Special Procedures Governing Sexual Misconduct Proceedings

IMPLEMENTING THE CODE OF STUDENT CONDUCT

When a formal complaint has been filed and the investigation is complete, the procedures set forth below (“Special Procedures”) shall constitute the University’s Title IX and Sexual Misconduct grievance procedures for addressing alleged violations of the Policy on Sexual Misconduct where the accused is a student. The University’s full Sexual Misconduct policy can be found at: https://villanova.policytech.com/docview/?docid=199&public=true9.

DISABILITY ACCOMMODATIONS

These procedures do not alter Villanova University’s obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for documented disabilities to the Title IX Coordinator, investigator(s) and/or Conduct Review Officer at any point before or during the grievance process that have not been specifically requested by a party, or where that party may be receiving accommodations that have not been specifically requested by a party, even where that party may be receiving accommodations in other institutional programs and activities. Requests should be submitted in advance to allow sufficient time to review, identify and implement any reasonable accommodations.

1. REPORTING SEXUAL MISCONDUCT
2. STUDENT PROCEDURAL RIGHTS
   A. Rights of the Respondent
   B. Rights of the Complainant
3. INFORMAL RESOLUTION PROCESS
4. FORMAL RESOLUTION
   A. Acceptance of Responsibility
   B. Conduct Review Board
      i. Notice and Participation
      ii. Consolidation Options
      iii. Composition of the Board
      iv. Hearing Procedures
      v. Advisors
      vi. Presentation of Evidence at the Conduct Review Board Hearing
      vii. Closing Statements and Deliberations
      viii. Determination Regarding Responsibility
5. SANCTIONS
   A. Sanctions for Violations of the Code of Student Conduct
6. APPEALS
   A. Grounds for Appeal
   B. Process to Appeal
1. REPORTING SEXUAL MISCONDUCT

Any University student, faculty member or staff member or individual who believes they have been subjected to sexual misconduct and that a current student has violated the University’s Policy on Sexual Misconduct, may initiate a report through the Title IX Coordinator, Deputy Title IX Coordinator, Dean of Students Office, Department of Public Safety, Office for Residence Life, or EthicsPoint Hotline. Such a report may be made at any time (including during non-business hours) by using the contact information below:

Title IX Coordinator – Ms. Ryan Rost, 204 Tolentine Hall, ryan.rost@villanova.edu 610-519-8805

Deputy Title IX Coordinators - Click Here for complete list with contact information.

Dean of Students Office – 213 Dougherty Hall, 610-519-4200

Department of Public Safety - Garey Hall, 610-519-4444 (24/7)

Office for Residence Life - Stanford Hall ground floor, 610-519-4150/4154

EthicsPoint Hotline1 – www.villanova.ethicspoint.com or 855-236-1443

The individual making the report is referred to in these Special Procedures as the Reporter. The individual who is alleged to have been subjected to sexual misconduct is referred to as the Complainant. A Respondent refers to the person reported to be the perpetrator of conduct that could constitute sexual misconduct under the University’s Sexual Misconduct Policy.

When the Title IX Coordinator receives a report of sexual misconduct, they will contact the Complainant to discuss the availability of supportive measures with or without the filing of a formal complaint and explain the process for filing a formal complaint. A formal complaint can be filed by the Complainant in person, mail, email or through other reporting means, but must include a signed (physical or digital signature) written description of the facts alleged and request that the University investigate the matter. In certain circumstances where a Complainant does not wish to file a formal complaint, one may be filed by the Title IX Coordinator to address the safety of the broader educational community. In such cases, the University will inform the Complainant and will share the University’s reasoning for needing to file a Formal Complaint as outlined in Section IV.E of the Villanova University Sexual Misconduct Policy. The Complainant may still decide whether and how much they want to be involved in any next steps. As in all cases, the University will only share information with those needing to know in order to conduct the needed investigation and University’s response to the report of sexual misconduct. Whether a report results in a full investigation or not, the University will remain ever mindful of the well-being of those involved and take ongoing steps to prevent retaliation. The University will take action to assist those involved consistent with their wishes. A variety of supportive measures are available to those involved as outlined in Appendix B of the Sexual Misconduct Policy.

The time frame for resolution begins with the filing of a Formal Complaint. Generally speaking, the University will complete the administrative investigation and resolution of all reports within a
reasonably prompt manner, and no longer than ninety (90) business days after the filing of the Formal Complaint. Periodic updates as to the status of the review or investigation will be provided to both the Complainant and Respondent. The frequency of these updates will be discussed with the Complainant and Respondent as each case is unique, and the process for handling the matter will be impacted by factors such as the complexity of the investigation, the scope of the allegation, the parties’ schedules and availability, the academic calendar, and any concurrent criminal investigation.

