University Personnel Non-Discrimination and Anti-Harassment Response Procedure (Faculty)

This procedural document applies where a Colgate University classroom[1] faculty member may have engaged in discrimination or harassment based on a Protected Characteristic or any other form of conduct prohibited by the University Personnel Non-Discrimination and Anti-Harassment Policy.[2]

I. Initiating a Response to Prohibited Conduct

The Faculty Handbook provides for an organizational structure consisting of the department chair or program director; Division Director(s); and the office of the Dean of the Faculty. The Faculty Handbook also states that chairs and program directors are responsible for creating "constructive, welcoming, and intellectually vibrant departmental cultures." Division Directors are the chief administrative officers of their divisions. The Dean of the Faculty oversees all academic divisions and is "the primary academic officer." *See Faculty Handbook*, Section III.D. Therefore, a concern that a faculty member has engaged or is engaging in conduct prohibited by the University Personnel Non-Discrimination and Anti-Harassment Policy may be raised to any department chair/program director, Division Director, or to the office of the Dean of the Faculty.

If an individual with a concern prefers not to raise the issue through the faculty organizational chain, a report or complaint may be made to any member of the Discrimination and Harassment Team (DHT). This team shall include: the Vice President for Equity and Inclusion, and Acting Title IX Coordinator (Renee Madison [rmadison@colgate.edu]), the Associate Provost for Equity and Diversity, (Carolyn Hsu [chsu@colgate.edu]), the Director for Inclusion and Belonging (Rodney Agnant [rjagnant@colgate.edu]), and the Vice President for Administration (Christopher Wells [cwells@colgate.edu]). However, the Acting Title IX Coordinator and Vice President for Equity and Inclusion have the authority to determine the policy that will be applied in any case involving or potentially involving Title IX.

An individual with a concern need not worry about whether it is better to raise a concern first within the organizational chain or through the DHT. The university is committed to a collaborative, flexible response to ensure that situations are addressed at the most appropriate level and in the most appropriate way. In some situations, a concern raised within the organizational chain may be referred to the DHT and a concern raised to the DHT may be referred to a department chair, program director, Division Director, Associate Dean of the Faculty, or Dean of the Faculty.[3] The university's focus is on the resolution of workplace issues fairly and promptly, and the precise manner in which that occurs may vary with the circumstances.

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[1] Situations involving employee respondents who are not classroom faculty are handled pursuant to the **University Personnel Non-Discrimination and Anti-Harassment Response Procedure (Staff)** unless otherwise subject to the process described in footnote two (2) below.

[2] The Student Sex- or Gender-Based Discrimination and Harassment Resources and Response Procedures apply where a student is the complainant and the alleged conduct concerns sex discrimination, sexual harassment, domestic violence, dating violence or stalking. Additionally, the university will apply the Student Sex-or Gender-Based Discrimination and Harassment and Sexual Misconduct Resources and Response Procedures (regardless of the faculty, staff or student status of the parties) in any cases where the university determines that Title IX requires the application of the procedures set forth in those documents.

[3] The DHT will determine the policy and process applicable to a given situation.

Reports may be made verbally or in writing. Reports of workplace harassment or discrimination may be made on behalf of another person but should state clearly that the complaint is being made on another person's behalf. Prompt reporting allows the University to address the conduct and, if necessary, take corrective action.

Information shared with a department chair or program director, Division Director, an Associate Dean and/or the Dean of the Faculty will be shared with the DHT[4] as needed. Note also that the DHT is not a confidential resource, and information may be shared between the DHT and the PDOF organizational chain (on a strictly as-needed basis). Even when an employee asks that a matter be kept confidential or where the employee does not wish to file a formal complaint, the chair, program director, Division Director, Associate Dean, and/or Dean of the Faculty must report the situation to the DHT. However, in all instances, these matters will be handled with discretion and as much confidentiality as practicable.

II. The University's Investigation and Response

A matter may be handled via the faculty organizational chain or via the DHT. For readability, Colgate policy documents use the term "university administration" to refer to the organizational chain and the DHT individually and collectively.

A. Initial Review

With respect to any report or complaint, the matter may be referred by university administration to a more applicable university process or procedure if the situation and/or conduct complained of is not within the scope of the University Personnel Non-Discrimination and Anti-Harassment Policy.

