

## **Grievance Procedures for Reported Sexual Offenses Effective April 13, 2018**

### **Introduction**

The University does not discriminate on the basis of sex against students or applicants for admission, or employees or applicants for employment or in the administration of its policies or in any aspect of its operations in accordance with its Non-Discrimination Policy/Equal Opportunity Policy (<http://policies.cua.edu/EEO/affirmact.cfm>).

The Catholic University of America's Sexual Offenses Policy (<http://policies.cua.edu/StudentLife/studentconduct/assault.cfm>) affirms its intolerance for sex discrimination and promotes respect for persons' bodily integrity, the virtues of chastity and the sacredness of human sexuality.

The University will conduct prompt and thorough investigations into all reported instances of sexual offenses. Students who report sexual offenses shall be informed of and encouraged to use all appropriate University, law enforcement, and community resources. Students accused of sexual offenses shall be informed of and encouraged to use all appropriate University and community resources and shall receive due process in accordance with University policies and procedures. Per the *Code of Student Conduct* ("Code"), sexual offenses are adjudicated according to these procedures.

Actual or threatened retaliation, or any act of intimidation to prevent or obstruct the reporting of sexual offenses or the participation in proceedings related to sexual offenses, is prohibited pursuant to the University's Non-Retaliation Policy (<http://policies.cua.edu/governance/nonretaliation.cfm>) and will result in disciplinary action regardless of the outcome of the underlying complaint of sexual offenses.

### **Prohibited Conduct and Definitions<sup>1</sup>**

The University prohibits all forms of sexual offenses, including but not limited to, sexual harassment, sexual assault, stalking, and intimate partner violence, whether perpetrated by a stranger or acquaintance, whether occurring on or off campus, and whether directed against a member of the University community or someone outside the University community. Such behavior by a University student is a violation of University policy, and in certain cases, may also be a criminal violation.

While the definitions below are derived from applicable law, the prohibited conduct described in this section encompasses more than conduct proscribed by law. The University also may take any steps to address any incident or behavior that it deems to constitute or create a discriminatory environment, regardless of whether that incident or behavior is enumerated in these definitions.

**A. Sexual Offense**– Sexual Offenses are prohibited in all forms. "Sexual Offense" is a broad term encompassing a range of behaviors including, but not limited to: sexual assault;

---

<sup>1</sup> While these definitions are derived from applicable law, the prohibited conduct described in this section encompass more than conduct proscribed by law.

sexual harassment; dating violence; domestic violence; stalking; indecent exposure; sexual exhibitionism; use of communication systems to send unwanted sexual material and messages; prostitution or the solicitation or employment of a prostitute; peeping or other voyeurism; allowing others to view consensual sexual activity; the non-consensual video or audio recording of sexual activity; or any conduct prohibited by applicable law.

1. **Sexual Assault** is sexual intercourse or sexual contact with another person without consent. Sexual assault is a criminal offense under D.C. law and includes the following:
  - Oral, vaginal, or anal penetration, no matter how slight, with any object or body part without consent.
  - Non-consensual touching of another person in a sexual manner. This includes, but is not limited to, the touching either directly or through clothing of another person's genitalia, breasts, inner thigh, or buttocks with a clothed or unclothed body part or object.
2. **Sexual Harassment** means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when either:
  - Submission to such conduct is made either explicitly or implicitly a term or condition of employment, education, on-campus living environment, or participation in a University activity or program; or
  - Submission to or rejection of such conduct is used or threatened to be used as the basis for decisions affecting employment, education, on-campus living environment, or participation in a University activity or program; or
  - Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive environment for employment, education, on-campus living, or participation in a University activity or program.

Sexual harassment can occur between and among supervisors or managers and subordinates, faculty and staff or students, peers, vendors/subcontractors/visitors and employees or students, or any combination thereof. Often, but not always, the harasser is in a position of authority, trust, or influence that provides the opportunity to take advantage of the unequal positions of the parties.

