

COLGATE UNIVERSITY

Student Discrimination and Harassment Policies

The following section provides an overview of relevant information that is applicable to all policies and procedures contained within the Non-Discrimination and Anti-Harassment, Sexual/Gender-Based Misconduct and Pregnancy and Related Conditions Policies and Procedures. The terms and principles set forth here apply, where relevant, to those policies and procedures.

I. Institutional Values

Colgate University values the social and intellectual vibrancy that occurs when students, faculty, and staff with different life experiences, viewpoints, and belief systems come together to share knowledge and foster understanding. We aim to create and maintain a Colgate community whose members can study, live, and work together in an environment characterized by equal opportunity, inclusiveness, safety, and mutual respect. To that end, these policies promote health and safety for pregnancy and related conditions as well as prohibit discrimination (including on the basis of pregnancy or related conditions), harassment (including sex-based harassment), sexual assault, sexual exploitation, domestic violence, dating violence, stalking, and related retaliation (collectively “Prohibited Conduct”). Colgate is committed to maintaining an educational environment and workplace free from Prohibited Conduct. Any and all such acts impede our educational mission and are serious violations of our community values. (See Colgate’s Mission Statement, and the discussion of community values in Colgate’s Statement on Academic Freedom and Freedom of Expression.)

Colgate fully subscribes to all federal and state civil rights laws banning discrimination in the context of its programs and activities. 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 Articles 129-A and 129-B. Colgate is committed not only to compliance with these laws but also to promoting a community that lives out the values these equal opportunity laws envision.

Colgate is committed to promptly responding to reports of alleged Prohibited Conduct.

II. Core Principles of Policy Oversight

The Office of Equity and Diversity is responsible for providing oversight of all aspects of these policies, including education, training and response to reported Prohibited Conduct. Upon receiving a report, we are motivated to foster a culture where everyone can thrive and succeed. This involves addressing concerns related to Prohibited Conduct based on Protected Characteristics. In our approach, we prioritize privacy, confidentiality, and neutrality as three of our core principles.

III. 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, and the principles articulated by the University’s Task Force on Academic Freedom and Freedom of 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. We also recognize that similar terms and language are referenced by both the Statement on Academic Freedom (Statement) and these policies. However, the application of terms (such as “offensive”) is different in the context of these policies, as

opposed to in the Statement. Thus, a statement or other form of expression does not constitute a violation of these policies merely because it is subjectively offensive; however, rights of academic freedom and freedom of expression are not without boundaries, and speech or other expression that rises to the level of harassment as defined by these policies is prohibited. The expression of ideas offered in the course of respectful, responsible teaching, learning, working, and academic debate are not violations of these policies.

IV. Prohibited Consensual Relationships:

Colgate University employees (including both faculty and staff) need to be especially sensitive to the power/authority relation in their interactions with students. Consensual romantic, sexual or dating relationships between University employees and students contradict both professional ethics and this policy and are prohibited by Colgate. Consensual relationships that begin prior to the date on which the involved parties become student and employee are not prohibited by this policy, but the employee is required to report the existing relationship to their supervisor as of the date the parties are simultaneously enrolled and employed by the University. In such circumstances the University reserves the right to take such actions as may be necessary to address any resulting conflict of interest (for example, ensuring that the employee does not have responsibility for evaluating work submitted by the student for academic credit).

V. Authority and Oversight

A. Delegation and External Resources

Any person assigned a role pursuant to the following policies and procedures may delegate their authority, or the Title VI Coordinator, Associate Provost for Equity and Diversity or Title IX Coordinator may require reassignment of such authority, to another appropriate person to avoid bias or conflicts of interest, or in other circumstances, as they deem necessary or appropriate. In addition, to the extent permitted by applicable law (including Title IX and New York Education Law Article 129-B, where applicable), other appropriately trained personnel may oversee cases for reasons including, but not limited to, the need to facilitate efficient and timely administration of such cases. The University may also utilize appropriately trained external individuals for any role under these policies and procedures as it may deem necessary or appropriate, and reserves the right to consult with legal counsel at any stage of the processes as it deems necessary or appropriate.

B. Coordination with other policies and procedures

A particular situation may potentially implicate one or more University policies or processes. The University reserves the right to determine the most applicable policy or process and to utilize that policy or process. Without limiting the foregoing, if determined appropriate by the Title IX Coordinator, Title VI Coordinator, and/or the Associate Provost for Equity and Diversity, the processes described in these policies and procedures may be used to respond to, investigate and adjudicate conduct alleged to violate the University Code of Student Conduct and/or applicable personnel policies if the alleged conduct is related to or arises out of the same facts, circumstances or incidents as alleged Prohibited Conduct.

Subject to the foregoing, reported conduct that is not within the scope of these policies may constitute a potential violation of the University's Code of Student Conduct or personnel policies (including but not limited to those set forth in the Employee or Faculty Handbooks) and, if so, will be referred to the appropriate University officials for response pursuant to the applicable policies and procedures.

1) Discrimination and Harassment Team

In the event a particular situation may be covered by one or more policies, the Discrimination and Harassment Team (DHT) has the authority to determine the policy that will be applied. This team shall include: the Vice President for Equity and Inclusion, Title IX Coordinator, the Associate Provost for Equity and Diversity, the Title VI Coordinator, and the Vice President for Administration. However, the 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.

C. Discretionary Authority; Change in Applicable Law

The Title IX Coordinator, Title VI Coordinator and Associate Provost for Equity and Diversity shall have discretionary authority to interpret these policies and procedures, and to determine the meaning of any disputed or uncertain provisions; or make minor modifications to procedures that do not materially jeopardize the fairness owed to any party. The Title IX Coordinator, Title VI Coordinator and/or the Associate Provost for Equity and Diversity may also vary procedures materially (to be reflected on the University website, with the appropriate effective date identified) upon determining that changes to law or regulation, or interpretations thereof, require policy or procedural alterations.

D. Complaints Against Affiliated Individuals or Non-Community Members

A Complaint against an Affiliated Individual or a non-community member for violation of the Non-Discrimination and Anti-Harassment, Sexual/Gender-Based Misconduct, or Pregnancy or Related Condition Policies will be handled and addressed as the Title IX Coordinator, Title VI Coordinator and/or the Associate Provost for Equity and Diversity deem(s) appropriate. However, in all such cases, the Title IX Coordinator, Title VI Coordinator and/or the Associate Provost for Equity and Diversity will ensure that the matter is appropriately investigated to the extent warranted by the circumstances, and that appropriate responsive action is taken, up to and including banning the individual from Colgate property if warranted.

E. Oversight

The person responsible for the implementation of these policies internally is:

Renee Madison
Vice President for Equity and Inclusion
The Office of Equity and Diversity
102 Lathrop Hall
Colgate University
13 Oak Drive
Hamilton, NY 13346
315-228-6161

VI. Campus Crime 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 and as required under the Clery Act. To obtain a copy, contact 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, and may view the University's Annual Security and Fire Safety Report (which contains the University's crime statistics, crime reporting policies, prevention and awareness programs, services for victims, policies and procedures related to timely warnings and emergency notifications, as well as other information related to the safety and security of the Colgate community) on the University [website](#).

VII. Key Terms

In addition to terms defined elsewhere in these policies and procedures, the following terms have the meanings set forth:

A. The term Complainant refers to the person who is reported to have experienced or been subjected to Prohibited Conduct. In some cases, the Title IX Coordinator, Title VI Coordinator and/or the Associate Provost for Equity and Diversity may initiate the investigation and adjudication process pursuant to these policies and procedures on behalf of the University. In that instance, the Title IX Coordinator, Title VI Coordinator and/or the Associate Provost for Equity and Diversity is/are not the “Complainant”; the Complainant remains the person who allegedly experienced the Prohibited Conduct. The University can initiate the Complaint, but the University (or University representative) does not have the rights of a Complainant as generally set forth in these policies and procedures.

B. The term Reporting Party or Reporting Individual refers to a person who reports alleged Prohibited Conduct. This may or may not be the same as the Complainant, and may be a witness, a bystander, or someone else with information about the alleged Prohibited Conduct.

C. The term Respondent refers to the student, student organization, Affiliated Individual (see term below), or employee alleged to have committed misconduct.

D. The term Reasonable Person is a standard applied from the perspective of an objective individual in similar circumstances.

E. The term Complaint is a written and signed request to the University by a Complainant alleging Prohibited Conduct and requesting that the University investigate the allegations. A Complaint may be filed in person, by mail, or electronically. In certain circumstances the Title IX Coordinator may submit a Complaint as described in the Sexual/Gender-Based Misconduct Policy.

F. The term Confidential Employee is an individual designated by the University who is trained and/or is legally or professionally certified in their role as a Confidential Employee. It also includes employees who have been designated as privileged, such as clergy and mental health counselors, as well as employees who are conducting Institutional Review Board-approved human-subjects research that study sex-based discrimination.

G. The term Mandated Reporter is an employee who is required to report any and all instances of Prohibited Conduct that fall under the Sexual/Gender-Based Misconduct Policy.

H. The term Affiliated Individual is a volunteer, contractor, subcontractor, vendor, consultant, intern or other person who provides services in the University’s workplace and is not a University employee.

VIII. Prohibited Conduct Response Group (PCRG)

The Colgate University Prohibited Conduct Response Group (PCRG) consists of members of the campus community dedicated to prevention of and response to Prohibited Conduct, including prevention of and response to discrimination or harassment based upon race, color, pregnancy, religion, creed, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, veteran or military status (including special disabled veteran, Vietnam-era

veteran, or recently separated veteran), predisposing genetic characteristics, sex, sexual orientation, gender identity, gender expression, or domestic violence victim status.

A. Roles and Responsibilities

- To serve as a first point of contact and provide information and resources to a Reporting Individual, Complainant or Respondent;
- To serve in a facilitation role in informal resolution;
- To investigate complaints, when appropriate;
- To act as advisors to those involved in formal processes;
- To serve on hearing panels to adjudicate allegations of Prohibited Conduct;
- To serve on appellate panels, and,
- To serve in an educational role for the community.

B. Membership and Training

The PCRG membership includes faculty and staff drawn from across the institution. The President appoints the members, who report to the Title IX Coordinator, The Title VI and/or the Associate Provost for Equity and Diversity. PCRG members receive annual training which will include a review of Colgate policies and procedures so that they are able to provide accurate information to members of the community. All PCRG members are required to attend this annual training, which includes issues related to harassment or discrimination on the basis of the Protected Characteristics, impartiality, and the rights of Complainants and Respondents (including the right to a presumption that the Respondent is “not responsible” unless and until a finding of responsibility is made pursuant to these policies and procedures), as well as how to conduct a fair and impartial investigation and a hearing process that protect the safety of all parties and promote accountability. All administrative deans, residential-life on-call staff, and campus safety officers also undergo training with the PCRG regardless of whether they are formally appointed to the PCRG. Additional advanced training in investigation protocol, the conduct of adjudication hearings, informal resolution processes and appellate processes is provided annually to subsets of the PCRG members who serve in these roles.

PCRG members are usually appointed to three-year terms. Individuals who are interested in serving on the PCRG are encouraged to contact the Title IX Coordinator, Title VI Coordinator and/or the Associate Provost for Equity and Diversity.

IX. Student 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. The University strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to University officials. A bystander acting or a Reporting Individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to University officials or law enforcement will not be subject to Colgate’s Code of Student Conduct action 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.

The University will also extend amnesty on the same basis for other minor violations of policy in the same circumstances, and for violation of alcohol and/or drug use policies or other minor policy

violations occurring at or near the time of other Prohibited Conduct. Minor policy violations do not include more serious allegations such as physical abuse, hazing, unlawful sale or distribution of drugs, or other conduct that would typically result in a sanction of suspension or expulsion if the student is found responsible.

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Student Non-Discrimination and Anti-Harassment Policy

The University prohibits discrimination or harassment based on characteristics protected by applicable law, including age, citizenship status, color, creed, domestic violence victim status, marital status, national origin (including ancestry), physical or mental disability, predisposing genetic characteristics, race, religion, veteran or military status, or any other protected category under applicable local, state, or federal law (collectively, "Protected Characteristics").

I. Who Does this Policy Apply To?

This policy sets forth behavioral expectations for all Colgate University students and student organizations. This policy applies to conduct that occurs on Colgate's campus or property and in any Colgate programs and sponsored activities. This policy applies to off-campus conduct under certain circumstances. For example, certain aspects of the policy apply when students travel off campus as part of a University activity or team. Conduct that occurs off campus and not in connection with Colgate programs or activities may violate certain aspects of this policy if the conduct creates a threatening or hostile environment on campus or within a Colgate program or activity, or if the incident causes concern for the safety or security of Colgate's campus or otherwise has a reasonable nexus to the University or its interests.

A complaint against an Affiliated Individual or non-community member for violation of this policy will be handled and addressed as the Title VI Coordinator or the Associate Provost for Equity and Diversity deems appropriate to ensure that appropriate responsive action is taken.

II. Who Provides Oversight of This Policy?

The person responsible for the implementation of this policy is:

Title VI Coordinator
The Office of Equity and Diversity
102 Lathrop Hall
Colgate University
13 Oak Drive
Hamilton, NY 13346
315-228-6161

Inquiries may be made to:
Vice President for Equity and Inclusion
The Office of Equity and Diversity
102 Lathrop Hall
Colgate University
13 Oak Drive
Hamilton, NY 13346
315-228-6161

Inquiries and complaints against the University may also 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#: 800-877-8339
E-mail: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

III. What Conduct is Prohibited? (Definitions)

The following describes conduct prohibited by this Policy (referred to in this Policy and its associated procedures as “Prohibited Conduct”):

A. Non-Discrimination and Anti-Harassment Violations

1) Discrimination

The term “discrimination” refers to an act that disadvantages a person and that occurs because of the affected individual’s Protected Characteristics. Examples of discrimination include but are not limited to excluding a student from membership in an organization, or denying a student a professional opportunity because of the student’s Protected Characteristic.

2) Harassment (other than Sex-based harassment)

Harassment is offensive conduct based on an individual’s Protected Characteristics that is so severe or pervasive that it unreasonably interferes with an individual's ability to participate in the University’s programs or activities when judged against a Reasonable Person standard. Prohibited harassment based on sex, gender, gender identity, gender expression, pregnancy or pregnancy-related conditions, and other forms of sexual misconduct, are defined and referenced in the Student Sexual/Gender-Based Misconduct Policy.

Harassing conduct that rises to the standards noted above can occur in various forms, including:

- Verbal – Conduct such as unwelcome, demeaning, intimidating or graphic comments; using ethnic, racial, religious, or other slurs to refer to a person or group; or jokes or comments that demean a person or a group on the basis of one of the Protected Characteristics.
- Physical – Conduct such as physical threats toward or intimidation of another on the basis of one of the Protected Characteristics.
- Visual – Conduct such as creating or displaying racially, ethnically, or religiously offensive pictures, symbols, flags, cartoons, or graffiti that disparages another person or group because of one of the Protected Characteristics.
- Communication-based – Conduct such as phone calls, e-mails, text messages, social media direct messages, chats, blogs or online communications that demean or intimidate another on the basis of one of the Protected Characteristics. Members of the community are expected to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome messaging, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of, or group within, the University community.

These various forms constitute Prohibited Conduct when they rise to the standard of harassment set forth above.

