

Barnard College

Policy Against Discrimination and Harassment

Applicable to Students, Faculty, and Staff

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1. Glossary

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Complainant or reporting individual*¹ means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Complaint (formal)* means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the College investigate the allegation.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when Barnard College is in normal operation.
- *Directly Related Evidence* is evidence connected to the complaint, but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.
- *Education program or activity* means locations, events, or circumstances where Barnard College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by Barnard College.

¹ NY 129-B indicates that the term “reporting individual” shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report of a violation.”

- *Final Determination*: A conclusion by preponderance of the evidence that the alleged conduct did or did not violate policy.
- *Finding*: A conclusion by preponderance of the evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
- *Title IX Formal Grievance Process* refers to a method of formal resolution designated by the College to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45). This method of formal resolution is designated to address specific conduct that falls within the policy below.
- *Grievance Process Pool* includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- *Hearing Decision-maker or Panel*² refers to those who have decision-making and sanctioning authority within Barnard’s grievance processes.
- *Investigator* means the person or persons charged by Barnard College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *Mandated Reporter* means an employee of Barnard College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Official with Authority (OWA)* means an employee of Barnard College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the College.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Title IX Formal Grievance Process* means the Formal Grievance Process detailed below and defined above.
- *Nondiscrimination & Harassment Resolution Process* means the administrative resolution procedures that apply only when the Title IX Formal Grievance Process is not applicable or in cases of discrimination and/or harassment based on other protected status, as determined by the Title IX Coordinator.
- *Relevant Evidence* is evidence that tends to prove or disprove an issue in the complaint.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to Barnard’s educational program.

² In Barnard’s grievance processes, panels are only convened in appeals proceedings.
revised 02/2023

- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the College on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. [See Section 17.b.](#), for greater detail.
- *Student* is defined for the purpose of this policy as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with Barnard College.
- *Title IX Coordinator*³ is at least one official designated by the College to ensure compliance with Title IX and Barnard's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Nondiscrimination and Title IX Team* refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

2. Overview

Barnard College is committed to providing an environment free from unlawful discrimination, harassment, or retaliation. As such, Barnard College adheres to all federal and state civil rights laws and regulations prohibiting discrimination in institutions of higher education. Barnard does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of race, color, religion, creed, national or ethnic origin, age, disability, sexual orientation, pregnancy, sex⁴, gender identity or expression, or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus, with the Equal Employment Opportunity Commission, or other human rights agencies.

In addition, Barnard College does not discriminate on the basis of alienage or citizenship status, marital partnership status, military status, arrest or conviction record, predisposing genetic characteristics, caregiver status, or victim status for the following offenses: domestic violence, stalking, and/or sex offense, in its employment practices.

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the Barnard community whose acts deny, deprive, or limit the educational or employment access, benefits, and/or opportunities of any member of the College community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of the College's policy on nondiscrimination. Barnard College is guided by the precept that in no aspect of its employment practices or educational programs and activities should there be unlawful

³ At Barnard, the Director of Nondiscrimination and Title IX is also the Title IX Coordinator.

⁴ As a women's institution, Barnard College accepts applications from those who consistently live and identify as women.

discrimination against persons based on the characteristics described above. This policy is intended to further the goal that faculty, staff and students are to be able to work and study free from harassment.

The College takes prompt and appropriate action to address misconduct, end a hostile environment if one has been created, and prevent the recurrence of a hostile environment. The College provides prevention education programs; connection to on campus and off campus services and resources for individuals who have been impacted by gender-based misconduct, sexual misconduct, domestic violence, dating violence, and/or stalking; and equitable investigative and grievance processes that are accessible, prompt, impartial and fair. When brought to the attention of the College, any such discrimination will be promptly and fairly addressed and remedied by the College according to the appropriate grievance/resolution process. Appropriate disciplinary action may be taken against those found to have engaged in or knowingly allowed discrimination or harassment, with sanctions up to and including dismissal. This document specifies applicable scope, prohibited conduct under the Policy, and provides illustrative scenarios ([Appendix A](#)), which may be helpful in understanding the range of misconduct addressed by the Policy.

