

# Equity Grievance Policy

## I. Policy Statement

Colgate is proud to be a community comprised of diverse individuals from all backgrounds. Colgate values the social and intellectual vibrancy that occurs when students, faculty and staff with different life experiences, viewpoints, and belief systems come together. This policy prohibits acts of discrimination, harassment, sexual assault and sexual exploitation, as well as domestic violence, dating violence and stalking. Any and all such acts are serious violations of our community values. This policy is a fundamental part of a Colgate community where all members can study, live, and work together in a community characterized by equal opportunity, inclusiveness, safety and mutual respect.

Colgate fully subscribes to all federal and state civil rights laws banning discrimination in private institutions of higher education. These include but are not limited to Title IX and Title VI of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Rehabilitation Act, the New York State Human Rights Law, and New York State Education Law Article 129-B. Colgate is committed not only to compliance with these laws but with promoting a community that lives out the values these equal opportunity laws envision.

## II. Policy Coverage

This policy sets forth behavioral expectations for all members of the Colgate community: students, faculty and staff. This policy applies to conduct that occurs on Colgate's campus or property and to all Colgate programs and sponsored activities. Non-community members (guests, alumni, vendors, parents, etc.) visiting our campus or participating in university programs or events are also expected to abide by the behavioral expectations set forth here. This policy also applies to off-campus conduct under certain circumstances. For example, it applies when students travel off campus as part of a university activity or team, or when employees travel on Colgate business.

Conduct that occurs off campus and not in connection with Colgate programs may violate this policy if the conduct creates a threatening or hostile environment on campus or within a Colgate program, or if the incident causes concern for safety or security of Colgate's campus.

A complaint that this policy has been violated will be addressed through the university's [Equity Grievance Process](#). The Equity Grievance Process applies regardless of the status of the parties involved, who may be students, student organizations, faculty, administrators, or staff. Complaints made by non-members of the Colgate community against students, student organizations, faculty, administrators, or staff are also subject to the Equity Grievance Process.

The associate provost for equity and diversity serves as Title IX Coordinator and oversees implementation of the Equity Grievance Process for responding to complaints of sexual harassment, sexual assault, discrimination, discriminatory harassment and other violations of this policy.

Inquiries may be made to:

Marilyn (“Lyn”) Rugg, Ph.D.  
Associate Provost for Equity and Diversity & Title IX Coordinator  
The Office of Equity and Diversity  
102 Lathrop Hall  
Colgate University  
13 Oak Drive  
Hamilton, NY 13346  
315-228-6161

### III. Definitions

#### A. Discrimination

Colgate University complies with all federal and state civil rights laws banning discrimination in private institutions of higher education. Colgate will not discriminate against any person because of race, color, sex, pregnancy, religion, creed, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, sexual orientation, gender identity and expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status, or any other protected category under applicable local, state, or federal law.

The term “discrimination” refers to an act that disadvantages a person and that occurs because of the affected individual’s race, color, sex, pregnancy, religion, creed, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, sexual orientation, gender identity and expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status, or any other characteristic protected by applicable law. This list is often referred to as “protected characteristics”. Examples of discrimination include but are not limited to denying a student a research opportunity because of the student’s race, disability, sexual orientation or other protected characteristic; giving a student a lower grade than deserved because of the student’s gender, military service, religion, or other protected characteristic; denying an employee a raise because of the employee’s age, marital status, or other protected characteristic.

#### B. Harassment

Harassment is unwelcome, offensive conduct that occurs on the basis of race, color, sex, pregnancy, religion, creed, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, sexual orientation, gender identity and expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status, or any other protected category under applicable local, state, or federal law. Sexual harassment is one form of harassment that is characterized by unwelcome conduct that is sexual in nature.

Harassing conduct can occur in various forms, including:

- i. Verbal - such as unwelcome sexually suggestive, demeaning, or graphic comments; using ethnic, racial, religious, or other slurs to refer to a person; or jokes or comments that demean a person on the basis of gender, race, color, religion, ethnicity, national origin, sexual orientation, gender identity or expression, age, or disability.
- ii. Physical - such as unwanted sexual contact; sexual intimidation through physical threats; physical threats toward or intimidation of another on the basis of gender, race, color, religion, ethnicity, national origin, sexual orientation, gender identity or expression, age, or disability.
- iii. Visual - such as exposing another person to unwanted pornographic images; creating or displaying racially, ethnically, religiously offensive pictures, symbols, cartoons, or graffiti.
- iv. Communication-based - such as phone calls, e-mails, text messages, chats, or blogs that offend, demean, or intimidate another on the basis of gender, race, color, religion, ethnicity, national origin, sexual orientation, gender identity or expression, age, or disability.

A determination as to whether harassment occurred depends on the totality of the circumstances, including the context of a communication or incident, the relationship of the individuals involved in the communication or incident, whether an incident was an isolated incident or part of a broader pattern or course of offensive conduct, the seriousness or severity of the incident, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual and the learning community. A “hostile environment” is created when the offensive behavior interferes with an individual’s ability to participate in the University’s programs (i.e., to work and to learn) when judged against a reasonable person standard. However, Colgate encourages individuals experiencing or witnessing offensive behavior to make a report as early as possible so as to have the situation corrected before it reaches the level of a hostile environment. Individuals with a concern need not worry about whether the behavior is sufficiently serious to constitute a hostile environment. The University reserves the right to remedy harassment pursuant to this policy even if the behavior in question does not rise to the level of legally recognized or actionable discrimination or harassment.

The fact that a person was personally offended by a statement or incident does not alone constitute a violation of this policy. The determination as to whether this policy has been violated takes into account the totality of the circumstances. Colgate considers the context of a communication or incident, the relationship of the individuals involved in the communication or incident, whether an incident was an isolated incident or part of a broader pattern or course of offensive conduct, the seriousness or severity of the incident, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual and the community.

In all instances, a key factor is whether the complained-of behavior occurred because of one of the protected characteristics listed here. If it did not, the behavior is not regulated by this policy.

Colgate also prohibits “quid pro quo” sexual harassment, which means “this for that” harassment. It is a violation of this policy for any person to condition any benefit (such as a

grade in a class, a research opportunity, a promotion, etc.) on submission to sexual activity. No person should believe that any other person -- no matter their position of authority -- has a right to require sexual activity in exchange for any benefit or advantage; they do not.

Faculty and administrators need to be especially sensitive to the power/authority relation in their interactions with students. Amorous relations between faculty and students, between administrators and students, or between coaches and students, contradict both professional ethics and this policy and are prohibited by Colgate.

### C. Sex Offenses

Sexual activity or contact must be based on ***mutual and affirmative consent*** to the ***specific activity or contact***.

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 the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. Whenever the word "consent" is used in this policy, it should be understood to mean affirmative consent as defined here.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to take reasonable steps to ensure that the other has consented before engaging in the activity.

A person cannot consent if that individual is incapacitated. Incapacitation is defined as a state where someone lacks the ability to knowingly choose to participate in a specific activity. Incapacity may be caused by the lack of consciousness, sleep, involuntary restraint, or other factors that prevent voluntary choice. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants may be incapacitated and therefore unable to consent. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. Consent is required regardless of whether the initiator is under the influence of alcohol or other drugs. It is not an excuse that the person initiating the sexual activity was intoxicated or incapacitated due to alcohol or other drugs and, therefore, did not realize the incapacity of the other.