A single instance of unwelcome or offensive conduct or the fact that a person was personally offended by a communication or incident, does not alone necessarily constitute a violation of this policy. The determination as to whether this policy has been violated takes into account the totality of the circumstances, including but not limited to the context of the conduct, the relationship of the individuals involved in the conduct, whether the conduct was an isolated incident or part of a broader pattern or course of offensive conduct, the seriousness or severity of the conduct, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual or group and/or the learning community. In all instances, a key factor is whether the complained-of behavior occurred because of Protected Characteristics. However, even if the

conduct is not based upon a Protected Characteristic and/or does not rise to the level of Prohibited Conduct under this policy, the University may respond by providing individual and community support and resources to those who have been impacted. In addition, such conduct that is not based on Protected Characteristics may constitute a violation of the University's Code of Student Conduct and, if so, will be addressed pursuant to the applicable policies.

3) 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.

For the purposes of this definition, (i) a "course of conduct" means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property and (ii) "substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Examples of behavior that may constitute stalking include repeated, intentional following, observing or lying in wait for another; using "spyware" or other electronic means to gain impermissible access to a person's private information; repeated, unwanted, intrusive, and frightening communications by phone, mail, email, text, etc.; making direct or indirect threats to harm an individual or the individual's relatives, friends, or pets; or damaging or threatening to damage the property of the targeted individual.

4) Hate Crime

A "hate crime" is defined as violence towards or other criminal act(s) against a person, group, or property (or a threat to do so) that is motivated entirely or in part by a belief, perception, or hostility toward another's Protected Characteristics, regardless of whether the belief or perception is correct. Proof of a Protected Characteristic, in and of itself, does not constitute evidence of motivation.

The following example demonstrates the difference between a non-hate 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.

5) Retaliation

Retaliation is an adverse act or behavior perpetrated to "get back" at a person because the person reported misconduct, filed a Complaint, or participated or refused to participate as a Complainant, Respondent or witness in an investigation or proceeding conducted in response to reported violation of this policy by the University or by an external agency. Retaliation also includes an adverse act against someone for the purpose of interfering with any right or privilege under this

policy or applicable law. Retaliation can take many forms, including, but not limited to, adverse action or violence, threats or intimidation that would discourage a Reasonable Person from engaging in protected activity. A person who acts in good faith is protected from retaliation. The fact that a statement is not determined to be proven or established following investigation and adjudication does not mean that the statement lacked good faith; a person may provide inaccurate information believing it is accurate, which is still good faith. If a person makes a statement knowing that it is false, the person has acted without good faith.

IV. Who is Required to Report Prohibited Conduct to the Title VI Coordinator or the Associate Provost for Equity and Diversity?

All members of Colgate's community are expected to promote an environment free from discrimination or harassment. Colgate encourages any individual to report incidents of Prohibited Conduct to obtain support and information and to enable Colgate to respond appropriately. Individuals can report concerns about Prohibited Conduct to any member of the Discrimination and Harassment Team.

A. Reporting Requirement of Faculty and Staff

Supervisors must report any complaints or suspected acts of Prohibited Conduct by or affecting employees (even if they do not involve direct reports). The Title VI Coordinator or the Associate Provost for Equity and Diversity are responsible for providing direction to employees and supervisors about any University-required supportive measures, such as, but not limited to, addressing issues directly with staff, faculty, or students whom they supervise, facilitating informal resolution or mediation of issues, providing information on avenues to address questions of Prohibited Conduct, or pursuing Complaints under the complaint procedures described here. Failure to report Prohibited Conduct in accordance with this section may be considered a violation of University policy.

All other employees, unless their status is designated as a Confidential Employee precludes this disclosure, who learns of an incident of Prohibited Conduct as defined in this policy, are encouraged to report potential acts of Prohibited Conduct to the Title VI Coordinator or Associate Provost for Equity and Diversity.

B. Public Awareness/Advocacy Events

If a member of the Colgate community discloses actions believed to constitute Prohibited Conduct 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.

V. What if I Need Accommodations or Adjustments for my Disability in this Policy and Related Procedures?

General disability accommodation or adjustment requests are handled separately from this policy. The Executive Director of Student Disability Services is responsible for coordinating efforts to comply with these disability laws, including evaluation of student accommodation requests for academic and housing adjustments. Procedures for requesting these types of accommodations or adjustments are described in the Student Handbook.

Student requests for accommodations or adjustments while engaging in processes contemplated by the Student Non-Discrimination and Anti-Harassment Policy and/or Procedures should be directed to the Title VI Coordinator or Associate Provost for Equity and Diversity. The Title VI

Coordinator or Associate Provost for Equity and Diversity may consult with the Office of Disability Services in the determination of a disability accommodation or adjustment request.

Complaints regarding disability-related discrimination or harassment should be directed to the Title VI Coordinator or Associate Provost for Equity and Diversity.

VI. What if I Need Modification for My Pregnancy or Related Condition?

The Title IX Coordinator is responsible for coordinating efforts to comply with laws governing pregnancy or related conditions. Student requests for modification should be directed to the Title IX Coordinator. For more detail please see the Pregnancy or Related Conditions Policy.

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Student Non-Discrimination and Anti-Harassment Procedures

I. Procedural Summary

These procedures provide options to resolve concerns or reports made that allege Prohibited Conduct within the scope of the Student Non-Discrimination and Anti-Harassment Policy.

Following the receipt of a reported concern or Complaint, the Title VI Coordinator or the Associate Provost for Equity and Diversity will send an outreach email to offer to meet with the Reporting Party and provide them with resources and offer assistance.

Meeting with the Title VI Coordinator or the Associate Provost for Equity and Diversity can include a discussion of supportive measures. Supportive measures are intended to provide resources and/or adjustments to an individual who experienced Prohibited Conduct in order to assist with their continued involvement in the University's programs and activities. These supportive measures may include no-contact orders, or academic, residential or work adjustments. An individual may reach out to a confidential employee and decide at that time or a later time to report to the University.

The following procedures are available to Complainants following the assessment of the Complaint/intake, if the matter falls within the scope of the Student Non-Discrimination and Anti-Harassment Policy. There may be times that additional fact gathering may occur prior to an investigation. Once there is sufficient information to identify the allegations, the following procedures may be available to the Complainant:

- *Informal Resolution:* A process that permits the parties (i.e., the Complainant and the Respondent) to agree to the terms of resolving the situation (including the Complaint, if applicable), with the approval of the Title VI Coordinator or the Associate Provost for Equity and Diversity. Not all incidents are appropriate for informal resolution, and no party may be forced to participate in or accept informal resolution. This is a process that requires voluntary participation by the parties and approval by the aforementioned University official(s).
- *Administrative Resolution:* A process where, following the conclusion of an investigation, the findings and (if applicable) sanctions are determined by the Title VI Coordinator or the Associate Provost for Equity and Diversity.
- *Formal Resolution:* A process where, following the conclusion of an investigation, the findings and (if applicable) sanctions are determined by a hearing panel.

If an incident involves criminal conduct, the victim may make a complaint to law enforcement. An individual may report to the University and also make a report to law enforcement, may make a report to only the University or only to law enforcement, or may report to neither the University nor law enforcement.

II. Supportive Resources

A. Where to get Confidential Support

A Confidential Employee is an individual designated by the University who is not required to report the identity of an individual sharing specific details or information about behavior or incidents that could be considered Prohibited Conduct. A disclosure to a Confidential Employee or office does not result in a University investigation or any other action to respond to the incident. To speak to a Confidential Employee, students should contact:

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- Counseling and Psychological Services, located at 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.
- Student Health Services, 140 Broad Street, 315-228-7750.
- Office of the Chaplains, located on the garden level of the Memorial Chapel, 315-228-7682.

When an individual shares information with a Confidential Employee (on campus or in the community) as a confidential communication in the course of a protected relationship, the Confidential Employee cannot disclose the information (including information about whether an individual has received services) to any third party without the individual's written permission or unless permitted or required consistent with ethical or legal obligations (e.g. when an individual poses a threat to self or others). Similarly, medical and counseling records cannot be released without the individual's written permission or unless permitted or required consistent with ethical or legal obligations.

On campus Confidential Employees submit non-personally identifying information about Clery-reportable crimes to Colgate Campus Safety for purposes of anonymous statistical reporting under the Clery Act.

B. Non-Confidential Resources

Colgate personnel, not considered Confidential Employees, who can offer resources and support to students. These sources are not confidential and, if they learn of Prohibited Conduct, may be required to report information that could be Prohibited Conduct to a member of the Discrimination and Harassment team.

III. Reporting Options

Individuals can report Prohibited Conduct to the Title VI Coordinator, the Associate Provost for Equity and Diversity, other members of the Office of Equity and Diversity, or to any of the following:

- Online Reporting Forms: You may also use one of Colgate's [online reporting forms](#). The forms provide the option for you to report anonymously or non-anonymously. Providing anonymous information may help the University maintain accurate records regarding the number of incidents involving students, employees, and third parties; determine if there is a pattern of conduct with regard to a particular location or person; and alert the campus community to potential dangers when appropriate. Depending on the amount of information available in the anonymous report, however, the University's ability to respond with an investigation or disciplinary action may be limited.
- The Office of Equity and Diversity by going to Lathrop 102, or by telephone at 315-228-6161.
- [Any Prohibited Conduct Response Group \(PCRG\) member](#)
- [Any Discrimination and Harassment Team \(DHT\) member](#)
- Campus Safety (315-228-7333), who can assist with filing a Complaint and preserving evidence.
- Law Enforcement: The Hamilton Police Department (315-824-3311, or 911 in an emergency), who can assist in filing a criminal complaint and preserving evidence.

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, and call upon and assist local law enforcement in effecting an arrest for violation of the order of protection or similar document.

There is no time limit for making a report. However, the passage of time may make effective responsive action difficult. Further, if the Respondent 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.

You may also contact the Title VI Coordinator, the Associate Provost for Equity and Diversity, a Discrimination and Harassment Team member or a PCRG member to discuss how Colgate's investigatory and grievance processes work. You need not disclose information about a specific incident in order to obtain general information about University policies and procedures.

A third party or anyone other than the Complainant may report an incident as described above, but the person who allegedly experienced Prohibited Conduct is the Complainant for purposes of these procedures.

IV. Supportive Measures

Supportive measures are accessed by request to the Office of Equity and Diversity. These supportive measures, which may be available regardless of whether a Complaint is made, are intended to protect the safety and well-being of members of the campus community and are not indicative of findings of responsibility. Supportive measures may include but are not limited to:

- No-Contact Orders
- Academic Adjustments
- Housing Adjustments
- Work Adjustments
- Counseling Referrals
- Transportation
- Escort around campus

To learn more about any of these or other available supportive measures, please contact the Title VI Coordinator or the Associate Provost for Equity and Diversity, who are responsible for approving and coordinating the implementation of supportive measures.

If a party's request for a supportive measure is denied, the party will be afforded an opportunity to have the denial promptly reviewed by submitting a written request to the Vice President for Equity and Inclusion to assess whether the supportive measure is reasonable under the circumstances. In addition, an individual may also seek a prompt review of the need for and/or terms of any supportive measure that directly affects said individual, by submitting a written request for review to the Vice President for Equity and Inclusion providing the basis for that request and any evidence in support. Each party will be allowed to submit evidence in support of, or in opposition to, the request to the extent the supportive measure under review affects that party.

V. Emergency Removal

When a student accused of Prohibited Conduct is determined to be an immediate threat to the physical health or physical safety of any student or other individual arising from the allegations of Prohibited Conduct, the University may undertake an emergency removal of the student from some or all University programs or activities pending the outcome of any proceedings under these procedures. Prior to effectuating an emergency removal of a student, the University will undertake an individualized safety and risk analysis. If the individualized safety and risk analysis determines

that an immediate threat to the health or safety of any student, including the Respondent, or other individual justifies removal, then the Respondent will be removed.

Both the Complainant and the Respondent will, upon written request, be afforded an opportunity for a review of the need for and/or terms of an emergency removal, including potential modification. Parties desiring such a review should submit a written request to the Vice President for Equity and Inclusion, providing the basis for that request and any evidence in support. The burden of proof is on the party submitting the request to show that the removal decision was incorrect. The emergency removal will remain in effect while the request is considered.

VI. Initial Intake/Complaint

Upon receipt of information about a concern regarding Prohibited Conduct, an intake meeting is scheduled with the Title VI Coordinator or Associate Provost for Equity and Diversity to gather more information, allow the Complainant to submit a Complaint (if desired and not previously submitted) and understand the wishes of the Complainant.

A Complaint should include details of the alleged Prohibited Conduct including, if known,

- The identity of individual(s) who were present at the time of the incident(s), including any witnesses;
- What occurred;
- Where the incident(s) occurred; and
- Date(s) and time(s) the incident(s) occurred.

An initial determination is made by the Title VI Coordinator or Associate Provost for Equity and Diversity as to whether the reported incident(s) may constitute Prohibited Conduct under this Policy and/or whether informal resolution might be appropriate. If the Complaint does not appear to allege Prohibited Conduct or if informal 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.

If a Complainant requests that no action be taken against the Respondent (i.e., no investigation or disciplinary action), the University's decision as to responsive action will depend on factors including, but not limited to, the nature of the offense, whether the Respondent has a history of violent behavior or is a repeat offender, whether the incident represents alleged escalation in unlawful conduct from previously noted behavior, the risk that the Respondent will commit future acts of violence, whether there was a single perpetrator or multiple, whether the Respondent allegedly used a weapon or force, whether the Complainant or 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 Complainant or Reporting Individual, impact upon the University community, and similar considerations. In some circumstances the University may pursue an investigation and adjudication without a Complainant or Reporting Individual requesting the action. A decision will be made and shared with the Complainant or Reporting Individual. Ultimately, the University retains the right to act upon information that interferes with the University's obligation to maintain a safe and non-discriminatory environment for all community members and/or comply with applicable law.

In cases where the Complainant or Reporting Individual requests confidentiality or anonymity, and the circumstances allow the University to honor that request, the University will offer supportive measures and remedies to the Complainant or Reporting Individual and the community as warranted, but will not otherwise pursue formal action.

The University may temporarily withhold a student's degree and/or diploma if the student is the subject of a pending Complaint or investigation, or has disciplinary charges pending.

VII. Informal Resolution

An informal resolution is a process in which the parties are assisted in resolving the allegations made by a Complainant without a formal investigation and adjudication. Types of informal processes include, but are not limited to, educational conversations, training, mediated conversations, and restorative justice practices. The Title VI Coordinator or Associate Provost for Equity and Diversity will offer informal resolution processes to the parties if the Title VI Coordinator or Associate Provost for Equity and Diversity believes an informal resolution may be appropriate.

A. Informal Resolution Process

An informal resolution process is a voluntary process in which a trained facilitator assists the parties in resolving the allegations made by a Complainant, or the parties otherwise agree to resolution. A Complaint is not necessary to initiate an informal resolution process. The informal resolution process could be educational, mutually agreed-upon terms or a restorative process that provides an opportunity to the parties to understand each other's concerns and address them as productively as possible, with the assistance of the facilitator.

The informal resolution process is not available in a situation involving more than two parties unless (a) all parties voluntarily consent to use the informal resolution process, (b) there is an understanding among all parties about what happens when the right of any party to stop the informal resolution process and commence (or return to) the formal resolution process is invoked, and (c) there is an understanding among all parties about whether some parties, but not all, can agree to a resolution.

