

# Community

Policy Against Sexual Misconduct



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## Policy Against Sexual Misconduct

### I. Statement of Philosophy

Carleton College is committed to:

- Fostering a safe environment, free of sexual misconduct in any form. We expect community members to engage in relationships and sexual interactions that are characterized by consent. Individuals who engage in behaviors that violate Carleton's Policy Against Sexual Misconduct are held responsible for their actions.
- Responding to reports of sexual misconduct through established procedures that are comprehensive in scope, supportive in approach, and fair in execution. Support will be provided before, during, and after any resolution process, recognizing that for all parties affected by an instance of sexual misconduct—alleged or proven—the experience is emotionally, socially, and intellectually demanding. Retaliation against any person participating in the investigation or adjudication of a report of sexual misconduct is strictly prohibited.
- Taking seriously the fact that the best process to address sexual misconduct should begin before any sexual misconduct has occurred, with prevention through education, and should conclude with intentional measures to work towards healing individuals and community.

In accordance with Title IX of the Educational Amendments Act of 1972 and its implementing regulations, Carleton prohibits discrimination on the basis of sex, including Sexual Harassment (as defined below), in its education programs or activities. This prohibition on sex discrimination includes, but is not limited to, admission and employment.

## **II. Title IX Coordinator**

Carleton has designated Kari Hohn to serve as its interim Title IX Coordinator. Their contact information is:

Kari Hohn  
Title IX Coordinator  
107 College St House 203  
507-222-4028  
khohn@carleton.edu

Carleton has designated Heidi Jaynes to serve as Title IX Deputy for Faculty and Staff. Their contact information is:

Heidi Jaynes  
Title IX Deputy/Faculty and Staff  
Recreation Center 229  
(507) 222 4447  
hjaynes@carleton.edu

Inquiries about the application of Title IX and its implementing regulations may be referred to these individuals. These individuals may also act through a designee. Inquiries about Title IX and its implementing regulations may also be referred to:

U.S. Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Bldg.  
400 Maryland Ave, SW

### **III. Definitions**

Specific terms used in this Policy have the following meanings:

*“Advisor”* means a person selected by the Complainant or Respondent, or appointed by Carleton, who may be present during the Formal Complaint Resolution Process and meetings related thereto. An Advisor selected by the Complainant or Respondent may be an attorney.

*“Appellate Officer”* means the individual designated by Carleton to decide Appeals in accordance with Section VI.I, below.

*“Complainant”* means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

*“Confidential Campus Resources”* means all employees of Carleton’s Student Health and Counseling Center and clergy who serve as College Chaplains. Individuals involved in sexual misconduct matters may seek confidential support from these resources, who will maintain complete confidentiality of all information shared with them. Confidential Campus Resources have a responsibility to report non-personally identifiable information about sexual misconduct for the purpose of statistical reporting, as required by law.

*“Consent”* means the mutual understanding of words or actions freely and actively given by two informed people that a reasonable person would interpret as a willingness to participate in mutually agreed upon sexual activity.

- Consent is not effective when force, threat, or coercion is used.
- Consent is not effective if the recipient party is incapacitated, asleep, or unconscious.

- Silence or non-communication should never be interpreted as effective consent.
- Consent to one type of sexual activity does not imply consent to other types of sexual activity.
- Past consent is not future consent.
- Consent can be withdrawn at any time.

*“Decision-Maker”* means a member of the panel designated by Carleton that hears and reaches a determination regarding a Formal Complaint alleging Sexual Harassment in accordance with the procedures outlined in Section VI, below. One of the Decision-Makers in any hearing shall be the Hearing Officer.

*“Formal Complaint”* means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting investigation of the allegations.

*“Formal Complaint Resolution Process”* is the process outlined in Section VI, below.

*“Hearing Officer”* means the individual designated by Carleton who is responsible for managing the conduct of a hearing on a Formal Complaint of Sexual Harassment in accordance with the procedures outlined in Section VI, below. The Hearing Officer is also a Decision-Maker.

*“Incapacitation”* means the physical and/or mental inability to make informed, rational judgments. A person is incapacitated if they lack the necessary judgment to give consent to sexual activity. For example, a person may be incapacitated when asleep or under the influence of alcohol or drugs to an extent that the person is not capable of making a knowing decision. Knowledge of incapacity is evaluated based on a reasonable person standard. Accordingly, if a person has sexual contact with someone whom that person knows to be, or whom a reasonable person would know to be, incapable of making a rational, reasonable decision, that contact is without consent. Being intoxicated or under the influence of any substance at the time of sexual contact is never an excuse for violating this Policy.