3. Applicable Scope

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from or different treatment in activities, such as admission, athletics, or employment. Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of this policy is reported, the allegations are subject to resolution using Barnard's Title IX Formal Grievance Process or Nondiscrimination and Harassment Resolution Process⁵ as determined by the Title IX Coordinator.

When the Respondent is a member of the Barnard community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the Barnard community. This community includes, but is not limited to, students⁶, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

4. Title IX Coordinator

The Director of Nondiscrimination and Title IX serves as the Title IX Coordinator and ADA/504 Coordinator and oversees implementation of the College's policy on equal opportunity, harassment, and nondiscrimination. The Title IX Coordinator has the primary responsibility for coordinating Barnard's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

⁵Incidents of sexual harassment or discriminatory or harassing conduct alleged to have occurred before August 14, 2020 will be investigated and adjudicated according to the Nondiscrimination & Harassment Resolution Process.

⁶ For the purpose of this policy, the College defines "student" as any individual who has accepted an offer of admission or who is enrolled in credit or non-credit bearing coursework, and who maintains an ongoing relationship with the College.

All parties will be provided with comprehensive electronic communication detailing rights, options, and resources which the Title IX Coordinator may also go over in person with the parties, as appropriate. See [Appendix B](#) for information about the Students' Bill of Rights under New York State Education Law Article 129-B⁷.

5. Independence and Conflict-of-Interest

The Director of Nondiscrimination and Title IX manages the Title IX Team and the Grievance Process Pool and acts with independence and authority free from bias and conflicts of interest. The Director oversees all resolutions under this policy and these procedures. The members of the Title IX Team and Grievance Process Pool are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest or misconduct by the Director of Nondiscrimination and Title IX, contact the Associate Vice President for Community Accountability, Response, and Emergency Services, Amy Zavadil (azavadil@barnard.edu). Concerns of bias, a potential conflict of interest, or misconduct by any other Title IX Team member are to be raised with the Director of Nondiscrimination and Title IX.

6. Title IX Coordinator: Role and Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and related procedures, may be made internally to:

Elizabeth Scott-Francis, Ed.D.

Director of Nondiscrimination and Title IX, Title IX Coordinator
Office of Nondiscrimination and Title IX
Elliott Hall, First Floor (49 Claremont Ave. New York, NY 10027)
212-854-0037
nondiscrimination@barnard.edu | escottfrancis@barnard.edu
<https://barnard.edu/nondiscrimination-and-title-ix>

Complaints or notice of alleged policy violations about employees may be made internally to the Director of Nondiscrimination and Title IX or the Executive Director of Human Resources:

Katie Germana

Executive Director of Human Resources
kgermana@barnard.edu

Additionally, the following College officials have been designated to act as deputy compliance coordinators, all of whom are knowledgeable and trained in state and federal laws that apply to matters of discrimination and harassment as well as College policy and procedure. The Title IX Coordinator and Deputy Coordinators are available to provide support, share information, and receive reports of

⁷ This Student Bill of Rights was established by the "Enough is Enough" Law, New York State Education Law Article 129-B, effective October 7, 2015.
revised 02/2023

prohibited conduct under this policy.

Danielle-Hope Cabral, MBA | Deputy Title IX Coordinator

Associate Director, Compliance and Investigations, Office of Nondiscrimination and Title IX
First Floor, Elliott Hall | 212-854-7686 | dcabral@barnard.edu

Madeline Camacho, MA | Deputy Title IX Coordinator

Associate Director of Community Standards and Investigations, Dean of the College
Milbank Hall 105 | 212-853-0772 | mcamacho@barnard.edu

Saskia Hamilton, Ph.D. | Deputy Title IX Coordinator

Vice Provost for Academic Programs and Curriculum, Office of the Provost
Professor, English Department
110 Milbank Hall, 401C Barnard Hall | 212-854-7517 | shamilto@barnard.edu