No party should feel intimidated, coerced or threatened to participate in an informal resolution process, and the Title VI Coordinator or Associate Provost for Equity and Diversity will not authorize use of the informal resolution process where there is reason to believe that a party's consent to use the process is not truly voluntary.

The informal resolution process may also be used if the Respondent wishes to accept responsibility for all or part of the alleged policy violations, and the Complainant is in agreement. If the Respondent indicates an intent to accept responsibility for all or part of the alleged misconduct, the investigation and adjudication process will be paused, and the Title VI Coordinator or Associate Provost for Equity and Diversity will determine whether informal resolution can be used according to the criteria above. If so, the informal resolution process will be used to determine whether all parties and the University are able to agree on a resolution and/or supportive measures. This result is not subject to appeal once all parties indicate their written agreement to all terms of the resolution.

Supportive measures are available to both parties during informal resolution. Attorneys are not permitted for the Student Non-Discrimination and Anti-Harassment Procedures, including for purposes of informal resolution.

B. Role of the Facilitator

Not all informal resolutions will involve a facilitator. When they do, the facilitator's role is to conduct the informal resolution process in a way that is impartial and does not favor one party over the other(s).

If the facilitator believes at any point in the informal resolution process that one party is not behaving in a way that allows for a productive resolution between the parties, or should a conflict with the facilitator arise, either another facilitator will be appointed or the University will require that the informal resolution process be discontinued and the matter may be addressed through the formal resolution process.

C. Support Person

Each party may have a support person accompanying them to any informal resolution meeting. A support person can help a party understand or explain the issues under discussion or simply help the party feel more comfortable during the informal resolution process; this can be a friend, relative, a PCRG member or any other person that the party trusts, with the exception of an attorney. Support people cannot be an individual who has been involved in the facts and circumstances of the allegation(s) in any way.

A party must inform the Title VI Coordinator or Associate Provost for Equity and Diversity in advance if they would like a support person to attend any meeting and the name of the support person and that person's relationship to the party. The facilitator and/or the Title VI Coordinator or Associate Provost for Equity and Diversity will check with the other party to confirm that such party agrees to continue with the informal resolution with the support person present. The facilitator and/or the Title VI Coordinator or Associate Provost for Equity and Diversity can also exclude a support person if their presence is disruptive during the informal resolution process.

Support can be provided in several ways. Support people do not necessarily have to be present in an informal resolution session; if preferred, they can be available in a nearby area and provide support during breaks.

D. Confidentiality

For the informal resolution process to have the best chance for success, the parties should be free to express themselves. As a result, the information received from the parties solely during the informal resolution process will be kept confidential by the facilitator, with limited exceptions, but the facilitator may share information as necessary, to enable the oversight of the process in accordance with these procedures.

In addition, the facilitator will not be available as a witness in any formal resolution process that may occur should a party or the University terminate the informal resolution process before a resolution. This is in keeping with the concept that the facilitator is impartial and is only facilitating the interaction between the parties.

Should the matter proceed or be returned to the formal resolution process, the parties and any support person may not disclose information shared by the other party solely during the informal resolution process in the formal resolution process. All parties participating in the informal resolution process must sign an agreement that provides that information revealed by a party solely in the informal resolution process will not be used against the other party in the formal resolution process. This protection does not apply to information that is learned outside the informal resolution process, through the investigation or otherwise.

E. Possible Outcomes of an Informal Resolution Process

A resolution is reached only if all parties agree and if the resolution is accepted by the Title VI Coordinator or Associate Provost for Equity and Diversity. The facilitator (if applicable) will not impose an outcome, although they may assist the parties in suggesting resolutions that appear to

meet the parties' needs. If there is no agreement on a resolution, the matter may proceed (or be returned) to the investigation and resolution process outlined in these procedures.

The University imposes no restrictions on the possible outcomes reflected in a resolution so that the parties are free to fashion a resolution that meets their needs, subject to acceptance by the Title VI Coordinator or Associate Provost for Equity and Diversity. For example, the parties may agree upon an educational conversation, prohibitions on co-enrollment or registration priorities for classes, boundaries for participation in campus activities, and/or restrictions on contact between or among the parties, among other terms of an informal resolution.

The facilitator (or, if a facilitator is not used, the Title VI Coordinator or Associate Provost for Equity and Diversity) will draft a document reflecting the agreement between the parties that becomes final once it is signed by all parties and accepted by the Title VI Coordinator or Associate Provost for Equity and Diversity. This written and signed resolution indicates that the matter has been resolved under this process without the need to pursue the formal resolution process.

After a written resolution has been finalized, the University will keep a record of the parties' written consent to the informal resolution process and the written resolution. Results of an informal resolution are not appealable.

F. What Happens if the Informal Resolution Process Does Not Result in an Agreed-Upon Resolution

The informal resolution process should proceed with due promptness. The University imposes no specified timeframe for the process, but the facilitator, Title VI Coordinator or Associate Provost for Equity and Diversity may choose to terminate the informal resolution process (and either party may elect to terminate the process) if insufficient progress is being made.

If an informal resolution process does not result in an agreed-upon resolution, the formal resolution process may commence or resume.

VIII. Formal Process

A. Notice of Allegations

When a determination has been made that an investigation or substantive fact gathering will commence, the parties will receive notice of the allegations, in advance of any interview or other meeting they are required or entitled to attend. This notice will include:

1. To the extent known, the identities of the involved parties and the date, time, location and factual allegations concerning the alleged violation;
2. the policy provisions allegedly violated;
3. a description of the investigation and adjudication process;
4. the right to an advisor, who must be a member of the campus community and may not be a practicing attorney, to assist and accompany the party throughout the process, including during all meetings and hearings related to the process;
5. notice that knowingly making false statements or knowingly submitting false information is prohibited under University policy;
6. consistent with the preponderance of the evidence standard used to determine responsibility, notice that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the process; and
7. a statement about the University's policy on retaliation.

If, in the course of the investigation, the University decides to investigate allegations that are not included in the notice initially provided to the parties, the Title VI Coordinator or Associate Provost for Equity and Diversity will provide notice of the additional allegations to the parties.

The Complainant and Respondent will be provided with notice of the name of the appointed investigator(s) and an opportunity of not more than three business days after the notice to raise an objection to the investigator(s) based on any alleged bias or conflict of interest known to the party. If an objection is raised, the Title VI Coordinator or Associate Provost for Equity and Diversity will determine whether bias or conflict of interest in fact exists and necessitates the replacement of the investigator(s).

Attorneys are not permitted for the Student Non-Discrimination and Anti-Harassment Procedures.

The Office of the Registrar will be notified and a notation, "conduct process pending," will be placed on any Respondent's transcript, pending the outcome of the formal process, noting that allegations of Prohibited Conduct have been made. This is not a disciplinary sanction, but is intended to facilitate an equitable resolution of the process.

B. Investigation Scope and Timeline

The University will seek to complete investigation and adjudication of Complaints within one-hundred and twenty (120) business days when reasonably possible, but delays may occur when (among other things) 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 (10) calendar days except when law enforcement authorities specifically request and justify a longer delay. Both parties will be provided with written notice of any extension of the investigation and adjudication process beyond one-hundred and twenty (120) business days, and of the reason for the 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 Title VI Coordinator or Associate Provost for Equity and Diversity may determine that cases where the allegations arise out of the same set of facts or circumstances should be consolidated for purposes of investigation and/or adjudication. Instances where consolidation of Complaints may occur include but are not limited to cross-Complaints by the parties against each other, multiple Complaints by a single Complainant against a Respondent, Complaints by multiple Complainants against one or more Respondents, or multiple Complaints by a single Complainant against multiple Respondents.

1) Participation in an Investigation Process

During the investigation, which is an impartial fact-finding process, the Complainant and the Respondent will have an equal opportunity to share information and request that witnesses be interviewed. However, at all times, the burden of gathering evidence remains with the University. In the absence of their consent, the Complainant and Respondent will not be interviewed together or be required to meet. The investigator(s) retain(s) discretion to determine how to conduct the investigation and what information is necessary and relevant.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or interviews. If the investigator(s) elect(s) to audio and/or video record interviews, all parties involved in the meeting or interview will be made aware that audio and/or video recording is occurring.

2) Assessment Following Investigation

Once an investigation is completed, the Title VI Coordinator or Associate Provost for Equity and Diversity will assess whether the results of the investigation warrant proceeding with the Complaint process.

If it is determined that the alleged incident is more properly handled pursuant to another University policy or procedure, the matter will be directed to the appropriate procedure or personnel.

If it is determined that the allegations and available information warrant a continuation of the process, an informal resolution, administrative resolution, or a formal resolution may proceed.

If it is determined that continuing with the process is not warranted, the process will end, and the Complainant and Respondent will be informed. This notice will include findings of fact and the rationale for the determination.

IX. Administrative Resolution

In cases where the alleged violations, and therefore the range of possible sanctions, are minor (less than suspension or expulsion), the University may resolve the allegations through administrative resolution. If this process is used, following the receipt of the Notice of Allegations and completion of the investigation process, the Respondent will be required to meet with the Title VI Coordinator or Associate Provost for Equity and Diversity by a specified date. The Title VI Coordinator or the Associate Provost for Equity and Diversity will then give the Respondent the opportunity to respond to the allegation(s).

Once the Title VI Coordinator or the Associate Provost for Equity and Diversity makes reasonable attempts to allow the Respondent to respond to the allegation(s), the following occurs:

- The Title VI Coordinator or the Associate Provost for Equity and Diversity will make a determination as to whether the Respondent is responsible for the allegation(s).
- If there is a finding of responsibility, the Title VI Coordinator or Associate Provost for Equity and Diversity will determine sanctions.

X. Formal Hearing Process

If the formal hearing process is to be used, the Title VI Coordinator or Associate Provost for Equity and Diversity will appoint a hearing panel consisting of a hearing panel Chair who may be an external adjudicator or a PCRG member, and two additional panel members who are members of the PCRG. All panel members will be checked for conflicts of interest.

PCRG members who serve as an investigator or an advisor to the Complainant or Respondent may not serve as hearing panel members in the same matter. A hearing before the panel will be convened not less than ten (10) business days after the parties have been provided notice of the hearing, for the purpose of determining whether the Respondent is responsible or not responsible for the allegation(s).

Participants in the hearing will include the members of the hearing panel, the Complainant and the Respondent, their respective advisors, the investigator(s) who conducted the investigation, and witnesses (solely during their own testimony). Hearings are private. Observers or additional support personnel, other than the parties' advisors, are not allowed unless deemed necessary by the Title VI Coordinator or Associate Provost for Equity and Diversity for purposes such as the accommodation of a disability or language translation. Witnesses are not permitted to bring an advisor or other person to the hearing, absent an approved disability accommodation or a need for

a translator. The hearing panel may be advised by and/or consult with the University's legal counsel as the hearing panel Chair deems necessary or appropriate. Hearings will be recorded by the University. Cell phones and/or recording devices may not be used for the purposes of recording by the parties or their advisors in the hearing.

Hearings may be conducted with all parties physically present in the same location or, at the discretion of the Title VI Coordinator or the Associate Provost for Equity and Diversity, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling the hearing panel and the parties to simultaneously see and hear any party or witness while speaking. If either party so requests, the hearing will be conducted with the parties located in separate rooms using technology as described in the preceding sentence.

The Title VI Coordinator or Associate Provost for Equity and Diversity may postpone the hearing for good cause. Good causes may include, without limitation, unavailability of one or more participants due to unanticipated events or circumstances, the timing of academic breaks or holidays, or other extenuating circumstances.

At least ten (10) business days 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: 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.

Prior to the hearing, each party will submit to the hearing panel Chair and the Title VI Coordinator or the Associate Provost for Equity and Diversity 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 hearing panel Chair will exclude any witness the hearing panel Chair deems unnecessary. The hearing panel Chair will share with all parties the names of all witnesses whom they have approved to be called, and all relevant and available documentary information. The hearing panel Chair may decide that certain witnesses do not need to participate in the hearing if their testimony can be adequately summarized by the investigator(s) during the hearing. The hearing panel Chair is in charge of organizing the presentation of information to be considered by the hearing panel. The Title VI Coordinator or the Associate Provost for Equity and Diversity may assist the hearing panel Chair in organizing witnesses and testimony.

The hearing panel Chair will explain procedural ground rules prior to or at the outset of the proceeding, and the hearing panel Chair may impose additional ground rules as may be necessary for the orderly and efficient progress of the proceeding. Once the procedures are explained and the participants are introduced, the hearing panel Chair may call the investigator(s) to present the report of the investigation if the hearing panel Chair deems such a presentation to be necessary or desirable. The investigator(s) may be asked to respond to questions posed by the hearing panel Chair or hearing panel members. The findings of the investigation 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 otherwise determined necessary by the hearing panel Chair.

Formal rules of evidence will not apply. Any information that the hearing panel Chair and panel believe is relevant and credible may be considered.

The hearing panel 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 hearing panel Chair will have discretionary authority to determine all questions of procedure. The hearing panel Chair is 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.

A. Questioning Procedure

The hearing panel Chair will allow each party to propose questions that the party wants asked of the other party or any witness. These questions can be posed before the hearing in writing or during the hearing orally. The hearing panel Chair will determine whether a proposed question is appropriate before they ask the question, and will pose any approved question to the other party or witness on the questioning party's behalf. In the event the hearing panel Chair excludes a question, the hearing panel Chair will explain the decision. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The hearing panel Chair will give the party an opportunity to clarify or revise an otherwise acceptable question that the hearing panel Chair determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

Unless the hearing panel Chair determines it is appropriate, no one will present information or raise questions concerning:

1. the character of the Complainant or Respondent, or
2. incidents not directly related to the alleged violations unless they are offered to show a pattern of behavior or conduct.

XI. Findings or Admissions of Responsibility/Non-Responsibility; Sanctions

Determinations of responsibility in an administrative resolution or hearing as to whether the Respondent is responsible or not responsible for the alleged violation(s) are made using "preponderance of the evidence" as the standard of proof to determine whether each alleged violation occurred. "Preponderance of the evidence" means that the administrator or hearing panel must determine whether, based on the evidence presented, it is more likely than not that the Respondent engaged in the conduct charged in violation of University policy. A lack of preponderance does not necessarily mean that the Complainant has been dishonest or made a false Complaint, but rather that the weight of the evidence did not indicate that it was "more likely than not" that a violation occurred.

If the administrator or hearing panel determines that the Respondent is responsible for one or more of the allegations in question, they move to a consideration of sanctions. To inform sanctioning decisions, if there is a finding of responsibility for one or more of the allegations, the Respondent's prior disciplinary history, if any, will be shared with the administrator or hearing panel. Each party may submit a written personal impact statement for consideration by the administrator or hearing panel in determining an appropriate sanction if there is a finding of responsibility on one or more of the allegations. The parties may submit their statements anytime to the Title VI Coordinator or the Associate Provost for Equity and Diversity prior to 72 hours after the administrative resolution meeting or hearing ends. In addition to the impact statement(s), factors considered when determining sanctions may include:

1. the nature and severity of, and circumstances surrounding, the violation(s);
2. the Respondent's state of mind at the time of the violation(s) (intentional, knowing, bias-motivated, reckless, negligent, etc.);

3. the Respondent's previous disciplinary history (or lack thereof);
4. the need for sanctions to bring an end to the conduct; and/or to prevent the future recurrence of similar conduct;
5. the need to remedy the effects of the conduct on the Complainant and/or the community;
6. the impact of potential sanctions on the Respondent;
7. sanctions imposed by the University in other matters involving comparable conduct; and
8. any other lawful factors deemed relevant by the administrator or hearing panel.

