

Grievance Procedures for Discrimination and Harassment

Anyone who has experienced or learned of potentially discriminatory or harassing behavior is encouraged to report these incidents. Upon receiving a report, Barnard College (“the College”) will respond promptly, equitably, impartially and fairly. In addition, the College will take steps to prevent the recurrence of the alleged discrimination or harassment and to correct its effects. The College is committed to providing an employment, learning and campus living environment free from discrimination or harassment.

Discrimination and harassment in the context of these procedures is defined within the Policy Against Discrimination and Harassment of Barnard College (“Policy”), and confirms such discrimination is prohibited by the College in compliance with federal, state, and local laws. The College is committed to encouraging meaningful, candid dialogue on alleged discrimination or harassment in an educational context. A discussion on the concept of Academic Freedom and Harassment can be found in the Policy.

The grievance procedures below are specifically for the adjudication of discrimination and harassment complaints related to race, color, religion, creed, national or ethnic origin, age, or disability, when such complaints involve Barnard College students, faculty, staff, administrators, and/or third parties. These procedures also apply to discrimination in employment 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. The Policy on Workplace Violence and Threatening Behavior may also be applicable. The College takes seriously complaints of discrimination and harassment and takes prompt, effective action, including disciplinary action, upon a finding of a Policy violation. The College also takes steps to address the effects of discriminatory action on Complainants and the College community. Inquiries regarding the Policy Against Discrimination and Harassment can be addressed to the Community Standards/Equity Office or the VP of Human Resources.

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Procedure Contents

Confidentiality

When a report of alleged discrimination or other policy violation is investigated, the Complainant¹, the Respondent² and all identified witnesses who are interviewed in the investigation will be notified of the College's expectation of confidentiality and privacy. The College will make all reasonable efforts to maintain the privacy of the parties³ involved in misconduct investigations. Breaches of confidentiality/privacy will be reviewed and may be considered a violation of the Policy and may result in additional disciplinary action. Any action that could be deemed retaliatory will be dealt with according to this procedure (see 'Retaliation').

Definitions and Examples

The misconduct covered by this procedure comprises a broad range of behaviors that may be discriminatory or harassing in nature. Misconduct can be committed by anyone, and it can occur when behavior is not directed specifically toward the reporting individual. (See [Definitions](#) page for full definitions)

Potential instances of Discriminatory or Harassing behavior

- Belittling remarks about a person's race, religion, ethnicity, or cultural beliefs based upon stereotyping
- Inappropriate attention to one's race, religion, ethnicity or national origin, or abilities, such as asking an individual to speak for all who have a shared identity
- Excluding an individual based upon perceived abilities or limitations
- Providing only examples of positive behavior by those of a dominant identity and negative behavior by those of a marginalized identity

Dismissing concerns raised by others about exclusion or stereotyping in dialogue or actions based upon a protected identity

Each case is reviewed to consider the circumstances, the examples provided above are not comprehensive. These Procedures shall not be considered to abridge academic freedom and inquiry, principles of free speech, or the mission of the College.

Reporting

Reports may be received from information reports from Public Safety, supervisors or other College staff, or may come directly from an individual bringing forward a specific complaint. Individuals who believe they have experienced or observed discrimination or harassment may consult with the Executive Director for Equity/Title IX Coordinator to discuss their concern or initiate a report in accordance with the information below:

For Complaints against ...	Complaints brought to...
Students	Interim Title IX Coordinator Madeline Camacho mcamacho@barnard.edu
Barnard College Faculty	Vice Provost for Academic Programs Saskia Hamilton shamilto@barnard.edu
Administrative, Professional, and Unionized Employees	Human Resources Representative
Third Parties	Human Resources Representative

Complaints can be submitted to any of the above noted Adjudicators or submitted in writing via online report: https://barnard-advocate.symplicity.com/public_report

Informal Resolution Options

Independent Informal Resolution

In some cases, an individual may choose to deal with the alleged offender directly through a face to face discussion, a personal telephone conversation, e-mail correspondence, or other written correspondence. In some cases, this approach may resolve the situation; in others, it may be ineffective or place the individual in an uncomfortable, insecure, or compromised position. Under no circumstances should an individual feel pressured to address the alleged offender directly or otherwise handle the matter alone, and a decision not to confront an individual she/he believes to be discriminatory or harassing will not be viewed negatively. If efforts to address a matter directly prove unsuccessful or impractical, an individual may choose to meet with an Adjudicator (listed above) to pursue other methods of resolution as described in these procedures.