If a formal complaint is filed, an investigation by a trained investigator will commence and the parties will be provided with options for informal and formal resolution as outlined below. Once the investigation is complete, the Complainant, Respondent and their advisors will have the opportunity to review relevant documentation related to the investigation. After review, the matter may be referred to the Dean of Students. The Dean of Students and/or their designate (Conduct Review Officer) will review the complaint and investigation and determine whether or not, if proven, the allegations would constitute a violation of the University’s Sexual Misconduct Policy. If so, the Complainant will meet with the Dean of Students or the Conduct Review Officer to review the complaint and to discuss the procedures available to them. This meeting will take place promptly after the matter has been referred to the Dean of Students. If not, the procedures for University dismissal of Formal Complaints and appeals for such dismissals are outlined in Section IV E of the Sexual Misconduct Policy.

The individual Complainant will normally have five (5) business days after this meeting to decide whether or not to request the University to pursue the matter under these Special Procedures (which also constitutes the University’s Title IX and Sexual Misconduct grievance procedures); however, this time frame may be relaxed in recognition of the unique and complicated dynamics that often confront an individual following an incident of sexual misconduct. The University will provide the individual with resources and information to assist in making an informed and supported choice as to how to proceed. In the event an individual chooses not to pursue resolution of a complaint under these procedures, the University will continue to provide appropriate supportive measures to the parties.

Generally speaking, the University will complete a resolution process involving alleged sexual misconduct in a prompt and timely fashion. All time periods for hearings may be extended by the University in its sole discretion based on the complexity of the case, the seriousness of the offense, or other extenuating circumstances.

If the Complainant and/or the Respondent intend to have their advisor (as defined below) accompany them to any meetings with the Conduct Review Officer, they must provide the name and contact information of the advisor to the Conduct Review Officer at least three (3) business days prior to the initial meeting. If the same advisor accompanies the party to subsequent meetings, additional notification is not required.

2. STUDENT PROCEDURAL RIGHTS

Once a Complainant has decided to pursue the complaint through these Special Procedures, the Conduct Review Officer will promptly meet with the Respondent to review the rights and options available and
describe potential sanctions for the alleged violation in question. If a student fails to respond to the notice of a meeting with the Conduct Review Officer, the resolution may proceed in their absence and/or a hold may be placed on the student’s records until the meeting takes place.

If a Respondent chooses to withdraw from the University subsequent to the filing of a formal complaint, the University may elect to continue with the grievance procedures in their absence and may take appropriate steps to restrict their access to campus and/or University programs.

A. Rights of the Complainant

1. The right to choose whether or not to participate in grievance procedures;
2. The right to notification of the grievance procedures;
3. The right to be notified of the availability of Supportive Measures as outlined in the University's Sexual Misconduct Policy;
4. The right to review all evidence and the investigative report;
5. The right to a prompt and impartial response and resolution of the complaint;
6. The right to present relevant statements, materials and witnesses during the grievance procedures;
7. The right to have an advisor of choice throughout the process or appointed by the University for a hearing;
8. The right to have available at the hearing all relevant evidence and the investigative report;
9. The right to have an advisor ask questions of any witnesses and/or the Respondent at designated times during a hearing;
10. The right to written notification of:
   1. any finding of responsibility
   2. findings of fact supporting the determination
   3. statement of and rationale for the result as to each allegation
   4. any disciplinary sanctions imposed
   5. any remedies provided
11. The right to be free from retaliation for filing a complaint or participating in the University’s grievance process; and
12. The right of appeal consistent with the provisions of these Special Procedures.

B. Rights of the Respondent

1. The right to choose whether or not to participate in the grievance procedures, with the understanding that findings and sanctions may be imposed with or without such participation;
2. The right to notice of the allegation that a violation of the Code has taken place;

3. The right to notification of the grievance procedures;

4. The right to be notified of the availability of Supportive Measures as outlined in the University's Sexual Misconduct Policy;

5. The right to review all evidence and the investigative report;

6. The right to a prompt and impartial response and resolution of complaints;

7. The right to be presumed not responsible until found otherwise;

8. The right to have the University bear the burden of proof by a preponderance of the evidence;

9. The right to present relevant statements, materials and witnesses during grievance procedures;

10. The right to have an advisor of choice throughout the process or appointed by the University for a hearing;

11. The right to have available at the hearing all relevant evidence and the investigative report;

12. The right to have an advisor ask questions of any witnesses and/or the Complainant at designated times during a hearing;