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 dating relationship is not sufficient to constitute consent. Further, past consent to engage in sexual activity with any person cannot be presumed to be consent to sexual activity in the future with the same or a different person.

The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. A person can withdraw consent at any time during sexual activity by expressing in words or actions that they no longer want the act to continue. When consent is withdrawn or can no longer be given, the other person must stop immediately.

Consent cannot be given as result of coercion, intimidation, force, or threat of harm. In New York State, a minor (meaning a person under the age of 17 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 17 years old is a crime as well as a violation of this policy, even if the minor wanted to engage in the act.

Sex offenses occur between members of the same sex and the opposite sex. In all cases, the issue is not the gender or sexual preference of the individuals involved but rather the activity and whether the parties to the activity affirmatively consented to engage in it.

- i. Sexual Assault. Consistent with federal law, Colgate defines sexual assault as including:
  - a. Non-Consensual Sexual Intercourse. Sexual assault of this type includes the 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, forcibly or without affirmative consent or where the victim is incapable of affirmative consent due to mental or physical incapacity. This type of sexual assault also includes non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.
  - b. Non-Consensual Sexual Contact. This form of sexual assault includes any intentional touching, however slight, for purposes of sexual gratification or with sexual intent, of the private body parts (including genitalia, anus, groin, breast, inner thigh, or buttocks) of another person without affirmative consent. This may include non-penetrative acts, touching directly or with an object, and/or touching the private body parts of another over clothing. This may also include forcing or causing another without affirmative consent to touch one's own private body parts.
- ii. Sexual Exploitation: When one takes non-consensual sexual advantage of another. Examples of sexual exploitation include but are not limited to observing or recording others engaged in sexual or private activity (such as undressing or showering) without the consent of all involved; or taking intimate pictures of another but then distributing the pictures to others without the photographed person's consent or in a way that exceeds the bounds of consent; or exposing one's genitals in non-consensual circumstances; or engaging in sexual activity with another while knowingly infected with a sexually transmitted disease (STD) without informing the other person of such infection.
- iii. Dating Violence

Dating violence refers to violent behavior (including, but not limited to, sexual or physical abuse or the threat of such abuse) that is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. This can include behavior such as coercion, isolation or other forms of emotional, verbal or economic abuse if it reflects a threat of sexual or physical abuse as described above.

iv. Domestic Violence

Domestic violence refers to violent behavior (including, but not limited to, sexual or physical abuse or the threat of such abuse) between spouses, former spouses or intimate partners, cohabitating romantic partners or individuals who were formerly cohabitating romantic partners, individuals who share a child in common, individuals who are similarly situated to spouses and/or individuals who are protected from the other person's acts under the domestic or family violence laws of the jurisdiction in which the act of violence occurs.

v. Stalking

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress. Stalking behavior may include but is not limited to repeated, intentional following, observing or lying in wait for another; or using "spyware" or other electronic means to gain impermissible access to a person's private information; repeated, unwanted, intrusive, and frightening communications from the perpetrator by phone, mail, email, text, etc.; making direct or indirect threats to harm an individual or the individual's relatives, friends, or pets; damaging or threatening to damage the property of the targeted individual.

Acts of sexual harassment, sex offenses, dating violence, domestic violence and stalking may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation and/or gender identity of those involved. The issue in any case is not the gender or gender identity of the persons involved but the acts.

D. Hate Crimes

For the purpose of this policy, a "hate crime" is defined as violence to a person or damage to property (or a threat to do so) or any other criminal act that is motivated entirely or partly by hostility toward or intolerance of another's race, color, religion, creed, ethnicity, ancestry, national origin, sexual orientation, gender identity or expression, marital status, military or veteran status, age, disability, or any other personal characteristic protected by law.

The following example demonstrates the difference between a crime and a hate crime. A student who selects a car at random in a campus parking lot and smashes the windshield has committed criminal mischief. A student who is biased against Muslims and smashes a windshield because they know that the car belongs to a Muslim student has likewise committed criminal mischief. However, this second incident is also a hate crime because the student was motivated by anti-Muslim bias.

Federal and state laws prohibit hate crimes, and hate crimes often result in enhanced criminal penalties. Students who commit hate crimes are subject to criminal prosecution in addition to discipline pursuant to this policy. The criminal process is separate and distinct from this policy. The fact that a criminal complaint has been filed, prosecuted, or dismissed will not prevent Colgate from pursuing disciplinary action.

#### IV. Amnesty

The health and safety of every student at Colgate is of utmost importance. Colgate recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Colgate strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Colgate's officials or law enforcement will not be subject to Colgate's code of conduct action (including but not limited to action under this policy) for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

#### V. Responding to Incidents

Any person who has been subjected to a violation of this policy is encouraged to understand their options and to seek out the support they need.

##### A. Confidential Support Resources

Victims are encouraged to seek support for their emotional and physical needs. A person seeking confidential emotional or healthcare may contact the following resources.

Students may contact:

- [The Counseling Center](#), Conant House, 315-228-7385 or for an after-hours emergency, call Campus Safety at 315-228-7333 and ask to speak with the counselor on-call.
- [Haven](#), garden level of Curtis Hall, 315-228-74286.
- [Office of the Chaplains](#), garden level of the Memorial Chapel, 315-228-7682.
- [Student Health Services](#), 150 Broad Street, 315-228-7750.
- [Help Restore Hope Center](#), 24-hour hotline 855-966-9723.

Employees may contact:

- [Employee Assistance Program](#), 315-451-2161.
- [Help Restore Hope Center](#), 24-hour hotline 855-966-9723.

A report to a Confidential Resource listed above is *not* a report to the university and will not result in remedial action or an investigation or disciplinary action. Information shared with the university's Counseling Center, Student Health Center, and the university's chaplains will not be shared with the Title IX Coordinator or the EGP Panel, unless the reporting individual requests this. Confidential Resources are there to support emotional, physical and spiritual needs only; any person who desires for the university to take

investigatory/disciplinary action must make a report to one of the Responsible Administrators, listed below.

B. Responsible Administrators

The following offices and individuals have been trained to receive and respond to allegations of violations of this policy:

- Marilyn “Lyn” Rugg, Associate Provost for Equity & Diversity and Title IX Coordinator  
Office of Equity and Diversity  
102 Lathrop Hall  
315-228-7288  
[mrugg@colgate.edu](mailto:mrugg@colgate.edu)
- Tamala Flack, Director for EEO/AA  
Office of Equity and Diversity  
102 Lathrop Hall  
315-228-7014  
[tflack@colgate.edu](mailto:tflack@colgate.edu)
- Any Equity Grievance Panel member (list of members can be found [here](#))

If a report is made to anyone other than the Responsible Administrators listed above, the complainant risks the possibility that the information will not come to the attention of the proper University officials and may, therefore, not be acted upon.

