



Discrimination, Harassment, and Sexual Misconduct Complaint Resolution Procedures

The following Complaint Resolution Procedures (the “Procedures”) apply to resolution of suspected or alleged violations of Wheaton College’s Discrimination, Harassment, and Sexual Misconduct Policy (the “Policy”) and will be carried out by officials who receive the required annual training described in the Policy. If a complaint includes allegations or an individual files multiple complaints that could invoke more than one College policy or procedure, the College shall determine in its discretion what process it will use to resolve the complaint or complaints, and shall notify all parties of its determination. In addition, the College may modify the Procedures in the interest of promoting full and fair resolution of suspected or alleged violations of the Policy in accordance with applicable law.

1. Resolution Time Frame

Wheaton College is committed to prompt and impartial resolution of complaints and allegations of conduct in violation of the Policy. In matters involving allegations of sexual misconduct as defined in the Policy, the College aims to resolve all reports and appeals, where applicable, within sixty (60) calendar days. This time period can be extended as necessary for good cause by notifying the parties of the extension and providing an explanation of the reason for the extension. The Title IX Coordinator & Director of Equity Investigations will regularly notify the parties of the status of any proceedings under the Procedures.

2. Definitions

For purposes of the Procedures, a Complainant is the party alleging conduct in violation of the Policy or to whom conduct in violation of the Policy was directed. A Respondent is a party accused of conduct in violation of the Policy. An individual who reports conduct in violation of the Policy between individuals other than him/herself is referred to as a Third-Party Reporter or Witness. Reasonable cause is when the facts and circumstances alleged or reported, if taken as true, would lead a reasonable person to believe conduct in violation of the Policy has occurred.

3. Initial Review and Assessment

Upon receipt of a report of a violation of the Policy, the Title IX Coordinator & Director of Equity Investigations will conduct an initial review and assessment. If at that time it is determined that the alleged conduct, even if true, would not constitute a violation of the Policy, the matter may be referred to the appropriate campus office for resolution or closed with no further action taken.

Where there is reasonable cause to believe a violation of the Policy may have occurred, the College will proceed, in consultation with the Complainant, as set forth below. If the College, in consultation with the Complainant, moves forward with remedies-based resolution or formal investigation, the Title IX Coordinator & Director of Equity of Investigations will provide the parties with a written statement of their rights and options under the Policy and the Procedures.

4. Interim Measures

Where there is reasonable cause to believe conduct in violation of the Policy may have occurred, the Title IX Coordinator & Director of Equity Investigations or a designee will provide prompt, appropriate, and reasonably available interim measures to support and protect the parties and prevent any further acts of alleged misconduct, harassment, or retaliation. Interim measures may be imposed regardless of whether formal investigation is sought by the Complainant.

Such interim measures can include, but are not limited to: referral to counseling and health services; referral to the Employee Assistance Program (for full-time employees only); removing a student, employee, or other individual from campus, modifying course schedules, work arrangements, dining accommodations, or housing; offering campus escorts, and issuing a “no contact” order between the parties. In cases where there is reasonable cause to believe the alleged Respondent is a threat to persons or property, the College may impose interim measures such as suspension (for employees, with or without pay) or any other interim measures the College deems appropriate. Any such interim steps will be taken in a manner that minimizes the burden on the Complainant to the extent possible and respects the rights of all involved parties. Interim measures will be kept confidential to the extent that maintaining such confidentiality would not impair the ability of the College to provide the interim measures.

The College will provide written notification to the parties about existing counseling, health, mental health, victim advocacy, confidential advisors, legal assistance, visa and immigration assistance, student financial aid, and other relevant College and community services available.

Violation of a directive and/or other action issued as an interim measure may result in disciplinary action separate from any sanctions issued under the Procedures.

5. Support Persons

The Complainant and Respondent are both entitled to bring a support person, at their expense, to any meeting or interview in connection with the resolution of a report of a violation of the Policy. For cases of sexual violence, the parties may be accompanied to any related meeting or proceeding by a support person of their choice. For all other cases related to the Policy, the parties shall have the same opportunity to be accompanied to any related meeting or interview by a non-attorney support person. Both parties will be provided with timely written notification of meetings, interviews, or opportunities for review of documents or reports. Therefore, the College reserves the right to proceed with any meeting, interview, or document or report review period regardless of a support person’s availability.