13. The right to written notification of:
   1. any finding of responsibility
   2. findings of fact supporting the determination
   3. statement of and rationale for the result as to each allegation
   4. any disciplinary sanctions imposed
   5. any remedies provided to the Complainant

14. The right to be free from retaliation regardless of participation in the University’s grievance process; and

15. The right of appeal consistent with these Special Procedures.

3. INFORMAL RESOLUTION PROCESS

At any time after the filing of a formal complaint, either the Complainant or Respondent may request informal resolution in lieu of formal resolution. All requests for informal resolution must be in writing to the Title IX Coordinator. The parties are not required to attempt informal resolution, and informal resolution is not appropriate for all types of alleged conduct. The University shall determine if the matter is eligible for informal resolution.

If the University has determined the matter is eligible for informal resolution and both parties consent to the process in writing, the matter will be referred to the appropriate University official or third party engaged by the University to facilitate the process. Both parties may consult with an advisor before and
During the informal resolution process, and the advisor may accompany the Complainant or Respondent to any meetings in connection with the process. Any agreed upon resolution reached by the parties is subject to the University’s final approval. This includes any resolution reached by the parties without the University’s active participation or involvement.

At any time, either party may elect to discontinue the informal resolution process by providing written notice to the designated University official. The University reserves the right to discontinue the informal resolution process: if information becomes available which makes the matter ineligible for informal resolution; if there are health or safety concerns that have not been adequately addressed; if an acceptable resolution cannot be reached between the parties; or under other appropriate circumstances.

Once the informal resolution reaches an agreed-upon conclusion, which must be approved by the University and acknowledged by the parties in writing, the matter will be considered resolved and not eligible for further informal or disciplinary resolution. The informal resolution is not subject to appeal. Alleged violations of the terms of the resolution, retaliation, or other violations will be considered a new and separate matter and will not reopen the original matter.

4. FORMAL RESOLUTION

Formal resolution of alleged violations of the Sexual Misconduct Policy will occur by acceptance of responsibility or by a Conduct Review Board Hearing.

A. Acceptance of Responsibility

If the facts of the case are not in dispute, a Respondent has the option to accept responsibility. Following the acceptance of responsibility, the student will be sanctioned accordingly by the Conduct Review Officer utilizing the sanctioning considerations outlined below. Acceptance of responsibility may be rejected by the Conduct Review Officer. The Conduct Review Officer will provide all parties written notice of the sanction(s) imposed. Acceptance of responsibility does not waive the right to appeal as outlined below.

B. Conduct Review Board Hearing

Conduct Review Board hearings are designed to determine responsibility for alleged violations. As such, the Board’s procedures are governed by University policies consistent with federal and state law.

   i. Notice and Participation

The Conduct Review Officer will inform the Complainant and Respondent of the hearing procedures, date, and time. The Complainant and Respondent are expected to cooperate fully with the Board during the hearing. If either party fails to appear at a scheduled hearing, the Board may proceed without them.
ii. Consolidation Options

In Board hearings involving more than one Respondent, the Conduct Review Officer, in consultation with appropriate University officials, may permit the hearing concerning each student to be conducted either separately or jointly.

In situations involving multiple complaints pending against the same Respondent arising out of the same facts or circumstances, the University has discretion to consolidate complaints in situations that arise out of those same facts or circumstances. The University also has discretion, but not the obligation, to solicit and consider the input of the parties regarding the consolidation of hearings. If, during the course of the hearing, further violations of the Code of Student Conduct become apparent, the Board may recommend that such alleged violations be considered as a separate case.

iii. Composition of the Board

A Conduct Review Board (Board) is generally composed of a chair of the Board, who is normally an attorney (Chair) and three trained faculty/staff members. All members of the Board shall be impartial with no conflict of interest between the Board member and any party. All members of the Board shall receive appropriate training prior to serving on the Board of any case involving such allegations.

The Complainant and/or the Respondent may challenge the composition of the Conduct Review Board if they believe that a conflict of interest exists with a Board member. The party making this challenge must submit a written request to the Conduct Review Officer with specific and verifiable documentation. All objections must be raised within five (5) business days of receiving notification of the composition of the Conduct Review Board. The Conduct Review Officer will make the determination whether to replace the Board member. The Complainant and Respondent may not contact members of the Board, or have third parties contact the Board, prior to the convening of the Board.

iv. Hearing Procedures

The Chair shall actively participate in the hearing, ask questions, run the hearing, advise the Board on procedural and legal issues, and draft the determinations reached by a majority of the Board. The Chair may or may not be an employee of the University and shall be a non-voting member of the Board.