- What happens after contacting a Responsible Administrator. A Responsible Administrator will discuss with the reporting individual available avenues and options. A reporting individual may be able to take advantage of multiple options simultaneously. Options include contacting local law enforcement (if the incident involves a crime) and/or a disciplinary proceeding against the accused and/or mediation, in appropriate circumstances. (See [Equity Grievance Process](#)). In situations where the reporting individual’s well-being requires, other options may include interim changes in class assignments, residence hall assignments, transportation arrangements, or work assignments to assist the reporting individual in not having to interact with the accused, or other measures to enhance the reporting individual’s safety, such as escorts or increased monitoring of an area. (See below Section iv. for a fuller explanation of possible interim actions.) The university will review the facts and circumstances of each case, as well the reporting individual’s wishes, in deciding whether and what steps are reasonable and appropriate.
- How information is shared within the university. A Responsible Administrator is *not* a confidential resource. However, even Colgate offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX

coordinator to investigate and/or seek a resolution and subject to other legal requirements. This is described further below.

- iii. How decisions about taking action are handled. A report to a Responsible Administrator often does, but need not necessarily, lead to an investigation or disciplinary action. The decision about what action(s) to take depends on many factors, including the reporting individual's wishes, particularly in cases of sexual misconduct. A reporting individual may make a report to a Responsible Administrator and request that the university take no investigatory or disciplinary action. The university endeavors to comply with reporting individuals' wishes with respect to whether responsive action is taken. However, that is not always possible, as the university must weigh the reporting individual's wishes against its obligation to provide a safe, non-discriminatory environment for all members of its community and meet other legal obligations.

If a reporting individual requests that no action be taken against the accused (i.e., no investigation or disciplinary action), the Responsible Administrator will consult with the Title IX Coordinator and/or the Director for EE/AA (for cases involving staff), and the appropriate EGP co-chair(s). The university's decision as to responsive action will depend on the seriousness of the offense, whether the accused has a history of violent behavior or is a repeat offender, whether the incident represents escalation in unlawful conduct from previously noted behavior, the risk that the accused will commit additional acts of violence, whether there was a single perpetrator or multiple, whether the accused used a weapon or force, whether the reporting individual is a minor, whether available information reveals a pattern of perpetration at a given location or by a particular group or organization, whether the circumstances otherwise suggest an ongoing or future risk to the campus community or the reporting individual, and similar considerations. A decision will be made and shared with the reporting individual. Ultimately, the university retains the right to act upon any information that comes to its attention.

Similarly, a reporting individual may desire that the university take other investigatory or disciplinary action, or both, but may wish to have their identity as the reporting individual kept confidential. Depending on the circumstances, this may or may not be possible. If any number of people could have reported the incident or if there are other means to obtain evidence (such as security footage), it may be possible for the reporting individual's identity to remain confidential and not shared with the responding individual.<sup>1</sup> However, in other cases, it may not be possible to proceed with investigatory or disciplinary action without revealing the identity of the reporting individual. If a reporting individual requests that their name be kept confidential (or if the reporting individual makes an anonymous complaint), the university's ability to respond to, and ultimately resolve, the complaint may be limited. The appropriate administrators will

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<sup>1</sup> When used in this process, the term "responding individual" includes an organization alleged to have committed violations that are subject to this process.

discuss the situation and the reporting individual's request for confidentiality, and a decision will be made and shared with the reporting individual. Ultimately, the university retains the right to act upon any information that comes to its attention in what it believes is the institution's best interests.

In its annual report of campus crime statistics, the university must also report statistics concerning the occurrence on campus of certain crimes, including certain sex offenses. This statistical report does *not* include any personally identifiable information concerning the victim or the accused. Similarly, if Colgate issues a timely warning pursuant to the Clery Act to warn the campus community about a perceived immediate threat, the warning issued will *not* include any personally identifying information concerning a victim.

Records concerning reports, investigations and disciplinary proceedings pursuant to this policy will be kept in private, secure files and only individuals with a legitimate right to know will be permitted access.

- iv. Interim actions may be available. Interim actions may be taken by the university to immediately respond to a situation while an investigation or disciplinary action is pending or ongoing. Interim actions may include but are not limited to:
1. Offering adjustments to academic deadlines and course schedules for students;
  2. Altering work arrangements for employees;
  3. Referral to counseling and health services or to the Employee Assistance Program;
  4. Providing campus escorts;
  5. Altering the housing situation of one or more of the involved students;
  6. Implementing no-contact orders directing the accused or responding individual to have no contact with the reporting individual;
  7. Imposing temporary suspensions from housing or the entire campus, pending the outcome of a disciplinary proceeding.

There is no time limit for making a report. However, the passage of time may make effective responsive action difficult. Further, if the responding individual is no longer a member of the university community, the university's ability to respond may be limited. Individuals with a concern are encouraged to make a report promptly.

***Please refer to the [Equity Grievance Process](#) for detailed information about Colgate's investigatory and disciplinary action. You may also [contact the Title IX Coordinator](#), [the Director for EEO/AA](#), or an [EGP Panel member](#) to discuss how the EGP Policy and Equity Grievance Process work. You need not disclose information about a specific incident in order to obtain general information about Colgate's policies and procedures.***

C. Law Enforcement

**Any person may call 911 or Campus Safety (315-228-7911) for immediate safety assistance. If you or someone else needs help, call for immediate assistance.** Campus Safety can also assist the individual in making a report of a crime to local law enforcement and/or contacting a Responsible Administrator to initiate the university's internal response mechanisms.

A victim of a crime is encouraged to, but is not required to, report the incident to local law enforcement and pursue criminal charges. The criminal process and the university's disciplinary processes are not mutually exclusive or dependent on each other, meaning that a person may pursue either a criminal complaint or university complaint or both. The fact that there is a criminal complaint filed will not prevent the university from taking its own internal investigatory and disciplinary action. However, in some cases, the university may delay temporarily the initiation of its internal processes while a law enforcement investigation is ongoing. Such delays will not last more than ten calendar days except when law enforcement authorities specifically request and justify a longer delay.

In criminal cases, the preservation of evidence is critical and must be done properly and promptly. For example, in cases of rape or other forms of sexual assault, it is important not to shower, change clothes and even brush your hair, as physical evidence may be lost. In cases of violence or physical abuse, it is important to document injuries, including by taking photographs. Campus Safety or the [Hamilton Police Department](#) (315-824-3311, or 911 in an emergency) can assist in filing a criminal complaint and in securing appropriate physical examination, including by a Sexual Assault Nurse Examiner.

Additionally, orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence by another person. Colgate will reasonably assist such individuals in obtaining available legal protections, provide a copy of any order of protection or similar document it receives to the parties affected by it, explain the order of protection or similar document and the consequences for violating it, call upon and assist local law enforcement in effecting an arrest for violation of the order of protection or similar document, and abide by all legally issued orders of protection or similar documents, including denying the restricted person access to Colgate's property, if necessary.

#### D. Public Awareness/Advocacy Events

If a member of the Colgate community discloses actions believed to constitute a violation of this policy through a public awareness event such as a candlelight vigil, a protest, a student organization or other event or forum, or other public event, Colgate is not obligated to begin an investigation. Colgate may, however, use the information to inform the need for additional education and prevention efforts.