*“Informal Resolution”* means the process outlined herein for resolving a Formal Complaint with the voluntary written consent of both the Complainant and Respondent and consistent with the other conditions and procedures set out in Section VI, below.

*“Investigative Report”* is a written report prepared by the Investigator that fairly summarizes relevant evidence gathered in an investigation and relating to a Formal Complaint.

*“Investigator”* means the individual designated by Carleton to gather information in response to a Formal Complaint.

*“Respondent”* means an individual who has been alleged to be the perpetrator of conduct that could constitute Sexual Harassment.

*“Sexual Harassment”* is conduct on the basis of sex that satisfies one or more of the following:

1. An employee of Carleton conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to education programs or activities;
3. Sexual assault, meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation which include:
  - a. Fondling - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - b. Incest - Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - c. Rape - The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of

their age or because of their temporary or permanent mental or physical incapacity.

- d. Sexual Assault with an Object – To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia, e.g., a finger, bottle, stick.
  - e. Sodomy – Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - f. Statutory Rape – Non-forcible sexual intercourse with a person who is under the statutory age of consent
- 4. Dating violence, meaning violence (including but not limited to physical, emotional, or psychological behaviors) committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on (i) the length of the relationship; (ii) the type of relationship; (iii) the frequency of interaction between the persons involved in the relationship;
  - 5. Domestic violence, meaning felony or misdemeanor crimes 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, or by any other person against an adult or youth victim who is protected from that person’s acts under applicable domestic or family violence laws;
  - 6. Stalking is a course or pattern of two or more acts of unwelcome and unwanted conduct directed towards a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others; or (B) suffer substantial

emotional distress. Stalking can be committed directly by the individual engaging in the stalking behavior or indirectly through third parties. It includes, but is not limited to, actions such as following, monitoring, observing, surveilling, or threatening a person; unreasonably communicating to or about a person by phone, mail, text message, email and/or other electronic communications, including social media; or interfering with a person's property; or

7. Sexual exploitation is a form of sexual harassment. It occurs when a person takes advantage of another person for the benefit or advantage of oneself or anyone else. Examples of sexual exploitation may include, but are not limited to, non-consensual and/or abusive photographing or recording of nudity or sexual activity; unauthorized sharing or distribution of images or recordings of nudity or sexual activity in any form; going beyond the bounds of consensual sexual contact without the knowledge of the other person; intentionally observing, spying on, recording, or listening to one or more person(s) involved in sexual contact or in any state of undress without their consent; exposing one's genitals or inducing another to expose the person's genitals in nonconsensual circumstances; knowingly exposing another person to a sexually transmitted infection or virus without their knowledge; or lying to a sexual partner about sexually transmitted infection or virus status or prophylactic/birth control use.

*"SMS Advisor"* means a Sexual Misconduct Support Advisor, selected from a pool of Carleton staff who have volunteered to serve as advisors to students and have received training on this Policy and the Formal Complaint Resolution Process.

*"Supportive Measures"* means non-disciplinary, non-punitive, individualized services designed to restore or preserve equal access to educational programs or activities. Supportive Measures may be offered to a Complainant or Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive Measures may include, but are not limited to:

- Counseling
- Coursework adjustments

- Modifications of schedules
- Campus escort services
- Mutual restrictions on contact
- Changes in work or housing locations
- Leaves of absence
- Increased security or monitoring
- Information regarding health care and mental health care
- Information regarding advocacy services and legal assistance

Supportive Measures provided to a Complainant or Respondent will be kept confidential to the extent feasible.

*“Title IX Coordinator”* means the individual identified in Section II, above.

## **IV. Jurisdiction**

This Policy applies to all Carleton faculty, staff, students, and visitors. Sexual misconduct can be committed by a person of any gender against a person of any gender. Sexual misconduct can be committed by friends, current or former intimate partners, acquaintances, or non-acquaintances. The Policy applies in connection with any Carleton program, whether on or off campus, including academic, educational, extra-curricular, athletic, residential, employment (including work-study), and other College activities and programs.

The Title IX Coordinator is responsible for determining whether matters fall under the jurisdiction of this Policy and may consult with others, as appropriate, in making such a determination. Where misconduct is alleged to have been committed by a staff or faculty member, in particular, the Title IX Coordinator may consult with the Title IX Deputy for Faculty and Staff.



