Teachers College Policy on Protection from Harassment
Interim Policy effective October 5, 2015

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This interim policy has been updated to ensure compliance with current laws, including New York State Education Law section 129-B (effective October 5, 2015). This is an Interim Policy and will be reviewed within Teachers College during the 2015 – 2016 academic year.

Gender Based Misconduct between students is governed by the Columbia University Gender-Based Misconduct Policy for Students. sexualrespect.columbia.edu/ rather than by this Policy. This Policy contains special procedures for addressing allegations of sexual assault, domestic violence, dating violence and stalking involving members of the Teachers College community not subject to the Gender-Based Misconduct Policy for Students.¹

Please see Resources www.tc.edu/policylibrary/RESOURCES for information about campus and off-campus resources.

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Teachers College ("TC" or the "College") is committed to providing a working and learning environment free from harassment and to fostering a vibrant, nurturing community founded upon the fundamental dignity and worth of all of its members. Continuing its long-standing support of active equality for all, the College prohibits discrimination, including harassment, on the basis of race, color, religion, creed, sex, sexual orientation, national origin, ancestry, age, marital status, citizenship status, veteran status, disability, pregnancy, gender expression, or any other criterion specified by federal, state or local laws, www.tc.edu/policylibrary/non_discrimination_policy. The term "sexual harassment," as used in this policy, includes other forms of gender-based misconduct, including sexual assault, domestic violence, dating violence and stalking.

Consistent with this commitment and with applicable federal, state, and local laws, it is the policy of the College (1) not to tolerate discriminatory harassment in any form, (2) to actively foster prevention of harassment in the TC community, and (3) to provide faculty, students, administrators, and staff with mechanisms for seeking informal or formal resolution of harassment concerns and complaints. TC encourages those who have experienced, witnessed or become aware of conduct that violates this Policy to come forward so that the College can take appropriate steps to prevent such conduct from occurring in the future and to ameliorate its effects.

This policy includes the following guidance:

- Principles and definitions concerning discriminatory harassment and related matters, including Retaliation and Reporting Obligations

¹ If a situation appears to trigger both this Policy and another College or University policy, the College will use procedures appropriate under the circumstances. Only one College or University entity will investigate a complaint. The College reserves the right to modify procedures as appropriate.
Harassment is detrimental to the supportive setting TC strives to provide for its community. Whether or not this behavior is unlawful, any action that impedes the performance or experience of others as employees or students at TC is damaging to the enjoyment of the fundamental freedoms of inquiry, work, and study. The policy of the College remains unequivocal in all domains of its activity: discriminatory harassment cannot and will not be tolerated.

In accordance with the College’s firm opposition to harassment, this policy outlines the responsibilities of TC community members and visitors and their options when faced with possible discriminatory harassment, as well as the College’s commitment to education and prevention.

Nothing in this Policy shall abridge academic freedom or the College’s educational mission. Prohibitions against harassment do not extend to statements or written materials that are relevant and appropriately related to the subject matter of academic courses.

I. Principles and Definitions

A. Discriminatory Harassment.

 Teachers College opposes all forms of harassment. This Policy, however, focuses on discriminatory harassment. Discriminatory Harassment is defined as subjecting an individual to humiliating, abusive, or threatening conduct, whether verbal or physical, that creates an intimidating, hostile, or abusive work or educational environment and alters the conditions of employment or education or unreasonably interferes with an individual's work or educational performance on the basis of that individual's membership in a protected group.

Other forms of harassment. Individuals concerned about other forms of harassment or mistreatment may seek advice and guidance about resources through other College grievance procedures outlined at: www.tc.edu/policylibrary/grievance procedures outline.

B. Retaliation Prohibited.

Retaliation is any adverse or action or threatened action, taken or made, personally or through a third party, against an individual (or group) because of participation in any manner in an investigation or proceeding under this Policy, including individuals who file a third-person report and witnesses who are interviewed or otherwise provide evidence in the investigation. Retaliation is conduct that would discourage a reasonable person from reporting misconduct, participating in an investigation, or taking other actions protected by this Policy.

Retaliation against anyone who raises concerns about discriminatory harassment, files a com-
plaint, or participates in an investigation is prohibited. Any person found to have retaliated against another for reporting harassment will be subject to disciplinary action even if the alleged harassment is found not to have violated this Policy.

The College seeks to protect the rights of all persons, accusers and accused, to fair procedures. Accusations of harassment can have injurious and far-reaching effects on the careers and lives of accused individuals. Allegations of harassment must be made in good faith and must not be knowingly false or frivolous. Faculty, staff and students will not suffer adverse actions for reporting instances of alleged harassment unless it becomes clear that they knew an allegation to be false when making it.

C. Reporting Obligations and Confidentiality.

All members of the College community are expected to adhere to this Policy and to cooperate with the procedures it describes. They are also encouraged to report any conduct they believe to be in violation of this policy.

Management and supervisory personnel are responsible for consulting with appropriate College officials -- the Harassment Panel Chair, the VP for Diversity and Community Affairs, or the Assistant Vice President of Human Resources -- so that the College can take appropriate actions to prevent harassment and respond promptly and thoroughly to any such claims.

For purposes of this policy, faculty members are supervisors of other faculty members when they are acting in a supervisory role such as that of department chair, dean, director, coordinator or principal investigator. Faculty members are also obligated to consult with appropriate College officials concerning student allegations of harassment concerning other students, faculty, staff, administrators or others who are present in the TC community.