Kathleen Veteri, JD | Deputy Title IX Coordinator

Executive Director of Human Resources and Associate General Counsel
646-745-8361 | kveteri@barnard.edu

Inquiries may be made externally to:

U.S. Department of Education
Office for Civil Rights
New York- Region II
32 Old Slip, 26th Floor
New York, NY 10005
Telephone: (646) 428-3800
Email: OCR.NewYork@ed.gov

7. Notice/Complaints of Discrimination, Harassment, and/or Retaliation

Notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

1) File a complaint with, or give verbal notice to, the Director of Nondiscrimination and Title IX or any of the Deputy Coordinators listed above. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.

2) Report online, using the reporting form posted at https://barnard-advocate.symplcity.com/public_report/index.php/pid297833?
Anonymous reports are accepted but can give rise to a need to investigate to determine if the parties can be identified. If not, no further action is taken.

Because reporting carries no obligation to initiate a formal response, and as the College respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or

safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the College to discuss and/or provide supportive measures.

A Formal Complaint refers to an electronic or paper document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation and requesting that the College investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. 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 complaint, and requests that the College investigate the allegations. Individuals may consult with the Director of Nondiscrimination and Title IX to obtain, sign, and submit a formal complaint document. Similarly, those wishing to file a formal complaint electronically may do so using [Barnard’s online reporting form](#).

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that they have the opportunity to clarify their intention.

8. Supportive Measures

Barnard College will offer and implement appropriate and reasonable supportive measures to all parties upon notice of alleged harassment, discrimination, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College’s education program or activity, including measures designed to protect the safety of all parties or the College’s educational environment, and/or deter harassment, discrimination, and/or retaliation. Individuals may seek and receive supportive measures regardless of their decision to participate or engage in a grievance procedure or resolution.

Similarly, individuals engaging with Barnard’s Title IX Formal Grievance Process or the Nondiscrimination and Harassment Resolution Process may request reasonable accommodations by contacting the Director of Nondiscrimination and Title IX. The Director of Nondiscrimination and Title IX will work collaboratively with the Director of the Center for Accessibility Resources and Disability Services (for students) or Human Resources (for employees) to ensure registered accommodations are honored throughout any related resolution process.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented. Barnard will maintain the privacy of the supportive measures, provided that privacy does not impair the College’s ability to provide the support. The College will act to ensure as minimal an academic/occupational impact on the parties as possible and will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services; Referral to the Employee Assistance Program; Referral to community-based service providers

- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional 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 or Persona Non Grata (PNG) Orders
- [Timely warnings](#)
- Class schedule modifications, withdrawals, or leaves of absence
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders or other restrictions will be referred to appropriate student or employee conduct processes for enforcement. The College may establish an appropriate schedule for the Respondent to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the Complainant, as long as any such restrictions are not unduly burdensome to the Respondent. In matters involving Barnard and Columbia University students, the Title IX Coordinator works collaboratively with Columbia University staff to establish mutually agreed-upon schedules to limit contact in cross-campus use of space.

9. Emergency Removal

The College can act to remove a student Respondent entirely or partially from its education program or activities or impose restrictions on employees on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with relevant campus administrators using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Director of Nondiscrimination and Title IX prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested within 10 business days, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Director of Nondiscrimination and Title IX for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation. The Director of Nondiscrimination and Title IX has sole discretion under this policy to

implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion and/or termination.

The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. At the discretion of the Director of Nondiscrimination and Title IX, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties. Where the Respondent is an employee, existing provisions for interim action are applicable instead of the above emergency removal process. Barnard retains the authority to place a non-student employee respondent on administrative leave during any Grievance or Resolution process.

