confidentiality would not impair the ability of the College to put such measures in place.

Interim restrictions may be appealed to the Dean of Students or their designee. Appeals of interim restrictions must be submitted in writing to the Dean of Students within 5 business days from the day the parties are notified about the interim restriction. The Dean of Students will review the materials within 5 business days of receipt of the appeal and may affirm the original restriction, modify the restriction, which may be of greater or lesser severity, or rescind the original restriction. The Dean of Students' determinations on any interim restrictions are final and not appealable. Both parties will receive simultaneous written notice of the outcome of the appeal. Interim restrictions remain in place during this appeal period.

C. Resolution Process

The College is obligated to follow up on and resolve all reports of Sexual Misconduct in a timely, fair, and impartial manner. The Resolution Process will proceed regardless of whether either party chooses to withdraw from the College or goes on leave after a report has been made to the College. Silence in response to an allegation will not be viewed as an admission of the allegation, but may leave the allegations undisputed. Parties will not be required to repeat their account of the incident multiple times.

At any time, a party may decline to provide information or participate further in a Resolution Process. In that event, the College will review the matter based on all of the other information gathered.

During a Resolution Process, students will be provided timely notice of meetings at which the complainant or respondent may be present. The complainant and respondent will also be provided timely and equal access to any information that is available during the Resolution Process.

1. Non-Adjudicated Resolution Process

If a student reports Sexual Misconduct and prefers not to enter an Adjudicated Resolution Process, the student may in some situations choose to address the matter through a Non-Adjudicated Resolution Process instead. The Title IX Coordinator will determine whether a Non-Adjudicated Resolution Process is appropriate, as detailed in Section B.3, above. Under the Non-Adjudicated Resolution Process, the College will only conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the College, and the College community.

Either the complainant or the respondent can request to end a Non-Adjudicated Resolution Process at any time and instead proceed to an Adjudicated Resolution Process. The College also always has the discretion to end a Non-Adjudicated Resolution Process and to initiate an Adjudicated Resolution Process.

The specific form of a Non-Adjudicated Resolution Process will vary from case to case, but could include the following options:

a. Facilitated Communication. Under this option, the Title IX Coordinator or their designee will work individually with the complainant and respondent to address the situation and design a resolution. Possible measures include a no-contact agreement between the parties; development of an agreement between the Title IX Coordinator and the parties regarding remedial measures; provision of other accommodations requested by the complainant; or conversation between the Title IX Coordinator and the respondent to communicate the concerns about that person's conduct.

b. Indirect Action. Under this option, the Title IX Coordinator or their designee may provide educational programs, including information about the College's Sexual Misconduct Policy, to specific groups, organizations, or residential communities, or arrange to disseminate information about the College's Sexual Misconduct Policy through channels designed to reach the respondent.

2. Adjudicated Resolution Process

a. Investigation. Upon initiation of a complaint, the Title IX Coordinator will ask the College investigator to pursue an investigation.

The investigator will conduct a prompt, thorough and impartial investigation and prepare a written investigative report. In most circumstances, the investigator will meet individually with the complainant and respondent at least once during the investigation. The investigator may also meet with other persons who may have information about the incident, and may review e-mails, text messages, photographs, video surveillance and/or other physical, documentary, or other evidence as appropriate and available. The College will provide an opportunity during the investigation for both the complainant and respondent to advise the investigator of any witnesses they believe should be interviewed and other evidence they believe should be reviewed by the investigator.

At the conclusion of the investigation, the investigator will submit a written investigative report to the Title IX Coordinator setting forth the information that was collected. The investigator will also compile and submit to the Title IX Coordinator any documents or other evidence that will be provided to the CBSM panel. The Title IX Coordinator may ask clarifying questions of the parties or may ask the investigator to conduct additional investigation if determined necessary.

b. Charging. The Title IX Coordinator will review the investigative report and determine whether there is sufficient information to support charging a student with a violation of the Sexual Misconduct Policy.

- i. If the Title IX Coordinator determines that there is insufficient information to support charging a student with a violation of the Sexual Misconduct Policy, the student will not be charged.
- ii. If the Title IX Coordinator determines that there is sufficient information that a student may have violated the Sexual Misconduct Policy, then within 5 business days after the final investigative report is submitted, a written Notice of Charges of Policy Violation (Notice of Charges) will be provided to the respondent and the complainant with summary information that supports the charge(s).

c. Acceptance of Responsibility. Within 5 business days after receipt of the Notice of Charges, the respondent has an opportunity to accept or not accept responsibility for the charge(s).