Alleged conduct that does not fall within the scope of this Policy may be addressed under other applicable policies, including but not limited to those set forth in Section IX, below. This may include (but is not limited to) misconduct of a sexual nature that does not meet the definitions of Sexual Harassment set forth in this Policy.

## **V. Reporting**

Carleton is committed to creating a community free of sexual misconduct, to providing avenues for those affected by sexual misconduct to obtain assistance, and to providing clear and fair complaint and investigation procedures.

Carleton encourages individuals who have experienced any form of sexual misconduct to make a prompt report to the College. Any person—regardless of whether the person reporting is the person alleged to be the victim—may report such concerns to the Title IX Coordinator or, in cases involving faculty or staff, to the Title IX Deputy for Faculty and Staff. Reports may be made in person, by mail, by telephone, by email, or by Community Concern Form. Reports may be made at any time. Reports made through the Community Concern Form can be anonymous.

Students who wish to seek support after an incident of sexual misconduct, want to discuss options for addressing an incident of sexual misconduct, are considering filing a Formal Complaint, or have any questions about the Formal Complaint Resolution Process, should contact the Title IX Coordinator or a Confidential Campus Resource who can also provide information regarding available Supportive Measures and other services. More information can be found [here \(https://www.carleton.edu/sexual-misconduct/get-help/reporting-2/\)](https://www.carleton.edu/sexual-misconduct/get-help/reporting-2/).

### **External Reporting**

When sexual misconduct occurs at Carleton, the standards of the community are violated. Depending on the type of misconduct, state and federal law may also be violated by conduct that violates College policy. Carleton also encourages individuals

who have experienced criminal sexual misconduct to pursue criminal charges. State law definitions of consent, sexual assault, domestic violence, dating violence, and stalking can be found [here \(https://www.revisor.mn.gov/index/statute/S9848930?year=2019\)](https://www.revisor.mn.gov/index/statute/S9848930?year=2019).

The College can provide information about available options, including information about Carleton's procedures or pursuing criminal charges. The College will advise individuals that filing a sexual misconduct report is not a substitute for legal action. An individual may be assisted by College authorities in notifying law enforcement or obtaining a legal no-contact order if the individual chooses. The College also recognizes the right of individuals to decline to notify law enforcement authorities.

Carleton will also provide all parties complete and prompt assistance, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a sexual misconduct incident. The College will also provide all parties assistance in preserving materials relevant to campus disciplinary proceedings.

Reporting an incident of sexual misconduct under Carleton policy is independent of any criminal investigation or proceeding and, except in cases where the College determines that a delay is necessary, the College may not wait for the conclusion of any criminal proceedings to respond to a report and take needed interim or resolution measures. Making a report to law enforcement is not necessary for the College to proceed with a resolution.

### **Required Reporting**

#### *Faculty and Staff*

- All faculty and staff, other than Confidential Campus Resources, who learn of possible violations of this Policy are required to report that information either directly or through a Community Concern Form to the Title IX Coordinator or the Title IX Deputy for Faculty and Staff.
- While reporting is an obligation for all faculty and staff other than Confidential Campus Resources, in responding to a report, the College will be guided by the goal of empowering the self-determination of the individual who may have been

subject to the misconduct and allowing that individual to retain as much control over the process as possible. However, no employee (other than Confidential Campus Resources) can or should promise absolute confidentiality.

### Students

- Resident assistants are required to report incidents of possible sexual misconduct through a Community Concern Form when relevant information comes to their attention through their work as resident assistants. Resident assistants are required to include the names of involved students.
- Peer leaders other than resident assistants are required to report incidents of possible sexual misconduct through a Community Concern Form but may choose to omit the names of involved students. Peer leaders may choose to share more information, including names, to help affected students receive appropriate support and attention.
- Other students do not have an obligation to report sexual misconduct but are encouraged to consider sharing information about sexual misconduct with the Title IX Coordinator to help affected students receive appropriate support and attention.

### **Limited Immunity for Alcohol and Drug Violations**

The College seeks to remove barriers to reporting incidents of sexual misconduct. An individual who has been drinking or using drugs at the time of an incident of sexual misconduct may be hesitant to make a report or participate in an investigation because of potential consequences for their own conduct. No student who, in good faith, reports an incident of sexual misconduct or participates in an investigation of sexual misconduct will be subject to disciplinary action for their own personal consumption of alcohol or other drugs related to that incident. The College may recommend educational intervention, assessment, or counseling for alcohol or other drug use when appropriate.