10. Promptness

All allegations are acted upon promptly by the College once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College seeks to avoid all undue delays within its control. Any time the general timeframes for resolution outlined in the College's procedures will be delayed, Barnard will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

11. Confidentiality/ Privacy

The College is committed to protecting the privacy of all individuals involved in a report of potentially prohibited conduct.⁸ Barnard will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of sex discrimination; any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

The College reserves the right to determine which Barnard officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA). The Director of Nondiscrimination and Title IX will share only what information is necessary with those who need to know to preserve the parties' rights and privacy. Information will be shared as necessary with Investigators, Decision-Makers, witnesses, and the parties. Confidentiality and

⁸ For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of Barnard employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the College's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with FERPA. **Confidentiality** exists in the context of laws (including Title IX) that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The College has designated individuals who have the ability to have privileged communications as Confidential Resources. [For more information about Confidential Resources, see page 19.](#)

mandated reporting are addressed more specifically [below](#).

12. Jurisdiction of the College

This policy applies to the education program and activities of Barnard to conduct that takes place on the campus or on property owned or controlled by the College, at Barnard-sponsored events, or in buildings owned or controlled by Barnard's recognized student organizations. The Respondent must be a member of Barnard's community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to Barnard's educational program. The College may also extend jurisdiction to off-campus and/or to online conduct when the Director of Nondiscrimination and Title IX determines that the conduct affects a substantial College interest. Regardless of where the conduct occurred, the College will review relevant information to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial College interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of the College.

If the Respondent is unknown or is not a member of the College community, the Director of Nondiscrimination and Title IX will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. Further, even when the Respondent is not a member of Barnard's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Director of Nondiscrimination and Title IX.

In addition, the College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from Barnard property and/or events. All vendors serving the College through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts. When the Respondent is enrolled in or employed by another institution, the Director of Nondiscrimination and Title IX can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Barnard College is a self-sustaining entity under the Columbia umbrella. The College is one of the University's four undergraduate colleges, but we're largely autonomous, with our own leadership, curriculum requirements, admissions and financial aid processes, and unique student experiences. Barnard and Columbia are two distinct communities with distinct processes and policies. We do, however, recognize that in addressing cross-campus complaints of discrimination and/or harassment involving members of both the Barnard and Columbia communities, sometimes greater liaising and

collaboration is beneficial and appropriate. As allowed by law, the College may work with parties to discuss options for appropriate information-sharing and coordination between Barnard and Columbia relevant offices to collaborate regarding investigation and resolution including informal and administrative resolution, related to allegations of discrimination and/or harassment.

13. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Director of Nondiscrimination and Title IX. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

The ability to act on a complaint may be significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Director of Nondiscrimination and Title IX who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate. When a complaint is affected by significant time delay, the College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of the complaint.

14. Online Harassment and Misconduct

The policies of Barnard College are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the College's education program and activities or use College networks, technology, or equipment. Although Barnard may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct to harm another member of the College community.

15. Prohibited Conduct Defined

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. Barnard's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under College policy. All policies encompass actual and/or attempted offenses.

a. Discriminatory Harassment

Discriminatory harassment constitutes a form of discrimination that is prohibited by Barnard policy. Discriminatory harassment is defined as harassment by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.⁹ This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive **and** objectively offensive.

Please consult with the Director of Nondiscrimination and Title IX to determine appropriate referral(s) to partner offices or other available resources for conduct and concerns falling outside of this policy.

b. Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of New York regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice. Barnard has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex¹⁰ or that is sexual that satisfies one or more of the following:

- 1) Quid Pro Quo: an employee of the College conditions¹¹ the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct.
- 2) Sexual Harassment: unwelcome conduct, determined by a reasonable person, to be so severe, and pervasive, and, objectively offensive that it effectively denies a person equal access to the College's education program or activity.
- 3) Sexual assault, defined as:
 - Any sexual act ([See Appendix C for sexual act\(s\), defined](#)) directed against another person without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.
 - **Incest:** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by New York state law.
 - **Statutory Rape:** Non-forcible sexual intercourse with a person who is under the statutory age of consent of 17 years old.

