

## Appendix A: Discrimination, Harassment, and Sexual Misconduct Grievance Procedures

Williams College is committed to maintaining a fair and respectful environment in which all members of its community feel safe and can participate fully and grow. In compliance with state and federal law and as a matter of its own principles, the college prohibits discrimination on the basis of race, sex, ethnicity or national origin, religion, age, disability, marital status, sexual orientation, gender identity, or veteran status in admission, employment, and administration of its programs and activities. In addition, the college prohibits harassment and sexual misconduct.

The following procedures apply to all complaints of discrimination, harassment, and sexual misconduct involving faculty and staff respondents,<sup>1</sup> excluding Title IX Sexual Harassment. Procedures for complaints of Title IX Sexual Harassment involving faculty and staff respondents can be found in *Appendix A.1: Faculty & Staff Title IX Sexual Harassment Investigation & Adjudication Procedures*.

Policies and procedures for cases involving only students or student respondents can be found here <https://titleix.williams.edu/for-students/>.

The person alleging discrimination is called the “complainant”; the party accused of violating college policy is called the “respondent.”

If someone alleges conduct that falls under the college’s Non-Discrimination, Harassment, and Sexual Misconduct policy (the “Policy”), the following procedures and practices shall apply:

**1. Reporting and Accommodations.** As described in the Policy, everyone is encouraged to report—and in some cases may be required to report—instances of discrimination, harassment, and sexual misconduct of which they become aware. After the college receives such a report, an Assistant Vice President for Institutional Diversity, Equity, and Inclusion (hereafter AVP) will promptly contact the person reported as having experienced the misconduct to discuss the availability of accommodations and explain the process for filing a complaint. In cases of sexual misconduct, the investigation and adjudication process is overseen by the Title IX Coordinator; in all other discrimination and harassment cases, another AVP has oversight.<sup>2</sup>

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<sup>1</sup> *These procedures may be followed in cases involving complaints of discrimination, harassment or sexual misconduct brought against college employees by persons who are not members of the college community, e.g. visitors to the campus or participants in college programs or activities.*

<sup>2</sup> *If it is the Vice President for Institutional Diversity, Equity, and Inclusion whose behavior is at issue in a complaint, the investigation and adjudication process is overseen by an executive officer of the college, excluding the President of the College who will review appeals. Executive officers of the college are: The President of the College, the Dean of the Faculty, the Provost, the Dean of the College, the Vice President for Finance & Administration and Treasurer, the Vice President for College Relations, the Vice President of Institutional Diversity, Equity & Inclusion, the Chief Investment Officer, the Chief Communications Officer, and the Assistant to the President and Secretary of the Board of Trustees.*

For students, accommodations may include no-contact orders, changes to housing, and academic accommodations such as extensions, tutors, and changes of class schedule. Accommodations may also include changes of class modality (for example, switching to an independent study) if needed in order to ensure access to academic opportunity for the complainant in a class taught by a faculty member who is the respondent. For faculty/staff, accommodations may include no-contact orders, changes of housing (if living in college housing), and changes of work duties, as appropriate.

**2. Informal Resolution.** If appropriate, the AVP may try to resolve the matter informally. The informal process is an opportunity to bring resolution to an allegation through awareness, education, and/or a facilitated discussion. An informal resolution may be appropriate if both parties can agree on the critical facts and a desirable resolution.

The informal process is not appropriate for most allegations of misconduct that involve a student and a member of the faculty or staff; for allegations of sexual misconduct apart from certain instances of discriminatory harassment; and for any allegation involving behavior that potentially endangers members of the college community and/or is potentially criminal in nature.

During an informal process, fact-finding occurs only to the extent necessary to understand the conduct at issue<sup>3</sup>, but no determination is made as to whether college policy has been violated.

Informal resolutions may include, but are not limited to:

- a. Training;
- b. Changes to work or academic arrangements;
- c. Housing reassignment;
- d. Informal discussion with a person whose conduct, if not addressed, could rise to the level of discrimination or harassment;
- e. Advisory discussion with the respondent's supervisor or chair;
- f. "No contact" directive to the parties;
- g. Suspension.

Informal resolution should generally be concluded within two months of the complaint having been filed but may take longer if the AVP believes continued discussion is likely to be fruitful.

Information obtained during the course of the informal resolution process will be shared only to the extent necessary to understand the concerns and protect the interest of the parties and the college community.

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<sup>3</sup> *Fact-finding is not the same as a formal investigation. Typically, fact-finding is carried-out by someone in the Office of Institutional Diversity, Equity, and Inclusion or a designee and may not produce a written report.*

At any point during or following the informal process, either party may request a formal process in writing. A request to move to the formal process automatically ends the informal resolution, and the AVP will inform the parties of the transition in writing. The AVP may also end the informal process at any time.