Facilitated Informal Resolution

In some cases, the Adjudicator (or designee, in collaboration with the Executive Director for Equity) will determine whether there is an appropriate facilitated informal resolution mechanism that may be considered based on information provided about the incident. This

may include shuttle diplomacy, facilitated conversation, and/or training and education for individuals or groups.

If it is determined that a facilitated informal resolution may be appropriate, the Adjudicator (or designee) will speak with the Complainant about this option. If the Complainant agrees, the Adjudicator (or designee) will speak with the Respondent. Facilitated informal resolution will be pursued only with the consent of both parties; either party may terminate the facilitated informal resolution process at any time and the Complainant may choose to pursue or resume the formal resolution process instead. If the facilitated informal process results in a resolution, both parties will receive outcome notification that the process has concluded and the case will be closed. The outcome notification of facilitated informal resolution will include whether or not the Respondent is being found responsible for a violation of policy, if and how the incident will be documented in the Respondent's education or employment record, and what information the Respondent would need to disclose if asked (i.e. on a graduate school application). If the parties are unable to reach a resolution in a timely manner, or if either party requests to terminate the facilitated informal resolution process, the investigation and disciplinary process will proceed. It is anticipated that facilitated informal resolution efforts will occur promptly and generally will be completed within forty-five (45) calendar days, unless both parties agree to an extension of time and such extension is approved by the Adjudicator (or designee).

Inquiry and Investigation

Inquiry

Promptly following the receipt of a report, information will be reviewed by the Adjudicator (in consultation with the Executive Director for Equity, as appropriate) to determine if there may be a reason to believe that a policy may have been violated. Investigation and Adjudication will be conducted by officials of the College without a conflict of interest or bias for or against either party. A party with concern about a conflict of interest or bias should contact the Executive Director for Equity or Vice President, Human Resources.

An initial inquiry will be undertaken by an Investigator, if necessary, to determine whether a formal investigation must commence. If further information is necessary, it may involve prompt discussions with the Complainant and others, as appropriate. The Complainant may be accompanied by an advisor to all meetings. An advisor may attend, but not participate in, all meetings and interviews. The Complainant may be offered reasonable accommodations and will be offered resources, as appropriate, regardless of whether or not there is reason to proceed with an investigation. If the findings of the initial inquiry indicate there is not sufficient reason to believe a violation may have occurred, the Complainant will receive prompt notice of this outcome and rationale, and will be afforded the opportunity to appeal the decision not to commence a formal investigation. Inquiry is a prompt process that should not take longer than five to ten (5-10) calendar days. If a formal investigation is to commence, the Respondent will be notified that a report has been filed. In cases of investigation of an employee as Respondent, the employee's supervisor may be notified of the investigation at the same time the Respondent receives notification.

Vendors or other agencies in contract with the College will be promptly notified if any of their employees are alleged to have violated policy, and such employees may be banned from any

or all college properties and may also be subject to action deemed appropriate by their respective employer. Restrictions regarding access to College property or events may also be imposed.

The Respondent and Complainant will be given the opportunity to meet separately with the Adjudicator (or designee) to review the Policy and procedure, including related rights (see list of rights at the end of these procedures).

Formal Investigation

Reports will be equitably investigated in a fair, impartial, thorough and prompt fashion, providing a meaningful opportunity for participants to be heard. Investigation will be conducted by individuals without a conflict of interest or bias for or against either party. Every effort is made to resolve complaints within sixty days. The formal investigation process may vary depending upon the nature and complexity of the case and the time of year (and thus availability of parties). Typically the investigation process may take 30-40 calendar days (inclusive of initial inquiry, if applicable).