College employees who serve in a privileged professional capacity (e.g., counselors, clergy, and rape crisis counselors) are not subject to these reporting obligations. Similarly, persons serving as confidential Ombuds Officers will not provide the College or Title IX Coordinator with identifying information concerning individuals who report incidents of discriminatory harassment, but will provide the Title IX Coordinator with limited, non-identifying information intended to permit the College to assess the incidence of such misconduct and, where appropriate, include such incidents in the College’s annual Campus Security Report. Ombuds officers will also provide individuals reporting discriminatory harassment with information on other resources and options.

For more on confidentiality, see Confidentiality and Confidential Resources, below.

D. Definitions & Principles specific to Sexual Harassment & Gender-Based Misconduct

Sexual harassment is a unique area of harassment because it arises in unique contexts. As described in more detail below, sexual harassment may occur when sexual favors are demanded in exchange for a benefit (or to avoid a detriment). Gender-based misconduct comprises a broad

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2 Different professionals have different obligations of confidentiality and different exceptions. For example, many must report child abuse, [www.tc.edu/policylibrary/abuse_and_harassment_of_minors_and_adults](http://www.tc.edu/policylibrary/abuse_and_harassment_of_minors_and_adults), and psychologists, counselors and others have obligations to disclose certain confidences to protect a client/patient or others from harm.
range of behaviors focused on sex and gender. Individuals of any gender can commit sexual harassment and other forms of gender-based misconduct and any can be victims. Such misconduct may involve individuals of the same or different genders. Different laws govern sexual harassment (including gender-based misconduct) and the U.S. Department of Education has issued extensive guidance focused on institutional obligations to address it. Effective October 7, 2015, New York State also has special requirements for reports of sexual assault, domestic violence, dating violence, and stalking. In light of these legal requirements, TC has adopted Supplemental Procedures for Charges of Sexual Assault, Dating Violence, Domestic Violence, or Stalking (attached).

Employment-related harassment on the basis of sex is a violation of Title VII of the Civil Rights Act. For purposes of this Policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission (EEOC) Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is explicitly or implicitly made a term or condition of an individual's employment,
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

While EEOC guidelines apply in the employment context, sexual harassment of students also violates Title IX of the Education Amendments of 1972. In this context, sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student can deny or limit, on the basis of sex, the student’s ability to participate in or to receive benefits, services or opportunities in the school’s program.

Whether in the context of employment or education, sexual harassment is not exclusively a sexual issue. Rather it must also be understood as an exploitation of a power relationship. Sexual harassment takes various forms, including but not limited to: generalized sexist remarks or behavior, off-color jokes, vulgar comments, unwelcome and offensive sexual advances with or without explicit threats or promises of reward; solicitation of sexual activity or other sex-linked behavior by promise of reward; coercion of sexual activity by threat of punishment; and sexual assaults. All these forms of sexual harassment share certain reprehensible qualities. Those engaged in such behavior distort the relationship of trust that must exist in a college environment to foster independent, creative and pleasurable learning. They treat individuals in reductive, stereotypical ways that are offensive and demeaning, and they often misuse their authority and power to exploit a vulnerable person, contaminating the relations of teacher and student, counselor and client, administrator and teacher, or supervisor and employee.

Gender-based harassment is also prohibited. Gender-based harassment includes acts of aggression, intimidation, or hostility based on gender or gender-stereotyping. Gender-based harassment can occur if individuals are harassed for exhibiting what is perceived as a stereotypical characteristic of their sex or for failing to conform to such stereotypical notions.
To constitute harassment, the conduct must unreasonably interfere with another person’s education or participation in educational programs or activities, or work or create an intimidating, hostile, demeaning, or offensive working, academic or living environment.

Sexual assault, Domestic Violence, Dating Violence, and Stalking are also prohibited by this policy and subject to special federal and state legal requirements. For more information on these forms of Gender-Based Misconduct and the College’s response to them, please see the Supplemental Procedures attached as Appendix A.

Truly consensual romantic or sexual relationships do not violate this Policy, but may violate other College policies. Historically, the College discouraged but did not prohibit “consensual, romantic relationships” between faculty and other employees and students and individuals who work together. In 2015, the College adopted a policy on Romantic or Sexual Relationships between Faculty (and other Instructional staff) and Students which provides: “no faculty member shall exercise academic or professional authority over any student with whom they have or previously have had a romantic or sexual relationship.” This applies to all faculty and instructional staff as well as teaching assistants, research assistants, student-teaching supervisors, and anyone else who exercises academic or professional authority, as that is defined in the policy. Conforming policies applicable to relationships between and among faculty and staff are in development.

II. Education and Prevention

Avoiding discriminatory harassment is, of course, better than remedying harassment after it takes place. The College conducts educational and training programs for various parts of the College community, including special training required for new students as part of their orientation and other training required by federal and state laws.

As part of new full-time employee and faculty orientation, the College offers a program on Promoting Mutual Respect and Preventing Workplace Harassment & Title IX. On-line training is provided for continuing and part-time employees.

For more information, please contact the Vice President for Diversity and Community Affairs and Title IX Coordinator, http://www.tc.columbia.edu/titleix/.

