

# College's Response to Prohibited Conduct

The College does not tolerate sex-based discrimination, quid pro quo, sexual harassment, sexual misconduct, or retaliation. All forms of prohibited conduct under this Policy are regarded as serious offenses, and violations may result in discipline, including the possibility of separation from the College. State and federal laws also address conduct that may meet the College's definitions of prohibited conduct under this policy, and criminal prosecution may take place independently of any disciplinary action instituted by the College.

Any person may report sex-based discrimination, quid pro quo, sexual harassment, sexual misconduct, or retaliation, (whether or not the person reporting is the person alleged to be the complainant of this prohibited conduct), in person, by mail, by telephone, or by electronic mail using the contact information listed for the Title IX Coordinator or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.<sup>[1]</sup> Such report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.<sup>[2]</sup>

## *Response to Prohibited Conduct*

When the College has actual knowledge of Prohibited Conduct occurring in any of the College's education programs or activities against a person in the United States, the College shall respond promptly in a manner that is not deliberately indifferent.<sup>[3]</sup> The College will not deprive an individual of rights guaranteed under federal and state law (or federal and state anti-discrimination provisions; or federal and state law prohibiting discrimination on the basis of sex) when responding to any claim brought under this policy.

The College shall treat complainants and respondents equitably by offering supportive measures to a complainant or respondent, and by following the College's grievance policy and procedures as set out below, before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.<sup>[4]</sup> Additionally, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.<sup>[5]</sup> A complainant may obtain supportive measures while keeping their identity confidential from the respondent to the extent possible while implementing the supportive measure. Measures are designed to stop the prohibited conduct, prevent its recurrence, and remediate any adverse effects of such conduct on campus or in College-related programs or activities. The College will provide written notification of the complainant's options for, and available assistance in, changing academic, living, transportation, and working situations, if so requested by the complainant, and if such supportive measures are reasonably available regardless of whether the complainant chooses to report the crime to campus safety authority or local law enforcement.<sup>[6]</sup> The College will respond in the manner described in this section with or without a formal complaint.<sup>[7]</sup>

In order to address incidents of sexual misconduct that do not fall within the definition of Title IX Sexual Harassment set forth in regulations promulgated by the U.S. Department of Education under Title IX of the Education Amendments Act of 1972 and which limits the scope of Title IX Prohibited Conduct to conduct that occurs within the United States and conduct that occurs within the College's education program or activity, the College has one central Policy (the "Georgetown College Title IX Prohibited Conduct and Sexual Misconduct Policy") concerning all sexual misconduct, containing two (2) sections:

- Section I – Title IX Prohibited Conduct; and
- Section II – Sexual Misconduct

Sections I and II of the Policy are interrelated and must be read together. There may be a circumstance when the allegations forming the basis of a formal complaint, if substantiated, would constitute prohibited conduct under both this Section II - Sexual Misconduct and Section I - Title IX Prohibited Conduct. In that circumstance, the grievance process set forth in Section I will be applied in the investigation and adjudication of all Title IX allegations.

This "Section II - Sexual Misconduct" applies only to certain conduct prohibited under this Section II. Specifically, Section II applies to forms of sexual misconduct that do not fall under the scope of Section I Title IX Prohibited Conduct but do meet the definition of "Section II Sexual Misconduct" as defined in the Policy.

"Section II Sexual Misconduct" refers collectively to all conduct prohibited by this Section, which includes the following terms as defined in this Policy: Sexual Misconduct, Sexual Exploitation, Improper Conduct Related to Sex, and any alleged conduct that would otherwise be prohibited under Section I (e.g., Quid Pro Quo, Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking) but which must be dismissed under Section I because it does not meet the jurisdictional requirements of Section I and Title IX. Sexual Misconduct not falling under the scope of Section II shall be addressed under other College policies.

## *Anonymity*

Once a report has been shared with the Title IX Coordinator, a complainant may request that their identity not be shared with the respondent (request for anonymity), that no investigation occur, or that no disciplinary action be pursued. The University will carefully balance this request in the context of the University's commitment to providing a safe and non-discriminatory environment for all community members.

When a complainant desires to initiate a grievance process, the complainant cannot remain anonymous or prevent the complainant's identity from being disclosed to the respondent (via written notice of allegations). Fundamental fairness and due process principles require that a respondent knows the details of the allegations made against the respondent, to the extent the details are known, to provide adequate opportunity for the respondent to respond.

## *College's Response to a Formal Complaint*

A formal complaint is a document filed by a complainant or the Title IX Coordinator alleging Title IX prohibited conduct against a respondent and requesting that the College investigate the allegations. At the time of the submittal of a formal request, the complainant must be participating in, or attempting to participate in, one or more of the College's education programs or activities.

Upon receipt of a formal complaint, the Title IX Coordinator will respond to any immediate health or safety concerns raised. The Title IX Coordinator will then conduct an initial assessment for the sole purpose of determining whether the alleged conduct, if substantiated, would constitute Section I Title IX Prohibited Conduct. The College will seek to complete this initial assessment within ten (10) business days of receipt of the formal complaint. Following the initial assessment, the Title IX Coordinator may take any of the following actions:

1. If the allegations forming the basis of the formal complaint would, if substantiated, constitute prohibited conduct as defined in this Section I, the Title IX Coordinator shall initiate an investigation of the allegations in a formal complaint under Section I. In addition, the Title IX Coordinator shall implement appropriate supportive measures.
2. If the allegations forming the basis of the formal complaint would not, if substantiated, constitute prohibited conduct as defined in this Section I, but would constitute Sexual Misconduct as defined in this policy, the Title IX Coordinator may refer the matter to the College's Section II Sexual Misconduct process, as described in Section II of this Policy. In addition, the Title IX Coordinator shall implement appropriate supportive measures.
3. If the Title IX Coordinator deems the formal complaint appropriate for the informal resolution process and the involved parties concur, the Title IX Coordinator may instead refer the matter to the informal resolution process, as described in Section I (I.3) below. In addition, the Title IX Coordinator shall implement appropriate supportive measures.