The Conduct Review Officer, as assigned by the Dean of Students, will facilitate the administrative needs of the Board and will be present during the hearing to provide assistance to the Board.

All hearings shall be held in appropriate facilities designated by the Conduct Review Officer and shall be private. The Conduct Review Officer can provide for the hearing to occur virtually with technology that enables the parties to appear remotely from separate locations. A transcript of the hearing will be made available to the parties to inspect or review upon request.

Disruptive, threatening, intimidating, or uncivil behavior will not be tolerated. Violations will normally result in a warning being issued by the Chair, or the Conduct Review Officer. Repeated violations may result in the offending party being asked to leave the hearing.
v. Advisors

A Complainant, and/or a Respondent participating in a Conduct Review Board hearing must be accompanied by an advisor. This can be an advisor of their choosing or, if needed, a University-appointed advisor. The advisor may include legal counsel. If the party’s advisor of choice is different from the advisor attending previous meetings with the Conduct Review Officer, the party must inform the Conduct Review Officer. This notification must be in writing, a minimum of five (5) business days in advance of the hearing and include the name and contact information for the advisor.

The advisor may provide support, guidance, or advice to the involved student before and during the proceeding. The advisor will not offer testimonial evidence or answer questions on behalf of their advisee; the advisor may not question their advisee; and the advisor may not present opening or closing remarks. At designated times during the hearing, the advisor may only ask questions of the other party and witnesses in compliance with the Board’s procedures and the University’s policies and procedures.

vi. Presentation of Evidence at the Conduct Review Board Hearing

The Complainant and the Respondent, may present:

- opening and closing statements concerning the alleged violation(s);
- relevant documentation gathered during the investigatory process;
- relevant witnesses identified during the investigatory process.

The Respondent and the Complainant and their advisors may review all evidence and the investigative report provided to the Board prior to the commencement of the hearing and have all evidence and the investigative report available to them during the hearing.

Formal rules of evidence shall not apply. In the Chair’s discretion, evidence, shall be permitted if it is relevant, reliable, not unduly repetitious, and it is the sort of information on which responsible persons are accustomed to rely in the conduct of serious affairs.

During the hearing, the parties and witnesses will provide information to and answer questions from the Board. Except for questioning by the advisor, the Respondent, the Complainant, the advisors, and the witnesses will direct their comments and/or questions only to the Board. The Conduct Review Board may consider statements of all parties and witnesses, regardless of their participation in the proceedings. Before any questions are answered, the Chair will determine if the question is relevant. Questions that are determined to be irrelevant and/or duplicative of those already asked may be disallowed.

In general, the following types of evidence and questions are not relevant:

- Evidence and questions about the Complainant’s sexual predisposition or prior sexual behavior unless:
  - Such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
  - The questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.
• Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege.
• Any party’s medical, psychological, and similar records unless the party has given voluntary, written consent.

In addition, evidence of pattern of similar conduct by Respondent may also be deemed relevant based on the attendant facts and circumstances. Any party seeking admission of prior sexual history and/or evidence of similar conduct, or seeking to challenge such evidence, must do so in writing: by advising the investigator during the investigatory process; and/or by advising the Conduct Review Officer in advance of the hearing. The written notice shall set forth the evidence the party is seeking to introduce and the relevancy of such information.

The Chair will make the determination as to the admissibility of this information or questions and will instruct all parties accordingly regarding any limit in scope or admissibility.

vii. Closing Statements and Deliberations

After all statements and materials have been presented, the Complainant and the Respondent and/or their respective advisors may present final comments to the Board. Subsequently and in private, the Board will promptly determine by a preponderance of the evidence whether the Respondent has violated the Code of Student Conduct. The Board’s determination shall be by majority vote.

viii. Determination Regarding Responsibility

The Conduct Review Officer will simultaneously provide the written Determination Regarding Responsibility to all parties. The Determination will include:

1. Alleged violations of the Code of Student Conduct;
2. A description of the procedural steps taken from the filing of the formal complaint;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section(s) of the Code of Student Conduct, if any, the Respondent has or has not violated;
5. For each alleged violation:
   a. A statement of, and rationale for, a determination regarding responsibility;
   b. A statement of, and rationale for, any disciplinary sanctions imposed on the Respondent; and
   c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to Villanova’s education program or activity will be provided by the University to the Complainant; and
6. Procedures and the permitted reasons for the parties to appeal as outlined below

Appropriate documentation will be maintained as required to allow the University to comply with applicable law.
5. SANCTIONS

After the finding or admission of responsibility, the Conduct Review Officer will impose sanctions after considering the following:

1. The nature of the violation and the circumstances surrounding it, including the actual or potential impact on the individuals involved and/or the community as a whole;
2. Statements made or evidence presented in the investigative report and/or hearing;
3. Prior disciplinary record of the student;
4. Disciplinary precedent;
5. Guidelines in the Code of Student Conduct.