New York State Definition of Sexual Harassment in Employment Situations

Additionally, in the State of New York, the following definition of sexual harassment will be applied to employee misconduct when the definitions above (specific to Title IX) are not applicable, as determined by the Title IX Coordinator:

⁹ This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: [Department of Education Office for Civil Rights, Racial Incidents and Harassment Against Students At Educational Institutions Investigative Guidance.](#)

¹⁰ Including sexual orientation and sex stereotypes.

¹¹ Implicitly or explicitly.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful and can be any harassing conduct that consists of more than petty slights or trivial inconveniences. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

4) Dating Violence, defined as: violence on the basis of sex committed by a person who is in 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 Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—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.

- 4) Domestic Violence*, defined as: violence on the basis of sex committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of New York, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of New York.

**To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.*

- 5) Stalking, defined as: engaging in a course of conduct directed at a specific person, that
- i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent 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.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Consensual Relationships and Sexual Harassment

Actual or apparent authority that employees may have over a student is a strong factor in finding that certain types of conduct constitute sexual harassment. This can be so even if a student has not complained about the conduct, does not show signs of being harassed, or fails to file a complaint of harassment. Complaints of sexual harassment of students, including alleged consensual relationships, will be carefully evaluated in the context of the unique relationship and responsibility that faculty, administrators, and other College employees have to students or other employees

c. Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Affirmative consent: is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to

constitute consent. Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred.

Incapacitation: A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, and how" of their sexual interaction). Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk. This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

d. Other Civil Rights Offenses

In addition to the forms of specific sexual harassment described above, which are covered by Title IX, The College additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is based upon the Complainant's actual or perceived membership in a protected class.

- Sexual Exploitation, defined as: non-consensual sexual abuse or exploitation of another or such behavior that does not otherwise constitute sexual harassment or another specified behavior under this policy. Examples of Sexual Exploitation include, but are not limited to:
 - Non-consensual use of electronics to capture, reproduce, or share images, video, or audio of a sexual nature without consent of parties involved, including the making or posting of revenge pornography;
 - Public indecency or exposing genitals to others without consent;
 - Engaging in voyeurism (observing another when privacy would be reasonably expected, such as watching private sexual activity or viewing another person's nudity) without consent.
 - Prostituting another person or engaging in sex trafficking
 - Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
 - Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections
 - Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity

- Knowingly soliciting a minor for sexual activity or creation, possession, or dissemination or child pornography
- Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities, including disparate treatment;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another.

Violation of any other Barnard policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.¹²

16. Retaliation¹³

Acts of alleged retaliation should be reported immediately to the Director of Nondiscrimination and Title IX and will be promptly investigated. Barnard College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation. Barnard and any member of Barnard's community are prohibited from taking or attempting to take adverse action by intimidating, threatening, coercing, harassing, or discriminating 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 this policy and procedure.

Filing a complaint within the Nondiscrimination and Harassment Resolution Process could be considered retaliatory if those charges could be applicable under the Formal Title IX Grievance Process, when the Nondiscrimination and Harassment Process charges are made for the purpose of interfering with or circumventing any right or privilege provided afforded within the Formal Title IX Grievance Process that is not provided by the Nondiscrimination and Harassment Process. Therefore, Barnard reviews all complaints carefully to ensure this does not happen, and to assure that complaints are tracked to the appropriate process.

The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

¹² Barnard College maintains various policies and associated response procedures related to student and employee conduct. The Director of Nondiscrimination and Title IX will refer appropriately to other College offices and processes when an alleged violation does not meet the threshold for action under this policy or is not related to protected status.

¹³ Retaliation allegations can be routed exclusively through the Nondiscrimination and Harassment Resolution Process if the College so elects, but where retaliation and sexual harassment allegations are both alleged, it will likely make more sense to use the Formal Title IX Grievance Process, when applicable, to resolve all together.

17. Mandated Reporting

All Barnard employees (faculty, staff, administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Director of Nondiscrimination and Title IX (and/or police/Community Safety, if desired), who will take action when an incident is reported to them.