## Dismissal of Formal Complaints

The College must dismiss a Formal complaint if:

- If the allegations forming the basis of the formal complaint would not, if substantiated, constitute Section I Title IX Prohibited Conduct or Section II Sexual Misconduct, the Title IX Coordinator shall dismiss the formal complaint from the Title IX grievance process, at which time either party may appeal this dismissal set out in Section I (I.5) below; The conduct alleged in the formal complaint did not occur within the College's education programs or activities over which the College exercises substantial control over both the respondent and the context in which the conduct occurs, or did not occur against a person within the United States.

In addition, at any time prior to the hearing, the College may dismiss a formal complaint if:

- The complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by the College;
- Specific circumstances prevent the College from gathering sufficient evidence to reach a determination as to the formal complaint or the allegations therein.

Upon dismissal, the College shall promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties and their advisors, if any, via electronic format. Both parties will have equal right to appeal the dismissal through the appeal process described in Section I (I.4).

If a complaint is dismissed because the respondent is no longer enrolled or employed by the College, the College reserves the right to resume the complaint upon return of respondent to the College.

The determination regarding dismissal becomes final either on the date that the parties are provided with the written determination of the result of an appeal (if an appeal is filed) or if an appeal is not filed, the date on which an appeal would no longer be considered timely. Once final, a complainant cannot file a formal complaint under this policy concerning the same alleged conduct. When a formal complaint has been filed, the College shall follow all procedures consistent with the College's grievance policies and procedures, as set forth in this Policy.<sup>[8]</sup>

The College may remove a respondent from the College's education program or activity on an emergency basis, after the College undertakes an individualized safety and risk analysis, and determines that the respondent poses an immediate threat to the physical health or safety of any student or individual arising from the allegations of sexual harassment and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.<sup>[9]</sup> The College may also place a non-student employee respondent on administrative leave during the pendency of a grievance process.<sup>[10]</sup>

## Supportive Measures

The College shall provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for complainants both on-campus and in the community.<sup>[11]</sup> The College provides such written notification in Appendix "A". There are a range of supportive measures available to complainants and respondents. Such supportive measures may include but are not limited to:<sup>[12]</sup>

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling

- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass notices
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

## Confidentiality and Privilege

The College will make every effort to protect the privacy of complainant(s), including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the complainant, to the extent permissible by law.<sup>[1]</sup> The College shall keep confidential the identity of any individual who has made a report or complaint of prohibited conduct under this Policy, including any individual who has made a report or filed a formal complaint of Section I Title IX Sexual Harassment, any complainant, any individual who has been reported to be the respondent of prohibited conduct under this Policy, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.<sup>[2]</sup> The College shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures.<sup>[3]</sup>

The College does not require, allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.<sup>[4]</sup>

## Amnesty

Georgetown College encourages the reporting of misconduct and crimes by complainants and witnesses. The physical and mental health, safety, and well-being of students and the campus community is of utmost importance to the College. While alcohol and drug violations are not condoned by the College, the College offers students amnesty from minor policy violations, such as underage consumption of alcohol or illicit drug use in order to remove potential barriers to reporting prohibited sexual conduct.

Student complainants who have been drinking or using drugs at the time of the incident will not be disciplined for minor policy violations and should not hesitate to report a Title IX prohibited conduct or sexual misconduct due to fear for their own conduct.

Students witnesses and reporters may report, participate in the process, or offer their assistance to others in need, without fear that they may implicate themselves. Student witnesses or reporters acting in good faith will not be subject to official disciplinary findings or punitive sanctions, but rather to educational options for minor code of conduct violations that arise from the information they share.

Amnesty will not apply to more serious allegations such as physical abuse of another or illicit drug distribution.

Amnesty does not apply to a student who reports their own commission or complicity in a Title IX prohibited or sexual misconduct incident.

An employee who has violated a minor employee policy violation and then experiences a Title IX prohibited conduct or sexual misconduct may hesitate to report the incident. To encourage employees to report, the College may, at its discretion, offer employee complainant amnesty from minor policy violations related to the incident. Amnesty may also be granted on a case-by-case basis to employee witnesses.

## *Disability Accommodations*

Georgetown College will provide reasonable accommodations to students, employees, or others with disabilities to ensure equal access to the College's grievance process. Anyone needing accommodations should contact Disability Services or Human Resources, to begin the interactive process of determining which accommodations are appropriate and necessary for full participation in the grievance process.

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[1] 34 CFR §668.46(b)(11)(A).

[2] 34 CFR §106.71(a).

[3] 34 CFR §106.30(a).

[4] 34 CFR 106.45(b)(1)(x).

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[1] 34 CFR §106.8(a).

[2] 34 CFR §106.8(a)

[3] 34 CFR §106.44(a)

[4] 34 CFR §106.44(a)

[5] 34 CFR §106.44(a)

[6] 34 CFR §668.46(b)(11)(v)

[7] 34 CFR §106.44(b)(1)

[8] 34 CFR §106.44(b)(1)

[9] 34 CFR § 106.44(c)

[10] 34 CFR §106.44(d)

[11] 34 CFR §668.46 (b)(11)(iv).

[12] 34 CFR §106.45(b)(1)(ix).