### **Response to a Report**

The College will treat all parties connected with a sexual misconduct report with dignity. The College will not suggest that a Complainant is at fault or should have done something differently to avoid an incident.

In response to a report, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures (with or without the filing of a Formal Complaint), consider the Complainant's wishes with respect to Supportive Measures, and explain the process for filing a Formal Complaint. Fair and responsible Supportive Measures will be available to all parties.

If the Complainant chooses not to file a Formal Complaint, the Title IX Coordinator may choose to do so. In some circumstances, the College may acquire information about a potential violation of this Policy through a Community Concern Form or other source that identifies a potential Respondent but does not identify the person (or persons) who was subject to the conduct. In this or another appropriate situation, the Title IX Coordinator may choose to file a Formal Complaint.

If the Complainant or the Title IX Coordinator chooses to file a Formal Complaint, such Formal Complaint will be handled in accordance with the following Formal Complaint Resolution Process.

## **VI. Formal Complaint Resolution Process**

Carleton's response to a Formal Complaint of Sexual Harassment will treat Complainants and Respondents equitably and provide a process in which the Title IX Coordinator, Investigator, Decision-Makers, Hearing Officer, Appellate Officer, and any facilitator of an Informal Resolution are free from conflicts of interest or bias against the Complainant or Respondent (or against complainants or respondents generally).

These individuals will receive training on the definition of Sexual Harassment, the scope of Title IX, and how to serve impartially including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. These individuals will also receive training regarding their specific roles in the process.

Carleton will strive to complete the Formal Complaint Resolution Process within 90 days of the filing of a Formal Complaint. The Title IX Coordinator may allow for the temporary delay of all or part of the Formal Complaint Resolution Process for good cause and will provide written notice to the Complainant and Respondent of the delay and the reasons therefor.

### **Presumption**

The Respondent in a Formal Complaint is presumed not responsible for the alleged conduct until a determination is made regarding responsibility at the conclusion of the Formal Complaint Resolution Process.

### **Written Notice**

Within a reasonable period following receipt of a Formal Complaint, Carleton will provide written notice to known parties:

- Of this Formal Complaint Resolution Process
- Of the allegations potentially constituting Sexual Harassment, including details then-known regarding:
  - the identities of the parties involved in the incident
  - the conduct allegedly constituting Sexual Harassment
  - the date and location of the alleged incident(s)
- That the Respondent is presumed not responsible
- That a determination regarding responsibility is made at the conclusion of the Formal Complaint Resolution Process
- Of their right to an Advisor
- Of their ability to inspect and review evidence in connection with the Formal Complaint
- Of their obligation to promptly notify the Title IX Coordinator if, at any time, they believe the Title IX Coordinator, Investigator, Hearing Officer, facilitator of any

Informal Resolution, Decision-Maker, or Appellate Officer has a conflict of interest or bias

- Of any other provision in a policy or code of conduct (student, faculty, or staff) that may be implicated by the allegations in the Formal Complaint
- Of any Informal Resolution process

If, during the course of an investigation, Carleton decides to investigate allegations about the Complainant or Respondent that were not included in a previous written notice, it will provide notice of the additional allegations to known parties.

### **Grounds for Dismissal**

If, at any time subsequent to the filing of a Formal Complaint, Carleton determines that the conduct alleged, even if proved, would not constitute Sexual Harassment or does not otherwise fall under the jurisdiction of this policy, Carleton will dismiss the Formal Complaint with regard to that conduct. Such a dismissal does not preclude disciplinary action under other Carleton policies.

If, at any time subsequent to the filing of a Formal Complaint, (1) Carleton is notified by the Complainant that they wish to withdraw the Formal Complaint or any allegations therein; (2) the Respondent is no longer enrolled or employed; or (3) specific circumstances prevent Carleton from gathering evidence sufficient to reach a determination; then Carleton may, in its discretion, dismiss the Formal Complaint or a portion thereof.

In the event of the dismissal of a Formal Complaint (or a portion thereof) under this section, Carleton will promptly notify the Complainant and Respondent in writing.

### **Informal Resolution**

A Formal Complaint that does not involve allegations of an employee engaging in Sexual Harassment of a student may be resolved by Informal Resolution. Informal Resolution may occur any time between the filing of a Formal Complaint and a determination of responsibility.