III. Options for those Concerned about Discriminatory Harassment

Teachers College provides a range of options for those concerned about discriminatory harassment. Outlined below are options for (A) individuals who seek confidential counseling or guidance, (B) informal procedures and (C) formal procedures. Choosing any one of these options does not prevent you from later using another. Sexual assault, domestic and dating violence and stalking are subject to Supplemental Procedures (attached).

A. Confidentiality and Confidential Resources.

The College strives to protect, to the greatest extent possible, the confidentiality of persons reporting harassment and of those accused of harassment. Because the College has an obligation to address harassment, however, it cannot always guarantee confidentiality where that would conflict with the College’s obligation to investigate meaningfully or take corrective action. Even when
some disclosure of the College’s information or sources is necessary, it will be limited. The College will, to the extent permitted by law, keep confidential all records of complaints, responses and investigations.

If you want to discuss possible harassment in a more confidential setting or clarify your feelings about whether and how you wish to proceed, you may want to consult a social worker, therapist or member of the clergy, who has the legal right to protect confidentiality. See Resources for options.

The TC Ombuds Office is a confidential resource available to all members of the College community. Ombuds officers will not disclose information obtained from persons seeking assistance without their permission (except as required by law). Ombuds officers are available to provide information and clarification regarding the College’s policies and procedures, and may assist individuals in evaluating options. The Ombuds Office may refer individuals to appropriate offices and resources within the College, including counseling and support services, and may also, in appropriate circumstances, offer to engage in informal mediation in an effort to resolve the concerns and claims of those who contact them. Mediation is not available in situations involving allegations of sexual assault.

TC’s long-time Ombuds Officer, Dr. Erwin Flaxman, is available to address a wide range of concerns. The College has also appointed Dr. Riddhi Sandil, Department of Clinical and Counseling Psychology (CCP), to serve as Ombuds Officer for Gender-Based Misconduct. Individuals seeking a confidential resource with whom to discuss Gender-Based Misconduct may contact either Dr. Flaxman or Dr. Sandil. Individuals with concerns about faculty, staff or students in CCP should contact Dr. Flaxman rather than Dr. Sandil. For communications outside of her Ombuds role, Dr. Sandil must, like other TC faculty, share the reports she receives with the Title IX Coordinator.

Important note about certain professionals and Confidentiality: Individuals trained as psychologists, counselors and lawyers have a legal obligation of confidentiality to their patients and clients, but not to their students, colleagues or others. While faculty will protect student privacy to the extent possible, the law does not protect student or colleague confidences shared with administrators or faculty members.

B. Informal Procedures

1. Self-Help

A person who believes that he or she has been harassed on the basis of membership in a protected group may choose to deal with the alleged offender directly through, for example, a face-to-face discussion, a personal telephone conversation, e-mail correspondence, or letters. In some cases this may effectively resolve the situation. However, individuals should not feel that they must address the individual directly or handle the matter alone and are not expected to do so. Such an approach may be ineffective in correcting the problem, or an individual may be uncomfortable in handling the situation alone. If so, assistance is available as set out below.

2. Informal Procedures
The College has multiple points of access for individuals who want to approach a knowledgeable person for advice, solicit feedback regarding their interpretation of circumstances that appear to reflect harassment, or discuss available options. Individuals who wish to take advantage of this option may choose to contact any of the resources on the attached list.

Depending on the concerns expressed, non-confidential resources may need to consult with each other or other College officials to determine whether an investigation is required. Under applicable laws, the College generally has an obligation to investigate allegations of discriminatory harassment.

If an individual seeks confidentiality, TC will attempt to comply, but such compliance may limit the College’s ability to investigate and respond to the complaint. TC must weigh a complainant’s request for complete confidentiality with the College’s commitment and obligation to provide a reasonably safe and non-discriminatory environment. In particular, in situations where the College becomes aware of an alleged pattern of harassing behavior by an individual, TC must take appropriate action in an attempt to protect the community.

As noted above, individuals who seek a greater assurance of confidentiality may wish to consult with the Ombuds Office or other confidential resources.

After an informal investigation under these procedures, the appropriate Vice President(s) may take appropriate actions as set out in “Resolution and Appeal” below.

**Mediation.** Mediation is an informal and confidential process where parties can participate in a search for mutually acceptable solutions. Mediation requires the consent of both parties and suspends any formal procedures for up to thirty (30) working days, which can be extended with the consent of both parties and at the discretion of a Harassment Panel Chair. The parties may agree to have their concerns mediated by the Mediation Clinic at Columbia Law School, the International Center for Cooperation and Conflict Resolution (ICCCR) at Teachers College, or another mutually agreeable mediation entity. Parties may agree upon a variety of resolutions such as modification of work assignment, training for the staff in a department, or an apology. Because mediation is a voluntary process, formal disciplinary action cannot be imposed against the respondent. Parties may agree to a resolution that is oral or embodied in a written agreement. The final resolution is confidential unless the parties agree otherwise. *Mediation is not available in situations involving allegations of sexual assault.*

**C. Formal Procedures.**

1. **Complaint.**

Any individual who wishes to make a formal complaint of sexual or other discriminatory harassment may present a written complaint to Harassment Panel Chair or a member of the Panel, who shall promptly notify the chair. The formal complaint must include a written statement signed by the complainant specifying:

- the identity and status (e.g., employee, student) of the complainant (the person or persons making the complaint) and respondent (the person or persons claimed to have violated this policy);
• details concerning the incident(s) or conduct that gave rise to the complaint, including the date(s) of the incident(s), and location(s) of the incident(s);

• the identity and status of any witness(es) to the incident(s) with telephone numbers, e-mail addresses, and street addresses if known; and,

• the action(s) requested to resolve the complaint.