For all cases, the support person may not speak on behalf of the individual during, or participate directly in, meetings or other proceedings, because the purpose of the support person is to provide support. Support persons are likewise expected to maintain the privacy of any records shared during the complaint resolution process. Such records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may restrict the role of any support person who fails to observe the College’s limits on participation in the proceedings or the College’s privacy expectations.

6. Remedies-Based Resolution

Remedies-based resolutions are non-adjudication approaches designed to address the behavior of concern without taking disciplinary action against a Respondent. Where the Title IX Coordinator & Director of Equity Investigations concludes that remedies-based resolution may be effective at stopping the conduct, addressing its effects, and preventing recurrence without a formal investigation and determination of a

College policy violation, the College will take immediate and corrective action through the imposition of individual and community remedies.

Examples of potential remedies may include the interim measures described in the Procedures, as well as targeted and/or broad-based training and educational programming for relevant individuals or groups, communication with the Respondent by the Title IX Coordinator & Director of Equity Investigations or a College administrator, and/or any other remedy that will achieve the goals of the Policy. For example, in some instances, notifying a party that certain actions or language are offensive and requesting that the actions or language stop will heighten awareness and accomplish the objectives of the Policy. In some circumstances, mediation or joint conflict resolution may also be an appropriate method for remedies-based resolution.

The College will not compel a Complainant or Respondent to engage in mediation, to directly communicate with one another, or to participate in any particular form of remedies-based resolution. Mediation, even if voluntary, may not be used in cases involving sexual violence. Participation in remedies-based resolution is voluntary, and the parties can request to end their participation in remedies-based resolution at any time. However, the Title IX Coordinator & Director of Equity Investigations may determine that additional remedies-based steps (e.g., community remedies involving targeted training) are appropriate without the participation of the parties.

7. Formal Investigation

When a report of a possible violation of the Policy cannot be resolved through remedies-based resolution, a formal investigation may be initiated. Formal investigation includes a prompt, thorough, and impartial investigation into the allegations of discrimination, harassment, or sexual misconduct. When a formal investigation is initiated, the Title IX Coordinator & Director of Equity of Investigations will provide the parties with written notice that a formal investigative process has begun as well as the allegation (or charge) made by the Complainant. The formal investigation process proceeds as follows:

a. Assignment of Investigators and Adjudicators

The parties will be informed of the assigned Investigator(s) and/or Adjudicator(s) at the outset of a formal investigation. All Investigators and Adjudicators have received the required training described in the Policy.

If a complaint is filed against a Title IX Coordinator/Discrimination Complaint Officer, a College Vice President, or the College President, or involves circumstances deemed by the College in its discretion to be extraordinary or particularly sensitive, the College may appoint external investigator(s) and/or adjudicator(s) to ensure the investigation and adjudication process is both impartial and thorough.

b. Investigation

Investigations may include one or more interviews with the Complainant, Respondent, and any other identified witnesses as deemed appropriate. Interviews may take place in person, by phone, or through electronic means. Investigations may also include the gathering and analysis of pertinent physical, documentary, and/or other relevant evidence (e.g., texts, emails). Additionally, Complainants and Respondents may provide written statements, identify and/or present statements from witnesses, or submit any other evidence deemed relevant by the Investigator(s). Complainants and Respondents may have their support persons present with them during interviews and meetings conducted during the investigation. Timely notice will be provided to Complainants and Respondents of all interviews, meetings, or other events in the Investigation.

Following the interviews and after collecting all pertinent information, the Investigator(s) will complete an official report containing summaries of interviews with the Complainant, Respondent, and third-party witnesses; a description and analysis of other relevant information collected, such as written statements, photographs, physical evidence, electronic records, and/or forensic evidence and the supporting documentation, where appropriate; and a summary of the disputed and undisputed facts. The Investigator(s)' report will be shared with the Complainant and the Respondent, to the extent permitted by the Family Educational Rights and Privacy Act and other applicable law, along with an invitation to provide a written response. Unless the requesting party can show good cause that the party cannot conduct the review in person at the College or another mutually agreeable location, the review will be conducted in person and reproduction of the report will be strictly prohibited. The Investigator(s) will include any written responses of the Complainant and Respondent, if applicable, as Appendices to their final report.