3. **Dating Violence** means violence, threats, or intimidation committed by another person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such a relationship shall be determined based on a consideration of the following factors: a) the length of the relationship, b) the type of relationship, or c) the frequency of interaction between the persons involved in the relationship.
4. **Domestic Violence** means violence, threats, or intimidation committed by a current or former spouse 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, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of D.C. (including past or present marriage, domestic

partnership, romantic, dating, or sexual relationship), by a former spouse or similarly situated person against a victim who is in a subsequent relationship with a former spouse or similarly situated person, or by any other person against a victim who is protected from that person's acts under the domestic or family violence laws of D.C.

5. **Stalking** means purposely engaging in a course of conduct directed at a specific individual that would cause a reasonable individual to fear for his or her safety or the safety of another person, feel seriously alarmed, disturbed or frightened, or suffer emotional distress.

A student can face significant disciplinary sanctions, including expulsion, as well as criminal prosecution or other legal action, for committing a sexual offense.

**B. Consent** is informed, freely given, mutually understandable words or actions that indicate a willingness to participate in sexual activity. Effective consent may never be obtained when there is a threat of force or violence, or any other form of coercion or intimidation. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent can be revoked at any time. Consent cannot be obtained from someone legally prevented from giving consent by their age or from someone who is unable to understand or who cannot communicate a lack of consent. This includes someone who is incapacitated due to drugs, alcohol, or some other condition. Silence or lack of active resistance does not imply consent. Voluntary intoxication is not an excuse for failure to obtain consent.

**C. Incapacitation** means the inability, temporarily or permanently, to give consent, because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. The impact of alcohol and drugs and medications will vary from person to person. Warning signs that a person may be approaching incapacitation may include, but are not limited to, vomiting, incoherent speech, and difficulty walking or standing up. The perspective of a sober, reasonable person in the position of the respondent will be the basis for determining whether a respondent should have been aware that the complainant was incapacitated and therefore unable to consent.

The definitions above describe the minimum legal standards for conduct, and they set forth terms that help determine criminal liability and legal responsibility. The University and the Church have higher expectations. They affirm that sexual activity is intended by God as an expression of love and commitment between a husband and wife, and therefore belongs exclusively within marriage. Sexual activity by unmarried persons lacks that essential level of commitment and responsibility, and harms moral growth and development. It undermines the Christian view of sexual activity embraced and promoted by the Church and the University, a view which insists upon mutual respect, moral integrity, and the sacredness of human sexuality.

### **Amnesty**

The University encourages reporting of sexual offenses and seeks to remove any barriers to making a report. At times, students may be hesitant to report a sexual offense to University officials because they are concerned that they may be subject to student conduct action for lesser policy violations (such as visitation or alcohol violations) that occurred during the incident. These behaviors are not condoned by the University, but the importance of dealing with an alleged sexual offense is the paramount consideration to the University. Consequently, students who report a sexual offense in good faith, as a complainant or witness, will not be subject to student conduct action for other policy violations that occurred during the incident as long as such violations did not place the health and safety of any other person at risk. The University may, however, require students to participate in educational activities or health interventions for any conduct that comes to the University's attention as deemed appropriate.

### **Where to Make a Report**

To report a sexual offense, you can contact:

- Department of Public Safety: 202-319-5111
- Office of the Dean of Students: 202-319-5619; [cua-deanofstudents.cua.edu](mailto:cua-deanofstudents.cua.edu)
- Title IX Coordinator: 202-319-4177; [titleix-coord@cua.edu](mailto:titleix-coord@cua.edu)

An individual who has been subjected to a sexual offense is always free to report it directly to local law enforcement, but should contact DPS, who will assist them in contacting the appropriate authorities.

The University encourages students who are victims of a sexual offense to talk to someone about what happened so they can get the support they need and the University can respond appropriately. Filing a report of an alleged sexual offense does not obligate a student to participate in the disciplinary process. A student always has the option to pursue a criminal complaint, to pursue the University's disciplinary process, to pursue both processes simultaneously or to pursue neither process.