The Conduct Review Officer may consult with other University officials as they deem appropriate.

A. Sanctions for Violations of the Code of Student Conduct

Sanctions serve to reinforce that students are held responsible and accountable for their behavior. This is accomplished by measures to educate, to deter future misconduct, and to provide consequences for one’s actions.

Villanova University reserves the right to notify parent(s)/legal guardian(s) about the disciplinary status of their student, to the extent consistent with the provisions of the Family Educational Rights and Privacy Act.

Disciplinary sanctions comprise the range of official actions which may be imposed for violations of the Code of Student Conduct. Any violation of the Code of Student Conduct may result in the full range of sanctions outlined in the Sanctioning section of the Student Handbook, and one or more may be imposed in response to a given situation.

6. APPEALS

The Dean of Students or their designate (hereafter referred to as the “Dean of Students”) will review appeals for new disciplinary proceedings or a review of sanction. The Dean of Students may consult with other University officials as they deem appropriate. All decisions made by the Dean of Students are final, including whether or not an appeal is procedurally permitted.

During the appeal process students may be subject to certain restrictions, impacting such things as: class attendance; on-campus housing; participation and/or membership in organizations, athletic events/teams/clubs, and/or extracurricular activities; attendance at University events/functions; and access to University buildings.
A. Grounds for Appeal

The Respondent and the Complainant may request an appeal based only on one or more of the following grounds:

Appeal for a New Hearing:

1. Procedural Irregularity - A material procedural defect in the original hearing that affected the outcome;
2. New Evidence - New material evidence that was not available, through no fault of the appealing party, at the time of the original hearing that could have affected the outcome; or
3. Conflict of Interest or Bias - The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against Complainants or Respondents in general, that affected the outcome.

Appeal for Review of Sanction:

The parties may appeal that that sanction imposed were disproportionate to the violation.

B. Process to Appeal

The Respondent and the Complainant may request an appeal within five (5) business days from the time of notification of determination.

Appeals must be submitted to the Dean of Students in writing and:

- Be from and signed by the Complainant and/or Respondent;
- Consist of a concise and complete statement no more than eight (8) single spaced pages (including attachments) utilizing 12 point font;
- Set forth the grounds for appeal.

If the appeal is not based on appropriate grounds, it will be denied. If the appeal is based on appropriate grounds, the Dean of Students will notify both parties of the filing of the appeal. Each party will be given the opportunity to review and respond, in writing, to the other party’s appeal. This response must be submitted within five (5) business days of the filing of an appeal.

1. If the appeal is determined to be based on appropriate grounds and alleges a Procedural Irregularity or New Evidence, this appeal will be resolved prior to addressing Appeals for Review of Sanction. The Dean of Students will review the appeal promptly and notify the parties of the outcome.

2. Subsequent to resolution of Appeals for Procedural Irregularity and New Evidence (if submitted), if the appeal is determined to be based on appropriate grounds for Review of Sanction, the Dean of Students will accept as final and binding the previous decision that the Respondent has violated the Code of Student Conduct. Each party will be given the opportunity to separately meet and discuss their appeal and/or their response to the other party’s appeal with the Dean of Students. Each party
may be accompanied by their advisor. Parents and guardians are permitted to participate in this discussion. The voluntary meeting will normally be scheduled within ten (10) business days of the original appeal being filed.

The Dean of Students will normally advise the parties of the final results of the grievance process within five (5) business days of the last voluntary meeting.

SEXUAL MISCONDUCT COMPLAINT PROCEDURES FOR COMPLAINTS AGAINST FACULTY OR STAFF

Complaints of sexual misconduct against faculty or staff governed by special procedures outlined in section IV E of the University’s Sexual Misconduct Policy.

[1] Although the University encourages a Complainant to talk with someone directly, the University does provide an anonymous on-line reporting option, www.villanova.ethicspoint.com and an anonymous phone reporting option (855-236-1443). This report will prompt an investigation. However, the University’s ability to respond effectively may be limited by the level of information provided and/or the anonymity of the complaint. All anonymous reports of sexual misconduct will be referred to the Title IX Coordinator.