If a complainant feels unable to prepare a written complaint themselves, the Chair or designee will make a record of the complainant’s oral statements which the complainant may review, correct any inaccuracies, and sign.


Upon receipt of a formal complaint, the Chair or designee will conduct a preliminary review unless an adequate investigation has already taken place. The preliminary review will normally include discussions with the complainant and respondent. After the preliminary review, the Chair or designee, in consultation with at least one other panel member and the responsible Vice President will make a determination as to whether or not the circumstances reported in the complaint warrant further investigation.

If the Panel Chair or designee finds that the complaint does not warrant further investigation, the Chair or designee will so advise the complainant, who shall have the Appeal rights set out below.

If the Chair or designee determines that the circumstances reported in the complaint may warrant further investigation, the Panel Chair shall determine whether the investigation should be conducted internally or by external experts. A trained individual will be designated to conduct the investigation. If the Panel Chair determines that the matter should be investigated by outside counsel, the College’s General Counsel will retain an investigator.

If a formal investigation is initiated, the Panel Chair or investigator will notify the complainant that the formal complaint warrants further investigation, and, if appropriate, notify the complainant and/or respondent’s supervisor or department chair about the complaint. In consultation with the Panel Chair and the appropriate Vice President(s), the supervisor or department chair may take temporary actions pending the completion of the investigation. The goal of such temporary actions would be to alleviate conflict pending a final resolution of the claims and all reasonable efforts would be made to create an environment where both parties can continue their work or education. The investigator will not consider any temporary action evidence regarding the merits of the complaint.

The standard applicable in any proceeding under this Policy is “preponderance of evidence” – more likely than not.

The investigator will report findings to the Chair or designee and the relevant Vice President(s), who shall act in accordance with “Resolution and Appeal” below.

3 If a Vice President is charged with harassment or otherwise disqualified, the President or Chair of the Board’s Audit Committee shall appoint an alternative individual to fulfill any roles this Policy assigns to the Vice President.
3. Hearing

If a matter is not resolved to the satisfaction of the complainant and respondent, the Chair may, in the Chair’s discretion, convene a three member Hearing Committee to consider evidence regarding the allegations. The Hearing Committee shall include three members chosen by the Panel Chair (from the Harassment Panel and other trained individuals).

The parties will be given a minimum of seven (7) working days notice prior to any hearing. A hearing may take place over one or more sessions, as needed. Both parties have the right to be present at the hearing, but may not cross-examine witnesses. Parties may, however, suggest questions to the Committee and request that the questions be asked of the attendees or witnesses. The parties also have the right to review any documents or other evidence considered and to rebut any evidence presented as part of the defense. Both parties may have an advisor present but this advisor only speaks quietly with the party and may not participate in the hearing.

The Committee will inform the complainant and the respondent of any other witnesses it intends to call other than the complainant and the respondent.

The Committee will communicate with both complainant and respondent until the complaint is resolved. The complainant and respondent will be informed of procedures being followed although not of the specific conversations held outside the hearing.

The Committee will resolve complaints expeditiously. To the extent possible it will complete the hearing and make its recommendation within 60 days from the time the formal investigation is initiated. If circumstances require more than 60 days, the Committee will explain the reason for the delay.

D. Resolution and Appeal

1. Findings and Recommendations.

After an investigation or hearing, the investigator and/or the Committee will:

- Resolve the complaint to the satisfaction of the complainant and the respondent and report the resolution to the appropriate Vice President and, where allegations of sexual or gender-based harassment are concerned, to the Title IX Coordinator; OR

- Report findings to the appropriate Vice President and, where allegations of sexual or gender-based harassment are concerned, to the Title IX Coordinator. If it is determined that there has been a violation of this policy, the investigator or Committee will also recommend corrective action and/or sanctions.

Any recommended corrective action and/or sanction shall be designed to correct or to remedy any injury to the complainant and to prevent any further harassment. Recommended actions will reflect the nature and extent of the violation and injury.

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4In appropriate circumstances, the Committee may adopt alternative procedures that ensure that both parties hear all testimony but do not require them to be present in the same room.
2. **Corrective Action and Sanctions**

Where a violation of this Policy has been found, the appropriate Vice President will take such further action as the Vice President deems necessary, including discipline or the initiation of disciplinary proceedings. The investigator or committee’s role is to make a recommendation and not to affect any sanction or corrective action.

Corrective actions and sanctions may include written warnings and reprimands, “no contact” orders, restricted access to facilities or activities (including College housing) probation, transfer, restriction, suspension, dismissal or expulsion; referral to counseling or training or any other measure Teachers College believes will be effective in ending harassment and preventing further harassment.

Corrective action may include a change of grade or other academic record for a student who has been the victim of harassment or gender-based misconduct. If corrective action involves a change of grade, procedures will conform with the Grade Correction Policy.

The College may also determine that additional measures are appropriate to respond to the effects of the incident on the College community. Additional responses for the benefit of the community may include increased monitoring, supervision, or security at locations or activities where the Prohibited Conduct occurred, additional training and educational materials for students and employees, and revision of policies.