### **Request for No Investigation or No Conduct Action**

If a student discloses an incident to a non-confidential official resource, but requests confidentiality or that no investigation or conduct action be pursued, the Title IX Coordinator, in consultation with University administrators, which may include representatives of the Office of the Dean of Students, the Department of Public Safety, and the Office of the General Counsel, will weigh the request against the University's obligation to provide a safe, non-discriminatory environment for all students.

When weighing a request for confidentiality or that no investigation or conduct process be pursued, the Title IX Coordinator will consider a range of factors, including whether:

- The accused is likely to commit additional acts of sexual or other violence, such as:
  - Whether there have been other sexual offense complaints about the same student accused to have committed a sexual offense;
  - Whether the accused has a history of arrests or records from a prior school indicating a history of violence;
  - Whether the accused threatened further sexual violence or other violence against the victim or others;

- Whether the sexual offense was committed by multiple individuals;
- The sexual offense involved a weapon or force;
- The age of the victim;
- The University possesses other means to obtain relevant evidence of the sexual offense (e.g., security cameras or personnel, physical evidence); or
- The victim's account reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue conduct action against the student(s), notwithstanding the victim's request. The victim is not required to participate if the University pursues an investigation.

If the victim chooses not to file a complaint, the University may still convene a hearing if the University has reason to believe the alleged student is a potential threat to the community. In this circumstance, there will not be a complainant, but the remainder of the Grievance Procedures will be in effect.

### **Retaliation**

It is a violation of University policy to engage, directly or indirectly, in any form of retaliation or intimidation in connection with reports or investigations of a sexual offense. This policy and related processes may also apply to any allegation that a student has attempted to prevent an individual from reporting a sexual offense or has engaged in any acts of intimidation or reprisal with respect to any reported sexual offense.

Behavior that may be considered retaliatory includes but is not limited to:

- Discouraging an individual from reporting an incident of alleged sexual misconduct;
- Discouraging witness participation;
- Threatening or intimidating a participant in an investigation; or
- Intentionally causing negative consequences for a participant in an investigation or for a participant's personal relationships or social circles.

Any such acts of retaliation or intimidation by a Catholic University student should be promptly reported to the Office of the Dean of Students.

### **Jurisdiction of the University**

Disciplinary procedures for sexual offenses complaints apply to conduct by a student even if it occurs outside of an academic term or when the student is not otherwise enrolled at the University and even if the University does not learn of such conduct until after the student graduates, withdraws, takes leave, or is otherwise absent from the University. This includes between terms (e.g. period between fall and spring terms); in cases where a student withdraws from all class during a term, but does not permanently withdraw from the University; and when a student is on a University certified academic leave. It applies to conduct that occurs on University-owned or leased property, at University-sponsored events, and off-campus.

## **University Procedure after Receiving a Report of a Sexual Offense**

### **A. Referral to the Dean of Students**

A student who has reported an alleged sexual offense shall be referred to the Dean, who will appoint a trained resource person to help explain and navigate the available support services. This includes information regarding counseling, educational support, pastoral care, medical treatment, and information about filing a complaint under the *Code of Student Conduct* for University disciplinary action. Staff members will help the student assess services such as academic support, class schedule changes, and housing relocation. Every effort will be made to accommodate all reasonable requests, to protect the students and the campus community, and to minimize the impact on the students' educational programs. The Dean is authorized to issue a No Contact Order (NCO) to limit contact between students.

### **B. Title IX Investigations**

The Title IX Coordinator is responsible for oversight of the investigative and adjudicative processes for sexual offense complaints and for conducting investigations when a complaint of sexual harassment has been made to the University. The Deputy Title IX Coordinator in DPS is responsible for conducting investigations when a complaint of sexual offenses other than sexual harassment have been made to the University and to coordinate as appropriate with MPD or other local law enforcement. Ordinarily, this administrative investigation will include a review of statements obtained from either party, interviews with both parties, interviews with witnesses, and review of documentary evidence.