### VI. **Retaliation**

Retaliation is defined as any adverse action taken against a person for participating in a protected activity. Retaliation against an individual for reporting a complaint or concern about a violation or suspected violation of this policy, supporting a reporting individual, or for assisting in providing information in the context of an investigation or disciplinary proceeding pursuant to this policy is a serious violation of Colgate's policy and will be subject to discipline pursuant to this policy and the EGP Process. Acts of alleged retaliation should be reported immediately to the associate provost for equity and diversity or to a member of the [Equity Grievance Panel](#) and will be promptly investigated. Colgate is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

### VII. **Disability Accommodations**

Colgate University is committed to full compliance with the Americans With Disabilities Act (ADA) and its amendments, Section 504 of the Rehabilitation Act of 1973, and the New York State Human Rights Law, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities.

The director for EEO/AA has been designated as the ADA Coordinator responsible for coordinating efforts to comply with these disability laws, including investigation of any employee complaint alleging noncompliance. The [Equity Grievance Process](#) covers claims of disability-related harassment and discrimination. Disability accommodation requests are handled separately from the Equity Grievance process.

Procedures for requesting accommodations are described elsewhere in the Faculty, Staff, and Student Handbooks. Employee requests for disability-related accommodations should be made to the employee's supervisor and/or the director for EEO/AA. Student requests for accommodations should be directed to the [director of academic support and disability services](#).

### VIII. **Role of Academic Freedom**

Colgate is a vibrant academic environment that encourages discussion of competing ideas both inside and outside the classroom and in both formal and informal settings. Consistent with the university's policy on academic freedom (Section III.B of the *Faculty Handbook*), Colgate's harassment policy is not meant to inhibit or prohibit germane educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters. Ideas offered in the course of respectful, responsible teaching, learning, working and academic debate are not violations of this policy.

## **IX. Conflict of Interest**

In the event that any person assigned a role pursuant to this policy is aware of any relationship, fact, circumstance or occurrence that he or she reasonably believes creates or constitutes a conflict of interest that would render him or her incapable of performing the role in an impartial manner, that person shall identify the conflict of interest to the associate provost for equity and diversity at the earliest practicable time. Similarly, any reporting individual or responding individual who objects to the participation of any person assigned a role pursuant to this policy based upon such a conflict of interest shall identify the conflict of interest to the associate provost for equity and diversity at the earliest practicable time. Any objection to the participation of any person based on a claimed conflict of interest that is not timely identified in accordance with this paragraph shall be deemed waived for all purposes.

## **X. Designation of Authority**

Any person assigned a role pursuant to this policy may designate their authority, or the associate provost for equity and diversity may require reassignment of such authority, to another appropriate person to avoid conflicts of interest or in other circumstances, as deemed necessary.

## **XI. Policy Enforcement**

The person responsible for the implementation of this policy internally is:

Marilyn "Lyn" Rugg, Ph.D.  
Associate Provost for Equity and Diversity & Title IX Coordinator  
The Office of Equity and Diversity  
102 Lathrop Hall  
Colgate University  
13 Oak Drive  
Hamilton, NY 13346  
315-228-6161

Inquiries and complaints may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline #: 800-421-3481  
Facsimile: 202-453-6012 TDD#: 877-521-2172  
E-mail: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

# Equity Grievance Process for Resolving Complaints of Harassment and Discrimination

## I. Introduction

This policy provides procedures for the investigation and adjudication of violations of the [Equity Grievance Policy](#). Complaints of discrimination, harassment, sexual harassment, sexual exploitation, sexual assault, domestic violence, dating violence, and stalking will be handled internally through the Equity Grievance Process outlined below.

## II. Equity Grievance Panel (EGP)

Members of the Equity Grievance Panel (EGP) are announced in an annual distribution to campus. The list of members and a description of the panel can be found [here](#). Members of the EGP are trained in all aspects of the grievance process:

- To provide sensitive intake and initial counseling of complaints,
- To serve in a mediation role in conflict resolution,
- To investigate complaints,
- To act as advisers to those involved in complaints,
- To serve on hearing panels for complaints, and
- To serve on appellate panels.

EGP members also recommend proactive policies, and serve in an educative role for the community. The president in consultation with the associate provost for equity and diversity appoints the panel, which reports to the associate provost for equity and diversity. In selecting panel members, the president will consider their integrity, respect from the community, and approachability by various campus populations. EGP members receive annual training organized by the associate provost for equity and diversity, including a review of Colgate policies and procedures so that they are able to provide accurate information to members of the community. All EGP members are required to attend this annual training, which includes issues related to sexual assault, dating violence, domestic violence, and stalking, the effects of trauma, impartiality and the rights of the reporting and responding individuals<sup>2</sup> (including the right to a presumption that the responding individual is “not responsible” until a finding of responsibility is made pursuant to the applicable provisions of this Equity Grievance Process), as well as how to conduct an investigation and a hearing process that protect the safety of all parties and promote accountability. All administrative advisers and on-call staff also undergo training with the panel regardless of whether they are formally appointed to the panel. Additional advanced training in investigation protocol and the appellate process is provided annually to subsets of the EGP members who serve as investigators or appellate panel members for complaints covered by the Equity Grievance Policy.

The panel includes:

- Three co-chairs: one a member of the faculty, the second an administrator, and the third the disciplinary officer who serves as co-chair for cases involving student respondents
- At least five members of the faculty, including at least four who are tenured

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<sup>2</sup> When used in this process, the term “responding individual” includes an organization alleged to have committed violations that are subject to this process.

- At least three members of the administrative staff
- At least three members of the support/technical staffs
- At least two representatives from the Office of Campus Safety

Panel members are usually appointed to three-year terms.

Individuals who are interested in serving on the panel are encouraged to contact the associate provost for equity and diversity.

### III. Filing a Complaint

Any member of the community, guest, or visitor who believes that the Equity Grievance Policy has been violated should contact:

- A member of the EGP (list available [here](#))
- Tamala Flack, director for EEO/AA  
The Office of Equity and Diversity  
102 Lathrop Hall  
315-228-7014  
[tflack@colgate.edu](mailto:tflack@colgate.edu)
- Marilyn “Lyn” Rugg, associate provost for equity and diversity & Title IX Coordinator  
The Office of Equity and Diversity  
102 Lathrop Hall  
315-228-7288  
[mrugg@colgate.edu](mailto:mrugg@colgate.edu).

These individuals are considered Responsible Administrators, meaning that they have a responsibility to respond to reports of violations of the Equity Grievance Policy. It is also possible for employees to notify a supervisor, or for students to notify an administrative adviser, or any member of the community may contact Campus Safety. Any individual who reports a case of sexual assault, dating violence, domestic violence, or stalking, whether the offense occurred on or off campus, will be provided with a written explanation of their rights and options under the university’s Equity Grievance Policy.

The Colgate website also includes an [online form for reporting an incident or concern](#). This form may be submitted anonymously. Although Colgate endeavors to investigate all reports, including anonymous reports, the nature of anonymous reports makes investigation, determination, and responsive action more difficult and, at times, impossible. If a name and contact information are provided, a Colgate administrator may follow up on the report. Faculty and administrators who receive firsthand, or other credible and specific reports of violations are expected to promptly contact an EGP co-chair or the associate provost for equity and diversity.

There is no formal time limitation on the bringing of a complaint, as long as the accused individual is a member of the campus community and/or remains subject to its jurisdiction (as described below), but prompt reporting is very strongly encouraged. The associate provost for equity and diversity may exercise discretion in handling complaints when substantial time has passed since an alleged incident. The university aims to complete all investigations within a 60-calendar-day time

period, which can be extended as necessary for appropriate cause by the associate provost for equity and diversity.