3. **Appeal of Determination and Disciplinary Recommendations**

Either party may appeal the Vice President’s decision (based on the investigatory or committee determination and/or recommendation). The appeal must be in writing, should identify the specific portions of the determination appealed, and must be delivered to the appropriate Vice President within five (5) working days of the participants’ receipt of notice of the Vice President’s decision. Such notices may be sent by email. Issues not appealed in this time frame shall be deemed to be conceded. If the appeal is timely filed, the Vice President will forward the appeal to the President, who shall appoint an appeal officer to make a final decision.

The appeal officer may conduct such review as the officer deems appropriate, but will generally not hear testimony. The role of the officer is to determine if the investigation or hearing was conducted in a fair manner, if the determination is consistent with the evidence presented, and if the disciplinary recommendations are commensurate with the findings.

The appeal officer will render a written decision within thirty (30) working days following receipt of the appeal, or as soon thereafter as practicable, and will forward a recommendation to the President for approval. Once approved by the President, the appeal officer will provide notice to the parties of the final disposition of the complaint. Such notification shall be in writing and provided to the parties within fifteen (15) working days following receipt of the appeal officer’s decision by the President.

Once approved by the President, the decision of the appeal officer is not subject to further review other than the reserved right of the President and the Trustees of the College to review any decision affecting matters of overall College policy and any challenges established by law. Faculty
members have additional appeal rights under the College’s Statutes; as required by applicable law, any available appeal rights will be available to both the complainant and the respondent in any matter.

**Adoption and Review of Policy.**

Further revisions to this Policy have been made in light of (a) further guidance from federal authorities, (b) New York State Education Law Article 129-B and (c) the September 2015 revision of the Columbia University [Gender-Based Misconduct Policy for Students](#). In particular, Supplemental Procedures, based in part of Columbia University procedures, have been adopted and the policy format has been reorganized to separate out Resources.

This interim policy is effective immediately and will be reviewed with faculty, staff and student bodies during 2015-16. Comments may be sent to protection_policy@tc.columbia.edu.

Responsibility for implementing this Policy rests with many offices. For purposes of review and maintenance, however, the Policy will be housed within the Office of the Vice President for Diversity and Community Affairs. Katie Embree, Vice Provost, chairs the Harassment Panel.
Supplemental Procedures for Charges of
Sexual Assault, Dating Violence, Domestic Violence, or Stalking
Against Employees

Teachers College is committed to fostering an environment that is free from violence and the threat of violence. These Supplemental Procedures for Sexual Assault, Dating Violence, Domestic Violence, and Stalking (collectively, “Gender Violence”) govern the investigation and resolution of reports that employees engaged in Gender Violence. The Supplemental Procedures are intended to promote a safe and non-discriminatory educational environment and comply with Title IX and other applicable law, including the Campus Sexual Violence Elimination Act and New York State Education Law Article 129-B.

The Supplemental Procedures cover Prohibited Conduct that: (1) occurs at TC or in connection with College programs or activities; (2) contributes to a hostile environment for TC students or employees; or (3) involves a College or other Columbia University student. These Procedures provide supplemental principles and definitions as well as a procedure that applies only to Gender Violence.

To the extent that these Procedures conflict with other provisions of the Policy on Protection from Harassment, these procedures govern with respect to matters involving allegations of Gender Violence made by or against a faculty or staff member. Other aspects of the Policy on Protection from Harassment remain in place. Allegations against students are governed by the Columbia University Gender-Based Misconduct Policy for Students, sexualrespect.columbia.edu/.

Reports may be submitted anonymously, by witnesses, or by others who are made aware of the incident. Nothing in the Supplemental Procedures shall affect the inherent authority of Teachers College to take such actions as it deems appropriate to further the educational mission or to protect the safety and security of the College community, including its authority to terminate at-will employees immediately, with or without cause. While these Supplemental Procedures identify the TC office or employee who will typically perform certain roles or duties, the College may designate other offices or employees to perform any roles or duties described.

Prohibited Conduct

- **Sexual Assault-Intercourse.** Any form of sexual intercourse (vaginal, anal, or oral). Intercourse includes vaginal or anal penetration (however slight) by a penis, object, tongue, or finger and oral copulation (mouth-genital) contact.

- **Sexual Assault-Contact.** Any intentional sexual touching without a person’s consent. Intentional sexual contact includes contact with the breasts, buttocks, or groin, or touching another with any of these body parts; making another person touch any of these body parts; emission of ejaculate on the clothing or body of another person; and any intentional bodily contact in a sexual manner.

- **Domestic Violence.** The use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of abuse directed towards (a) a current or former spouse or intimate partner; (b) a person with whom one shares a child; or (c) anyone who is protected from the respondent’s acts under the domestic or family violence laws of New York. This includes any
behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or physically injure someone. Domestic violence can be a single act or a pattern of behavior in relationships.

- **Dating Violence.** The use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of abuse directed towards a person who is or has been in a social relationship of a romantic or sexually intimate nature with the victim. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or physically injure someone. Dating violence can be a single act or a pattern of behavior in relationships.

- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person (in similar circumstances and with similar identities) to fear for the person’s safety or the safety of others or to suffer substantial emotional distress. Stalking involves repeated and continued harassment against the expressed wishes of another individual, which causes the targeted individual to feel emotional distress, including fear or apprehension. Stalking behaviors may include: pursuing or following; unwanted communication or contact—including face-to-face, telephone calls, voice messages, electronic messages, web-based messages, text messages, unwanted gifts, etc.; trespassing; and surveillance or other types of observation.

**Definitions**

These definitions provide further guidance as to the conduct this Policy prohibits:

**Complainant.** The person who experienced the alleged Prohibited Conduct.

**Respondent.** The person alleged to have engaged in Prohibited Conduct.

**Coercion.** Unreasonable pressure for sexual activity. When someone makes it clear that he or she does not want to engage in sexual activity or does not want to go beyond a certain point of sexual interaction, continued pressure beyond that point can be considered coercive. The use of coercion can involve the use of pressure, manipulation, substances, and/or force. Ignoring another’s objections is a form of coercion.

**Consent.** Consent is voluntary participation.

- Consent can be given by words or actions.
- Silence or lack of resistance, in and of itself, does not demonstrate consent.
- Consent to any sexual act or prior consensual sexual activity between or with one person does not imply consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent cannot be procured by use of coercion, intimidation, force, or threat of harm or
when a person is incapacitated.

- Consent, once given, may be withdrawn at any time. When consent is withdrawn or can no longer be given, sexual activity must stop.

- The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.

A person is legally incapable of consent when (a) less than 17 years old; (b) mentally disabled; (c) mentally incapacitated; (d) physically helpless; or (e) in certain institutional settings.

Under New York State Education Law section 129B, when students are involved, the standard for consent is “affirmative consent.” Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Such consent can be given by words or actions, as long as they clearly express willingness to engage in the sexual activity.

**Incapacitation.** Incapacitation occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. A person who is incapacitated cannot make a rational, reasonable decision because the person lacks the ability to understand his or her decision. Incapacitation may be associated with a person’s lacking consciousness; being asleep; being involuntarily restrained; having a disability that impedes consent; or if an individual otherwise cannot consent due to other forms of helplessness. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Being intoxicated, impaired or incapacitated by alcohol or other drugs is never an excuse for committing a policy violation and does not diminish anyone’s responsibility to obtain informed and freely-given consent. The use of alcohol or other drugs never makes someone at fault for experiencing gender-based misconduct.
Procedures

Rights of the Complainant and Respondent. Throughout the process described in these Supplemental Procedures, both complainant and respondent have the following rights:

- To respect, dignity, and sensitivity.
- To a prompt and thorough investigation of the allegations.
- To appropriate support from the College.
- To privacy to the extent possible consistent with applicable law and College policy.
- To information about applicable College policies.
- To the presence of an advisor throughout the process in cases of sexual assault, domestic violence, dating violence, and stalking.
- To participate or to decline to participate in the investigation process. However, a decision to refrain from participating in the process either wholly or in part will not prevent the process from proceeding with the information available.
- To adequate time to review and comment on any summary of his or her investigative interview.
- To refrain from making self-incriminating statements. Employees should understand, however, that the decision not to respond honestly and completely to questions asked during the investigation may result in disciplinary action up to and including termination of employment.
- To report the incident to law enforcement at any time.
- To understand that information collected in the process may be subpoenaed in criminal or civil proceedings.
- To notification in writing of the case resolution, including the outcome of any appeal.

Only members of the College community are entitled to these protections. When complaints are made by College employees or students against third parties or unknown individuals, the College will investigate to the extent possible and appropriate and, when possible, take appropriate steps to protect employees, students, and campus community. Students are also entitled to the rights set out in the Student Bill of Rights for Victims-Survivors of Gender Based Violence, [http://www.tc.columbia.edu/policylibrary/129b-rights](http://www.tc.columbia.edu/policylibrary/129b-rights).

Privacy. The College will reveal information about its investigations and evaluation of matters under these Supplemental Procedures only to those who need to know the information in order to carry out their duties and responsibilities. It will inform all individuals participating in an investigation or proceeding that they are expected to maintain the privacy of the process. This does not prohibit either a complainant or respondent from obtaining the assistance of family members, counselors, therapists, clergy, doctors, attorneys, or similar resources nor does it prohibit either party from discussing the incident itself.

Advisors. The complainant and respondent may be accompanied to any meeting related to an incident of Prohibited Conduct by the advisor of their choice (including an attorney). Advisors may lend support and provide advice about the investigation and disciplinary process. During meetings, the advisor may talk quietly with the advisee or pass notes in a non-disruptive manner, but may not intervene or speak on behalf of the party.
**Time Frames.** The College will seek to resolve every report under these Supplemental Procedures within approximately sixty calendar days of an initial report. Time frames may vary depending on the details of a case and at certain times of the academic year (for example, during breaks, study periods or final exams). The College may extend any time frame for good cause.

**Conflict of Interest.** Individuals involved in investigating and decided matters must disclose to the Vice President for Diversity and Community Affairs any potential or actual conflict of interest. If a complainant or respondent believes that any individual involved in the process has a conflict of interest, he or she may make a request to the Vice President that the individual not participate. Any request should include a description of the conflict. If the Vice President determines that a conflict of interest exists, the College will take steps to address the conflict in order to ensure an impartial process.