- i. If a respondent is charged and accepts responsibility for having violated the Sexual Misconduct Policy, the Title IX Coordinator will forward the case to the Community Board on Sexual Misconduct [CBSM] panel for determination of sanctions only.
- ii. If a respondent is charged but does not accept responsibility for having violated the Sexual Misconduct Policy, the Title IX Coordinator will forward the case to the CBSM panel for determination of both responsibility and sanctions.

d. Adjudication Hearing

i. Adjudicator. The CBSM hears all cases that proceed to an Adjudication Hearing. CBSM members receive annual training on issues related to sexual harassment, sexual assault, intimate partner violence, stalking, and how to conduct an investigative and decision-making process that protects the safety of all and promotes accountability.

ii. Hearing Goals. During a CBSM hearing, a CBSM panel determines whether there has been a violation of the College's Sexual Misconduct Policy. The hearing is intended to facilitate a decision based on information gathered during the investigative process and presented at the hearing. It is not intended to be an adversarial proceeding. The hearing is not a legal process, and it is not intended to mimic or substantially duplicate a civil or criminal trial.

The goals of the hearing are 1) to allow both the complainant and the respondent the opportunity to present their experiences and discuss the investigative report; 2) to allow an impartial panel to ask questions, consider the information presented, and decide whether a Sexual Misconduct Policy violation has occurred; and 3) if a violation is found, to allow the CBSM the opportunity to ask questions relevant to sanctions and determine appropriate sanctions for a violation.

iii. Preparation for the Hearing. The Title IX Coordinator or a designee will arrange the administrative details for the hearing, including: 1) selecting the members of the CBSM panel to hear and decide the complaint; 2) arranging a time and place for the hearing; and 3) making the investigative report and accompanying documentary or other evidence available to the panel members and to the parties.

iv. The Panel. In preparation for a hearing with a CBSM panel, the Title IX Coordinator selects a three-person panel from the full roster of trained board members to hear and adjudicate the complaint. The panel will ordinarily consist of one faculty, one staff, and one student representative.

Before the panel is selected, the Title IX Coordinator will provide to the complainant and respondent the list of CBSM members available to serve on the panel. The complainant and respondent then have 48 hours to submit a written objection if the party believes that any prospective panel member has a conflict or is otherwise unable to fairly evaluate the information presented. After the panel is selected, the Title IX Coordinator will also inform the panel members of the parties' identities to determine whether any panel member has a relationship with either party that would affect their ability to decide the case impartially. The Title IX Coordinator will evaluate any objection by a party or potential conflict identified by panel members and determine which board members will serve on the panel.

v. Role of the CBSM Chair in the Hearing. The College Title IX Coordinator ordinarily serves as the CBSM chair. The chair's role is to ensure that procedures are followed and that Title IX requirements are met. The chair facilitates and is present for all phases of the hearing, but does not take a substantive role in the deliberations or vote following deliberations. The chair will resolve all questions that arise during the hearing, including but not limited to procedural issues and issues regarding the propriety or relevance of specific questions, arguments, and information presented.

The CBSM chair will also seek to ensure an orderly and fair exchange of information and perspectives during the hearing. If anyone attending the hearing acts without appropriate respect or decorum, the chair may ask them to leave the hearing.

In consultation with the CBSM chair, the panel will determine whether it is necessary for the panel to hear and/or question particular witnesses.

vi. Role of Advisers. The adviser's role at the hearing is to offer support and assistance in a manner that does not disrupt the proceedings. Advisers will not be permitted to offer written or oral information to the panel. Students will be responsible for presenting their own statements and for answering the panel's questions. For more detailed information about the role of advisers, see the Advisers' Role and Responsibilities document available at [this link](#).

vii. Role of Additional Support Individuals. In addition to an adviser, each complainant and respondent may have up to four other individuals present in a nearby support room during a hearing. These support individuals may not be present in the hearing room or participate in the hearing in any way.

viii. Hearing Procedures. Hearings are private and are not open to members of the College community or the public. Present during a hearing are the three CBSM panel members, the CBSM chair, the complainant, the complainant's adviser (if any), the respondent, and the respondent's adviser (if any). Any additional persons in attendance must be approved by the CBSM chair. During the hearing, complainants and respondents will be offered the opportunity to present prepared initial statements orally. The panel will then have the opportunity to ask the complainant and respondent questions. After the panel has had the opportunity to ask questions, the complainant and respondent will be offered the opportunity to make final oral comments.

At either party's request, the hearing can be set up so that the complainant and respondent will have minimal interaction during the hearing or will not be in the hearing room at the same time.

ix. Information Considered by the CBSM Panel. In reaching a decision, the panel will only consider information included in the investigative report or presented at the hearing, pertinent College policies, and other documents or materials shared with the panel by the Title IX Coordinator. A party's decision to not participate in an Adjudication Hearing does not preclude a determination regarding a complaint. Silence in response to an allegation will not be viewed as an admission of the allegation, but may leave the allegations undisputed.