The University may delay temporarily the fact-finding portion of an investigation in cases that are actively under investigation by off-campus law enforcement. In these cases, the University will not conduct independent interviews or gather evidence while off campus law enforcement is actively interviewing witnesses or gathering evidence on the matter that concerns the University. A decision whether to actively investigate a case that is under investigation by off campus law enforcement should be the product of a discussion among the Title IX Coordinator, Public Safety, the Dean, and the General Counsel, who shall weigh all factors and ensure that there have been direct communications with the off campus law enforcement agency. See paragraph D below for guidance on scheduling hearings when a criminal investigation is pending.

In the course of the administrative investigation, the Title IX Coordinator, Deputy Title IX Coordinator, the Dean, and the General Counsel shall periodically update each other and share pertinent information, careful to maintain confidentiality and investigative integrity. The General Counsel should be consulted throughout the process.

### **C. Dean's Review**

At the conclusion of the investigation, an investigative report shall be issued by the investigator to the Dean, the Deputy Title IX, the Title IX Coordinator, and General Counsel. The report shall contain all relevant and appropriate material collected during the investigation, whether by University personnel or others, and may contain the investigators evaluation of the facts revealed during the investigation but shall not include a recommendation as to disposition. The Dean will review the investigative report and may consult with any other officials the Dean considers appropriate during this review. The Dean may also return the investigation to the investigator with any additional questions.

As part of this review, the Dean will determine, based on the information contained within the investigative report, whether there is sufficient information available to charge a student with an alleged violation of the University policy. Should the Dean determine that there is sufficient information to charge the student, the Dean will refer the case for a hearing under the **Disciplinary Procedures for Sexual Offenses Complaints**. In limited situations, the Dean may offer the option to informally resolve the complaint. Should the Dean determine that there is not sufficient information to charge a student, the Dean will document the matter as closed. This determination by the Dean will generally be made within five business days of receipt of the report.

The Dean will provide written notification of the determination of the review to both the individual who files the complaint (“complainant”) and the accused student (“respondent”). The complainant may appeal the determination that there is not sufficient information to charge the respondent by submitting a letter to the Chief of Staff and Counselor to the President (“Chief of Staff”) outlining all reasons for the appeal. The appeal must be submitted to the Chief of Staff within five business days of receipt of the outcome letter. The Chief of Staff will evaluate the appeal and notify the complainant and respondent in writing of his decision. This determination by the Chief of Staff will generally be made within five business days of when the appeal has been received. That determination is final and may not be further appealed.

In all cases, the Dean will inform the Title IX Coordinator, Deputy Title IX Coordinator, General Counsel and the Chief of Staff of the determination of the review.

1. **Informal resolution.** Some allegations of sexual offenses may be resolved by informal resolution. The Dean of Students, in consultation with the Title IX Coordinator, will determine if informal resolution is an option. The informal resolution process will be managed by the Dean of Students Office and may involve mediation. The availability of an informal process is not intended to discourage anyone from filing a formal complaint. The informal resolution process is only available when both the complainant and respondent agree to it. Either party who has agreed to an informal resolution may return to a formal process at any time before resolution is reached. Informal resolution occurs when both parties expressly agree to an outcome that is also acceptable to the Dean of Students.

Informal resolution is not available for situations involving violence, nor is it available for sexual assault that involves penetration without consent.

#### **D. Estimated Timelines**

All parties have an interest in the speedy resolution of an alleged sexual offense, and the following timelines are designed to accomplish that. The University cannot control all factors that might contribute to delays including, e.g., local law enforcement activity, the completion of criminal forensic testing, University closings, semester breaks or the availability of witnesses. An administrative investigation will normally be completed within 21 calendar days of receipt of a reported sexual offense. If a complaint is referred to a student conduct disciplinary process (discussed below), that process will normally be held within 21 calendar days of the disciplinary referral. The decision of when to conclude an investigation or to refer

a case to a hearing board will be case-specific; for example, it is not necessary to wait for the conclusion of a criminal investigation, but University officials must decide when there is sufficient information and evidence available that moving forward would be in the interests of justice, neither premature nor unduly delayed, both of which could frustrate achievement of a just result.