**Investigation.**

Before starting an investigation, the Title IX Coordinator (or designee) will inform the complainant. The complainant may request that an investigation not be undertaken. While such a request may limit the College’s ability to investigate and respond to the reported misconduct, the Coordinator, in consultation with appropriate other officials, will consider such a request in light of the College’s commitment to provide a safe and non-discriminatory environment and will honor such a request when appropriate. If the Office determines not to investigate, it will notify the complainant in writing.

**Informal Resolution.** If both parties consent and sexual assault is not involved, the Office of Diversity and Community Affairs (the “Office”) may offer to facilitate mediation or other informal procedures involving both parties. Such approaches will be pursued only with the consent of both parties, and either party has the right to terminate the process and begin the formal process at any time. If an alternative procedure results in a resolution, any formal procedures will be concluded and the matter closed. If the parties are unable to reach a resolution, a Complainant may choose to proceed with formal resolution.

**Accommodations & Interim Measures.** Where appropriate, the Office will work with individuals affected by the prohibited conduct to promote their safety and well-being. This assistance may take the form of accommodations to support or protect the employee in the immediate aftermath of an incident and interim measures while an investigation or a disciplinary action is pending. Such measures may include moving an on-campus residence, adjusting a campus work schedule, changing a student’s academic schedule, allowing a student to withdraw from or retake a class without penalty, providing other academic support, modification of supervision or work schedules while

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5 In considering the request, the College will weigh these factors: Circumstances that suggest there is an increased risk of the Respondent committing additional acts of gender-based misconduct or other acts, such as whether there have been other gender-based misconduct complaints about the same Respondent, whether the Respondent threatened further misconduct against the Complainant or others, and whether the sexual misconduct was committed by multiple perpetrators; circumstances that suggest there is an increased risk of future acts of sexual misconduct under similar circumstances, such as a pattern of perpetration, by illicit use of drugs or alcohol, a given location, or by a particular group; sexual misconduct alleged involved the use of a weapon; the age of the Complainant; and whether there are other means to obtain relevant evidence, such as security cameras, witnesses or physical evidence.
an investigation is pending and temporary suspensions from work or other activities. Parties may request accommodations even in cases where an investigation is not undertaken or the Complainant or Respondent has declined to participate in the University proceeding or the criminal process. The Office will evaluate the need and propriety for accommodations and interim measures in light of the circumstances and information available at the time. Both the Complainant and the Respondent may request a prompt and reasonable review of the need for and terms of any such interim measure and accommodation that directly affects him or her and may submit evidence in support of his or her request. Requests for review of the interim measures or accommodations shall be submitted in writing to the Title IX Coordinator.

**Formal Investigation.** Depending on the circumstances, investigations may be conducted by Teachers College employees or trained investigators retained by the College.

When beginning an investigation, the Office will notify the respondent in writing that a report has been filed and appoint an investigator or investigators. The notice will describe the allegations in the report. The complainant and respondent will be given the opportunity to meet separately with the investigator to review these Procedures and any applicable policies.

The College will seek to resolve every complaint within approximately 60 calendar days of an initial report. Time frames may vary depending on the details of a case and at certain times of the academic year. The College may extend any time frame for good cause. The College’s process for responding to and investigating matters under these Supplemental Procedures will continue during any law enforcement proceeding. The College may need to temporarily delay an investigation while the police are gathering evidence but it will resume the investigation after it learns that the police have finished gathering evidence and will not wait for the conclusion of any related criminal proceeding.

The investigator will interview the Complainant, the Respondent, and any other persons with relevant information about the alleged incident(s). The investigator may also review personnel records and other documents deemed relevant to the investigation. The investigator acting has the authority and responsibility to gather information from all sources judged necessary for a fair resolution of a complaint. The Complainant and the Respondent may suggest witnesses the investigator should interview and documentation the investigator should consider, but the investigator has discretion to determine which witnesses to interview and which documents to consider.

In consultation with the Title IX Coordinator and with legal advice from the Office of General Counsel, the investigator will prepare a report detailing the relevant content from the interviews and the documentation gathered. The report will include the investigator’s assessment of individual credibility and recommended findings of responsibility. The respondent and complainant will each have the opportunity to review a copy of the investigative report. The names and other identifying information of students will be redacted from such materials in accordance with the Family Educational Rights and Privacy Act except to the extent that doing so would interfere with the purpose of Title IX to eliminate sex-based discrimination. The parties will have an opportunity to review the investigative report.

**Evidentiary Rules.** In conducting the investigation and drafting the investigative report, the investigator will follow the protocols set forth below:
Preserving Evidence. The investigator will direct the Complainant, Respondent, witnesses, and other interested individuals to preserve any relevant evidence, which may include phone logs, text messages, electronic communications, and other evidence relating to the complaint.

Character Witnesses. The investigator will not interview witnesses whose sole purpose is to provide character information.

Romantic or Sexual History in Sexual Assault Cases. The investigator will not consider information concerning the romantic or sexual history of either the Complainant or the Respondent, except from either the Complainant or Respondent regarding their shared sexual history. If either offers such information, the other will have the right to respond.

Prior Conduct Violations. The investigator may consider the Respondent’s prior conduct violations, where the previous incident was substantially similar to the present allegation(s) and/or the information indicates a pattern of behavior by the Respondent.

Mental Health Treatment/ Diagnosis. Each party has the right to request that evidence regarding his or her mental health diagnosis and/or treatment be excluded from consideration when responsibility is being determined.