The following sections describe the reporting options at Barnard College for a Complainant or third-party (including parents/guardians when appropriate):

a. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- Columbia SVR Rape Crisis/Anti Violence Support Center
- Being Barnard
- The Wellness Spot Health Promotion Program
- Primary Care Health Services
- Furman Counseling Center
- University Chaplain
- Barnard Ombuds Office

Confidential resources are not mandated reporters and are not required to report internally to the Office of Nondiscrimination and Title IX. All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

The Employee Assistance Program is available for employees to take advantage of available support resources. This program is provided to employees at no cost and includes referral services for 24/7 counseling as well as financial and legal advice.

b. Anonymous Notice to Mandated Reporters

At the request of a Complainant, notice may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identification of the Complainant. The Mandated Reporter cannot remain anonymous themselves. If a Complainant has requested that a Mandated Reporter maintain the Complainant's anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Title IX

Coordinator on that assessment without revealing personally identifiable information. When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator. Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements.

c. Mandated Reporters and Formal Notice/Complaints

All employees of Barnard College (including student employees), with the exception of those who are designated as Confidential Resources (listed above), are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment. Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Director of Nondiscrimination and Title IX. Disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as "Take Back the Night" marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the College. Such information will be used to inform campus climate, prevention, and educational efforts, generally.

Failure of a Mandated Reporter to report an incident of harassment or discrimination of which they become aware is a violation of Barnard policy and can be subject to disciplinary action for failure to comply.

18. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Director of Nondiscrimination and Title IX, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law. The Office of Nondiscrimination and Title IX makes every effort to honor the wishes of a Complainant.

The Director of Nondiscrimination and Title IX has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Director may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment. When the Director of Nondiscrimination and Title IX executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

If the College proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Note that the College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the College's obligation to protect its community. In cases in which the Complainant requests no formal action and the circumstances allow the College to honor that request,

the College will offer informal resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action. A Complainant who elects to take no action may change their decision and choose to pursue a formal complaint at a later date.

19. False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination. Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under Barnard College policy.

20. Responsible Community Action Policy: Amnesty for Complainants and Witnesses

The College encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, individuals are hesitant to report to College officials or participate in resolution processes because they may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. It is in the best interest of the Barnard community that individuals choose to report misconduct to College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, Barnard maintains a policy of offering parties and witnesses amnesty from minor policy violations-- such as underage consumption of alcohol or the use of illicit drugs-- related to the incident. Barnard College maintains a [Responsible Community Action Policy](#) for students who offer help to others in need. Similarly, sometimes employees are hesitant to report harassment or discrimination they have experienced for fear that they may get in trouble themselves. Barnard may, at its discretion, offer employees amnesty from such policy violations (typically more minor violations) related to the incident.

21. Transcript Notations

In compliance with NY State law, the College will note on the academic transcript of students found responsible for violations of the Barnard College Policy Against Discrimination and Harassment and/or Code of Conduct equivalent to the Clery Act Part I crimes (as amended by the Violence Against Women Act) that a student was “suspended after a finding of responsibility for a code of conduct/ policy against discrimination violation” or “dismissed after a finding of responsibility for a code of conduct/policy against discrimination and harassment violation” if the student receives a sanction of suspension or dismissal after a finding of responsibility.

The crimes which require this notation include: murder; rape, fondling, incest, and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; manslaughter; and arson; dating violence; domestic violence; and stalking. If a student withdraws from the College while the conduct or nondiscrimination process is pending, the notation will read “withdrew with conduct/nondiscrimination charges pending.”

A student may appeal to the Dean of the College and the Director of Nondiscrimination and Title IX, in writing via email, for removal of a notation that the student was suspended, no earlier than one year after the end date of the suspension. Notations that a student was dismissed from the College are not subject to removal and are not eligible for appeal.