If at any point during the investigation the Title IX Coordinator & Director of Equity Investigations determines that there is no reasonable cause to support that any conduct in violation of the Policy occurred, the Title IX Coordinator & Director of Equity Investigations may terminate the investigation and refer the matter to the appropriate campus office for resolution or close the matter with no further action.

c. Adjudication

The final report of the Investigator(s), along with attachments including the written responses of the Complainant and Respondent, will be delivered to the assigned Adjudicator(s). For incidents involving Respondents who are tenured faculty members, the Provost, or a designee, will serve as Adjudicator.

The Adjudicator(s) will review the report and any appendices, make a determination whether the Policy was violated, and issue the College's decision, including whether to impose sanctions and a detailed list of the sanctions imposed. The standard used to determine whether the Policy has been violated is whether or not there is sufficient evidence to establish that it is more likely than not that the Respondent violated the Policy. This is often referred to as a "preponderance of the evidence" standard.

1. Sanctions, Corrective Actions, and Remedies

The Adjudicator(s) will determine whether a violation of the Policy has occurred and propose any sanctions or other corrective actions that are consistent with the Policy. The College will take reasonable steps to prevent the recurrence of any violations of the Policy and to correct the discriminatory effects on the Complainant (and others, if appropriate).

Sanctions, corrective actions, and remedies that may be imposed in the event of violation of the Policy include the following:

- Written or verbal apology;
- Mandatory training, educational programming, or counseling;
- Verbal or written warning;
- Community service;
- Probation;
- Removal from housing or other campus programs, activities, or leadership positions;
- Restrictions regarding entering certain buildings, areas of campus, or a "No Trespass Order," which prohibits individuals from being present on any College property;
- Issuing a "no contact" order or other contact restrictions or boundaries between the parties or others, including potential alteration of classes or class schedules;

- Performance improvement/management process (employees only);
- Suspension from school or employment (for employees, with or without pay);
- Demotion (employees only);
- Termination of contract with the College; and/or
- Dismissal, expulsion, or other separation from the College.

Additional corrective action may also be taken, including those remedies set forth in the interim measures section of these Procedures and any other appropriate broad-based remedial action. Guests and other third parties who are found to have violated the Policy are subject to corrective action deemed appropriate by the College, which may include a “No Trespass Order” and termination of any applicable contractual or other arrangements. If the College is unable to take disciplinary or other corrective action in response to a violation of the Policy, the College will nonetheless pursue other steps to limit the effects of the conduct at issue and prevent its recurrence.

The Adjudicator(s) may impose whatever sanction(s) from the above list that they believe is/are fair and proportionate to the Policy violation. In making this determination, the Adjudicator(s) will consider (1) ongoing safety of campus; (2) the seriousness of the incident; (3) the nature of the Respondent’s response; (4) the Respondent’s conduct record; and (5) the impact on the community of the conduct. The Adjudicator(s) will consult with Student Development (for students) and/or Human Resources (for employees) to gather information on the Respondent’s conduct record and ensure the sanctions imposed are consistent with other policies of the College.

After the conclusion of the investigation, the Title IX Coordinator & Director of Equity Investigations will provide the Letter of Decision from the Adjudicator(s) to Complainant and Respondent. The Letter of Decision shall be issued contemporaneously/simultaneously to both parties within seven (7) days of a decision and will include an explanation of any applicable appeal procedures. If neither party appeals the decision as provided below, the outcome, including any proposed sanctions, will be considered final.

2. Further Procedures for Tenured Faculty Members

If the Provost or his/her designee renders a decision to impose the sanction termination of the employment of a tenured faculty member, the Provost or his/her designee will file with the President a “Notice of Termination for Cause” under the procedures for termination of tenure set forth in the Faculty Handbook following the expiration of the relevant period for appeals. Termination of tenure proceedings will be conducted in accordance with the procedures set forth in the Faculty Handbook, provided, however, that if a decision is made under the Faculty Handbook not to discharge such tenured faculty member, the matter will be referred back to the President for determination of an alternative sanction.

d. Appeal

Once written notification of the outcome of the investigation as described above has been provided, Complainant and Respondent will have the opportunity to request further review of the outcome, including the issue of whether there is a policy violation and, in the case of all but a tenured faculty member where the sanction of termination of tenure is imposed, any proposed sanctions.