The parties will receive simultaneous written notification of the outcome of the administrative resolution or 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 administrative resolution, hearing or appeal. The notification will include written notice of the findings, 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.

A. Student Sanctions

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

- 1) **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.
- 2) **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, no-contact orders, and/or other measures deemed appropriate.
- 3) **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.
- 4) **Expulsion:** Permanent termination of student status or indefinite or permanent revocation of University recognition of organizational status.
- 5) **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.
- 6) **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.
- 7) **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) **Education,** so a student has the opportunity to gain more insight into their behavior.
 - b) **"No-contact" order** (including but not limited to continuation of a no-contact order imposed as a supportive 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 order may include additional restrictions and terms.
 - c) **Acknowledgement of Impact:** Requiring the student or organization to write a letter acknowledging the impact 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 the privilege to live in University housing (e.g., exclusion from specified locations or alteration of status in the housing lottery or other selection system).
- ii) Loss, revocation or restriction of off-campus living privileges.

Sanctions take effect immediately, unless the Title VI Coordinator or Associate Provost for Equity and Diversity delays implementation pending completion of any appeal process.

XII. Appeals

A. Grounds for Appeal: Submission Requirements

The Complainant or Respondent may appeal the result of any administrative resolution or hearing. All appeals must be submitted in writing to the Vice President for Equity and Inclusion within ten calendar days of the delivery of the written findings of the administrative resolution or hearing panel. Appeals of a decision issued by a formal hearing involving students shall be submitted to an appellate panel composed of the Dean of the College and a PCRG member designated by the Vice President for Equity and Inclusion. Appeals of a decision issued by administrative resolution shall be submitted to the Vice President for Equity and Inclusion. Any party may appeal a decision, but only on the basis of one or more of the following grounds:

- 1) A procedural error or omission occurred during the process which, based upon the entire record, is reasonably likely to have changed the outcome of the administrative resolution or hearing (e.g., substantiated bias, material deviation from established procedures, etc.); or
- 2) New information, unavailable prior to or during the administrative resolution or hearing, has come to the attention of one of the parties which, had it been known at the time of the administrative resolution or hearing, and based upon the entire record, is reasonably likely to have changed the outcome of the administrative resolution or formal hearing process or the nature or severity of any sanction that may have been imposed; or
- 3) 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.

B. Appeal Procedures

In the event of an appeal by any party, all parties and the original decision maker(s) 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 decision maker (i.e., the appellate panel or the Vice President for Equity and Inclusion). 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 decision maker 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:

- 1) Because the appellate decision maker has not heard the evidence directly, deference must be given to the original administrative resolution decision maker(s) or hearing panel on evidentiary matters and the appellate decision maker must sustain the decision unless one of the three grounds for appeal listed above has been established.

- 2) In the event that the appellate decision maker determines that the appellant has met the burden of establishing that one or more grounds for appeal have merit, the appellate decision maker 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 administrative resolution decision maker(s) or hearing panel, remanding the case in whole or in part to a new decision maker or panel, and, in the case of disproportionality of a sanction, modifying that sanction as appropriate.
- 3) The appellate decision maker's decision is final and no further appeals are allowed, except to the extent that one or more parties seek review of proceedings ordered by the appellate decision maker on remand.

Once the appeals process is complete, the result is final and is not subject to further review or appeal under other Colgate University policies or procedures.

XIII. Withdrawal While Charges Pending

Should a student decide to withdraw from the University and not participate in the investigation, administrative resolution and/or hearing, the University may opt to proceed in absentia to resolution and that student will not be permitted to return to Colgate unless all levied sanctions (if any) 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."

XIV. Bias/Conflict of Interest

In the event that any person assigned a role pursuant to these procedures is aware of any relationship, fact, circumstance or occurrence that they reasonably believe creates or constitutes bias or a conflict of interest that would render the person incapable of performing the role in an impartial manner, that person shall identify in writing the bias or conflict of interest to the Vice President for Equity and Inclusion at the earliest practicable time.

Similarly, any Complainant or Respondent who objects to the participation of any person assigned a role pursuant to these procedures based upon bias or a conflict of interest shall identify the conflict of interest to the Title VI Coordinator or Associate Provost for Equity and Diversity at the earliest practicable time. The Title VI Coordinator or Associate Provost for Equity and Diversity will determine whether bias or a conflict of interest in fact exists and necessitates replacement of the person in question.

XV. Records

In implementing these procedures, records of all Complaints, resolutions, and hearings will be kept by the Title VI Coordinator or Associate Provost for Equity and Diversity. Access to these records will be made available only on a need-to-know basis or as required by law. Any such release shall only be made in accordance with any applicable Colgate policy and federal and state laws.

XVI. Transcript Notations

Students found responsible after a formal resolution process and suspended or expelled for a crime of violence that the University is required by federal law to include in its Annual Security Report will have a notation included on their transcript stating, "Suspended after a finding of responsibility for a code of student conduct violation" or "Expelled after a finding of responsibility for a code of student conduct violation." Upon the written request of a suspended student, transcript notations for suspensions imposed under these procedures may be removed at the

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discretion of the Title VI Coordinator but no earlier than one year after the conclusion of the suspension. Transcript notations for expulsion shall not be removed.

While a formal resolution process is pending the Respondent's transcript may contain the notation, "conduct process pending." This is not a disciplinary sanction, but is intended to facilitate an equitable resolution of the process.

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Student Sexual/Gender-Based Misconduct Policy

The University prohibits discrimination or harassment based on characteristics protected by applicable law, including gender, gender identity, gender expression, pregnancy or pregnancy-related conditions and sex (collectively, “Protected Characteristics”).

I. Who Does this Policy Apply to?

This policy sets forth behavioral expectations for all current Colgate University students. This policy and the associated procedures apply to situations where students are the Complainant or the Respondent; as such, they may apply to conduct by a student against an employee, or by an employee against a student. This policy and its associated procedures apply in other circumstances (including without limitation conduct between employees) where the University determines that Title IX requires their application. This policy applies to conduct that occurs on Colgate’s campus or property and in any Colgate programs and sponsored activities. This policy applies to off-campus conduct under certain circumstances. For example, certain aspects of the policy apply when students travel off campus as part of a University activity or team. Conduct that occurs off campus and not in connection with Colgate programs or activities may violate certain aspects of this policy if the conduct creates a threatening or hostile environment on campus or within a Colgate program or activity, or if the incident causes concern for the safety or security of Colgate’s campus or otherwise has a reasonable nexus to the University or its interests.

A Complaint against an Affiliated Individual or a non-community member for violation of the Colgate University Sexual/Gender-Based Misconduct Policy will be handled and addressed as the Title IX Coordinator deems appropriate to ensure that responsive action is taken.

II. Who Provides Oversight of This Policy?

The person responsible for the implementation of this policy is:

Title IX Coordinator
The Office of Equity and Diversity
102 Lathrop Hall
Colgate University
13 Oak Drive
Hamilton, NY 13346
315-228-6161

Inquiries may be made to:

Vice President for Equity and Inclusion
The Office of Equity and Diversity
102 Lathrop Hall
Colgate University
13 Oak Drive
Hamilton, NY 13346
315-228-6161

Inquiries and complaints against the University 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#: 800-877-8339

E-mail: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

III. What Conduct is Prohibited? (Definitions)

The following describes conduct prohibited by this policy (referred to in this policy and its associated procedures as “Prohibited Conduct”):

This policy applies to alleged conduct violative of Title IX of the Education Amendments of 1972 (“Title IX Violations”), and also applies to a broader range of contexts and behaviors inconsistent with the University’s commitment to equal opportunity and, in some cases, the University’s obligations under other applicable laws such as New York Education Law Article 129-B (i.e., “University Standards Violations”).

The designation of Prohibited Conduct or allegations as either “Title IX Violations” or “University Standards Violations” is not a function of the seriousness of the alleged conduct but rather a function of the scope and coverage of Title IX versus the University’s broader obligations under New York Education Law Article 129-B and its discretion to prohibit and discipline a larger scope of inappropriate behavior.

A. Title IX Violations

Title IX of the Education Amendments of 1972 provides: “No person in the United States shall, on the basis of sex, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

In accordance with Title IX as interpreted by the United States Department of Education, the University recognizes the following as conduct violations within the meaning of Title IX, provided that the context and circumstances of the conduct fall within the scope of Title IX. Among other things, this means that the Complainant was in the United States at the time of the alleged conduct, that the Complainant is participating in or seeking to participate in the University’s education program or activity at the time of the Complaint, and that the conduct is alleged to have occurred in the context of the University’s education program or activity:

1) Sexual Harassment

“Sexual harassment”, as a Title IX Violation, is conduct on the basis of sex, gender or sexual orientation, that satisfies one or more of the following:

- An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct (commonly referred to as a “quid pro quo”); or
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity (commonly referred to as a sexually or gender-based “hostile environment”).

Unwelcome conduct on the basis of sex, gender, sexual orientation, or gender identity or expression, that does not rise to the level or occur in the context described above may be addressed as a University Standards Violation, provided that it meets the definition of sexual harassment as a University Standards Violation.

2) Sexual Assault

Consistent with federal law, Colgate defines sexual assault as a sexual act directed against another person, without consent of the other person, including instances where the other person is incapable of giving consent. Sexual assault consists of any of the following specific acts:

- 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, without the consent of the other person.
- Non-Consensual Sexual Contact. This form of sexual assault includes any intentional touching of the clothed or unclothed body parts of another person, directly or with an object, without consent of the other person, for the purpose of sexual degradation, sexual gratification, or sexual humiliation; or the forced touching by another person of the actor's clothed or unclothed body parts without consent of other person, for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- Incest. Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York State is 17.

3) Dating Violence

Dating violence refers to violence (including but not limited to sexual or physical abuse or the threat of such abuse) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) the length of the relationship;
- (ii) the type of relationship; and
- (iii) the frequency of interaction between the persons involved in the relationship.

Dating violence 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. Dating violence does not include acts covered under the definition of domestic violence.

4) Domestic Violence

Domestic violence refers to a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the University is located, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have a relationship as described above.

5) Stalking

Stalking is engaging in a course of conduct directed at a specific person on the basis of sex that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition,

- a "course of conduct" means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;

- “Reasonable Person” means a reasonable person under similar circumstances and with similar identities to the Complainant; and
- “substantial emotional distress” means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Examples of behavior that may constitute stalking include repeated, intentional following, observing or lying in wait for another; using “spyware” or other electronic means to gain impermissible access to a person’s private information; repeated, unwanted, intrusive, or frightening communications by phone, mail, email, text, social media messaging, etc.; making direct or indirect threats to harm an individual or the individual’s relatives, friends, or pets; or damaging or threatening to damage the property of the targeted individual. Stalking that does not occur on the basis of sex may be addressed as a University Standards Violation.

B. University Standards Violations

The University prohibits the following behavior under circumstances in which a University interest is implicated (such as an impact on individuals as members of the University community). For the purpose of University Standards Violations, the below conduct is prohibited even if the conduct occurs off-campus, outside the United States, if the Complainant is not participating or seeking to participate in the University’s education program or activity, or otherwise in circumstances over which the University does not have influence or control, including but not limited to during University academic breaks.

1) Discrimination

The term “discrimination” refers to an act that disadvantages a person and that occurs because of the affected individual’s Protected Characteristics. Examples of discrimination include but are not limited to excluding a student from membership in an organization, denying a student a professional opportunity, or giving a student a lower grade than deserved because of the student’s Protected Characteristic.

2) Sexual Harassment

“Sexual harassment” is unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex or gender, sexual orientation, or gender identity or expression, when the conduct is so severe or pervasive that it has the effect of unreasonably interfering with an individual’s work, academic, or extracurricular performance, even if the reporting individual is not the intended target of the sexual harassment.

Harassing conduct can occur in various forms, including:

- **Verbal** – Conduct such as unwelcome sexually suggestive, demeaning, or graphic comments; unwelcome verbal sexual advances; using slurs to refer to a person; bullying, yelling or name-calling; refusing to use a person’s preferred pronouns or name; or jokes or comments that demean a person on the basis of sex or gender, sexual orientation, gender identity or gender expression.
- **Physical** – Conduct such as unwanted sexual contact or physical sexual advances (e.g., unwanted touching, pinching, patting, kissing, hugging, grabbing, brushing against another person’s body or poking another person’s body); sexual intimidation through physical threats; or physical threats toward or intimidation of another on the basis of sex or gender, sexual orientation, gender identity or gender expression.
- **Visual** – Conduct such as exposing another person to unwanted pornographic images; creating or displaying pictures, symbols, flags, cartoons, or graffiti that is/are sexually offensive

or disparage(s) another person or group based on sex or gender, sexual orientation, gender identity or gender expression.

- **Communication-based** – Conduct such as phone calls, e-mails, text messages, chats, blogs or online communications that offend, demean, or intimidate another on the basis of sex or gender, sexual orientation, gender identity or gender expression. Members of the community are expected to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of, or group within, the University community.
- **Sex stereotyping** – Conduct in which another person’s or group’s conduct or personality traits are treated as inappropriate simply because they may not conform to other people’s ideas or perceptions about how individuals of a particular sex should act or look.

These various forms constitute Prohibited Conduct when they rise to the standard of sexual harassment set forth above.

A determination as to whether sexual 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 or group and the learning community.

A “hostile environment” is a type of harassment, and occurs when offensive conduct or behavior interferes with an individual’s ability to participate in the University’s programs or activities 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 policy violation. Individuals with a concern need not worry about whether the behavior is sufficiently serious to constitute a hostile environment.

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 as described above. In all instances, a key factor is whether the complained-of behavior occurred based on sex or gender, sexual orientation, gender identity or gender expression or was sexual in nature. If it did not, the behavior is not regulated by this policy. However, even if the conduct is not sexual in nature or based upon on sex or gender, sexual orientation, gender identity or gender expression and/or does not otherwise constitute Prohibited Conduct under this policy, the University may respond by providing individual and community support and resources to those who have been impacted. In addition, such conduct that is not sexual in nature or based on sex or gender, sexual orientation, gender identity or gender expression may constitute a violation of the University’s Code of Student Conduct and, if so, will be addressed pursuant to the System of University Standards and Student Conduct.

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 on submission to sexual activity.

3) Sexual Assault

“Sexual assault” includes any sexual act directed against another person without the consent of the other person, including instances where the victim is incapable of giving affirmative consent, but that does not constitute sexual assault as a Title IX Violation as defined above because of the nature of

the behavior or the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the University's education program or activity at the time of the Complaint, or because the conduct did not occur in the context of the University's education program or activity).