Policy effective as of August 2011; Modified as of January 2012, August 2012, November 2012; August 2013; August 2014; chart revised April 2015; August 2015; July 2016; January 2017; October 2018; September 2021; August 2022; February 2023

APPENDIX A: SCENARIO EXAMPLES

The following scenarios help illustrate some applications of the Policy.¹⁴

- A professor offers for a student to have sex or go on a date with them in exchange for a good grade. This constitutes sexual harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- A professor engages students in class in discussions about the students' past sexual experiences, yet the conversations are not in any way germane to the subject matter of the class. The professor inquires about explicit details and demands that students answer them, though the students are clearly uncomfortable and hesitant.
- Chris has recently transitioned to non-binary, but primarily expresses as a female. Since their transition, Chris has noticed that their African Studies professor, Dr. Mukembo, pays them a lot more attention. Chris is sexually attracted to Professor Mukembo and believes the attraction is mutual. Chris decides to act on the attraction. One day, Chris visits Dr. Mukembo during office hours, and after a long conversation about being non-binary, Chris kisses Dr. Mukembo. Dr. Mukembo is taken aback, stops the kiss, and tells Chris not to do that. Dr. Mukembo explains to Chris that they are not interested in Chris sexually or romantically. Chris takes it hard, crying to Dr. Mukembo about how hard it is to find someone who is interested in them now based on their sexual identity. Dr. Mukembo feels sorry for Chris and softens the blow by telling them that no matter whether they like Chris or not, faculty-student relationships are prohibited by the university. Chris takes this as encouragement. One night, Chris goes to a bar some distance from campus and sees Dr. Mukembo there. Chris tries to buy Dr. Mukembo a drink and, again, tries to kiss Dr. Mukembo. Dr. Mukembo leaves the bar abruptly. The next day, Chris makes several online posts that out Dr. Mukembo and raise questions about whether they are sexually involved with students. Dr. Mukembo contacts the Office of Nondiscrimination and Title IX and alleges that Chris is sexually harassing him.
- Lee is working as an on-campus tutor and received flowers and gifts delivered to their office. After learning the gifts were from another student they recently tutored, Lee thanked the student and stated that it was not necessary and would appreciate it if the gift deliveries stopped. The student then started leaving notes of love and gratitude on Lee's residence hall room door. Asked again to stop, the student stated by email, "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything to make you have the feelings for me that I have for you." When Lee did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. If I can't have you, no one will."
- Amanda and Jamie meet at a party. They spend the evening dancing and getting to know each other. Jamie convinces Amanda to come up to their room. From 11:00 p.m. until 3:00 a.m., Jamie uses every line they can think of to convince Amanda to have sex with them, but she adamantly refuses. Despite her clear communications that she is not interested in doing anything sexual with them, Jamie keeps at her, questions her religious convictions, and accuses her of being "a prude." Jamie brings up several rumors that they've heard about how she performed oral sex on

¹⁴ Some of these illustrative scenarios are adapted from the Columbia University policy.
revised 02/2023

a number of other students. Finally, it seems to Jamie that Amanda's resolve is weakening, and he convinces her to perform oral sex on them. Amanda would have never done it but for Jamie's incessant coercion.

- Jiang is a junior. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, soon become more intimate, and start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter at the age of five and avoids sexual relations as a result, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with Beth, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop but cannot. Beth is stiff and unresponsive during the intercourse.

APPENDIX B: NEW YORK STATE STUDENTS' BILL OF RIGHTS

Related to Sexual Assault, Dating Violence, Domestic Violence, and Stalking

All students have the right to:

- Make a report to Community Safety, local law enforcement, and/or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressures from the institution;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
- Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- Describe the incident to as few institutional representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- Be protected from retaliation by the institution, any student, the accused, and/or the respondent, and/or their friends, family, and acquaintances within the jurisdiction of the institution;
- Have access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

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APPENDIX C: SEXUAL ACT(S), DEFINED

A 'sexual act' is specifically defined by federal regulations to include one or more of the following:

Forcible Rape:

- Penetration,
- no matter how slight,
- of the vagina or anus with any body part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the Complainant.

Forcible Sodomy:

- Oral or anal sexual intercourse with another person,
- forcibly,
- and/or against that person's will (non-consensually), or
- not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of another person,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Forcible Fondling:

- The touching of the private body parts of another person (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.