#### **IV. Complaint Intake**

Following receipt of notice of a violation or of a complaint, the reporting individual is promptly given the opportunity to select an EGP member or other individual of their choice to serve as their adviser throughout the EGP process, including during all meetings and hearings related to such process. The reporting individual is also provided a document delineating their rights, resources, and options for reporting, including the right to make a report to Campus Safety, to local law enforcement, to the state police, or a combination thereof, or to choose not to report, to be protected from retaliation for reporting an incident, and to receive support and resources through Colgate or other community organizations.

An initial determination is made by the associate provost for equity and diversity as to whether a policy violation may have occurred and/or whether conflict resolution might be appropriate. If the complaint does not appear to allege a policy violation or if conflict resolution is agreed to by the involved parties and appears appropriate given the nature of the alleged behavior, then the complaint does not proceed to investigation. In making a decision as to whether to proceed to investigation, the associate provost for equity and diversity also considers the wishes of the reporting individual. A full investigation will be pursued if there is evidence of a pattern of misconduct or a perceived threat of further harm to the community or any of its members.

#### **V. Investigation**

In cases where the associate provost for equity and diversity determines that a complaint appears to allege a policy violation, and the reporting individual wishes to pursue a formal complaint or the associate provost for equity and diversity decides that the university, based on the alleged policy violation, wishes to pursue a formal complaint, then the associate provost for equity and diversity appoints EGP member(s) who do not have a conflict of interest to conduct the investigation. The university reserves the right to consult with legal counsel throughout the complaint resolution process and, in exceptional cases, to utilize external investigators. Investigation of complaints brought directly by those alleging harm will be completed as expeditiously as possible. Investigation may take longer when (among other things) initial complaints fail to provide direct firsthand information or when the university is not in session. The university may, but shall not be obligated to, delay the institution of its processes when criminal charges on the basis of the same behaviors that invoke this process are being investigated. Such delays will not last more than ten calendar days except when law enforcement authorities specifically request and justify a longer delay. University action will not be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

The responding individual will receive notice, in advance of any interview or other meeting they are required or entitled to attend, of the EGP investigation including the date, time, location and factual allegations concerning the violation, the specific policy provisions alleged to have been violated, and the possible sanctions. The responding individual will also be notified of their right to select an EGP member or other individual of their choice to serve as their adviser throughout the EGP process, including during all meetings and hearings related to such process.

During the investigation, which is an impartial fact-finding process, the reporting individual and the responding individual will have an equal opportunity to share information and request that witnesses be interviewed. In the absence of their consent, the reporting individual and responding individual will *not* be interviewed together or be required to meet. The investigator(s) retains discretion to determine how to conduct the investigation and what information is necessary and relevant.

The university may withhold a student's degree and/or diploma for a specified period of time and/or deny a student participation in commencement activities if the student is the subject of a pending complaint or investigation, or has disciplinary charges pending.

## **VI. Interim Remedies**

Initial or interim remedies may be taken, in appropriate circumstances. The appropriate co-chair will determine such remedies as are necessary to protect the safety or well-being of any member(s) of the campus community. Initial or interim remedies are intended to address the immediate and ongoing effects of harassment, discrimination, sexual assault, sexual exploitation, domestic violence, dating violence, stalking, retaliation, or to prevent further harm to the alleged victim and to prevent further violations. These remedies may include referral to counseling and health services or to the Employee Assistance Program, education to the community, altering the housing situation of one or more of the involved students, altering work arrangements for employees, providing campus escorts, implementing contact limitations between the parties, offering adjustments to academic deadlines, course schedules, etc. In circumstances where the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on campus of the accused individual or the ongoing activity of a student organization whose behavior is in question, the university may, for the interim, suspend a student, employee (with or without pay), or organization pending completion of the EGP investigation and procedures.

Both parties will, upon request, be afforded the opportunity for a prompt review of the need for interim or accommodative measures, including the potential modification of these measures. The request for review of interim or accommodative measures should be made to the associate provost for equity and diversity and may be made at any time. The parties will each be allowed to submit evidence in support of, or in opposition to, the request. The associate provost for equity and diversity will determine if the requested modifications are appropriate, and will advise the parties accordingly. This determination is not subject to further review absent changed circumstances.

## **VII. Complaint Resolution**

Once an investigation is completed, the investigator(s) will meet with the associate provost for equity and diversity and the appropriate EGP co-chair. Based on that meeting, the associate provost for equity and diversity will make a decision as to whether the results of the investigation warrant proceeding with the complaint process. If the associate provost for equity and diversity determines that the alleged incident is more properly handled pursuant to another university policy or procedure, the associate provost will direct the matter to the appropriate procedure or personnel.

The EGP process is not meant to serve as substitute judgment of competency or performance; the function of the EGP process is to determine whether processes and criteria used in arriving at judgments of competency or performance were consistent with the university's policies regarding

harassment and nondiscrimination. In particular, the EGP process does not substitute for appeals processes specified under other university policies (such as appeals of personnel decisions or student requests for grade reviews), but going through a review or appeal under another policy does not preclude access to the EGP process for claims of discrimination or harassment.

If the associate provost for equity and diversity determines that the allegations and available information warrant a continuation of the process, then the associate provost may recommend conflict resolution, or may direct the complaint for a resolution without a hearing, or a formal hearing, based on the below criteria. If the associate provost for equity and diversity determines that continuing with the complaint process is not warranted, the process will end, and the reporting individual and responding individual will be so informed. This notice will include findings of fact and the rationale for the determination.

In cases involving allegations of sexual assault, dating violence, domestic violence or stalking, a party may appeal a determination to end the process at this juncture within ten calendar days of the delivery of this notification. The appeal will be considered by an appellate panel comprised of (a) the provost and an EGP member designated by the Title IX Coordinator in cases in which the responding individual is a member of the faculty or staff, or (b) the Dean of the College and an EGP member designated by the Title IX Coordinator in cases in which the responding individual is a student. The appellate panel's discretion shall be limited to determining whether, based on the results of the investigation, the process should end or be continued as described above. In the event that the appellate panel determines that the process should end, the parties shall be so notified. In the event that the appellate panel determines that the process should continue, the matter will be referred back to the associate provost for equity and diversity for further action.

Conflict Resolution: Conflict resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal process to resolve conflicts. The associate provost for equity and diversity will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, an EGP member will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies, in which case the complaint is resolved. The associate provost for equity and diversity will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions. Conflict resolution will not be used to address complaints of sexual assault or violent behavior of any kind or in other cases of serious violations of policy. It is not necessary to pursue conflict resolution first in order to make a formal EGP complaint, and anyone participating in conflict resolution can stop that process at any time and request a formal process.

Resolution without a Hearing: In cases where the alleged violations, and therefore the range of possible sanctions, are minor (such as probation for students or a written warning for an employee) the appropriate co-chair may make a decision as to responsibility using a preponderance of the evidence standard and may implement a sanction, with a statement of the findings of fact and rationale for the sanction. In cases involving allegations of sexual assault, dating violence, domestic violence or stalking, a reporting individual or responding individual may appeal the finding, sanction, or both, using the appeal process described in the Formal EGP Procedure (below). In other cases, a reporting individual or responding individual dissatisfied with the sanction may request reconsideration of the sanction (but not the finding of responsibility) in writing within five calendar days of notification of the sanction to the associate provost for equity and diversity, who will determine whether to uphold or modify the sanction.