### **Disciplinary Procedures for Sexual Offenses Complaints**

The following procedures shall apply in student conduct proceedings for complaints of a sexual offense. Formal rules of process, procedure, and technical rules of evidence, such as applied in criminal or civil court, are not used in student conduct proceedings. Deviations from prescribed procedures shall not necessarily invalidate a decision, unless significant prejudice to an accused student, complainant or the University results.

Because a hearing is a fact-finding proceeding and does not recommend or adjudicate punishments, the Dean may decide to forego a hearing if the respondent accepts responsibility in writing, in which case the Dean may proceed to consider the appropriate sanction. The complainant shall be informed and consulted during this process.

Both the complainant and the respondent will be offered the opportunity to meet with a representative of the Office of the Dean of Students to review these disciplinary procedures prior to the hearing.

1. The complainant and respondent shall receive at least seven calendar days written notice of the specific charges and the date, time, and location of the scheduled proceeding and their rights as outlined in these procedures. Generally, once scheduled, a hearing will not be delayed unless due to a serious documented illness of the complainant or respondent, the introduction of new evidence (as outlined in paragraph 3), or University closing.
2. The complainant and respondent shall be afforded reasonable access to review the case file prior to and during the proceeding, and may request a copy of a redacted incident report from the Dean. "Case file" means the file containing those materials pursuant to the Family Educational Rights and Privacy Act (FERPA) of 1974. The notes of University staff members and investigators are not included in the case file and therefore are not accessible. Names and other information of students may also be redacted in the investigative reports as appropriate for confidentiality.
3. Both parties shall have the opportunity to provide to the Dean additional and relevant information that is not contained within the investigative report to be considered by the Board. Any such additional information must be submitted to the Dean in writing at least three business days prior to the proceeding. The Dean will ensure that such information, if relevant, is provided to both parties. The Dean has the sole discretion to delay the proceeding to allow parties additional time to prepare to respond to new information.
4. During the proceeding, evidence regarding any party's past sexual conduct will ordinarily not be permitted, except in those instances where there was a prior sexual relationship between the parties and the testimony may be relevant to the issue of

consent.

5. During the proceeding, testimony or evidence regarding any party's mental health will not be permitted absent written authorization from the Dean prior to the hearing.
6. Proceedings will be closed to non-participants and to the public, including friends and University personnel without an official interest in the case. The complainant and the respondent may choose to permit either or both parents or guardians to observe the proceeding.
7. Either party will be provided options for reasonable alternative arrangements if he or she does not want to be present in the same room as the other party during the proceeding.
8. Both parties may provide the names of witnesses from the University community who have relevant and material information pertaining to the incident. Any additional witnesses must be submitted to the Dean in writing at least three business days prior to the proceeding. These individuals may be invited at the discretion of the Dean to participate in the proceeding. The Dean may also invite witnesses. Ordinarily, witnesses who are not members of the University community will not be invited to participate in the proceeding and expert witnesses will not be invited.
9. The complainant shall have an opportunity to present and the respondent(s)<sup>2</sup> shall have the opportunity to respond to the evidence related to the alleged violation. The proceeding agenda is normally as follows, although the presiding officer of the Board may make reasonable alterations as necessary to ensure a prompt, thorough, and equitable hearing for all parties:
  - (i) The presiding officer reads instructions and procedures to the parties and witnesses, and reviews the alleged violation(s) of the Code.
  - (ii) The complainant may make an opening statement. The statement should be no more than ten minutes in length and address the facts surrounding the alleged offense. The Board will then ask the complainant questions. After the Board has concluded asking questions, the respondent then has the opportunity to submit written questions to the presiding officer to be asked of the complainant.
  - (iii) The respondent may make an opening statement. The statement should be no more than ten minutes in length and address the facts surrounding the alleged offense. The Board will then ask the respondent questions. After the hearing board has concluded asking questions, the complainant then has the opportunity to submit written questions to the presiding officer to be asked of the respondent.
  - (iv) Invited witnesses may then provide statements. After each witness statement, the Board will then ask that witness questions. After the Board has concluded asking questions, both the complainant and respondent then have the opportunity to submit written questions to the presiding officer to be asked of the witness.

---

<sup>2</sup> At the Dean of Students' discretion, a case involving more than one respondent may be addressed in a single proceeding.