Prior to any Informal Resolution, both the Complainant and Respondent will be given written notice of: (1) the allegations; (2) the circumstances under which Informal Resolution precludes them from resuming the Formal Complaint Resolution Process, such as voluntarily agreeing to resolution of the Formal Complaint through Informal Resolution; (3) their right to withdraw from the Informal Resolution process and resume the Formal Complaint Resolution Process at any time prior to agreeing to a resolution; and (4) that the Informal Resolution process could result in an agreed-upon sanction, including but not limited to those set forth in Section VI.G.3, below, which may appear in certain records pertaining to that individual.

Carleton will facilitate an Informal Resolution only after the Complainant and Respondent have received such written notice and provided voluntary, written consent to participate in Informal Resolution. Carleton will strive to complete any Informal Resolution within 10 days of receiving such consent. Informal Resolution will involve the parties working together with Carleton personnel to attempt to reach a mediated resolution. More information regarding the mediated resolution process will be provided to parties in the written notice described in this subsection.

### **Investigation**

Following the filing of a Formal Complaint, the Title IX Coordinator shall designate an Investigator for the matter. The Investigator will conduct a prompt, thorough, and impartial investigation and prepare a written Investigative Report. The Investigator will typically meet individually with the Complainant and Respondent at least once during an investigation. The Complainant and Respondent will receive written notice of the date, time, location, and individuals who will be present for any investigative interview or meeting and will be given sufficient time to prepare. The Complainant and Respondent may be accompanied by one Advisor at any investigative interview or meeting.

The Complainant and Respondent may advise the Investigator of any witnesses they believe should be interviewed and any inculpatory or exculpatory evidence including, for example, e-mails, text messages, photographs, video surveillance, and/or other physical, documentary or other evidence.

As the investigation nears its end, the Investigator will provide written notice to the Complainant and Respondent of the pending close of the investigation and a final deadline by which additional evidence or information must be submitted for consideration by the Investigator. The burden of gathering evidence sufficient to reach a determination regarding responsibility rests on Carleton.

### **Investigative Report**

The Investigative Report will fairly summarize the relevant evidence. Following preparation of the Investigative Report, the Complainant and the Respondent will have the opportunity to review the report and to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised. The Title IX Coordinator will send to the parties (and any Advisor) the Investigative Report and evidence subject to inspection and review in an electronic format or hard copy. The parties will have 10 calendar days to submit a written response. The parties may take notes regarding the report. Parties may not make copies, take photographs, or make other recordings or images of the report or evidence. Parties and any Advisor(s) may be required to sign a non-disclosure agreement identifying that the review and use of evidence is permitted solely for the purposes of the sexual misconduct process.

The purpose of this response is (1) to identify any evidence the party believes to be relevant that the Investigator did not include in the preliminary report or initially identify as relevant, and (2) to meaningfully respond to the preliminary report and evidence. The purpose is not to present additional evidence, unless there is new evidence documented in the report that was not known to the party. Each party's response should not exceed 2,000 words in length. The response must be submitted within 10 calendar days after the first day the report has been made available for review. Any response submitted by the party will be made available for the other party. Any written response(s) will be considered by the Investigator before completing the Investigative Report.

After the submission of any such written response, neither the Complainant nor Respondent will be permitted to provide any further evidence, absent extraordinary circumstances as determined at Carleton's discretion.



## **Hearing**

A panel of Decision-Makers, one of whom is the Hearing Officer, hears a Formal Complaint that proceeds to a hearing. If the Respondent is a student, the panel will consist of the Hearing Officer and two other Decision-Makers, who may be Carleton faculty members, staff, or students. If the Respondent is a staff member, the panel will consist of the Hearing Officer and two other Decision-Makers, who may be Carleton faculty or staff. If the Respondent is a faculty member, the panel will consist of the Hearing Officer and two other Decision-Makers, who may be Carleton faculty or staff, but at least one of whom will be a faculty member.

The purpose of the hearing is for the Decision-Makers to objectively evaluate relevant evidence to determine whether or not the Respondent is responsible for engaging in Sexual Harassment. If the Decision-Makers determine that the Respondent has committed Sexual Harassment, they are also responsible for determining appropriate sanctions.