In cases where the alleged behavior is of a nature that may warrant the imposition of a sanction of suspension, dismissal or termination of employment, or are otherwise not appropriate for direct imposition of sanction as set forth above, the matter will normally proceed to a formal hearing.

Formal Hearing: In any cases that are not appropriate for conflict resolution and are not resolved without a hearing, the associate provost for equity and diversity will initiate a formal hearing. In cases where individuals bring charges against each other arising out of the same incident or set of circumstances, the associate provost for equity and diversity has the discretion, if and to the extent permitted by applicable law (including without limitation the federal Family Educational Rights and Privacy Act), to determine whether the cases will be heard jointly as a single case.

## **VIII. Formal EGP Procedure**

- a. Hearing Panel Membership: The associate provost for equity and diversity will appoint a non-voting panel chair (either one of the EGP co-chairs or the Disciplinary Officer, depending on whether the responding individual is a faculty member, other employee, or student) and three members of the EGP to the hearing panel who do not have a conflict of interest in the case. EGP members who served as investigators or as advisers to the reporting individual or responding individual may not serve as voting hearing panel members. Hearing panels will include both faculty and non-faculty employees. The panel will meet at times determined by the chair.
- b. Notification of Charges: At least one week prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the designated hearing panel chair will send a letter to the parties stating the following:
  1. A description of the alleged violation(s) (including, to the extent known, the date, time, location and factual allegations, and a reference to the specific Colgate policy provision(s) alleged to have been violated); a description of the applicable procedures; and the sanction or sanctions that could be imposed.
  2. The time, date, and location of the hearing. If any party does not appear at the scheduled hearing, the hearing will be held in absentia. For compelling reasons, the hearing panel chair may reschedule the hearing.
  3. The right to an adviser. The parties may have the assistance of one EGP member, or one other adviser of the party's choice, at the hearing.
  4. A reminder that retaliation against an individual for reporting a complaint, for supporting a reporting individual, or for assisting in providing information in the context of an investigation or disciplinary proceeding is a serious violation of Colgate's policy and will be subject to further disciplinary action.
- c. Hearing Procedures: EGP Hearings will generally be convened, when practicable, within one to two weeks of the completion of the investigation, and will be conducted in private. The hearing panel has the authority to hear all collateral misconduct, meaning that it hears all allegations of discrimination, harassment, and retaliation, but also may hear any allegations of additional conduct or policy violations that are alleged to have occurred as part of the same set of circumstances as the alleged discrimination, harassment, or retaliation, even though those collateral allegations may not otherwise fall within EGP jurisdiction. Accordingly, investigations should be conducted with as wide a scope as necessary. Final determination of whether the EGP hearing will deal

with responsibility/sanctions for collateral misconduct will be made jointly by the associate provost for equity and diversity and the appropriate co-chair.

Participants will include the non-voting chair, the three members of the panel, the investigator(s) who conducted the investigation on the complaint, the reporting individual(s) and responding individual(s) (or up to three organizational representatives in a case where an organization is charged), advisers to the parties, and any called witnesses. Prior to the hearing (or, if prior exchange is not feasible, at commencement of the hearing), the parties will submit to the chair the names of all witnesses the party intends to call and a brief description of the subject(s) about which the party believes the witness has relevant information. The chair will exclude the name of any witness the chair deems unnecessary.

The chair will share with all parties the names of all witnesses whom the chair has approved to be called (and/or from whom a written statement will be accepted), and all relevant and available documentary information. The chair may decide that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the investigator(s) during the hearing. The chair of the hearing is in charge of organizing the presentation of information to be considered by the hearing panel.

If desired, the reporting individual and the responding individual will have a reasonable opportunity to present facts and arguments and to present questions through the chair, or otherwise if determined by the chair, to witnesses appearing before the hearing panel. If alternative appearance mechanisms are desired (screens, Skype, etc.), the parties should request them from the chair at least five calendar days prior to the hearing. Neither party (reporting individual nor responding individual) is required to attend, and, if either or both fail or decline to attend, the hearing will be held in that person(s)' absence. The chair may allow a party to submit a written statement in lieu of attendance and/or the chair and panel may rely on the party's statements as gathered in the investigation and presented at the hearing by the investigator(s).

The reporting individual and responding individual may have present with them during the hearing an adviser of choice. The adviser's role is limited to consulting with their advisee. The adviser may not speak during the hearing, object to any aspect of the proceeding, or disrupt the hearing in any way, and any consultation with the advisee while the hearing is in progress must be done in writing only. The adviser may consult with the advisee verbally outside the hearing during breaks, when such breaks are requested and granted by the chair. If the chair determines that an adviser is not adhering to these or other ground rules, the adviser will be expelled from the hearing, and the hearing will continue without opportunity for the party to secure a new adviser.

The chair will explain procedural ground rules at the outset of the proceeding, and the chair may impose additional ground rules as may be reasonably necessary for the orderly and efficient progress of the proceeding. Once the procedures are explained and the participants are introduced, the chair may call the investigator(s) to present the report of the investigation. If asked by the chair or EGP panel to do so, the investigator may offer an assessment to the evidence and credibility, and the investigator(s) may be asked to respond to questions posed by the chair or EGP panel members. The investigator(s) may be present during the entire hearing process. The findings of the

investigation and the investigator(s)'s findings, assessments of the evidence, or credibility are not binding on the panel, though any undisputed conclusions of the investigation report will not be revisited, except as necessary to determine sanctions/responsive actions or as determined necessary by the chair.

Formal rules of evidence will not apply. Any information that the chair and panel believes is relevant and credible may be considered, including hearsay, history and information indicating a pattern of behavior (except as otherwise expressly prohibited by this policy).

The chair will address any concerns regarding the consideration of information prior to and/or during the hearing and may exclude irrelevant or immaterial information. The chair will have discretionary authority to determine all questions of procedure, including but not limited to the method by which questions will be posed to parties, including the method by which a party will be allowed to pose questions to be answered by the other party, the investigator, or any witness. The chair is also empowered to determine whether particular questions, evidence or information will be accepted or considered, including whether a particular witness will or will not be called and, if called, the topic(s) that the witness or the parties will be permitted to address. Anyone appearing at the hearing to provide information will present and respond to questions on their own behalf and not through anyone else.

Unless the chair determines it is appropriate, no one will present information or raise questions concerning: (1) incidents not directly related to the possible violation unless they show a pattern, or (2) the character of the reporting individual or responding individual. Each party shall have the right to exclude from consideration during the hearing, for purposes of determining responsibility, the party's sexual history with persons other than the other party, their mental health diagnosis, or mental health treatment. Prior disciplinary violations and character information may be considered for purposes of assessing sanctions (if applicable) as and to the extent provided below.

Where issues of competency or job performance are concerned, the hearing panel will not substitute its judgment of competency or performance for the judgment of appropriate officials; the function of the hearing panel is to determine whether those policies, processes, and criteria used in arriving at judgments of competency or performance were consistent with the university's policies regarding harassment and nondiscrimination.