Sexual assault consists of the following specific acts:

- **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 the affirmative consent of the other person or where the other person is incapable of consent due to mental or physical incapacity.
- **Non-Consensual Sexual Contact**. This form of sexual assault includes any intentional touching of the clothed or unclothed body parts of another person, directly or with an object, without consent of the other person, for the purpose of sexual degradation, sexual gratification, or sexual humiliation; or the forced touching by another person of the actor's clothed or unclothed body parts without consent of other person, for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- **Incest** – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape** – Non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York State is 17.

4) Sexual Exploitation

Taking non-consensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited, even if the conduct does not otherwise constitute another offense under this policy (such conduct may constitute sexual exploitation, another violation under this policy, or both). Examples of Sexual Exploitation include:

- sexual voyeurism (such as observing or allowing others to observe (an)other person(s) undressing or using the bathroom or engaging in sexual acts, or in any other sexually related activity, when there is a reasonable expectation of privacy during the activity, without the consent of the person(s) being observed);
- taking, using or disseminating pictures, video, or audio recording of (an)other person(s) undressing or using the bathroom or engaging in sexual acts, or in any other sexually related activity, when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as disseminating sexual pictures without the photographed person's consent or beyond the parameters of consent), including the making or posting of revenge pornography;
- exposing one's genitals in non-consensual circumstances or non-consensual disrobing of another person so as to expose the other person's private body parts;
- prostituting another person;
- engaging in sexual activity with another person while knowingly infected with a sexually transmitted disease (STD) or infection (STI), without informing the other person of the STD or STI;
- causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity;
- misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections;
- forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity;
- knowingly soliciting a minor for sexual activity.

5) Dating Violence

Dating violence refers to violence (including but not limited to sexual or physical abuse or the threat of such abuse) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, but that does not constitute dating violence as a Title IX Violation as defined above because of the nature of the behavior or the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the University's education program or activity at the time of the Complaint, or because the conduct did not occur in the context of the University's education program or activity). The existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) the length of the relationship;
- (ii) the type of relationship; and
- (iii) the frequency of interaction between the persons involved in the relationship.

Dating violence can include behavior such as coercion, isolation or other forms of emotional, verbal or economic abuse. Dating violence does not include acts covered under the definition of domestic violence.

6) Domestic Violence

Domestic violence refers to a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the University is located, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the act of violence occurs, that does not constitute domestic violence as a Title IX Violation as defined above because of the nature of the behavior or the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the University's education program or activity at the time of the Complaint, or because the conduct did not occur in the context of the University's education program or activity). To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have a relationship as described above.

7) 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 to suffer substantial emotional distress, but that does not constitute stalking as a Title IX Violation as defined above because of the nature of the behavior or the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the University's education program or activity at the time of the Complaint, or because the conduct did not occur in the context of the University's education program or activity). For the purposes of this definition:

- a "course of conduct" means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
- "Reasonable Person" means a reasonable person under similar circumstances and with similar identities to the Complainant; and

- “substantial emotional distress” means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Stalking behavior may include but is not limited to repeated, intentional following, observing or lying in wait for another; using “spyware” or other electronic means to gain impermissible access to a person’s private information; repeated, unwanted, intrusive, or frightening communications by phone, mail, email, text, social media messaging, etc.; making direct or indirect threats to harm an individual or the individual’s relatives, friends, or pets; or damaging or threatening to damage the property of the targeted individual.

8) Retaliation

Retaliation is an adverse act perpetrated to “get back” at a person because the person reported misconduct, filed a Complaint, or participated or refused to participate as a complainant, respondent or witness in an investigation or proceeding conducted in response to reported violation of this policy by the University or by an external agency. Retaliation also includes an adverse act against someone for the purpose of interfering with any right or privilege under this policy or applicable law. Retaliation can take many forms, including, but not limited to, adverse action or violence, threats or intimidation that would discourage a reasonable person (under similar circumstances and with similar identities to the targeted individual or group) from engaging in protected activity. A person who acts in good faith is protected from retaliation. The fact that a statement is not determined to be proven or established following investigation and adjudication does not mean that the statement lacked good faith; a person may provide inaccurate information believing it is accurate, which is still good faith. If a person makes a statement knowing that it is false, the person has acted without good faith.

IV. What is Consent?

Sexual activity or contact must be based on mutual and affirmative consent to the specific activity or contact. Our policy requires affirmative consent. 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. “Should know” is an objective, Reasonable Person standard which assumes that a Reasonable Person is both sober and exercising sound judgment. 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 a result of coercion, intimidation, force, or threat of harm. Coercion is a threat, undue pressure, or intimidation to engage in sexual activity. Coercion is more than an effort to persuade, seduce, entice, or attract another person to engage in sexual activity. A person's words or conduct are sufficient to constitute coercion if they deprive another individual of the ability to freely choose whether or not to engage in sexual activity.

Acts of sex-based harassment, sexual assault, dating violence, domestic violence and stalking can occur regardless of the sex, gender, sexual orientation and/or gender identity of those involved.

V. Who is Required to Report Prohibited Conduct to the Title IX Coordinator?

All members of Colgate's community are expected to promote an environment free from sexual and/or gender-based misconduct. Colgate encourages any individual to report incidents of Prohibited Conduct to obtain support and information and to enable Colgate to respond appropriately. Individuals can report concerns about Prohibited Conduct to the Title IX Coordinator.

There are certain employees who must report incidents of Prohibited Conduct to the Title IX Coordinator. These Mandated Reporters include members of the Prohibited Conduct Response Group and the Discrimination and Harassment Team and employees in the Offices of Human Resources, Campus Safety, Emergency Management, Administrative Advising, Student Conduct, and Residential Life. The Vice President and Dean of the College and Dean of Students are also Mandated Reporters.

A. Reporting Requirement of Faculty and Staff

Any faculty or staff member, unless their status as a Confidential Employee precludes this disclosure, who learns of an incident of Prohibited Conduct as defined in this policy is encouraged to report this information to the Title IX Coordinator.

Supervisors (even if not Mandated Reporters) must report any complaints or suspected acts of Prohibited Conduct by or affecting employees (even if they do not involve direct reports). The Title IX Coordinator is responsible for providing direction to employees and supervisors about any University-required supportive measures, such as, but not limited to, addressing issues directly with staff, faculty, or students whom they supervise, facilitating informal resolution or mediation of issues, providing information on avenues to address questions of Prohibited Conduct, or pursuing Complaints under the complaint procedures described here. Failure to report Prohibited Conduct in accordance with this section may be considered a violation of University policy.

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.

B. Public Awareness/Advocacy Events

If a member of the Colgate community discloses actions believed to constitute Prohibited Conduct through a public awareness event such as a candlelight vigil or a protest, 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. What if I Need Accommodations or Adjustments for my Disability in this Policy and Related Procedures?

General disability accommodation or adjustment requests are handled separately from this policy. The Executive Director of Student Disability Services is responsible for coordinating efforts to comply with these disability laws, including evaluation of student accommodation requests for academic and housing adjustments. Procedures for requesting these types of accommodations or adjustments are described in the Student Handbook.

Student requests for accommodations or adjustments while engaging in the processes contemplated by the Student Sexual/Gender-Based Misconduct Policy and/or Procedures should be directed to the Title IX Coordinator. The Title IX Coordinator may consult with the Office of Disability Services in the determination of a disability accommodation or adjustment request.

Complaints regarding disability-related discrimination or harassment should be directed to the Title VI Coordinator.

VII. What if I Need Modification for My Pregnancy or Related Condition?

The Title IX Coordinator is responsible for coordinating efforts to comply with laws governing pregnancy or related conditions. Student requests for modification should be directed to the Title IX Coordinator. For more details, please see the Pregnancy and/or Related Conditions Policy.

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Student Sexual/Gender-Based Misconduct Procedures

I. Procedural Summary

These procedures provide options to resolve concerns or reports made that allege Prohibited Conduct within the scope of the Sexual/Gender-Based Misconduct Policy.

Following the receipt of a reported concern or Complaint, the Title IX Coordinator will send an outreach email to offer to meet with the Reporting Party and provide them with resources and offer assistance.

Meeting with the Title IX Coordinator can include a discussion of supportive measures. Supportive measures are intended to provide resources and/or adjustments to a student who experienced Prohibited Conduct in order to assist with their continued involvement in the University's programs and activities. These supportive measures may include no-contact orders or other academic, residential or work adjustments. A student may reach out to a Confidential Employee and decide at that time or a later time to report to the University.

The following procedures are available to Complainants following the assessment of the Complaint/intake, if the matter falls within the scope of the Sexual /Gender-Based Misconduct Policy. There may be times that additional fact gathering may occur prior to an investigation. Once there is sufficient information to identify the allegations, the following procedures may be available to the Complainant:

- *Informal Resolution.* A process that permits the parties (i.e., the Complainant and the Respondent) to agree to the terms of resolving the situation, with the approval of the Title IX Coordinator. Not all incidents are appropriate for informal resolution, and no party may be forced to participate in or accept informal resolution. This is a process that requires voluntary participation by the parties and agreement by the Title IX Coordinator.
- *Formal Resolution.* A process where, following the conclusion of an investigation, the findings and (if applicable) sanctions are determined by a hearing panel.

If an incident involves criminal conduct, the victim may make a complaint to law enforcement. An individual may report to the University and also make a report to law enforcement. An individual may make a report to only the University or only to law enforcement, or may report to neither the University nor law enforcement.

The University will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of these procedures, provided that such steps do not restrict the ability of the parties to obtain and present evidence, to speak to witnesses, to consult with their family members, Confidential Employees, or advisors, or otherwise prepare for or participate in a process. The University will also take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through these procedures. However, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to a complaint of Prohibited Conduct will be authorized.

II. Supportive Resources

A. Confidential Support

A Confidential Employee is an individual designated by the University who is not required to report the identity of an individual sharing specific details or information about behavior or incidents that could be considered Prohibited Conduct. A disclosure to a Confidential Employee or office does not result in a University investigation or any other action to respond to the incident.

The confidential resources will not share your information with anyone else, including other staff or faculty or the Title IX Coordinator unless you give them explicit written permission to share your information or unless permitted or required consistent with ethical or legal obligations (e.g. when an individual poses a threat to self or others). A person seeking confidential emotional support or healthcare may contact the following resources:

1) On-Campus Support

- Counseling and Psychological Services, located at 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.
- Student Health Services, 140 Broad Street, 315-228-7750.
- Office of the Chaplains, located on the garden level of the Memorial Chapel, 315-228-7682.
- Haven, Sexual Violence Resource Center at Colgate, located at Drake Hall, 315-228-7385.

2) Off-Campus Support

- Enough is Enough Advocate, Help Restore Hope, 24/7 Hotline: 855.9.NOWSAFE (855.966.9723) (Ask for on-call advocate).
- Community Memorial Hospital, 315-824-1100, 150 Broad Street, Hamilton, NY
- The New York State Department of Health - Women's Health website: for more information, see: <https://www.health.ny.gov/community/adults/women/>
- Your own medical or mental health provider

Some on-campus Confidential Employees submit non-personally identifying information about Clery-reportable crimes to Colgate Campus Safety for purposes of anonymous statistical reporting under the Clery Act.

B. Non-Confidential Resources

Colgate personnel at the University, other than Confidential Employees, are not confidential and, if they learn of Prohibited Conduct, may (and Mandated Reporters and supervisors must) report such information to the Title IX Coordinator.

III. Reporting Options

Current or former students, staff or faculty can report Prohibited Conduct directly to the Title IX Coordinator or the following (each individual or office listed below is required to report such information they receive to the Title IX Coordinator):

- Online Reporting Forms: You may use one of Colgate's [online reporting forms](#). The forms provide the option for you to report anonymously or to share your information. Providing anonymous information may help the University maintain accurate records regarding the number of incidents involving students, employees, and third parties; determine if there is a pattern of conduct with regard to a particular location or person; and alert the campus community to potential dangers when appropriate. Depending on the amount of information available in the anonymous report, however, the University's ability to respond with an investigation or disciplinary action may be limited. If you share your information, someone from our office will contact you to follow up.
- Title IX Coordinator/ Title IX Office: Anyone may make a report of Prohibited Conduct to the Title IX Coordinator by going in person to Lathrop 102, by telephone at 315-228-7014 or by email at TitleIX@colgate.edu.
- [Any Prohibited Conduct Response Group \(PCRG\) member](#)
- Any Discrimination and Harassment Team (DHT) member

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- Campus Safety (315-228-7333), who can assist with filing a Complaint and preserving evidence
- Law Enforcement: The Hamilton Police Department (315-824-3311, or 911 in an emergency), who can assist in filing a criminal complaint and preserving evidence.

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, and call upon and assist local law enforcement in effecting an arrest for violation of the order of protection or similar document.

There is no time limit for making a report. However, the passage of time may make effective responsive action difficult. Further, if the Respondent 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.

You may also contact the Title IX Coordinator or a PCRG member to discuss how Colgate's investigatory and grievance processes work. You need not disclose information about a specific incident in order to obtain general information about the University's policies and procedures.

A third party or anyone other than the Complainant may report an incident, but the person who allegedly experienced Prohibited Conduct is the Complainant for purposes of these procedures.

IV. Supportive Measures

Supportive measures are accessed by request to the Title IX Office. These supportive measures, which may be available regardless of whether a Complaint is made, are intended to protect the safety and well-being of members of the campus community and are not indicative of findings of responsibility. Supportive measures may include but are not limited to:

- Mutual No-Contact Orders and, in certain cases, one-way No-Contact Orders;
- Academic Adjustments
- Housing Adjustments
- Work Adjustments
- Counseling Referrals
- SANE (Sexual Assault Nurse Examiner) Exam conducted at Community Memorial Hospital
- Transportation
- Escort around campus

The Title IX Coordinator is responsible for approving and implementing or arranging supportive measures. To learn more about any of these or other available supportive measures, please contact the Title IX Office.

A. Reconsideration of Supportive Measures and Denied Requests

If a party's request for a supportive measure is denied, the party will be afforded an opportunity to have the denial promptly reviewed by submitting a written request to the Vice President for Equity and Inclusion to assess whether the supportive measure is reasonable under the circumstances. In addition, an individual may also seek a prompt review of the need for and/or terms of any supportive measure that directly affects said individual, by submitting a written request for review to the Vice President for Equity and Inclusion, providing the basis for that request and any

evidence in support. Each party will be allowed to submit evidence in support of, or in opposition to, the request to the extent the supportive measure under review affects that party.

V. Emergency Removal

When a student accused of Prohibited Conduct is determined to be an immediate threat to the physical health or physical safety of any student or other individual arising from the allegations of Prohibited Conduct, the University may undertake an emergency removal of the student from some or all University programs or activities pending the outcome of any proceedings under these procedures. Prior to effectuating an emergency removal of a student, the University will undertake an individualized safety and risk analysis. If the individualized safety and risk analysis determines that an immediate threat to the health or safety of any student, including the student Respondent, or other individual justifies removal, then the student Respondent will be removed.

Both the Complainant and the Respondent will, upon written request, be afforded an opportunity for a review of the need for and/or terms of an emergency removal, including potential modification. Parties desiring such a review should submit a written request to the Vice President for Equity and Inclusion, providing the basis for that request and any evidence in support. The burden of proof is on the party submitting the request to show that the removal decision was incorrect. The emergency removal will remain in effect while the appeal is considered.

The emergency removal process applies only to student Respondents. Employee Respondents are not subject to this process and may be placed on administrative leave pursuant to the University's policies and/or collective bargaining agreements during any process under these procedures.