- (v) The complainant may make a closing statement. The statement should be no more than ten minutes in length. The Board may then ask the complainant questions. After the Board has concluded asking questions, the respondent then has the opportunity to submit written questions to the presiding officer to be asked of the complainant.
  - (vi) The respondent may make a closing statement. The statement should be no more than ten minutes in length. The Board may then ask the respondent questions. After the Board has concluded asking questions, the complainant then has the opportunity to submit written questions to the presiding officer to be asked of the respondent.
  - (vii) The presiding officer concludes the proceeding and the Board deliberates in private.
10. Information or testimony that does not directly relate to the facts at issue, but instead reflects upon the character, reputation, personality, qualities, or habits of an individual should not be presented and, if offered, may be excluded.
11. During the proceeding, the parties shall have an opportunity to have questions posed to each other and witnesses through the presiding officer of the Board, and to address the information related to the alleged violation. The parties may submit questions prior to and during the hearing. The presiding officer will examine the questions and ensure relevance and propriety. **The presiding officer shall have the discretion to determine whether to ask a question, rephrase the question, or not ask the question at all.** At no time will either party be permitted directly to ask the other party or witnesses questions. Doing so could result in removal from the proceeding.
12. Both complainant and respondent may be accompanied by one advisor. The role of the advisor shall be limited to support and consultation; the advisor may not speak during any proceeding except privately to the party being advised, nor shall the advisor question or address witnesses. Violation of this expectation will result in the advisor being removed from a proceeding at the discretion of the presiding officer. In consideration of the limited role of an advisor, and of the interest of the University to expeditiously conclude the matter, a scheduled proceeding will normally not be delayed if an advisor is unavailable.
13. A student conduct administrator may be present at the hearing to provide procedural clarification as needed for the Board or parties. The Office of General Counsel may also make available a legal advisor for the proceeding. The legal advisor may be present for the proceeding and the presiding officer and the student conduct administrator may recess the proceeding and consult with the legal advisor as necessary.
14. A respondent who fails to appear at a scheduled proceeding without good cause (e.g., documented serious illness) after proper notice of such a proceeding, may be adjudicated in absentia, and forfeits all rights to an appeal unless it is for lack of proper notice, as required herein. In such cases, decisions will be based solely on information available or information presented during the proceeding.
15. Proceeding outcomes must be supported by a preponderance of evidence. **Preponderance**

**of evidence** means that a greater weight of evidence supports the conclusion that a fact is true, or to establish that an event occurred. A preponderance of the evidence does not necessarily mean the greater amount of evidence but rather the greater quality of evidence – making it more likely than not that the matter in question is true. A respondent may be found in violation of any prohibited conduct (including sections of the *Code of Student Conduct* (“*Code*”) for which he or she was not originally charged) when behaviors that were previously unknown are discovered during the course of the student conduct proceeding or if it is determined that a different section of the *Code* more appropriately addresses the conduct in question.

16. The outcome of the proceeding shall be conveyed to the parties in writing by the Dean normally within five business days.
17. An audio recording of the hearing will be made by the Dean of Students Office. No other individuals present at the hearing are permitted to make a recording of the proceedings. The deliberations of the hearing board will not be recorded. The audio recording is property of the University and will remain in the Dean of Students Office. A party that is preparing an appeal may listen to the audio recording but may not duplicate it. The recording will be preserved for three years after the conclusion of the University conduct process. The presiding officer will facilitate the recording; however, issues that result in no recording, a limited recording, or an inaudible recording are not considered procedural errors for the purposes of an appeal.

### **Sanctions**

In the event the Board determines that a sexual offense or other student conduct violations occurred, sanctions may be imposed by the Dean.