Resolution

Written Submissions. Following their review of the draft investigation report, both the complainant and respondent will have the opportunity to submit to the investigator written responses to the draft report. Each of the complainant and respondent will have the opportunity to review any written submissions by the other. The Office may set reasonable parameters for these written submissions. In his or her written submission, the respondent will be required to respond to the alleged violation in one of the following ways: 1) Responsible; 2) Not Responsible; or 3) No Response. If the respondent accepts responsibility, the matter will immediately proceed to the sanctions stage. If the respondent does not accept responsibility, the investigator(s) will review the written submissions and make any appropriate revisions to the draft report.

Responsibility Determination. The final investigation report will include a determination whether the respondent is responsible for the alleged Prohibited Conduct. The investigator(s) will make this determination after consulting with the Title IX Coordinator and Office of General Counsel. The investigator(s) will use “preponderance of the evidence” as the standard of proof to determine whether the respondent is responsible. To find a respondent responsible for violating the Policy, the investigator(s) must conclude that the respondent was more likely than not to have engaged in the conduct at issue.

Sanctions and Other Remedies

How Sanctions Are Determined.

The Provost or appropriate Vice President or designee will serve as Sanctioning Officers for these matters. To promote consistency in the handling of similar cases, sanctioning officers will receive training and, prior to imposing any sanction, will consult with the Title IX Coordinator about sanctions imposed in any similar cases. Similar offenses may result in different sanctions where
there are distinguishing facts and circumstances in the opinion of the Sanctioning Officer.

All investigator determinations of responsibility will be referred to the designated Sanctioning Officer. The Sanctioning Officer will solicit the views of the respondent’s supervisor regarding the appropriate sanction. The Sanctioning Officer will impose sanctions that are fair and appropriate given the facts of the particular case; adequate to protect the safety of the campus community; and reflective of the seriousness of the Prohibited Conduct.

The Sanctioning Officer will consider relevant factors, which may include: (1) the specific conduct at issue; (2) the circumstances accompanying any lack of consent (such as force, threat, coercion, intentional incapacitation, etc.); (3) the respondent’s state of mind (intentional, knowing, bias-motivated, reckless, negligent, etc.); (4) the impact of the offense on the complainant; (5) the respondent’s prior disciplinary history; (6) the safety of the College community; and (7) the respondent’s conduct during the disciplinary process. In determining what sanctions will protect the safety of the College community, the Sanctioning Officer may be advised by Public Safety or other experts and will consider: (1) the risk that the respondent may engage in additional Prohibited Conduct; and (2) the deterrent or permissive effect of a particular sanction on the campus community, including on particular individuals and organizations aware of the offense (keeping in mind that a sanction must always be fair and appropriate for the particular case).

The Sanctioning Officer will generally render a sanctioning decision within 10 days following issuance of final investigation report. The sanctioning decision will be communicated in writing to the complainant and the respondent.

**Discipline.** Discipline may include: reprimand/warning, change of job duties, disciplinary probation, revocation of honors and awards, restricted access to College facilities or activities, a “no contact” order, movement of a College-provided residence, movement of a workplace, demotion, suspension, and dismissal or restriction from College employment. The College may also require training or recommend counseling.

**Restrictions on Sanctions.** Some college policies or contracts require TC to use additional processes before taking certain employment-related actions with respect to faculty and certain other employees. Where a person covered by such a policy or contract has allegedly engaged in Prohibited Conduct, the investigation and sanctioning process will proceed in accordance with these Supplemental Procedures, except that the Sanctioning Officer will not impose a sanction that would require the use of additional processes. Instead, the Sanctioning Officer will impose all appropriate sanctions that do not require the use of additional processes and then refer the matter, if appropriate, for action under the additional process. The College’s disciplinary action will be considered complete with the Sanctioning Officer’s imposition of sanctions and referral, subject to any appeals.

**Appeal.** Either party may appeal the investigator’s determination on the grounds that: (1) the party has new information, unavailable at the time of the investigation, that may change or affect the outcome; or (2) there was a procedural error that may have impacted the outcome. Disagreement with the finding is not, by itself, grounds for appeal.

The appeal must be in writing and may be no longer than 5 double-spaced, type-written pages. The appeal must be delivered to the Title IX Coordinator within 10 business days of delivery of
the investigator’s determination to the parties (via email, mail or hand delivery). Failure to meet the deadline for appeal waives the right to appeal. The College reserves the right to investigate and take any necessary action of its own accord based on new information or events that were not known during an initial investigation.

On receipt of the appeal, the President will designate an Appeal Officer. The Title IX Coordinator will notify the party who is not appealing that an appeal has been filed, the grounds for appeal asserted, and the identity of the Appeal Officer. The non-appealing party may submit a written response to the appeal, which shall be no longer than five double-spaced type-written pages, to the Title IX Coordinator within five business days of receiving notice of the appeal.

Appeal Officers shall receive appropriate training relating to issues of Gender Based Violence and the role of Appeal Officer.

**Additional Responses.** The College may also determine that additional measures are appropriate to respond to the effects of the incident on the College community. Additional responses for the benefit of the College community may include increased monitoring, supervision, or security at locations or activities where the Prohibited Conduct occurred; additional training and educational materials for students and employees; further revision of College policies.