A trained Investigator (who may be a College employee or external investigator), will interview the Complainant, Respondent, and available witnesses, as appropriate. The Complainant and Respondent may each have an advisor present at all meetings and interviews. The Investigator will also gather any pertinent evidentiary materials (this may include, but is not limited to, emails, written documents, or photographs).

During the investigation process, both the Complainant and the Respondent will have an equal opportunity to provide the investigator with relevant evidence and/or specific witness information. It is possible that more than one meeting may be necessary for Complainant and Respondent to have opportunity to respond to information obtained.

The Investigator will prepare an investigative report that will include a summary of relevant information of each interview, provide a summary of factual information, and include any relevant documentation collected. It should be noted, some information disclosed during investigation may not be relevant or appropriate to include in the investigative report. For example, disclosure of medical or mental health conditions, diagnoses, and/or treatment generally will not be included.

The Complainant and Respondent will each have opportunity to review the investigative report, in the presence of a College official, and deliver a response to the investigative report. The investigative report is then delivered to the Adjudicator for review and adjudication.

In some instances, during or at the conclusion of the investigation, the parties may voluntarily agree to end the formal process and utilize one of the informal resolution processes described above. Where informal resolution is appropriate for the circumstances, the Executive Director for Equity will make a decision about whether the matter may be resolved through an informal process.

At any point the College may institute community-based efforts such as educational initiatives and/or trainings, as appropriate for prevention.

Independent Investigation

The College, at the discretion of the General Counsel, may conduct an investigation independent of, or in addition to, the procedures provided herein at any time. The investigation may involve complaints or allegations concerning gender-based misconduct against the College, or any of their employees or students.

Administrative Resolution

Upon review of the investigative report, the Respondent will be given the opportunity to respond to the alleged violation of policy in the following ways: 1) No response; 2) Not Responsible; or 3) Responsible.

If the Respondent accepts responsibility, the appropriate Adjudicator⁴ will be notified, and both parties will receive notification and that the matter has been forwarded for sanctioning. See Determination of Sanctions below.

If the Respondent declines responsibility, or chooses not to respond, the Complainant will be notified and the case will be forwarded to the appropriate Adjudicator for review and adjudication.

Review of Investigative Findings

The Adjudicator is charged with fairly, promptly and impartially determining, based on a preponderance of the evidence, whether it is more likely than not that policy has been violated upon a review of the investigative materials. Adjudication will be conducted by officials of the College without a conflict of interest or bias for or against either party. A party with concern about a conflict of interest or bias should contact the Executive Director for Equity.

The Adjudicator will promptly review the investigative report and materials upon receipt. If the Adjudicator requires clarification on any of the materials, the Investigator and/or Executive Director for Equity will assist the Adjudicator in obtaining such clarification. If necessary, the Adjudicator may consult with the investigator, as needed, to request further information from the Respondent, Complainant and/or any of the witnesses to clarify information in the investigative materials. If such follow up is necessary, the Complainant and the Respondent, will again each have the opportunity to review and respond to the updated investigative report.

Adjudicator Findings

The trained Adjudicator will decide, upon a complete review of the investigative report and materials and based on a preponderance of the evidence, whether it is more likely than not that a violation of Policy has occurred. Preponderance of evidence means that the Adjudicator

is convinced based on the information provided that a violation of policy was more likely than not to have occurred.

If the Adjudicator determines that a violation has occurred, the Respondent is “Responsible” and the Adjudicator will then determine the appropriate sanctions. This determination should be made within ten (10) calendar days of receipt of the investigative report. If found “Not Responsible,” both Respondent and Complainant will be notified in writing of the outcome, rationale for the not responsible finding, and any related sanction or action (including communication of continued measure such as a no contact directive), as well as instructions about the right to appeal the outcome and/or sanction(s) to the Appeals Officer.