**3. Written Complaint.** The initial report may be oral and may be made by any person, but to initiate a formal investigation and adjudication, the person who experienced the harassment, discrimination, and/or sexual misconduct must submit a written complaint in paper or electronic form to the AVP.<sup>4</sup> The complaint must be labeled as such and must contain sufficient information regarding the alleged misconduct to allow the college to make an initial determination of whether the behavior falls within the Policy and to permit the respondent to understand the allegations and adequately respond.

The written document should include:

- a. the name of the person(s) alleged to have engaged in misconduct, if known;
- b. the date or approximate date of the alleged misconduct;
- c. a description of the misconduct, including the location; and
- d. a statement that the document is intended to be treated by the college as a formal complaint.

**3.1 Proceeding without the Complainant.** In select circumstances, the college may initiate formal investigation and adjudication without participation of the party alleging discrimination, harassment, and/or sexual misconduct. In deciding that circumstances warrant proceeding, the college may consider a variety of factors, including but not limited to whether there is a pattern of alleged harassment by a particular respondent or whether the allegations involve physical injuries, assault or battery, threats of violence, or use of weapons.

If the college decides that a case should proceed without the person alleging misconduct, the AVP will inform the respondent of the allegations in writing, providing sufficient information regarding the alleged misconduct to permit the person to understand the allegations and be able to adequately respond. In deciding to move forward, the college will treat the identity of the person alleged to have experienced misconduct as confidential, except as is reasonably necessary to carry out the investigation and adjudication process.

If either party chooses not to participate in the formal investigation and adjudication process, it will proceed without their contribution to the determination of the facts. The parties should note that the right to appeal based on the appearance of new information does not apply in cases of deliberate omission of information by a party, including refusal to participate in the formal process.

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<sup>4</sup> In extraordinary circumstances, a complainant may be allowed to make an oral report that is then transcribed and signed by the complainant.

**4. Scope Determination.** Following receipt of the written complaint or termination of informal resolution, the AVP will decide whether the allegations, if true, would fall under the purview of the Policy. The AVP may consult with another AVP, deputy, or college counsel if desired but is the ultimate decisionmaker.

If the AVP determines that the alleged behavior is within the purview of the Policy, the AVP will inform the parties in writing and initiate procedures for the formal investigation and adjudication as described below. If the AVP determines that the alleged behavior is not within the purview of the Policy, the AVP will inform the parties in writing and, where possible, direct parties to other available avenues for addressing the concerns.

The determination of the AVP is final and not subject to appeal.

**5. Notice of Allegations.** After the initial determination of scope as described in paragraph 4, the AVP will provide the parties a written notice of alleged violations to be investigated. The AVP will also share the following:

- a. A copy of these procedures and a written statement of their rights and responsibilities.
- b. The allegations of misconduct as defined by the Policy, with sufficient details to the extent known at the time and with sufficient time to prepare a response before any initial interview. (It is important to note that complete details might not emerge until the investigation process is underway.)
- c. An explanation of the burden of proof, including the presumption of non-responsibility.
- d. A request that the parties preserve any potentially relevant documents or other evidence in any format.
- e. An explanation that the parties are entitled to an advisor of their choice as described in paragraph 9 below.
- f. An explanation that the college prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- g. An explanation of the college's prohibition against retaliation.

**6. Amended Complaints.** If the investigation reveals other related allegations of misconduct not detailed in the initial complaint, the complainant will have the opportunity to request an amendment of the complaint to include the additional related allegations. Decisions about whether additional related allegations are within the purview of the Policy shall be made by the AVP whose decision will be final.

If, in the course of an investigation, the college decides to investigate allegations about either party that are not included in the initial notice to parties, the AVP will provide written notice of the additional allegations to the parties.

The college may consolidate multiple complaints in situations that arise out of the same facts or circumstances and involve more than one complainant, more than one

respondent, or what amount to counter-complaints by one party against the other. If there are multiple complainants and one respondent, the college may consolidate the complaints where the allegations arise out of the same facts or circumstances, which is to say, when the complainants' allegations are so intertwined that their allegations directly relate to all the parties.

**7. Advisors.** Both parties are entitled to have an advisor of their choosing (either a trained college advisor or other person, including an attorney) present with them throughout the process. However, the parties may bring only one advisor to any given meeting or appearance. Advisors may speak to their advisee at any time during the process but may not speak directly to the investigator or to members of the adjudication or sanctions panels. College advisors may not be part of an adjudication panel involving their advisee.