1. The imposition of sanctions is based on the nature of the violation and the severity of any damage, injury, or harm resulting from it, and the disciplinary record, and rehabilitative potential of the respondent. The Dean may also consider any mitigating factor, consequences, or post-violation conduct or actions of the respondent that the Dean finds relevant.
2. In some cases, a sanction may be held in abeyance for a specific period. This means that, should the respondent be found in violation of the *Code* during the stated period, he or she may be subject to the deferred sanction in addition to the student conduct action appropriate to the new violation.
3. Sanctions that may be imposed in accordance with the *Code* include:
  - a) *Censure*: An official written reprimand for violation of specified regulations.
  - b) *Disciplinary Probation*: A period of time in which a student is expected to demonstrate positive behavioral change and may be excluded from participation in privileged or extracurricular institutional activities. Additional restrictions or conditions for behavioral changes may be imposed. Violations of the terms of student conduct probation, or any other violation of this *Code* during the period of probation, may result in eviction from residence halls,

suspension or expulsion from the University. While on disciplinary probation, the student is not in good disciplinary standing with the university.

- c) *Restitution*: Repayment to the University or to an affected party for damages resulting from a violation of this *Code*.
- d) *Denial of Access to Specific Areas*: Ban from certain non-academic area(s) for a specified length of time.
- e) *Eviction from Residence*: Termination of the residence hall agreement and exclusion from visiting within certain or all residential facilities, as set forth in the notice of eviction, for a specified period of time. A student who is evicted is not entitled to a refund of room fees. A student who is a freshman or sophomore and is evicted from residence halls is unable to fulfill residency requirements and may be suspended, upon review.
- f) *Revocation of Privileges*: Restrictions placed on activities and/or use of University services and facilities for a specified period of time.
- g) *Suspension*: Exclusion from classes and other privileges or activities, including access to University premises or University-sponsored activities off campus, as set forth in the notice of suspension. A student who is suspended is not entitled to any tuition or fee refund and is banned from University premises for the duration of the suspension.
- h) *Expulsion*: Termination of student status, and exclusion from University premises, privileges and activities. A student who is expelled shall not be entitled to any tuition or fee refund and is banned from University premises permanently.
- i) *Discretionary Sanctions*: Other sanctions that bear a reasonable relationship to the violation for which the student has been sanctioned may be imposed instead of or in addition to those specified above. Discretionary sanctions include, but are not limited to: service hours, fines, educational reflection assignments, and participation in alcohol or drug awareness programs, and training, counseling, and education regarding sexual offenses.

### **Appeals Process**

The outcome of a student conduct proceeding for a sexual offense case may be appealed by either party subject to the following guidelines:

1. A letter of appeal shall be submitted to the Chief of Staff by the student within five business days of receipt of the outcome of the student conduct proceeding.
2. A student adjudicated in absentia forfeits all rights to an appeal process unless it is proven that it is for lack of proper notice, except in an extraordinary circumstance.
3. The appeal must specify grounds that would justify consideration. General dissatisfaction with the outcome of the proceeding or an appeal for mercy are not appropriate grounds for appeal. The written appeal must specifically address at least one of the following criteria:
  - a. Significant procedural error that changes the findings of fact of the student conduct

- proceeding.
- b. New evidence that significantly alters the findings of fact, that was previously unknown to the either party, has been discovered and is available during the appeal process.
  4. The Chief of Staff may consult other University officials as appropriate before making his/her decision, but shall not gather additional evidence or speak to any of the individuals who provided evidence or testimony at the hearing. If the Chief of Staff believes that new evidence, previously unknown to either party, significantly alters the finding of fact, the Chief of Staff may return the case to the Board or, at his/her sole discretion, a Board with some or all new members, to hear more evidence. Such hearing shall occur in the presence of the complainant and respondent when possible. The Chief of Staff may not return the case to the Board only for the purpose of reconsidering its original decision.
  5. One appeal is permitted. The decision on the appeal is final and shall be conveyed in writing to both parties, normally within seven business days of receipt.
  6. The imposition of sanctions may be deferred while the appeal process is pending unless, in the discretion of the Dean, the continued presence of the student on the campus poses a serious threat to her/himself or to others, or to the stability and continuance of normal University functions.

### **Procedural Alterations**

These policies and procedures will be periodically reviewed and edited. The University will adjudicate cases based upon the procedures in effect at the time of the hearing and the policy that was in effect at the time of the offense.