B. Informal Resolution

The university encourages early disclosure of situations that may constitute harassment, discrimination or other Prohibited Conduct. An individual need not worry about whether the situation currently rises to a level of seriousness sufficient to constitute a violation of university policy, as early reporting is encouraged to avoid situations reaching a more serious level. In order to encourage early reporting, and understanding that many individuals with concerns about their work environment are interested in a resolution with the other person(s) involved that is non-punitive, university administration will consider whether situations are appropriate for informal resolution.

Generally speaking, informal resolution is a voluntary process with the goal of achieving an arrangement acceptable to the parties to resolve the situation. If a complainant or respondent is unwilling to engage in an informal resolution process, an informal resolution generally may not be pursued. However, in some circumstances, university administration may need to implement an informal resolution despite the preference of the complainant or respondent for a different outcome. This may be the case where the allegations are such that the appropriate outcome would

[4] Primarily (but not exclusively) for recordkeeping purposes.

be non-disciplinary (e.g., a mentoring conversation, a warning, a change in committee or other assignment to mitigate a conflict, etc.).

An informal resolution generally does not, but may, include a determination as to whether conduct violated the University Personnel Non-Discrimination and Anti-Harassment Policy.

C. Investigation

Any case that university administration determines is appropriate for investigation will be investigated. Not all situations require a formal investigation, and the scope of any factual inquiry will be tailored to the facts and circumstances. In cases where an investigation is appropriate, the investigation will be prompt and thorough. An investigation will be confidential to the extent possible. However, strict or absolute confidentiality generally is not possible in the course of a thorough investigation.

Broadly speaking, an investigation involves the following: (i) an opportunity for the complainant to present relevant information, including documents and other evidence relevant to the investigation; (ii) an opportunity for the respondent to respond to the allegations and to present relevant information, including documents and other evidence relevant to the investigation; (iii) ensuring that any witnesses to the incident(s) or individuals with relevant information about the situation are interviewed, and (iv) that any relevant documentation or evidence is collected in the course of the investigation. The university reserves the right to adapt and modify its investigatory procedure(s), in its discretion, based on the nature of the report and the alleged conduct at issue. A less complex set of allegations generally requires a less expansive investigation, and a more complex set of allegations generally requires a more expansive investigation. Internal or external investigators may be used. Generally, advisors are not permitted. [5]

In order to ensure that no discriminatory, harassing or retaliatory conduct occurs during the investigation, university administration may implement interim measures (e.g. instructing the individuals involved to refrain from communicating with one another, and/or addressing any immediate workplace environment issues) as appropriate. University administration may determine that it is appropriate to remove a respondent from the workplace while an investigation is ongoing but any such decision and action will be in accordance with the *Faculty Handbook*, including but not limited to Section III.C.

At the conclusion of the investigation, university administration will determine the response, which may involve disciplinary and/or other remedial action. A complaint that results in a finding of a violation and for which the sanctions involve suspension from service or dismissal of a faculty member with continuous tenure, or with a special or probationary appointment before the end of the specified term, will, upon request of the accused faculty member, be subject to applicable provisions of the *Faculty Handbook*, including but not limited to the review by the Faculty Affairs Committee set forth in Section III(C)(9) of the *Faculty Handbook*.[6]

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[5] If the allegations concern sexual assault, domestic violence, dating violence or stalking, the complainant and respondent each may have an advisor, and the advisor may be anyone the party selects, including an attorney.

[6] This does not apply to a case subject to investigation and adjudication via the Student Sex- or Gender-Based Discrimination and Harassment and Sexual Misconduct Response Procedure. Further, the applicable standard of evidence is "preponderance of the evidence" in any case where the complaint asserts conduct constituting "sexual harassment" in violation of Title IX, including with

The complainant and respondent will be given notice, in a timely fashion, of the outcome of the investigation and will be provided with a summary of the information gathered in the investigation and the rationale for the outcome. Information about the university's specific responsive action(s) directly concerning the complainant (such as a change in the respondent's work schedule or work assignments to avoid contact with the complainant) is disclosed to the complainant. Discipline imposed on the respondent is normally not disclosed to the complainant.[7]

III. Role of Chairs, Directors and Deans

In addition to being subject to discipline if they engage in Prohibited Conduct themselves, chairs, directors and deans will be subject to discipline for failing to report suspected harassment, discrimination or other Prohibited Conduct, or otherwise knowingly allowing such situations to continue. Individuals in these roles also will be subject to discipline for engaging in any retaliation or knowingly allowing their subordinates to engage in retaliation.