**8. Confidentiality.** College personnel will take reasonable steps to protect the privacy of persons and information. Process participants, including parties and witnesses, should understand that disclosing information learned during the investigation (for example, the content of the investigator's report as well as conversations with the investigator and AVP) to third parties may compromise the integrity of the investigation and could also be construed as retaliation prohibited by college policies and codes of conduct. The college expects that persons will not disclose or re-disclose information learned during the course of the investigation, and both the complainant and respondent will be asked to sign a simple agreement stating that they will not disclose information learned or documentation received during the adjudication process, except as may be required to be able to discuss the allegations under investigation or to gather and present relevant evidence. Persons are, of course, free to discuss their own personal experiences, and to gather information necessary or appropriate to prepare for their participation in the investigation and adjudication process. The college prohibits conduct towards a witness or other participant in the process that constitutes intimidation, retaliation, or "tampering" (for instance, by attempting to coerce, alter, or prevent a witness's testimony). Relevant deputies will look into allegations of intimidation, retaliation or tampering and individuals determined to be responsible shall be subject to appropriate disciplinary proceedings under the applicable handbooks.

**9. Withdrawal of Complaint.** At any time, the person alleging misconduct may withdraw the complaint. Withdrawal of the complaint may end the process, but, as described in 3.1 above, in some cases the college may move forward with the investigation and adjudication of alleged misconduct in order to protect the interests and safety of the college community. The college will inform both parties in a timely manner of its decisions.

**10. Acceptance of Responsibility.** At any time, the respondent may choose to accept responsibility for the conduct alleged in the complaint. If the respondent does so, the process will likely proceed to the determination of a recommended sanction by an

adjudication panel. If both parties are interested in pursuing informal resolution following a respondent's acceptance of responsibility, that option may also be available to them if the AVP agrees.

**11. Investigation.** The AVP will assign a person trained in discrimination, harassment, and/or sexual misconduct investigations to investigate the facts of the complaint. The AVP will oversee the investigation.

This investigator will hear statements from the parties, ask follow up questions, and reach out to and collect statements from and questions of others who have evidence and information relevant to the complaint.

The complainant and respondent may each identify individuals for the investigator to speak to and suggest possible questions to ask. The investigator will make reasonable efforts to do so unless this violates standards of good practices for such investigations or is clearly redundant or irrelevant. Everyone contacted by the investigator will be required to maintain the confidentiality of the investigation. The investigator will also gather any additional evidence available (for example, health care records, with permission of the person to whom they refer, or evidence of patterns of discrimination). The investigator may consult with the AVP in decisions regarding the investigation process.

The length of the investigation will depend on the scope of the alleged conduct, but investigations should generally be concluded within **two to four months** from when they are assigned.

## **12. Report and Responses.**

- a. **Content.** The investigator will produce a written report of findings, which will include a list of those interviewed and copies of additional material referenced. The investigator will not decide whether an alleged violation occurred; that determination is reserved for the adjudication panel. Rather, the investigative report summarizes and analyzes the relevant information uncovered through the investigation, referencing any supporting interviews and/or statements.
- b. **Distribution of Draft to the College.** The AVP will review the report and may request that additional information be gathered. They will also ensure that the draft report does not contain material that is deemed to be inadmissible. Information that is irrelevant, is protected from disclosure by law, or references a party's prior sexual history or sexual predisposition may be deemed inadmissible. Inadmissible information will be redacted or removed.
- c. **Distribution of Draft to Parties.** The AVP will then share the report and referenced materials with the parties. The complainant and respondent each have **15 days** following receipt to write a response, if they wish to do so. The AVP will review responses of the parties to ensure that they do not contain material that is

deemed to be inadmissible<sup>5</sup>, and the approved responses will then be shared with the investigator for consideration before submitting the final investigative report. In their responses, the parties may request that further information be gathered, including identifying additional individuals for the investigator to speak to, which the investigator will pursue at their discretion.

- d. Final Report. The AVP will review the final report to ensure that it does not contain inadmissible information and will then make a second determination as to whether the alleged behavior is within the purview of the Policy.

If the AVP determines that some or all of the alleged behavior is not within the purview of the Policy, they will inform both parties of that decision in writing, share the final report, and, where possible, direct parties to other available avenues to address the concerns.

If the AVP determines that the alleged behavior is within the purview of the Policy, they will inform the parties in writing and share the final report. Each party will thereafter have **10 days** to write a response. The AVP will review responses of the parties to ensure that they do not contain material that is deemed to be inadmissible, and the approved responses will then be shared alongside the report in succeeding stages of the formal process described below.