Information about unrelated past behavior of the complainant and/or respondent, including the sexual history or dress of either party, will typically be excluded from consideration.

x. Determination of Violation or No Violation. Following the presentation of information at the hearing, the CBSM panel will determine whether a violation of the Sexual Misconduct Policy occurred. The CBSM panel will deliberate in private. In reaching a decision, the panel will apply a **preponderance of the evidence standard**, and will conclude that a violation occurred if it is "more likely than not" that a violation occurred. The panel will reach a decision by majority vote.

The chair will orally report the panel's decision to the complainant and respondent before the commencement of the sanctioning phase of the hearing.

xi. Sanctioning. If the panel determines that the respondent violated the College's Sexual Misconduct Policy, the hearing will continue. The panel will then allow both the complainant and the respondent to express their views orally about appropriate sanctions. The panel will then deliberate further to determine appropriate sanctions.

In determining sanctions, the panel's objective will be to ensure campus health and safety by preventing the recurrence of problematic behavior and addressing its effects, including the effects of the violation on the complainant. The panel may consider a variety of factors in determining sanctions, including, but not limited to, the type of misconduct, the wishes of the complainant, the weight of the evidence, and the respondent's disciplinary record. The sanctioning decision will also be informed by the degree to which the behavior was intentional, irresponsible, or without knowledge.

The complete disciplinary record of the respondent will be made available to the panel by the Dean of Students Office for use during sanctioning.

Possible sanctions include, but are not limited to:

- Dismissal from the College
- Suspension for one or more terms, with or without conditions for return
- Disciplinary Probation
- No Contact or Limited Contact Order
- Chemical Health Assessment
- Restricted Campus Access
- Restricted Course Enrollment
- Change of Housing
- Warning
- Required education or training

Sanctions may be combined. A majority vote of the CBSM panel is required for all sanctions.

After the panel has reached a decision about sanctions, the chair will orally communicate the decision to the complainant and respondent, each separately.

The sanctions imposed by the CBSM do not go into effect until the appeal period has passed.

The Title IX Coordinator will follow up to ensure compliance with the sanctions determined by the CBSM panel and will maintain the resulting disciplinary record in accordance with the College Student Records policy.

xii. Record of the Hearing

Hearings will be audio recorded by the College for use in the event of an appeal. No other recordings are allowed. The recording and any notes taken during the hearing by any panel members, including the CBSM chair, will be maintained in accordance with the College's Student Records Policy. The Title IX Coordinator will maintain the resulting disciplinary record in accordance with the College Student Records policy.

xiii. Notice of Outcome

The parties will also receive simultaneous formal written notice of the hearing outcome. The College will strive to provide the written notice of outcome to the parties within two business days following the hearing. In some cases, more time may be required.

The determination of the CBSM panel may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision will be final.

e. Appeal

Both parties have the right to appeal the outcome on any of the following grounds:

- procedural errors substantially impacted the final decision;
- relevant new information has come to light that was not available at the time of the hearing and would have substantially affected the panel's decision;
- the sanction is inconsistent with the seriousness of the offense.

A Statement of Appeal must be made in writing to the Title IX Coordinator within 5 business days of the date that the party receives written notification of the panel's decision and the sanctions imposed, if any. Any sanctions imposed by the CBSM are held in abeyance until the deadline for submission of a Statement of Appeal has passed. Once a student has submitted a Statement of Appeal, the sanction(s) will continue to be held in abeyance pending final appeal decision outcome.

The appeal adjudicator is the Dean of Students. In the event the Dean of Students is unavailable or has a conflict, the Vice President/Treasurer will act as the adjudicator. The appeal adjudicator determines the merits of the appeal and determines an appropriate remedy, if any.

Within 24 hours of receiving a Statement of Appeal, the Title IX Coordinator will notify the non-appealing party that an appeal has been filed and will communicate the basis of the appeal. The Title IX Coordinator will provide a copy of the Statement of Appeal to the non-appealing party. If the non-appealing party wishes to respond, they will have 3 business days to submit a written response to the appeal adjudicator.

The appeal adjudicator will act upon an appeal within a reasonable time, normally 5 business days after their receipt of the Statement of Appeal and any written response to the statement of

appeal. After the appeal is decided, the appeal adjudicator will notify both parties concurrently in writing of the decision. Decisions of the appeal adjudicator are the final institutional response and may not be appealed.