VI. Initial Intake/Complaint

When the Title IX Coordinator receives a report of Prohibited Conduct, the Title IX Coordinator reaches out to the person who is impacted by the potential misconduct (the Complainant). This outreach is typically done via email. In that email the Title IX Coordinator will share information about resources, potential supportive measures, and invite the Complainant to meet. If a Complainant chooses to meet with the Title IX Coordinator, the Title IX Coordinator will ask them questions about what they experienced and discuss their options for potential resolutions, including review of the formal and informal resolution processes, protection from retaliation, allowing them to submit a Complaint (if desired and not previously submitted), and confidential support options. This initial meeting is called an Intake.

The Complainant is also provided a document delineating their rights, resources, and options, including the right to make a report 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 supportive measures and resources through Colgate or other community organizations.

The Complainant may choose to only share their experience with the Title IX Coordinator and ask that the University not take any further action. If the Complainant does not want the University to take further action, the Title IX Coordinator will consider the request. However, in some limited circumstances, the Title IX Coordinator, in consultation with other "need-to-know" staff from the University (e.g., Campus Safety, Human Resources, and/or Risk Management), may determine it is necessary to move forward with the Complaint, in which case the Title IX Coordinator will sign the Complaint. The Title IX Coordinator will take the following factors into consideration when determining if the Title IX Coordinator should initiate a Complaint:

- The Complainant's request not to proceed with initiation of a Complaint;

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- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
- The severity of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Prohibited Conduct and prevent its recurrence;
- Whether the Respondent has a history of violent behavior or is a repeat offender;
- Whether the alleged incident represents alleged escalation in unlawful conduct on behalf of the Respondent from previously noted behavior;
- Whether the Respondent allegedly used a weapon or force;
- Whether the University possesses other means to obtain evidence, such as security footage;
- Whether available information reveals a pattern of perpetration at a given location or by a particular group;
- The age and relationship of the parties, including whether the Respondent is an employee of the University;
- The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a decision maker in determining whether Prohibited Conduct occurred; and
- Whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating a grievance procedure under this policy.

If the Title IX Coordinator does initiate and sign a Complaint, the Title IX Coordinator is not the "Complainant" for purposes of these procedures; the Complainant remains the person who allegedly experienced the Prohibited Conduct. The Complainant will be notified prior to the Title IX Coordinator taking such action, and the Title IX Coordinator will appropriately address any reasonable concerns about safety, including by providing supportive measures.

In cases where the Reporting Party requests confidentiality or anonymity, and the circumstances allow the University to honor that request, the University will offer supportive measures and remedies to the Reporting Party and the community, but will not otherwise pursue formal action.

There is no time limit on bringing a Complaint, as long as the accused individual is a member of the campus community and/or remains subject to its jurisdiction, but prompt reporting is very strongly encouraged. The Title IX Coordinator may exercise discretion in handling Complaints when substantial time has passed since an alleged incident.

The University may temporarily withhold a student's degree and/or diploma if the student is subject to an Emergency Removal based on a pending Complaint or investigation.

A. Advisors

Complainants and Respondents may have an advisor of their choosing (at the party's expense, if the advisor is a paid advisor), who may be, but is not required to be, an attorney, assist them throughout any formal or informal process, including during all meetings and hearings related to the process. During a formal resolution process, if a party does not have an advisor at the time that the initial investigation is complete, then the University will provide an advisor. If the University provides an advisor for a party, it will be at its choosing and in advance of the hearing as described below.

Advisors can only advise the Complainant or Respondent privately and cannot act as speaking advocates in the investigation, or informal resolution process. During the adjudication process the advisor may conduct questioning as described below, but otherwise may speak only at the discretion of the hearing panel Chair. If an advisor does not adhere to these or other applicable ground rules, the advisor will be dismissed from the interview or other meeting or proceeding, which will continue without opportunity for the advisee to secure a new advisor. If an advisor is going to accompany a party, that party must advise the Title IX Coordinator of the identity of the advisor upon making that decision.

VII. Complaint Dismissal Provisions

In order to comply with federal Title IX regulations, the Title IX Coordinator must “dismiss” allegations of Title IX Violation(s) alleged in a Complaint if, at any time following receipt of the Complaint, it is apparent that the allegations are not within the scope of Title IX, including that the conduct alleged:

1. would not constitute sexual harassment, sexual assault, dating violence, domestic violence or stalking as defined as Title IX Violations in the Sexual/Gender-Based Misconduct Policy, even if proved;
2. did not occur in the University’s education program or activity; or
3. did not occur against a person in the United States.

Even if allegations of Title IX Violations are subject to dismissal, the University may continue to process the allegations as University Standards Violations if the allegations, if true, would constitute University Standards violations.

The Title IX Coordinator also may (but is not necessarily required to) dismiss a Complaint or any of its allegations at any time during the investigation or hearing if:

1. The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Complaint or any specific allegation,
2. The Respondent is no longer enrolled or employed by the University, or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Complaint or its allegations.

Any decision to dismiss a Complaint or allegation pursuant to this section is immediately appealable pursuant to the appeal procedures set forth below.

VIII. Informal Resolution

An informal resolution is a process in which the parties are assisted in resolving the allegations made by a Complainant without a formal investigation and adjudication. A Complaint is necessary to initiate an informal resolution process. Types of informal processes include, but are not limited to, educational conversations, training, mediated conversations, and restorative justice practices. The Title IX Coordinator will offer informal resolution processes to the parties if the Title IX Coordinator believes an informal resolution may be appropriate.

The parties must agree to an informal resolution. Any party in an informal resolution process may end it at any time and, if applicable, the Complaint will proceed (or return) to the formal investigation and resolution process. In some instances, the facilitator in the informal resolution process or the Title IX Coordinator may terminate the process as well.

The informal resolution process is not available in a situation involving more than two parties unless (a) all parties voluntarily consent to use the informal resolution process, (b) there is an understanding among all parties about what happens when the right of any party to stop the informal resolution process and commence (or return to) the formal investigation and resolution process is invoked, and (c) there is an understanding among all parties about whether some parties, but not all, can agree to a resolution.

No party should feel intimidated, coerced or threatened to participate in an informal resolution process, and the Title IX Coordinator will not authorize use of the informal resolution process where there is reason to believe that a party's consent to use the process is not truly voluntary. The result of an informal resolution process is not subject to appeal once all parties indicate their written assent to all agreed-upon terms of resolution.

Supportive measures are available to both parties during informal resolution processes.

A. Notice Prior to Informal Resolution

Before the initiation of an informal resolution process, the Title IX Coordinator will provide to the parties a written notice that explains:

- The allegations;
- The requirements of the informal resolution process;
- That, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the formal investigation and resolution process;
- That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming the formal investigation and resolution process arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information the University will maintain and whether and how the University could disclose such information for use in its formal investigation and resolution process if it is initiated or resumed.

B. Role of the Facilitator

Not all informal resolutions will involve a facilitator. When they do, the facilitator's role is to conduct the informal resolution process in a way that is impartial and does not favor one party over the other(s).

The facilitator has broad latitude to conduct the informal resolution in whatever way they deem appropriate and relevant to the parties' concerns. If the facilitator believes at any point in the informal resolution process that one party is not behaving in a way that allows for a productive resolution between the parties, or should a conflict with the facilitator arise, either another facilitator will be appointed or the University will require that the informal resolution process be canceled and the matter may be addressed through the formal investigation and resolution process.

C. Support Person

Each party may have a support person accompanying them to any informal resolution meeting. A support person can help a party understand or explain the issues under discussion or simply help the party feel more comfortable during the informal resolution process; this can be a friend, relative, a PCRG member or any other person that the party trusts. Support people cannot be anyone who has been involved in the facts and circumstances in the allegations in any way. The facilitator or Title IX Coordinator can exclude a support person if their presence is disruptive during the informal resolution process.

A party must let the Title IX Coordinator know in advance if they would like a support person to attend any meeting and the name of the support person and that person's relationship to the party. The facilitator or Title IX Coordinator will check with the other party to confirm that such party agrees to continue with the informal resolution with the support person present.

Support can be provided in several ways. Support people do not necessarily have to be present in an informal resolution session; if preferred, they can be available in a nearby area and provide support during breaks.

Parties engaged in informal resolutions are permitted to retain advisors to help them in the process. The role of advisors in an informal resolution can be limited by the informal resolution facilitator and/or the Title IX Coordinator.

D. Confidentiality

For the informal resolution process to have the best chance for success, the parties should be free to express themselves. As a result, the information received from the parties solely during the informal resolution process will be kept confidential by the facilitator, with limited exceptions, but the facilitator may share information as necessary, to enable the Title IX Coordinator to oversee the process in accordance with these procedures.

In addition, the facilitator will not be available as a witness in any formal investigation and resolution process that may occur should a party or the University terminate the informal resolution process before a resolution.

Should the matter proceed or be returned to the formal investigation and resolution process, the parties and any support persons may not disclose information shared by the other party solely during the informal resolution process in the formal investigation and resolution process. All parties participating in the informal resolution process must sign an agreement that provides that information revealed by a party solely in the informal resolution process will not be used against the other party in the formal investigation and resolution process. This protection does not apply to information that is learned outside the informal resolution process, through the investigation or otherwise.

E. Possible Outcomes of an Informal Resolution

A resolution is reached only if all parties agree and if the resolution is accepted by the Title IX Coordinator. The University imposes no restrictions on the possible outcomes reflected in a resolution so that the parties are free to fashion a resolution that meets their needs, subject to acceptance by the Title IX Coordinator. A resolution may include sanctions, up to and including expulsion/termination of employment, if the parties agree. For example, the parties may agree upon an educational conversation, prohibitions on co-enrollment or registration priorities for classes, boundaries for participation in campus activities, and/or restrictions on contact between or among the parties, among other terms of an informal resolution.

The facilitator (or, if a facilitator is not used, the Title IX Coordinator) will draft a document reflecting the agreement between the parties that becomes final once it is signed by all parties and accepted by the Title IX Coordinator. This written and signed resolution indicates that the matter has been resolved under this process without the need to pursue the formal investigation and resolution process.

After a written resolution has been finalized, the University will keep a record of the parties' written consent to the informal resolution process and the written resolution. Results of informal resolution are not appealable.

F. What Happens if the Informal Resolution Process Does Not Result in an Agreed-Upon Resolution

The informal resolution process should proceed with due promptness. The University imposes no specified timeframe for the process but the facilitator or Title IX Coordinator may choose to terminate the informal resolution process (and either party may elect to terminate the process) if insufficient progress is being made.

If an informal resolution process does not result in an agreed-upon resolution, the formal investigation and resolution process may commence or resume.

IX. Formal Process

A formal Complaint is necessary to initiate a formal process and must be in written form and signed by the Complainant or the Title IX Coordinator. A third party or anyone other than the victim of the misconduct may report an incident, but may not file a formal Complaint. However, a formal Complaint may be filed by a parent or guardian on behalf of a minor person.

A. Notice of Allegations

The parties will receive a Notice of Allegations, in advance of any interview or other meeting they are required or entitled to attend. This Notice will include:

1. To the extent known, the identities of the involved parties and the date, time, location and factual allegations concerning the alleged violation;
2. the policy provisions allegedly violated;
3. a description of the investigation and adjudication process;
4. potential sanctions;
5. the right to an advisor of their choice, who may be, but is not required to be, an attorney to assist and accompany them throughout the process, including during all meetings and hearings related to the process, as and to the extent provided in these procedures;
6. the right to inspect and review evidence in accordance with these procedures;
7. notice that knowingly making false statements or knowingly submitting false information is prohibited under University policy.
8. consistent with the preponderance of the evidence standard used to determine responsibility, notice that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the process; and
9. A statement about the University's policy on retaliation.

If, in the course of the investigation, the University decides to investigate allegations that are not included in the notice initially provided to the parties, the Title IX Coordinator will provide notice of the additional allegations to the parties.

To the extent the Title IX Coordinator has reasonable concerns for the safety of any person as a result of providing the Notice of Allegations, the Title IX Coordinator may reasonably delay providing the Notice in order to address the safety concern appropriately. Reasonable concerns must be based on an individualized safety and risk analysis and not on mere speculation or

stereotypes. In any event, the parties will receive the Notice with sufficient time to prepare a response before any initial interview.

The Complainant and Respondent will be provided with notice of the name of the appointed investigator(s) and an opportunity of not more than three business days after the notice to raise an objection to the investigator(s) based on any alleged bias or conflict of interest known to the party. If an objection is raised, the Title IX Coordinator will determine whether bias or conflict of interest in fact exists and necessitates the replacement of the investigator(s).

B. Investigation Scope and Timeline:

Investigation of Complaints will be completed within one-hundred and twenty (120) business days when reasonably possible, but an investigation may take longer when (among other things) the University is not in session. The University may, but shall not be obligated to, delay the process 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. Both parties will be provided with written notice of any extension of the process beyond one-hundred and twenty (120) business days, and of the reason for the 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 timeframes of the major stages of the formal resolution process are estimated as follows in business days:

- Intake: 5 days;
- Investigation: 60 days;
- Evidence and Draft Report Review/Response: 10 days;
- Investigative Report Review/Response and Notice of Hearing: 10 days;
- Adjudication (including pre-hearing meetings and issuance of Notice of Outcome): 25 days; and
- Appeal Process: 10 days.

The Title IX Coordinator may determine that cases where the allegations arise out of the same set of facts or circumstances should be consolidated for purposes of investigation and/or adjudication. Instances where consolidation of Complaints may occur include but are not limited to cross-Complaints by the parties against each other, multiple Complaints by a single Complainant against a Respondent, Complaints by multiple Complainants against one or more Respondents, or multiple Complaints by a single Complainant against multiple Respondents.

1) Participation in an Investigation Process

During the investigation, which is an impartial fact-finding process, the Complainant and the Respondent will have an equal opportunity to share information and request that witnesses be interviewed. However, at all times, the burden of gathering evidence remains with the University. In the absence of their consent, the Complainant and Respondent will not be interviewed together or be required to meet. The investigator(s) retain(s) discretion to determine how to conduct the investigation and may decline to interview any witness or to gather information the investigator(s) find(s) to be not relevant or otherwise excludable (e.g., sexual history of the Complainant with a person other than the Respondent, materials subject to a recognized privilege, medical records in the absence of a release by the subject of the records, etc.).

No unauthorized audio or video recording of any kind is permitted during investigation meetings or interviews. If the investigator(s) elect(s) to audio and/or video record interviews, all parties involved in the meeting or interview will be made aware that audio and/or video recording is occurring.

C. Standards for Questions and Evidence

For purposes of these procedures (including all stages of the investigation and hearing processes), (a) “relevant” evidence and questions include any evidence and questions that are related to the allegations and may aid in showing whether Prohibited Conduct occurred, and (b) evidence that relates to the Complainant’s sexual interests, predisposition or prior sexual conduct is not relevant, unless evidence about the Complainant’s prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant’s prior sexual conduct with the Respondent that is offered to prove consent (for example, to demonstrate indicia of consent in previous encounters between the parties allegedly identical to purported indicia of consent in the incident in question).

In addition, the University will not access or use (i) evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential resource, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality in writing; and (ii) a party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party’s or witness’s voluntary, written consent for use in the investigation and adjudication process.