There will be no observers. The chair may allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the panel or the persons involved.

Hearings are recorded for purposes of review in the event of an appeal. EGP members, the parties, and appropriate administrative officers of the university will be allowed to listen to the recording in a location determined by the associate provost for equity and diversity or designee. No person will be given or be allowed to make a copy of the recording without permission of the associate provost for equity and diversity. Recordings will be preserved and maintained by the university for a minimum of five years.

Hearings are private. Observers, other than the parties' advisors, are not allowed. Hearings involve the discussion of sensitive, private topics. Therefore, any person present for any part of the hearing is encouraged to use discretion in discussing the hearing with uninvolved parties. Panel members are required to treat the hearing as completely confidential.

- d. Decisions: The hearing panel will deliberate in closed session to determine whether the responding individual is responsible or not responsible for the violation(s) in question. The panel will base its determination on a preponderance of the evidence (i.e., whether it is more likely than not that the responding individual committed each alleged violation). If a responding individual is found responsible by a majority of the panel, the panel will determine appropriate sanctions.
- e. Sanctions: If the hearing panel determines that the responding individual is responsible for the violation(s) in question, it moves to a consideration of sanctions. At that time, written impact statement(s) from the reporting individual(s)/victim(s) and responding individual(s) and up to two character reference letters submitted on behalf of each party will be introduced into consideration, and sanctions will be determined by the hearing panel. Factors considered when determining a sanction may include:
  - The nature, severity of, and circumstances surrounding the violation;
  - An individual's or organization's previous disciplinary history;
  - Previous complaints or allegations involving similar conduct;
  - The need for sanctions to bring an end to the discrimination, harassment, and/or retaliation;
  - The need for sanctions to prevent the future recurrence of discrimination, harassment, and/or retaliation;
  - The need to remedy the effects of the discrimination, harassment, and/or retaliation on the victim and the community;
  - The standards in the Student Handbook section on System of University Standards and Student Conduct for an organization to be held collectively responsible for actions of its members; and
  - Any other factors deemed relevant by the hearing panel.

#### Student and Student Organization Sanctions

The following are the sanctions that may be imposed upon students or organizations singly or in combination:

- **Warning**: A formal statement that the behavior was unacceptable and a warning that further infractions of any university policy, procedure, or directive will result in more severe disciplinary action.
- **Probation**: A written reprimand for violation of the policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any university policy, procedure, or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders, and/or other measures deemed appropriate.

- Suspension: Termination of student or organizational status for a definite period of time and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at Colgate.
- Expulsion: Permanent termination of student status or indefinite revocation of university recognition of organizational status.
- Withholding Diploma: The university may withhold a student's degree and/or diploma for a specified period of time and/or deny a student participation in commencement activities.
- Revocation of Degree: The university reserves the right to revoke a degree awarded from the university for fraud, misrepresentation, or other violation of university policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- Other Actions: In addition to or in place of the above sanctions, the hearing panel may assign any other sanctions as deemed appropriate, including but not limited to the following:
  - a. Mandated counseling so a student has the opportunity to gain more insight into his/her behavior.
  - b. "No contact" directive (including but not limited to continuation of a no contact directive imposed as an interim measure): a prohibition against having contact with one or more identified persons, in person or through telephonic, electronic, written or other means. A no contact directive may include additional restrictions and terms.
  - c. Apology: Requiring the student or organization to write a letter of apology to those involved.
  - d. Campus or Community Service: Requiring unpaid service to the university or area community stated in terms of type and hours of service.
  - e. Restitution: Reimbursement for damage to or misappropriation of property, or for personal injury, and other related costs.
  - f. Housing related sanctions:
    - i. Loss, revocation or restriction of privilege (e.g., exclusion from specified locations or alteration of status in the housing lottery or other selection system) to live in university housing.
    - ii. Loss, revocation or restriction of off-campus living privileges.
  - g. Monetary Fines.

For those crimes of violence that the university is required by federal law to include in its Annual Security Report, the transcripts of suspended or expelled students found responsible after a hearing and appeal, if any, shall include the notation "Suspended after a finding of responsibility for a code of conduct violation" or "Expelled after a finding of responsibility for a code of conduct violation". Transcript notations for suspensions may be removed at the discretion of the registrar in consultation with the associate provost for equity and diversity, but no earlier than one year after the conclusion of the suspension. Transcript notations for expulsion shall not be removed.

### Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include warning, required counseling as a condition of continued employment or return to employment, demotion, suspension with pay, suspension without pay, and termination.

### Other Remedial Actions

In appropriate cases, the university may take other steps as may be necessary to correct the effects of or prevent further discrimination or harassment (e.g., banning an individual from campus, changing housing assignments, arranging for the retaking of an exam, removal or reversal of a discriminatory performance evaluation, etc.).

- f. Notification of Outcome: The parties will receive simultaneous written notification of the outcome of the hearing without a commitment to protect the confidentiality of the outcome. It shall be the decision of each party whether that party will disclose or discuss the outcome of any hearing or appeal. The notification will include written notice of the findings of fact, the decision and (if applicable) the sanction, as well as a rationale for the decision and (if applicable) the sanction and information with respect to appeal procedures.

g. Withdrawal or Resignation While Charges Pending

Students: The university reserves the right to not permit a student to withdraw, and to place a hold on the release of a student's transcript, if that student has an investigation or charges against them pending for violation of the Equity Grievance Policy or for charges under the Code of Student Conduct. Should a student decide to leave and not participate in the investigation and/or hearing, the university may opt to proceed in absentia to a reasonable resolution and that student will not be permitted to return to Colgate unless all sanctions have been satisfied. If a student withdraws while subject to a complaint, investigation or charges based upon alleged conduct constituting a crime of violence that the university is required by federal law to include in its Annual Security Report, the transcript of the student shall include the notation "Withdrew with conduct charges pending."

Employees: Should an employee resign while charges are pending, the personnel records of that employee will reflect that status. As may be necessary and appropriate, the associate provost for equity and diversity will act promptly and effectively to remedy the effects of the conduct upon the victim and the community.

- h. Appeal: A reporting individual or responding individual may appeal the result of any formal hearing, or a resolution without a hearing in cases involving allegations of sexual assault, dating violence, domestic violence or stalking, as described in this section. All such appeals must be submitted in writing within ten calendar days of the delivery of the written findings of the hearing panel or co-chair, as applicable. Appeals in cases in which the responding individual is a member of the faculty or staff shall be submitted to an appellate panel comprised of the provost and an EGP member designated by the Title IX Coordinator. Appeals in cases in which the responding individual is a student shall be submitted to an appellate panel comprised of the Dean of the College and an EGP member designated by the Title IX Coordinator. Any party may appeal a decision, but only on the basis of one or more of the following grounds:
- A procedural error or omission occurred during the EGP hearing which, based upon the entire record, is reasonably likely to have changed the outcome of the hearing or resolution without a hearing (e.g., substantiated bias, material deviation from established procedures, etc.); or

- New information, unavailable during the EGP hearing, resolution without a hearing or investigation, has come to the attention of one of the parties or the EGP co-chair which, had it been known at the time of the hearing or resolution without a hearing, and based upon the entire record, is reasonably likely to have changed the outcome of the hearing or resolution without a hearing, or the nature or severity of any sanction that may have been imposed; or
- Any sanction imposed is disproportionate to the nature or severity of the violation or violations.