Any request for further review must be submitted in writing to the Title IX Coordinator & Director of Equity Investigations within five (5) business days of being notified of the outcome, and must set forth the grounds upon which the request for further review is based.

1. Grounds for Appeal

A request for an appeal must be based on one or more of the following reasons:

1. A procedural or substantive error occurred that significantly impacted the outcome of the adjudication (e.g., bias or material deviation from established procedures)
2. To consider new evidence unavailable during the original adjudication or investigation that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
3. The sanctions imposed are grossly disproportionate (i.e., excessively harsh or excessively lenient) given the offense or the cumulative conduct record of the responding student or employee. This ground for appeal will not apply to matters where termination of tenure is sought, as that proposed sanction will be reviewed through the procedures set forth in the Faculty Handbook.

Any information included in the appeal that does not apply to the above three reasons for filing an appeal will not be considered in the appeal process.

2. Appellate Procedures

Upon receipt of an appeal, the Title IX Coordinator & Director of Equity Investigations will share the appeal and any supporting documentation submitted to the non-appealing party. The non-appealing party will be provided the opportunity to submit a written response and supporting documentation. The burden of proof to demonstrate the grounds for appeal lies with the party requesting the appeal.

Appeals will be heard by a member of the College's Senior Administrative Cabinet or his/her designee, or, in cases involving tenured faculty members, the President or his/her designee (the "Appellate Officer"). The Appellate Officer shall not have participated previously in the complaint resolution process. After considering all relevant documentation, and if deemed necessary by the Appellate Officer, meeting with the parties or others, the Appellate Officer may:

- Deny the appeal because the reason for appeal does not fall within the stated grounds for appeal;
- Uphold the original finding and/or sanction;
- Remand the case to the Investigator(s) for consideration of new evidence and issuance of a new report;
- Appoint a new Investigator(s) to conduct new or additional investigation where significant procedural error occurred during the course of the original investigation;
- Refer the case back to the Adjudicator(s) for reconsideration of the sanction; or
- Modify the finding and/or sanction as deemed appropriate by the Appellate Officer.

The Appellate Officer's decision will be provided to both parties contemporaneously/simultaneously in writing within seven (7) days after the conclusion of the Appellate Officer's review. The decision of the Appellate Officer will be final.

3. Further Procedures for Tenured Faculty Members

If the Provost or his/her designee renders a decision that does not include recommended termination for the tenured faculty member, any appeals pursuant to the Procedures will be heard by the President. The decision of the President will be provided to both parties contemporaneously/simultaneously in writing within seven (7) days after the conclusion of the President's review and will be final, except in cases where the President

recommends termination of the tenured faculty member. In such cases, the appropriate section of the Termination for Cause procedure in the Faculty Handbook will be followed as provided above.

8. Conflicts of Interest

The College requires any College official participating in the investigation, adjudication, or appeals process to disclose any potential or actual conflict of interest. If the Complainant and Respondent believe an assigned College official has a conflict of interest, the party should notify the Title IX Coordinator & Director of Equity Investigations and request that the party with a conflict be replaced. If the Title IX Coordinator & Director of Equity Investigations is the party believed to have a conflict of interest, the party may submit the conflict request to the Vice President for Student Development.

In all cases, requests to replace an individual due to a conflict of interest must be submitted within three (3) days of the party receiving notice of the individual's participation. The written request must include a description of the conflict. If it is determined that a conflict of interest exists, the College will take steps to address the conflict as appropriate and maintain an impartial process. The final determination regarding the existence of a conflict of interest will be made by the Title IX Coordinator & Director of Equity Investigations or, in the case of a conflict request involving the Title IX Coordinator & Director of Equity Investigations, the Vice President for Student Development.

9. Recordkeeping

The Title IX Coordinator & Director of Equity Investigations will maintain the investigative report, letter of decision, and appeal records from any investigation conducted under the Procedures. Student conduct files of students are maintained as set forth in the policy currently entitled "Guidelines for Review of Files of Graduating Students" in the Student Handbook. Employment records are maintained consistent with the Illinois Personnel Records Review Act and other state and federal requirements.

Last updated: October 29 2018