### *Preparation for the Hearing*

- The Title IX Coordinator or a designee will arrange the administrative details for the hearing, including: (1) selecting the Decision-Makers; (2) arranging a time and place for the hearing; (3) making the Investigative Report and evidence that is directly related to the allegations raised in the Formal Complaint available at the hearing so that both the Complainant and Respondent will have equal opportunity to refer to such evidence during the hearing; and (4) arranging for a Complainant or Respondent who does not have an Advisor to be appointed one.
- The hearing will occur with the Complainant and the Respondent located in separate rooms with technology enabling the Decision-Makers, the Complainant, the Respondent, and any Advisor(s) to simultaneously see and hear any party or witness answering questions.

### *Conduct of the Hearing*

- The Hearing Officer is responsible for managing the conduct of the hearing and ensuring that procedures are followed. The Hearing Officer facilitates all phases of the hearing and resolves all questions that arise during the hearing, including but not limited to procedural issues and issues regarding the propriety or relevance of specific questions, arguments, and information presented. The Hearing Officer will also seek to ensure an orderly and fair exchange of information during the hearing and, in the discretion of the Hearing Officer, any Decision-Maker may ask questions of any party or witness. If anyone attending the hearing acts without appropriate respect or decorum, including failure to comply with the Hearing Officer's instructions, the Hearing Officer may take appropriate action, including requiring that person to leave the hearing.
- At the hearing, both the Complainant's Advisor and the Respondent's Advisor will have the opportunity to ask the other party and any witnesses relevant questions and follow-up questions. Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a question, the Hearing Officer will determine whether the question is relevant. If the Hearing Officer excludes a question as not relevant, they will orally explain their decision to do so.
- Questions and evidence about a Complainant's sexual predisposition or prior sexual behavior are not relevant unless: (1) they are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or (2) they concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- The Decision-Makers will not draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the hearing or refusal to answer cross-examination or other questions.
- An audio recording, audiovisual recording, or a transcript of the hearing will be made and provided to the Complainant and Respondent for review after the hearing.

### *Determination & Sanctions*

- Following the presentation of information at the hearing, the Decision-Makers will determine whether the Respondent engaged in Sexual Harassment. The Decision-Makers will deliberate in private. In reaching a decision, the Decision-Makers will apply a **preponderance of the evidence standard** and will conclude that Sexual Harassment occurred if it is “more likely than not.” The Decision-Makers will reach a decision by majority vote.
- If the Decision-Makers determine that the Respondent engaged in Sexual Harassment, they will deliberate further to determine appropriate sanctions. Carleton may implement any of the Supportive Measures outlined above at any time prior or subsequent to any finding of responsibility. However, disciplinary sanctions and remedies may only be implemented following a determination of responsibility. Such sanctions and remedies may range from a warning to expulsion or termination of employment. Other possible sanctions include required education or training; restrictions on participation in campus activities; change in work schedule or location; disciplinary probation; administrative leave; suspension with or without conditions for return; reassignment of duties; no-contact or limited-contact orders; chemical health assessment; restrictions on campus access, including housing or course enrollment; change of housing; and withdrawal or non-conferral of a degree. Sanctions may be combined.

#### Written Determination

- The Decision-Makers will issue a written determination regarding responsibility. The written determination will include:

- A description of the allegations potentially constituting Sexual Harassment
  - A description of the procedural steps taken from the receipt of the Formal Complaint through the written determination
  - Findings of fact supporting the determination
  - Conclusions regarding application of policy to the facts
  - A statement of, and rationale for, the result as to each allegation, including any determination regarding responsibility and any sanctions or remedies
  - The procedures and permissible grounds for appeal
- The written determination will be provided to the parties simultaneously.

### Appeals

- A Complainant, Respondent, or Title IX Coordinator may appeal: (1) a determination regarding responsibility; or (2) any dismissal of a Formal Complaint or any portion thereof. Appeals are limited to the following grounds:
  - Procedural irregularity that affected the outcome
  - New evidence that was not reasonably available at the time the determination or dismissal was made that could affect the outcome
  - The Title IX Coordinator, Investigator, or Decision-Maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent and that conflict of interest or bias affected the outcome
- Appeals must be submitted in writing to the Appellate Officer within three days of receipt of the written determination or dismissal. When an appeal is filed by a party, Carleton will provide notice to the other party and an opportunity to respond to the appeal in writing within three days.
- If the Respondent is a student, the Dean of Students (or their designee) will serve as the Appellate Officer. If the Respondent is a staff member, the Vice President

and Treasurer (or their designee) will serve as the Appellate Officer. If the Respondent is a faculty member, the Dean of the College (or their designee) will serve as the Appellate Officer.