**13. Adjudication**. Decisions about whether there has been a violation of the Policy will be made by an adjudication panel of five trained members. For a finding that there has been a violation, 4 of 5 panelists must find that a preponderance of evidence supports the conclusion that a violation has occurred.<sup>6</sup> If such a violation is found, then the same panel recommends an appropriate sanction.

The AVP will appoint an adjudication panel from the Standing Grievance Panel. If a complainant is a student, the panel will usually consist of a member of the office of the Dean of the College plus four additional members. If the respondent is a member of the faculty, at least two persons on the adjudication panel will be faculty. If the respondent is a member of the staff, at least two persons on the adjudication panel will be staff. If one party to the complaint is a member of the faculty and the other party is a member of the staff, the adjudication panel will consist of two members of the faculty, two members of the staff, and a chair. If the complainant and respondent are both faculty, then the panel will consist of five members of the faculty, one of whom will be chair. If the complainant and respondent are both staff, then the adjudication panel will consist of five members of the staff, one of whom will be chair.

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<sup>5</sup> The AVP may redact or remove inadmissible information from responses submitted by either party. If the AVP determines that there are portions of a party's response that are inadmissible, they will inform the party in writing.

<sup>6</sup> The preponderance of the evidence standard requires a determination of whether it is more likely than not that the person committed the alleged acts.

The parties will have the opportunity to state whether there is anyone they feel should not participate in the adjudication panel due to a conflict of interest or other reason that would prevent them from making a fair assessment of the evidence. The AVP will make final decisions on any such requests for recusal and inform the complainant and respondent in writing of the decision. Should these or other concerns make it impossible for the AVP to appoint an acceptable adjudication panel, they may draw individuals from previous Standing Grievance Panels. The AVP will ensure that all members of the adjudication panel are trained before deliberation begins.

The panel will start its deliberations by reading the investigator's report, any referenced material, and any responses from the parties. After discussion, the panel will decide whether there are additional questions that need to be answered. If so, the AVP will ask the investigator to go back to the parties or witnesses to ask those questions. The adjudication panel may also ask questions of the AVP or other relevant college officials.

The panel will decide whether there is a preponderance of the evidence showing a violation of the Policy and will draft a letter of findings. The panel will also recommend a sanction to the relevant senior administrator (Dean of the Faculty for faculty respondents or Director of Human Resources for staff respondents). The parties will be provided copies of the letter of findings and recommended sanction. Final decisions as to sanctions are determined by the procedures described in the *Staff Handbook* or *Faculty Handbook*.

#### **14. Appeals.**

- a. **Request & Timeline.** Both parties have the right to request an appeal of the adjudication panel's decision. The parties have **15 days** following receipt of the written decision to request an appeal. Requests for appeal, with reasons, should be sent in writing to the Vice President for Institutional Diversity, Equity and Inclusion. Untimely appeals will not be considered and the party will be deemed to have waived their appeal rights.
- b. **Grounds for Appeal.** The right of appeal is limited to the following grounds:
  - (i) significant procedural lapses that affected the outcome of the matter;
  - (ii) the appearance of substantive new evidence not available at the time of the original decision that could affect the outcome of the matter (deliberate omission of information by the appealing party in the original investigation is not grounds for appeal); and
  - (iii) the fact that the AVP, investigator(s), or member of the adjudication panel had a conflict of interest or bias for or against either party that affected the outcome of the matter.
- c. **Procedures on Appeal.** All parties will be notified of any appeal and will have a **15-day** period to submit a written statement in support of, or challenging, the

outcome. If either party wishes to have other people interviewed to determine whether they have substantive new information pertinent to the case that was not available at the time of the original decision, the following process will be followed:

- 1) The person wishing to appeal will write to the Vice President for Institutional Diversity, Equity, and Inclusion describing whom they wish to have interviewed and on what topic;
- 2) The Vice President or a designee will ask the person whether they do, in fact, have information on that topic;
- 3) If they do, the investigator will ask them questions or request a written statement.

The appeal process will be suspended until the completion of these steps.

If the appeal is granted, its disposition is determined by the Vice President for Institutional Diversity, Equity, and Inclusion, who may affirm the decision of the adjudication panel, return the matter to the original adjudication panel, or summon a new adjudication panel, and who may task those panels with reviewing the underlying decision either in whole or in part. A decision by the Vice President to affirm the original panel's decision shall be final.