Range of Sanctions

Faculty, staff or administrators who are found in violation of the Policy Against Discrimination and Harassment or other College Policy are subject to disciplinary action, up to and including discharge. Students are subject to disciplinary action, up to and including suspension or expulsion. In any case, educational programming or alcohol/substance assessment may be required. Sanctions may include reassignment of work duties or location; reassignment of class meetings; reassignment of or removal from living accommodations; restrictions on contact with Complainant; access restrictions to College property and/or events, disciplinary probation, suspension or expulsion. More than one sanction may be imposed.

Guests and other persons who are alleged to have engaged in violation of College policy are subject to corrective action, which may include removal from campus, ban from campus, and/or termination of contractual arrangements. Vendors or other agencies in contract with the College will be promptly notified if any of their employees are alleged to have violated policy, and such employees may be banned from any or all college properties and may also be subject to action deemed appropriate by their respective employer. Restrictions regarding access to College property or events may also be imposed.

Regardless of how a matter proceeds in this process, remedies may be made by the College, such as reviewing protocol, providing or enhancing training to staff and/or students, issuing no-contact directives or access restrictions, or considering request for accommodations. Accommodation requests are reviewed on a case by case basis, and may include, but are not limited to, measures such as moving a student’s housing assignment, adjusting a campus work schedule, assisting with academic support, seeking extensions for assignment, or allowing a student to withdraw and/or retake a course without penalty.

Adjudicators

The role of the Adjudicator (or designee) is determined by the role of the Respondent

Adjudicator (or designee) Role of Respondent	Role of Adjudicator	Designee
Student Respondent	Interim Title IX Coordinator Madeline Camacho mcamacho@barnard.edu	Associate Dean of Student Life Emy Cardoza ecardoza@barnard.edu
Barnard College Faculty Respondent	Vice Provost for Academic Programs Saskia Hamilton shamilto@barnard.edu	Associate Provost, Budget & Planning Leslie Cawley lcawley@barnard.edu
Staff Respondent	Associate General Counsel & Interim Executive Director of Human Resources Kathleen Veteri kveteri@barnard.edu	Human Resources Representatives Terry Ann Waldron, Robin Beltzer, Alexcia Gayle or Benjamin Riendeau

Appeals

The Respondent and Complainant may request an appeal of the decision and sanctions rendered by the Adjudicator on one of the following three grounds:

1. The party believes a procedural error occurred, which the party feels may change or affect the outcome of the decision; Appeal to the Provost, Dean of the College or Human Resources
2. The party has substantive new evidence that was not available to the investigator at the time of the hearing and that may change the outcome of the decision;
3. The party feels that the severity of the sanction is substantially disproportionate given the details of the case.

Disagreement with the finding or sanctions is not, by itself, grounds for appeals.

The request for an appeal, including the grounds upon which the request is based, should be submitted in writing to the Appeals Officer (as identified in the outcome letter) within five (5) business days following the date on the outcome letter. Each party will be notified if an appeal request will be considered and be provided the opportunity to respond in writing.

However, in situations where the Respondent is a tenured/tenure track faculty member who has been sanctioned with either suspension or dismissal, the Respondent has the option to appeal the severity of the sanction to the Committee on Grievance in accordance with the *Code of Academic Freedom and Tenure*. In such instances, as above, the Complainant will also have the ability to respond to such appeal request.

Appeals will be conducted in an impartial manner by trained College officials without conflict of interest or bias for or against either party. The Appeals Officer can determine whether a change in the Adjudicator's decision is warranted. If a change in this decision is necessary, the Appeals Officer will review the appeal and Adjudicator's rationale and make a final decision. The appeals decision is final.

Appeals will not be reviewed or considered beyond the Appeals Officer (or designees). Appeals decisions will be rendered within ten (10) business days after the receipt of the formal request for appeal. Both parties will be notified in writing of appeal outcome.

Appeals Officers

The Appeals Officer is an administrator of the Respondent's area. The following administrators will serve as an Appeals Officer:

- If the Respondent is a student: Nikki Youngblood Giles, Interim Dean of Studies; designee: Jennifer Fondiller.
- If the Respondent is a faculty member: Linda Bell, Provost; designee: Leslie Cawley.
- If the Respondent is a staff member: Eileen Di Benedetto, Interim CFO and Vice President for Finance; designee to be determined.