- The Appellate Officer will issue a written decision describing the result of the appeal and the rationale which will be provided to both parties simultaneously. A determination of responsibility or dismissal becomes final either on the date that the Complainant or Respondent receives the written determination of the result of any appeal or the expiration of the deadline for any appeal. Sanctions related to a determination of responsibility go into effect after the result of an appeal is issued or after the deadline for an appeal expires.

## **VII. Retaliation Prohibited**

Carleton prohibits retaliation against any individual who makes a report, testifies, assists, participates, or refuses to participate in any manner in an investigation, proceeding, or hearing under this Policy.

## **VIII. Privacy, Confidentiality, and Record Retention**

Carleton will strive to maintain the privacy of all parties involved with a sexual misconduct allegation to the fullest extent possible. Maintaining privacy means that only individuals who need to know information about a matter will have access to it and that information will be handled with sensitivity. Publicly available records will not identify the parties.

Records relating to sexual misconduct allegations and investigations will be retained by the College for seven years.

## **IX. Related Policies**

Carleton has additional or related policies that may overlap and intersect with this Policy Against Sexual Misconduct, including:

- [Statement on Consensual Relations](https://apps.carleton.edu/handbook/community/?policy_id=867556)  
([https://apps.carleton.edu/handbook/community/?policy\\_id=867556](https://apps.carleton.edu/handbook/community/?policy_id=867556))
- [Minors on Campus Policy](https://apps.carleton.edu/handbook/healthsafety/?policy_id=1468615) ([https://apps.carleton.edu/handbook/healthsafety/?policy\\_id=1468615](https://apps.carleton.edu/handbook/healthsafety/?policy_id=1468615))
- [Community Standards Policy](https://apps.carleton.edu/handbook/community/?policy_id=6131) ([https://apps.carleton.edu/handbook/community/?policy\\_id=6131](https://apps.carleton.edu/handbook/community/?policy_id=6131))
- [College Statement of Non-Discrimination](https://apps.carleton.edu/handbook/governance/?policy_id=955843)  
([https://apps.carleton.edu/handbook/governance/?policy\\_id=955843](https://apps.carleton.edu/handbook/governance/?policy_id=955843))

## X. Miscellaneous

This Policy is not a contract nor is it possible for Carleton to contemplate every situation in which it may be required to respond. Nothing in this Policy prohibits Carleton from taking action to address a particular situation in accordance with applicable law.

*For further information, please see the [Sexual Misconduct Prevention and Response Web site](https://www.carleton.edu/sexual-misconduct/policy-procedure/) (<https://www.carleton.edu/sexual-misconduct/policy-procedure/>).*

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**For:** [Faculty](/handbook/community/?a=faculty&policy=323) (</handbook/community/?a=faculty&policy=323>), [Staff](/handbook/community/?a=staff&policy=323) (</handbook/community/?a=staff&policy=323>), [Students](/handbook/community/?a=student&policy=323) (</handbook/community/?a=student&policy=323>)

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*Last Reviewed: February 15, 2024*

*Maintained by: Dean of Students Office*

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**Previous:** [Observance of Religious Holidays](/handbook/community/?a=student&policy=86) (</handbook/community/?a=student&policy=86>)

**Next:** [Political Activity](/handbook/community/?a=student&policy=176) (</handbook/community/?a=student&policy=176>)

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*[List all Policies & Guidelines for Community](/handbook/community/?a=student) (</handbook/community/?a=student>)*

# Campus Handbook

The Campus Handbook is the one place to find all official Carleton College policies and guidelines. It contains the [Student \(/handbook/?a=student\)](/handbook/?a=student), [Faculty \(/handbook/?a=faculty\)](/handbook/?a=faculty), and [Staff \(/handbook/?a=staff\)](/handbook/?a=staff) handbooks. These policies and guidelines are subject to change.

[Campus Handbook Archive \(/handbook/archive/\)](/handbook/archive/)

[Tools for Policy/Guideline](#)

[Maintainers](#)

[\(/handbook/maintainers/\)](/handbook/maintainers/)

Email: [campus-handbook.group@carleton.edu](mailto:campus-handbook.group@carleton.edu) (<mailto:campus-handbook.group@carleton.edu>)

Campus Handbook pages maintained by [the Web Team](#) (<mailto:web@carleton.edu>)

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