Subject to the scope of the instructions from the Vice President, review by a panel may result in a change in the decision as to whether a violation of the Policy occurred, or may result in a change in recommended sanction. If the decision of the reviewing panel is to affirm the original decisions as to violation and recommended sanction, that decision shall be final. If the decision of the reviewing panel is to change the original decision either as to violation or recommended sanction, the reviewing panel's decision shall be subject to appeal in accordance with the foregoing procedures. The results of any such second appeal process shall be final.

The results of any appeal and the rationale for the result will be communicated simultaneously in writing to the parties.

**15. Faculty Sanctions.** If the recommended sanction is termination of the respondent's appointment for cause, the Dean of the Faculty will initiate proceedings pursuant to Section II-V: Termination of Faculty Appointment for Cause of the *Faculty Handbook*. If the recommended sanction is a major sanction, such as suspension from service for a stated period, the Dean of the Faculty will initiate proceedings pursuant to Section II-W: Procedures for Imposition of Sanctions on Faculty other than Dismissal, "Major Sanctions," of the *Faculty Handbook*. If the recommended sanction is a minor sanction, the Dean of the Faculty will initiate proceedings in accordance with Section II-W., "Minor Sanctions," of the *Faculty Handbook*. In all cases covered by the Policy the sole determination to be made according to the processes described in Sections II-V and II-W of the *Faculty Handbook* will be the final sanction to be imposed. A determination by the

adjudication panel that the respondent violated the Policy shall be final and shall not be subject to review or reconsideration in the sanctions process.

The sanctions panel will receive the letter of findings and recommended sanction from the adjudication panel. The sanctions panel will also have access to the report of the investigator, any referenced materials and responses, and previous disciplinary records of the respondent, if any. The sanctions panel may request assistance from the AVP, but the AVP will not determine sanctions.

The complainant cannot be compelled to appear before the sanctions panel, but in all cases covered by the Policy, the complainant will have an equal right as the respondent to be heard by the Dean of the Faculty, any hearing committee convened pursuant to Sections II-V or II-W, and by the Board of Trustees, as applicable.

Final decisions as to sanctions will be reported in writing simultaneously to the complainant and the respondent, as well as to the AVP.

**16. Staff Sanctions.** Final determination of sanctions involving staff respondents will be made by the Director of Human Resources, in conjunction with the Assistant Vice President for Institutional Diversity, Equity, and Inclusion who did not oversee the investigation and adjudication and relevant supervisor(s) of the staff member. They may consider previous disciplinary records of the staff member in making their decision regarding sanction.

Final decisions as to sanctions will be reported in writing simultaneously to the complainant and the respondent, as well as to the AVP.

**17. Additional Matters.**

- a. **Timeframe for Adjudication.** The college endeavors to conclude the adjudication process for all formal complaints within 180-365 days. In particularly complicated cases, an appeal and imposition of final sanction may extend this period. This timeframe balances the desire for prompt resolution and finality for all parties with the need to conduct a thorough and fair process. Any of the deadlines contained in these procedures may be extended by the college on its own or at the request of a party, but no delay or extension will be made except for good cause that appears, in the AVP's sole discretion, to outweigh the goals of prompt resolution and finality. Repeated requests or requests for lengthy extensions or delays are likely to be denied.
- b. **Retaliation.** Retaliation of any kind against any party or witness is strictly prohibited. Retaliation may include, but is not limited to, a party taking an adverse action against someone because they filed a complaint, served (or declined to serve) as a witness or hearing panelist, or otherwise participated (or declined to participate) in the grievance process. Any retaliation will be treated as a new and

additional violation of the Policy.

- c. Support Services. All process participants have full access to the support services provided by the college and are encouraged to make use of them. For students, this includes the resources of the Health Center and Integrative Well-being Services; for faculty and staff, the Employee Assistance Program.
- d. Conflict of Interest. If a party claims that an Assistant Vice President for Institutional Diversity, Equity, and Inclusion, deputy, or the Vice President for Institutional Diversity, Equity, and Inclusion has a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that might affect the outcome of the process, the President of the College, or designee, shall review the claim, determine its validity, and if necessary, appoint an alternate without such a conflict or bias.
- e. Other Investigations. When there have been multiple reports made about a particular office or department or allegations of another pattern of behaviors, each of which individually might not constitute discrimination, bullying, or harassment, the AVP, Dean of Faculty, or Director of HR may choose to conduct a more informal investigation into the allegations. While an informal investigation would not directly result in sanctions against an individual faculty or staff member, it might result in office or department-wide remedies, including education, awareness, or facilitated conversations, could serve to identify protective measures that should be taken with respect to individuals, and might lead to the referral of particular matters for further investigation or to appropriate formal disciplinary procedures