Procedure Timeline

If the time frames outlined in this procedure cannot be met, the appropriate officer will notify the Complainant and Respondent in writing of the delay and will provide a date by which the appropriate undertaking will be completed.

While the Grievance Procedure is intended to establish guidelines for the proper evaluation of grievances it is sometimes neither possible nor advisable to adhere strictly to such guidelines. Therefore, provided that the parties to a grievance are afforded proper fair process – prior notice of the substance of the grievance, a fair and reasonable opportunity to present evidence and to respond to the grievance, and an opportunity to appeal a decision on the grounds provided herein – reasonable deviations from the process set forth herein shall be permitted

Generally, the timeline will be as follows:

- Inquiry completed within 5-10 calendar days after the initial report
- Investigation completed within 30-40 calendar days after the initial report (inclusive of inquiry)
- Adjudicator review the investigative report and materials with 5 calendar days of delivery

- Determination of the Adjudicator issued within 10 calendar days after receipt of investigative report
- Appeals due from either party within 5 business days following the date on the outcome letter
- Appeals decisions rendered within 10 business days after receipt of the formal request of appeal

Each of these steps is explained in greater detail within these procedures.

At any time during the Grievance Process, the Vice President for Human Resources, Provost or Dean of the College may take interim measures including, but not limited to, reassignment or suspension, if it is determined that circumstances require that such action be taken to protect the safety of individuals or property, or to minimize disruption to the operations of the College.

Retaliation

Any action by a member of the Barnard College community to penalize, intimidate, harass, or take adverse action against a person because of filing a report of discrimination or harassment, participating in an investigation, or otherwise asserting rights protected by non-discrimination laws is prohibited. Retaliation may be found even when the underlying report does not constitute discrimination or harassment in violation of policy.

Any person who believes that he or she has experienced retaliation for reporting discrimination or harassment, participating in an investigation, or for acting as an advocate should immediately contact the Title IX Coordinator or Human Resources. The College takes such reports seriously, investigates reports of retaliation, and takes strong disciplinary action against individuals found to have engaged in retaliation, as appropriate. All members of the College community are expected to cooperate with investigations of violation of this policy.

Complainant and Respondent Rights

The following rights are available to both parties in this process:

- To be treated with respect, dignity, and sensitivity throughout the process.
- To seek referrals for counseling and support services.
- To privacy and protection under the Family Education Rights and Privacy Act (FERPA), as applicable. The College will make all reasonable efforts to ensure preservation of privacy, restricting information to those with a legitimate need to know.
- To a prompt and thorough investigation of the allegations, investigated and, where applicable, adjudicated in an impartial, timely and thorough manner by trained individuals.
- To review applicable documents prior to the determining review by the Adjudicator.
- To discuss with the Executive Director for Equity (or VP Human Resources) concern regarding the individuals responsible for administering these procedures, if there is concern a conflict of interest is present.

- To discuss alternatives to procedures, where alternatives may be reasonable and acceptable to involved parties.
- To refrain from making self-incriminating statements. However, the Adjudicator will determine a resolution with the information available to him/her.
- To appeal the decision made and sanctions determined by the Adjudicator (or designee).
- To be notified of the case resolution – including the outcome of any appeal, if applicable.

Procedures effective: August 2015, reviewed August 2016

¹ A Complainant is the individual who files a report or the person who a report is filed on behalf of by another party. In some matters, the College may serve as the Complainant.

² A Respondent is the person against whom a report has been filed.

³ The Complainant and/or Respondent may sometimes be referred to as party or parties. Others, such as advisors and witnesses are not considered parties.

⁴ An “Adjudicator” is the College Official designated, and trained, for fair and impartial decision making based upon the position of the Respondent. The Adjudicator receives appropriate training in handling misconduct cases in a fair and impartial manner, as do Appeals Officers.

⁵ An advisor may be an individual who attends as a supportive presence. An advisor may be a member of the Barnard community not otherwise involved in the investigation. An advisor may take notes and quietly confer with the party being advised, but may not speak on behalf of the party or in any way disrupt any meeting or proceeding.