IV. 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*), and the principles articulated by the university's Task Force on Academic Freedom and Freedom of Expression [https://www.colgate.edu/about/offices-centers-institutes/provost-and-dean-faculty/academic-freedom-and-freedom-expression], this 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. The expression of ideas in the course of respectful, responsible teaching, learning, working and academic debate are not violations of this policy.

respect to the standard necessary for suspension or dismissal of a faculty member regardless of any otherarticulated standard in the *Faculty Handbook*.

[7] In cases alleging sexual assault, dating violence, domestic violence or stalking, the complainant is provided with information concerning discipline imposed.

Report Form for Employees: Reporting Discrimination and/or Harassment

Colgate aims to create and maintain a community whose members can work together in an environment characterized by equal opportunity, inclusiveness, safety, and mutual respect. Furthermore, New York State Labor Law requires all employers to adopt a non-discrimination and anti-harassment policy, a complaint form to report alleged incidents of discrimination and/or harassment, and a process for responding to and resolving such complaints.

If you believe that you have been subjected to, or you believe you have witnessed another person experience, discrimination and/or harassment in the workplace you are encouraged to complete this form and submit it to the Discrimination and Harassment Team (DHT). You will not be retaliated against for filing a complaint. As of 7/1/2022 this team shall include: the Vice President for Equity and Inclusion (Renee Madison [rmadison@colgate.edu] as of 7/1/2022), the Title IX Coordinator, the Associate Provost for Equity and Diversity (Ani Maitra [amaitra@colgate.edu] as of 7/1/2022), and the Vice President for Administration (Christopher Wells [cwells@colgate.edu] as of 7/1/2022). However, the Vice President for Equity and Inclusion and the Title IX Coordinator have the authority to determine the policy that will be applied in any case involving or potentially involving Title IX.

If you are more comfortable reporting verbally and/or in-person, please contact the Office of Equity and Diversity (x6161) to make an appointment to speak with any member of the DHT regarding your concern.

Complainant Information: Items marked with a red asterisk (*) are required.

Name of complainant (first and last) *

Job title of complainant *

Work phone number of complainant *

E-mail address of complainant *

Please indicate your preferred communication method *

Supervisory Information: Please provide information about the supervisor of the complainant. **Providing this information does not mean we will automatically contact your supervisor.**

Name of complainant's immediate supervisor (first and last) *

Job title of complainant's immediate supervisor *

Work phone number of complainant's immediate supervisor *

Are there additional complainants who should be associated with this report?*

Complaint Information: Please provide information regarding the person and incident(s) about which you are submitting a complaint.

Name of the person about whom you are submitting this complaint (first and last) *

Job title of the person about whom you are submitting this complaint

Work phone number of the person about whom you are submitting this complaint *

Relationship to you of the person about whom you are submitting this complaint: *

Are there additional people about whom you would like to make this complaint?

Please describe what happened and how it is affecting you and your work. *

Date(s) discrimination and/or harassment occurred

Is the discrimination and/or harassment continuing? *

Please attach any relevant documents or evidence.

Please provide the name and contact information of any witnesses or individuals who may have information related to your complaint.

Information provided in response to the following question may help the investigation.

Have you previously complained or provided information (verbal or written) about related incidents?

Legal Counsel

Harassment or discrimination is not only prohibited by the University, it is also prohibited by state, federal, and, where applicable, local law. Aside from the internal process described in Colgate's non-discrimination and anti-harassment policy and process, individuals may also choose to pursue legal remedies at any time. If you have retained legal counsel and wish for us to speak directly with them please provide their name (and contact information) below.

Name of legal counsel (first and last):

E-mail address of legal counsel:

Phone number of legal counsel:

You may submit this form to any member of the DHT.