D. Evidence Review

Unless the Title IX Coordinator has referred the case for determination pursuant to another University policy or procedure, authorized informal resolution, or dismissed the Complaint, a draft investigative report will be created and the Complainant and Respondent will be provided an equal opportunity to review the draft report and any evidence directly related to the allegations that is gathered in the investigation, regardless of whether the information will be relied on in reaching a determination.

Additionally at this stage in the process, upon the request of a party, the University will appoint, without fee or charge to that party, an advisor of the University’s choice who will be a licensed attorney to assist that party from and after this stage of the process (including for purposes of any subsequent hearing, and/or appeal[s]). Because the appointed advisor is to be selected by the University, the University will not pay or reimburse a party for the fees of an advisor of choice selected by the party (at any stage of the process). Prior to the conclusion of the investigative report, the Complainant and Respondent, and each party’s advisor, if any, will be provided a copy of the draft investigative report and the above-referenced evidence (which may be sent in hard copy or electronic format or made available through an electronic file sharing platform, as determined in the sole discretion of the Title IX Coordinator), subject to redaction permitted and/or required by law. The Complainant and Respondent will be provided with at least ten (10) business days to submit a written response, which the investigator(s) will consider prior to completion of the final investigative report. Based on the parties’ written responses the investigator(s) will determine if additional investigation is necessary (and, if so, will complete any additional investigative steps), and will incorporate relevant elements of the responses and any additional relevant evidence into the report.

The investigative report will fairly summarize the relevant evidence; the report will not make conclusions as to responsibility, contain policy analysis, or render any recommendations as to findings or sanctions. The investigator(s) will not include information in the investigative report that

the investigator(s) determine(s) not relevant or otherwise excludable. The investigator(s) will submit the final investigative report to the Title IX Coordinator who will then make it available to the parties for review.

At least ten (10) business days prior to a hearing to determine whether there is responsibility for the allegations, the Complainant and Respondent, and each party's advisor, will be provided a copy of the final investigative report (which may be sent in hard copy or electronic format or made available through an electronic file sharing platform, as determined in the sole discretion of the Title IX Coordinator) for their review and written response, subject to redaction permitted and/or required by law.

Absent extraordinary circumstances as determined by the Title IX Coordinator in consultation with the investigator(s), no party may introduce any new evidence not previously made available during the investigation in their response to the evidence and/or draft investigation report. This shall not preclude a party from including in their response assertions as to the meaning of existing evidence, even if those assertions were not articulated during the investigation. In considering whether to permit introduction of new evidence based on extraordinary circumstances, the Title IX Coordinator may consider factors including but not limited to (a) the significance of the proposed evidence, and (b) the reason the evidence was not produced during the investigation. If the Title IX Coordinator decides to authorize acceptance of new evidence on this basis, the Title IX Coordinator may (but shall not be required to) authorize the investigator(s) to reopen the investigation and take such further investigative steps as the investigator(s) deem(s) necessary or advisable.

X. Formal Hearing Process

A. General

The Title IX Coordinator will appoint a hearing panel consisting of a hearing panel Chair who may be an external adjudicator or a PCRG member and two additional panel members who are members of the PCRG. All panel members will be checked for conflicts of interest. In cases involving faculty parties or staff parties, the Title IX Coordinator will make reasonable efforts, subject to availability and screening for conflicts, to appoint a hearing panel including at least one faculty member for cases involving faculty parties and at least one staff member for cases involving staff parties.

PCRG members who served as investigators or as advisors to the Complainant or Respondent may not serve as hearing panel members. A hearing before the panel will be convened not less than ten (10) business days after the parties have been provided access to the final investigative report, for the purpose of determining whether the Respondent is responsible or not responsible for the allegation(s).

The Title IX Coordinator will notify the parties in writing of the date, time, and location of the hearing, the names of the hearing panel members, and how to challenge participation by any hearing panel member for bias or conflict of interest.

Participants in the hearing will include the members of the hearing panel, the Complainant and the Respondent, their respective advisors, the investigator(s) who conducted the investigation, and witnesses (solely during their own testimony). Hearings are private. Observers or additional support personnel, other than the parties' advisors, are not allowed unless deemed necessary by the Title IX Coordinator for purposes such as accommodation of a disability or language translation. Witnesses are not permitted to bring an advisor or other person to the hearing, absent an approved disability accommodation or a need for a translator. The hearing panel may be advised by and/or consult with the University's legal counsel as the hearing panel Chair deems

necessary or appropriate. Hearings will be recorded by the University. Cell phones and/or recording devices may not be used for the purposes of recording by the parties or their advisors in the hearing room(s).

Hearings may be conducted with all parties physically present in the same location or, at the Title IX Coordinator's discretion, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling the hearing panel and the parties to simultaneously see and hear any party or witness while speaking. If either party so requests, the hearing will be conducted with the parties located in separate rooms using technology as described in the preceding sentence.

The Title IX Coordinator may postpone the hearing for good cause as determined by the Title IX Coordinator. Good cause may include, without limitation, unavailability of one or more participants due to unanticipated events or circumstances, the timing of academic breaks or holidays, or other extenuating circumstances.

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 Title IX Coordinator will send a letter to the parties stating the following: 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 hearing procedures; and the sanction or sanctions that could be imposed.

Prior to the hearing, the parties will submit to the hearing panel Chair and the Title IX Coordinator 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 hearing panel Chair is in charge of organizing the presentation of information to be considered by the hearing panel. The Title IX Coordinator may assist the hearing panel Chair in organizing witnesses and testimony.

The hearing panel Chair will explain procedural ground rules prior to or at the outset of the proceeding, and the hearing panel Chair may impose additional ground rules as may be reasonably necessary for the orderly and efficient progress of the proceeding, all of which shall apply equally to all parties. Once the procedures are explained and the participants are introduced, the hearing panel Chair may call the investigator(s) to present the report of the investigation if the hearing panel Chair deems such a presentation to be necessary or desirable. The investigator(s) may be asked to respond to questions posed by the hearing panel Chair or hearing panel members. The findings of the investigation are not binding on the panel.

Formal rules of evidence will not apply. Any information that the hearing panel Chair determines is relevant and not otherwise excludable may be considered including hearsay, history and information indicating a pattern of behavior, and character evidence. All evidence previously made available to the parties for inspection and review prior to completion of the investigative report as described above will be made available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of questioning. Absent extraordinary circumstances as determined by the hearing panel Chair, no party may seek to introduce at the hearing any new evidence not previously made available in connection with the investigation, other than the investigative report itself and any responses to the investigative report submitted by the parties. In considering whether to permit introduction of new evidence based on extraordinary circumstances, the hearing panel Chair may consider factors including but not limited to (a) the significance of the proposed evidence, and (b) the reason the evidence was not produced during the investigation. If the hearing panel Chair decides to admit new evidence on this basis, the

hearing panel Chair may take such actions, if any (including adjournment or remanding the evidence to the investigator(s) for further investigation), as the hearing panel Chair deems advisable to enable the other part(y)(ies) to respond to, and the hearing panel to understand, the meaning and implications of the evidence.

The hearing panel Chair will address any concerns regarding the consideration of information prior to and/or during the hearing and may prohibit the introduction of irrelevant or otherwise excludable information. Subject to the terms of these procedures, the Chair will have discretionary authority to determine all questions of procedure, 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), to call breaks or temporary adjournments of the hearing, to determine the order of the proceedings, and/or to recall parties or witnesses for additional questions as the chair deems necessary or appropriate. Anyone appearing at the hearing to provide information will present and respond to questions on their own behalf and not through anyone else.

B. Advisors

Except with respect to questioning as described below, each party's advisor's role is limited to consulting with their advisee, and the advisor may not present evidence, address the hearing panel 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 a quiet non-disruptive manner or in writing. The advisor may consult with the advisee verbally outside the hearing during breaks, when such breaks are granted by the hearing panel Chair. An advisor's questioning of the other party and any witnesses must be conducted in a respectful, non-harassing and non-abusive manner. If the Chair determines that an advisor is not adhering to these or other ground rules, the advisor may be required to leave the hearing, and the hearing will proceed without an opportunity for the party to obtain a replacement advisor; provided, however, that the University will assign an advisor of the University's choosing, without charge, for the purpose of conducting questioning on behalf of the party as provided below.

C. Questioning Procedure

The hearing panel will permit each party's advisor to ask the other party and any witnesses all relevant and not impermissible questions and follow-up questions, including those challenging credibility; provided that questions that seek disclosure of information protected under a legally recognized privilege will not be permitted unless the person or entity holding the privilege has waived the privilege in writing. Questioning must be conducted by the party's advisor in a non-harassing and non-abusive manner, and never by a party personally. If a party does not have an advisor present at the hearing, the Title IX Coordinator will arrange for the University to provide, without fee or charge to that party, an advisor of the University's choice to conduct questioning on behalf of that party.

Only relevant and not impermissible questions may be asked by a party's advisor to a party or witness. Before the party or witness answers a question posed by an advisor, the hearing panel Chair will first determine whether the question is relevant and not impermissible, and explain any decision to exclude a question. The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), impermissible, or harassing or abusive. The advisor posing the question may request that the Chair reconsider any decision to exclude a question and the Chair will render a final determination. Such decisions by the Chair are not subject to further objection or reconsideration during the hearing. Questions that are unclear, or harassing or abusive of the party or witness being questioned, will not be permitted. The hearing panel Chair will give the advisor an opportunity to clarify or revise a relevant and not impermissible

question that the hearing panel Chair determines is unclear, harassing or abusive. If the advisor sufficiently clarifies or revises the question, the question will be permitted.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not permissible, other than questions and evidence about the Complainant's prior sexual behavior that (a) are offered to prove that someone other than the Respondent committed the alleged misconduct, or (b) concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent (for example, to demonstrate indicia of consent in previous encounters between the parties allegedly identical to purported indicia of consent in the incident in question).

D. Impact of Not Answering Permitted Questions

If a party or witness does not appear at the hearing, or attends but declines to respond to relevant and not impermissible questions, the hearing panel may nevertheless rely on statements of that party or witness, during the hearing or otherwise, in reaching a determination regarding responsibility, but may also determine what significance to afford those statements in view of the lack of questioning (for example, the hearing panel may choose to place less or no weight upon statements by a party or a witness who does not attend or refuses to respond to questions deemed relevant and not impermissible). The hearing panel will not, however, draw an inference as to responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions.

XI. Findings or Admissions of Responsibility/ Non-Responsibility; Sanctions

Following conclusion of the hearing, the hearing panel will deliberate and render a determination by majority vote as to whether the Respondent is responsible or not responsible for the alleged violation(s). The hearing panel will use "preponderance of the evidence" as the standard of proof to determine whether each alleged violation occurred. "Preponderance of the evidence" means that the hearing panel must determine whether, based on the evidence presented, it is more likely than not that the Respondent engaged in the conduct charged in violation of University policy. A lack of preponderance does not necessarily mean that the Complainant has been dishonest or made a false Complaint, but rather that the weight of the evidence did not indicate that it was "more likely than not" that a violation occurred.

If the hearing panel determines that the Respondent is responsible for one or more of the allegations in question, it moves to a consideration of sanctions. To inform sanctioning decisions, if there is a finding of responsibility for one or more of the allegations, the Title IX Coordinator will share with the hearing panel the Respondent's prior disciplinary history, if any. In addition, consistent with the University's Procedures for Compliance with the NCAA Board of Governors Policy on Campus Sexual Violence (which contemplate the possibility that a finding of responsibility for sexual violence, interpersonal violence or other acts of violence may result in limitations or prohibition on an individual's participation in intercollegiate athletics), the Title IX Coordinator will share with the hearing panel the Respondent's current status as a student athlete, if any.

Each party may submit a written personal impact statement to the Title IX Coordinator for consideration by the hearing panel in determining an appropriate sanction if there is a finding of responsibility on one or more of the allegations. The parties may submit their statements anytime to the Title IX Coordinator prior to 72 hours after the hearing ends. In addition to the impact statement(s), if any, factors considered when determining sanctions may include:

1. the nature and severity of, and circumstances surrounding, the violation(s);

2. the Respondent's state of mind at the time of the violation(s) (intentional, knowing, bias-motivated, reckless, negligent, etc.);
3. the Respondent's previous disciplinary history (or lack thereof);
4. the need for sanctions to bring an end to the conduct; and/or to prevent the future recurrence of similar conduct;
5. the need to remedy the effects of the conduct on the Complainant and/or the community;
6. the impact of potential sanctions on the Respondent;
7. sanctions imposed by the University in other matters involving comparable conduct; and
8. any other lawful factors deemed relevant by the hearing panel.

A. Student Sanctions

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

- 1) **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.
- 2) **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.
- 3) **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.
- 4) **Expulsion:** Permanent termination of student status or indefinite or permanent revocation of University recognition of organizational status.
- 5) **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.
- 6) **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.
- 7) **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) **Education,** which can include counseling, so a student has the opportunity to gain more insight into their behavior.
 - b) **"No contact" order** (including but not limited to continuation of a no-contact order imposed as a supportive 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 order may include additional restrictions and terms.
 - c) **Acknowledgement of Impact:** Requiring the student or organization to write a letter acknowledging the impact 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 to live in University housing** (e.g., exclusion from specified locations or alteration of status in the housing lottery or other selection system).
 - ii) **Loss, revocation or restriction of off-campus living privileges.**

A. Employee Sanctions

Sanctions that may be imposed on employees include warning, required counseling as a condition of continued employment or return to employment, implementation of a performance improvement plan, loss of annual pay increase, demotion, suspension with pay, suspension without pay, termination, or other actions deemed appropriate.

C. Other Remedial Actions

In appropriate cases, the University may take other steps as may be necessary to correct the effects of or prevent further Prohibited Conduct (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.).

D. Notice 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 the following information:

- 1) A description of the allegations that were adjudicated;
- 2) A description of the procedural steps taken from the submission of the formal Complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- 3) Findings of fact supporting the determination;
- 4) Conclusions regarding the application of the applicable policy provisions to the facts;
- 5) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's educational programs or activities will be provided to the Complainant; and
- 6) The procedures and permissible bases for the Complainant and Respondent to appeal.

E. Conclusion of Process

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in "Appeals" or if an appeal is not filed, the date on which the opportunity to appeal expires.

Any sanctions imposed by the hearing panel will be stayed during the time to file an appeal and while an appeal by any party is pending. During any such stay, the University may provide supportive measures, and/or may implement an emergency removal if warranted.

XII. Appeals

A. Grounds for Appeal; Submission Requirements

The Complainant or Respondent may appeal a decision to dismiss a Complaint or specific allegations in a Complaint, or the result of any formal hearing. All appeals must be submitted in writing within ten (10) calendar days of the delivery of the notice of dismissal or written findings of the hearing panel. Appeals in cases in which the Respondent is a student shall be submitted to an appellate panel composed of the Dean of the College and a PCRG member designated by the Title IX Coordinator. Appeals in cases in which the Respondent is a member of the faculty or staff shall be submitted to an appellate panel comprised of the Provost and a PCRG member designated by the Title IX Coordinator (for faculty cases, the PCRG member will be a faculty

member). Any party may appeal a decision, but only on the basis of one or more of the following grounds:

- A procedural irregularity that affected the outcome; or
- New evidence, not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome; or
- The Title IX Coordinator, investigator(s), or hearing panel member(s) had a conflict of interest or bias for or against an individual party, or for or against Complainants or Respondents in general, that affected the outcome; 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 irregularity or new information, or the basis of any claim of disproportionality. In the case of a claimed procedural irregularity or new evidence, the appeal must also include a statement of the likely impact of the claimed irregularity or new evidence.