Any appeal must include a clear statement of the nature of any claimed procedural error or new information, or the basis of any claim of disproportionality. In the case of a claimed procedural error or new information, the appeal must also include a statement of the likely impact of the claimed error or newly discovered information on the proceedings.

In the event of an appeal by any party, all parties and the chair of the EGP hearing panel or appropriate EGP co-chair (in cases involving resolution without a hearing) shall be notified that the appeal has been submitted and shall have a reasonable opportunity to respond to the appeal in a manner determined by the appellate panel. The decision will be sustained if the appeal is not timely or is not made on the basis of one or more of the grounds listed above, or the appellate panel concludes that the grounds for appeal are not supported by the record as a whole. Any decision that is not appealed, or that is sustained on appeal, is final. The appellant shall have the burden of establishing, by a preponderance of the evidence, that one or more of the grounds for appeal are meritorious, and any party may also attempt to show that this burden has not been met.

Additional principles governing appeals are the following:

- Because the appellate panel has not heard the evidence directly, deference must be given to the EGP hearing panel or appropriate co-chair, as applicable, on evidentiary matters and the appellate panel must sustain the decision unless one of the three grounds for appeal listed above has been established.
  - In the event that the appellate panel determines that the appellant has met the burden of establishing that one or more grounds for appeal have merit, the appellate panel has discretion to take action consistent with that determination. That may include, without limitation, in the case of procedural error or new information, remanding the case in whole or in part to the original hearing panel or (in cases involving resolution without a hearing) the co-chair, remanding the case in whole or in part to a new hearing panel and, in the case of disproportionality of a sanction, modifying that sanction as appropriate.
  - Once an appeal of a case is concluded no further appeals are allowed, except to the extent that one or more parties seek review of proceedings ordered by the appellate panel on remand. Sanctions imposed are implemented immediately unless the appellate panel stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- i. Records: In implementing this policy, records of all complaints, resolutions, and hearings will be kept by the associate provost for equity and diversity. Others will have access to the records only on a need-to-know basis. Except as required by law, no public release of such records may be made until a final determination is made (i.e., when no

appeal of the decision of the hearing is sought, or in the event of an appeal, when the decision of the appellate panel is communicated to the parties). Any such release shall be made in accordance with any applicable Colgate policy and federal and state laws.

## **IX. Statement of Rights**

All students have the right to:

1. Make a report to local law enforcement and/or state police.
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously.
3. 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 pressure by Colgate.
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available.
6. 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.
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident.
8. Be protected from retaliation by Colgate, any student, the accused and/or the responding individual, and/or their friends, family and acquaintances within the jurisdiction of the university.
9. Access to at least one level of appeal of a determination.
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or responding individual throughout the judicial or conduct process including during all meetings and hearings related to such process.
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of Colgate.

In addition:

A reporting individual has the right:

- To be treated with respect by university officials.
- To experience a safe living, educational, and work environment.
- To take advantage of campus support resources (such as Counseling & Psychological Services, the Office of the Chaplains, and University Health Services for students, or EAP services for employees), and to receive courteous, fair and respectful treatment.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To receive amnesty for minor student misconduct (such as minor alcohol violations) that is ancillary to the incident.
- To attend in person or via speakerphone or videoconference any hearing in which the reporting individual is bringing the charge and to be shielded, to the extent practicable, from the responding individual during the hearing if so desired.

- To receive written notification of the outcome/resolution of the complaint, including a statement detailing the factual findings supporting the determination and the rationale for the sanction imposed.
- To have complaints heard in substantial accordance with these procedures.

A responding individual has the right:

- To be treated with respect by university officials.
- To experience a safe living, educational, and work environment.
- To take advantage of campus support resources (such as Counseling & Psychological Services, the Office of the Chaplains, and University Health Services for students, or EAP services for employees), and to receive courteous, fair and respectful treatment.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To attend in person or via speakerphone or videoconference any hearing in which the responding individual is charged and to be shielded, to the extent practicable, from the reporting individual during the hearing if so desired.
- To receive written notification of the outcome/resolution of the complaint, including a statement detailing the factual findings supporting the determination and the rationale for the sanction imposed.
- To have complaints heard in substantial accordance with these procedures.

## **X. Application of these Procedures**

The procedures described below will apply to all complaints involving students, staff, or faculty members, and any person, including a non-community member, may make a complaint against a student, staff or faculty member pursuant to this policy. However, if a reporting individual is a member of a bargaining unit whose collective bargaining agreement requires an alternate procedure for the resolution of harassment or discrimination complaints, the complaint will be processed pursuant to the collective bargaining agreement.

A complaint against non-community members will be handled and addressed as the associate provost for equity and diversity deems appropriate. However, in all such cases, the associate provost for equity and diversity will ensure that the matter is appropriately investigated and that appropriate responsive action is taken, up to and including banning the non-community member from Colgate property. If the accused is an accepted but non-matriculated student, the university usually addresses the complaint via the EGP process.

## **XI. Campus Crime Reporting and Statistics**

Colgate University is committed to providing a safe, supportive, and secure environment for the entire university community, including visitors. The University will provide upon request all campus crime statistics as reported to the United States Department of Education. To obtain a copy, contact the associate director of campus safety, 315-228-7333. You may also view crime statistics for all colleges and universities at the United States Department of Education's website: <http://www.ope.ed.gov/security/Search.asp>.

In its annual report of campus crime statistics, the university must report statistics concerning the occurrence on campus of certain crimes, including certain sex offenses. This statistical report does *not* include any personally identifiable information concerning the victim or the accused. Similarly,

if Colgate issues a timely warning pursuant to the Clery Act to warn the campus community about a perceived immediate threat, the warning issued will *not* include any personally identifying information concerning a victim.

## **XII. Conflict of Interest**

In the event that any person assigned a role pursuant to this policy is aware of any relationship, fact, circumstance or occurrence that he or she reasonably believes creates or constitutes a conflict of interest that would render him or her incapable of performing the role in an impartial manner, that person shall identify the conflict of interest to the associate provost for equity and diversity at the earliest practicable time. Similarly, any reporting individual or responding individual who objects to the participation of any person assigned a role pursuant to this policy based upon such a conflict of interest shall identify the conflict of interest to the associate provost for equity and diversity at the earliest practicable time. Any objection to the participation of any person based on a claimed conflict of interest that is not timely identified in accordance with this paragraph shall be deemed waived for all purposes.

## **XIII. Designation of Authority**

Any person assigned a role pursuant to this policy may designate their authority, or the associate provost for equity and diversity may require reassignment of such authority, to another appropriate person to avoid conflicts of interest or in other circumstances, as deemed necessary.

## **XIV. Policy Enforcement**

The person responsible for the implementation of this policy internally is:

Marilyn ("Lyn") Rugg, Ph.D.  
Associate Provost for Equity and Diversity & Title IX Coordinator  
The Office of Equity and Diversity  
102 Lathrop Hall  
Colgate University  
13 Oak Drive  
Hamilton, NY 13346  
315-228-6161

Inquiries and complaints may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline #: 800-421-3481  
Facsimile: 202-453-6012 TDD#: 877-521-2172  
E-mail: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>