B. Appeal Procedures

In the event of an appeal by any party, all parties and the hearing panel Chair 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:

- 1) Because the appellate panel has not heard the evidence directly, deference must be given to the hearing panel on evidentiary matters and the appellate panel must sustain the decision unless one of the grounds for appeal listed above has been established.
- 2) 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, 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.
- 3) 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.

Both parties will receive simultaneous written notice of the outcome of any appeal, including the finding on each ground for appeal, the rationale for each finding, and any specific instructions for further proceedings (if applicable) and/or other actions taken by the appellate panel. Once the appeals process is complete, the result is final and is not subject to further review or appeal under other Colgate University policies or procedures.

XIII. Withdrawal While Charges Pending

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 under these procedures. Additionally, the University reserves the right to add a transcript

notation to a Respondent's transcript if they have allegations pending under these procedures. These are not disciplinary sanctions, but are intended to facilitate an equitable resolution of the process.

Should a student Respondent decide to withdraw from the University and not participate in the investigation and/or hearing, the University may opt to proceed in absentia to a resolution and that student will not be permitted to return to Colgate unless all levied sanctions (if any) have been satisfied. If a student withdraws while subject to a Complaint, investigation or charges based upon alleged Prohibited 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."

Should an employee resign while an investigation or charges against them are pending under these procedures, the personnel records of that employee will reflect that status. As may be necessary and appropriate, the Title IX Coordinator may continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the conduct upon the victim and the community.

XIV. Bias/Conflict of Interest

The Title IX Coordinator, investigator(s), and decision makers are prohibited from having a conflict of interest or bias for or against any party or for or against Complainants or Respondents in general. The Title IX Coordinator, investigator(s), and decision makers will receive annual training to ensure they understand and are free of bias and do not have a conflict of interest when responding to a Complaint. The Title IX Coordinator, investigator(s) and decision makers will receive annual training to ensure a prompt and equitable resolution process that explicitly addresses how these roles are to serve impartially, including by avoiding prejudgment of the facts at issue, and requiring a presumption that the Respondent is not responsible for the allegations being investigated until the matter is adjudicated.

In the event that any person assigned a role pursuant to these procedures is aware of any relationship, fact, circumstance or occurrence that they reasonably believe creates or constitutes bias or a conflict of interest that would render them incapable of performing the role in an impartial manner, that person shall identify the bias or conflict of interest to the Title IX Coordinator at the earliest practicable time. Similarly, any Complainant or Respondent who objects to the participation of any person assigned a role pursuant to these procedures based upon bias or a conflict of interest shall identify the conflict of interest to the Title IX Coordinator at the earliest practicable time. The Title IX Coordinator will determine whether bias or a conflict of interest in fact exists and necessitates replacement of the person in question.

XV. Records

In implementing these procedures, the Title IX Coordinator will maintain for a period of not less than seven years records of:

1. Each investigation pursuant to this policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript made in connection with a formal resolution, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant or other affected individuals designed to restore or preserve equal access to the University's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution process and the result therefrom; and

4. Any materials used to train the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process. The University will make these training materials available on the [Colgate University website](#).

In addition, for each report of potential Prohibited Conduct made to the Title IX Coordinator, the University will create records of any actions, including any supportive measures, taken in response to a report or Complaint of Prohibited Conduct. In each instance, the University will document the reason for actions taken, and document that it has taken measures designed to restore or preserve equal access to its education program or activity. If the University does not provide a party with requested supportive measures, then the University will document the reasons for that decision. The University will maintain these records for seven (7) years.

Access to the records (other than training materials) will be made available only on a need-to-know basis or as required by law. Except as required by law, no public release of the content of such records may be made until a final determination is made (i.e., when no appeal of the decision 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 only be made in accordance with any applicable Colgate policy and federal and state laws.

XVI. Transcript Notations

Students found responsible after a formal resolution process and suspended or expelled for a crime of violence that the University is required by federal law to include in its Annual Security Report will have a notation included on their transcript stating, "Suspended after a finding of responsibility for a code of student conduct violation" or "Expelled after a finding of responsibility for a code of student conduct violation." Upon the written request of a suspended student, transcript notations for suspensions imposed under these procedures may be removed at the discretion of the University Registrar in consultation with the Title IX Coordinator, but no earlier than one year after the conclusion of the suspension. Transcript notations for expulsion shall not be removed.

While a formal resolution process is pending, the Respondent's transcript may contain the notation, "conduct process pending." This is not a disciplinary sanction, but is intended to facilitate an equitable resolution of the process.

XVII. Student Bill of Rights

Pursuant to New York Education Law Article 129-B, 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 University courteous, fair, and respectful health care and counseling services, where available.
6. Be free from any suggestion that the Complainant 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 institutional representatives as practicable and not be required to unnecessarily repeat a description of the incident.

Student Sexual/Gender-Based (Title IX) Misconduct Procedures

8. Be protected from retaliation by Colgate, any student, the accused and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the University.
9. Access at least one level of appeal of a determination.
10. Be accompanied by an advisor of choice who may assist and advise a Complainant, accused, or Respondent 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.

A Complainant has the right:

1. To be treated with respect by University officials.
2. To experience a safe living, educational, and work environment.
3. To take advantage of campus support resources (such as Haven, 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.
4. To decline to have an allegation resolved through informal resolution procedures.
5. To receive amnesty for minor student misconduct (such as minor alcohol violations) that is ancillary to the incident.
6. To attend in person or via videoconference any hearing in which they are the Complainant and to be situated in a different room from the Respondent during the hearing if so desired.
7. 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.
8. To have Complaints heard in substantial accordance with these procedures.

A Respondent has the right:

1. To be treated with respect by University officials.
2. To experience a safe living, educational, and work environment.
3. 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.
4. To decline to have an allegation resolved through informal resolution procedures.
5. To receive amnesty for minor student misconduct (such as minor alcohol violations) that is ancillary to the incident.
6. To attend in person or via videoconference any hearing in which the Respondent is charged and to be situated in a different room from the Complainant during the hearing if so desired.
7. 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.
8. To have Complaints heard in substantial accordance with these procedures.

XVIII. Training Requirements

The University will ensure that all employees receive annual training on:

- The University's obligation to address Prohibited Conduct in its education program or activity;
- The scope of conduct that constitutes Prohibited Conduct under Title IX and University policy, including the definition of Sexual Harassment; and
- All applicable notification and information requirements with respect to reports of Prohibited Conduct and when an employee is informed that a student is pregnant or experiencing a pregnancy-related condition.

The University will ensure that Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process or has the authority to modify or terminate supportive measures, receive training on the following aspects of the policy:

- The University’s obligations to respond to under Title IX and other relevant laws;
- The University’s formal and informal resolution processes;
- The meaning and application of the term “relevant” in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance in the formal resolution process;
- The effects of trauma;
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- The rights of the Respondent (including the right to a presumption that the Respondent is “not responsible” until a finding of responsibility is made).

The University will ensure that decision-makers also receive information on:

- any technology to be used at a live hearing, and
- issues of relevance and impermissibility of questions and evidence, including when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not permissible.

The University will ensure that individuals who facilitate informal resolution process also receive training on:

- the rules and practices associated with the University’s informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.
- The University will ensure that investigators also receive training on: conducting investigations of Prohibited Conduct, and issues of relevance and how to create an investigative report that fairly summarizes relevant evidence.

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Student Pregnancy and/or Related Conditions Policy

This policy applies to conduct that occurs on Colgate's campus or property and in all Colgate education programs and sponsored activities and may apply to off-campus conduct where the alleged conduct is subject to the University's disciplinary authority. This policy and its pregnancy-related protections apply to all pregnant individuals, regardless of gender identity or expression.

If a student who is pregnant or experiencing a pregnancy-related condition has a disability as defined in Section 504 of the Rehabilitation Act of 1973 (Section 504) or the Americans with Disabilities Act of 1990 (the ADA), the student is protected from discrimination under Section 504 and the ADA, as applicable, whether or not the disability is related to pregnancy. If a student is seeking 504 adjustments/accommodations and services, the student must contact the Office of Student Disability Services (OSDS). An employee may have similar adjustments/accommodations options under the PUMP Act, the Pregnant Workers Fairness Act (PWFA), Title VII of the Civil Rights Act of 1964 (Title VII), and the Americans with Disabilities Act (ADA).

If a student believes they have been discriminated against due to pregnancy or a related condition, the student may file a Complaint with the Title IX Coordinator. The University will use procedures under the Student Sexual/Gender-Based Misconduct Policy to address the alleged discrimination.

I. Definitions

- A. Parental Status: The status of a person who is a parent, legal custodian, guardian, or in loco parentis of a person under 18, or over 18 if incapable of self-care due to disability.
- B. Pregnancy and Related Conditions: Includes pregnancy, childbirth, termination of pregnancy, lactation, related medical conditions, and recovery.
- C. Reasonable Modifications: Modifications to policies, practices, or procedures that do not fundamentally alter the University's education programs or activities.

II. Information Sharing Requirements

A student who is pregnant or has a related condition, or a person with the legal authority to act on behalf of such a student, may contact the Title IX Coordinator directly to discuss reasonable modifications, to prevent discrimination and ensure access to the University's educational programs and activities.

III. Reasonable Modifications for Students

Students experiencing pregnancy and related conditions are entitled to Reasonable Modifications to ensure equal access to education programs and activities. These may include changes to schedules, assignments, and course requirements.

Students seeking Reasonable Modifications must contact the Title IX Coordinator to discuss their needs. Modifications will be determined based on individual needs and may include alternative paths to completion for clinical rotations, performances, labs, and group work. In progressive curricular and cohort-model programs, medically necessary leaves may allow students to shift course order or join subsequent cohorts.

Supporting documentation may be required when necessary to determine appropriate modifications. Information about modifications will be shared with faculty and staff only as necessary.

IV. Certification to Participate

Health and safety risks related to participation in activities will be communicated to all students. A student experiencing pregnancy or related conditions cannot be required to provide health certification unless the same certification is required of all students and it is necessary for participation.

V. Rights to Express Breast Milk

The University will provide 30 minutes of paid break time per day as needed for up to three years following childbirth. Student employees must provide written notice of their need for breast milk expression to the Office of Human Resources or the Title IX Coordinator. Additional unpaid time beyond the 30 minutes may be taken using existing paid break or meal time.

The University will not deduct a student employee's paid break time for breast milk expression from their regular paid break or meal time. Student employees can choose to take breast milk expression breaks before or after their regularly scheduled paid break or meal periods.

VI. Lactation Space Access

The University provides students with access to functional, appropriate, and safe lactation spaces. These spaces are regularly cleaned, shielded from view, and free from intrusion.

Students wishing to request a lactation room must provide reasonable advance notice and submit a written request to the Office of Human Resources or the Title IX Coordinator. The University will respond within five business days and notify the student in writing when a room is designated for breast milk expression.

If a student's request for a lactation room poses an undue hardship, the University will engage in a cooperative dialogue with the student.

Lactation spaces are located in Room 460 in Case-Geyer Library. To access the space, you can request the key from the main desk at the library.

VII. Leaves of Absence

Students may take a voluntary leave of absence for a reasonable time deemed medically necessary due to pregnancy, childbirth, adoption, or foster care placement. The leave term may be extended for extenuating circumstances or medical necessity. Students can elect to keep their health insurance coverage and continue residing in University housing, subject to applicable fees.

1) The University will ensure students return to the same academic progress position, including access to the same or equivalent course catalog. Scholarship and funding continuation will depend on the student's registration status and funding program policies. The University will advocate for students with financial aid agencies and external scholarship providers if a leave affects eligibility.

2) To initiate a leave of absence, students must contact the Title IX Coordinator at least 30 days prior to anticipated commencement of the leave or as soon as practicable. The Title IX Coordinator will assist with necessary paperwork.

VIII. Student Parents

Students with child caretaking responsibilities may request academic modifications for up to six months from the time of the child's arrival in the home. Extensions may be granted for medical necessity or extraordinary caretaking responsibilities.

During the modification period, academic requirements may be adjusted, and deadlines postponed as appropriate, in collaboration with academic affairs personnel (including relevant academic advisors and faculty). Students may reschedule assignments, lab hours, examinations, or reduce their course load once authorized.

If caretaking students cannot obtain appropriate modifications, they should alert the Title IX Coordinator, who will facilitate needed accommodations and modifications.

In timed degree programs, students can request extensions for preliminary and qualifying examinations and normative time to degree while in candidacy. Longer extensions may be granted in extenuating circumstances.

Students will remain registered and retain benefits during academic modifications.

IX. Supportive Resources

A. Confidential Support for Students

Any student who is pregnant or has a related condition or is experiencing sex discrimination based on their pregnancy or related condition is encouraged to understand their options and to seek emotional and physical support.

The support options listed below are confidential, meaning they will keep a student's information confidential, including from the Title IX Coordinator, unless the student gives them explicit written permission to share their information. Students may contact:

1) Confidential, On-Campus Support

- Counseling and Psychological Services, located at 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.
- Student Health Services, 140 Broad Street, 315-228-7750.
- Office of the Chaplains, located on the garden level of the Memorial Chapel, 315-228-7682.

2) Confidential, Off-Campus Support

- Community Memorial Hospital, 315-824-1100, 150 Broad Street, Hamilton, NY.
- The New York State Department of Health - Women's Health website: for more information, see: www.health.ny.gov/community/adults/women/
- Your own medical or mental health provider.

B. Non-Confidential Resources for Students

Any student who is pregnant or has a related condition or is experiencing sex discrimination based on their pregnancy or related condition is encouraged to understand their options and seek resources. The below resources are private but not confidential, meaning that they may share information you disclose, but only on a need-to-know basis, with other University officials and offices to prevent sex discrimination and to identify and provide reasonable modifications. Students may contact:

Non-Confidential, On-Campus Resources:

- The Office of Equity and Diversity
102 Lathrop Hall
Colgate University
13 Oak Drive
Hamilton, NY 13346
315-228-6161
- Title IX Coordinator
The Office of Equity and Diversity
102 Lathrop Hall
Colgate University
13 Oak Drive
Hamilton, NY 13346
315-228-6161
TitleX@colgate.edu
- Title VI Coordinator
Associate Provost for Equity and Diversity
The Office of Equity and Diversity
102 Lathrop Hall
Colgate University
13 Oak Drive
Hamilton, NY 13346
315-228-6161
directorDE@colgate.edu
- [Any Prohibited Conduct Resource Group \(PCRG\) member](#)
- [Any Discrimination and Harassment Team \(DHT\) member](#)

X. Parental, Familial, or Marital Status

Colgate University will not adopt or implement any policy, practice, or procedure concerning the current, potential, or past Parental, familial, or marital status of a student or applicant that treats a person differently on the basis of sex.

Any student or applicant who believes they have been discriminated against due to their Parental, familial or marital status is encouraged to understand their reporting and confidential support options. Please see the confidential, on-campus support options and the on-campus non-confidential resources listed in this policy to learn who to contact to learn more about your support and resource options.