COLUMBIA LAW SCHOOL
POLICY ON GENDER-BASED MISCONDUCT
# Columbia Law School Policy on Gender-Based Misconduct

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COLUMBIA LAW SCHOOL
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I. INTRODUCTION

Columbia Law School (CLS or “the Law School”) is committed to maintaining a community based on trust and civility in which the personal dignity of each member is respected. We are an institution which educates future members of an honorable profession that has a special obligation of self-regulation. Members of the CLS Community should conduct themselves with honesty, integrity and responsibility.

As part of CLS’s commitment to providing a learning environment free from gender-based discrimination and harassment, CLS does not tolerate any kind of gender-based misconduct, conduct which is broadly defined, and includes, but is not limited to, gender-based harassment, sexual harassment, stalking, intimate partner misconduct and sexual assault. CLS is committed to fostering a healthy and safe environment in which every member of the community can realize her or his fullest potential. Gender-based misconduct is a serious concern in educational institutions throughout the country. To address this problem, CLS, as part of Columbia University, provides educational and preventative programs, services for individuals who have been impacted by gender-based misconduct, and accessible, prompt, and equitable methods of investigation and resolution.

Members of our community who believe they have been subjected to gender-based misconduct are encouraged to report these incidents, as are faculty and staff who learn of them. If faculty and staff learn of incidents of sexual assault, intimate partner violence, or sexual harassment they are required to report such incidents. Reports should be made to the Dean of Students, who acts as CLS’s Title IX coordinator. Upon receiving a report, CLS will respond promptly and thoroughly, as outlined in this policy. CLS is also committed to preventing the recurrence of the misconduct and will take action to correct its effects, when possible and appropriate.

Consistent with its commitment to addressing gender-based misconduct CLS complies with Title IX of the Higher Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs or activities. Accordingly, we treat allegations of gender-based misconduct with the utmost seriousness and recognize that a failure to respond diligently could itself be a form of discrimination. The Columbia Law School Gender-Based Misconduct Policy applies regardless of the complainant’s
or respondent’s sexual orientation, sex, gender identity, gender expression, age, race, nationality, class status, ability, or religion, and regardless of whether the alleged violation took place on or off campus.

An important goal of this policy is to encourage victims of gender-based misconduct to voice their complaints, whether informally or formally, without fear of adverse academic, social or employment consequences. Retaliation of any kind for raising an issue or bringing a good faith complaint is strictly prohibited and would constitute an independent basis for disciplinary action.

Prohibitions against discrimination and harassment do not extend to statements or written materials that are germane to classroom subject matter. Nothing in this policy shall abridge academic freedom or CLS’s educational mission.

II. Resources for Students

Office of the Dean of Students: 212-854-2395/212-854-7420; Student_Services@law.columbia.edu

Columbia University Rape Crisis/Anti-Violence Support Center – 212-854-HELP

Public Safety – 212-854-2796

Health Services – Clinician-on-Call – 212-854-9797

St. Luke’s Hospital Crime Victims Treatment Center – 212-523-4728

Safe Horizon- 212-523-4728

New York City Police Department – 911

University Student Services for Gender Based and Sexual Misconduct 212-854-1717

The University also maintains a Sexual Violence Response website at http://www.health.columbia.edu/svprp

III. DEFINITIONS OF GENDER-BASED MISCONDUCT

A. Overview

Gender-based misconduct comprises a broad range of behaviors focused on sex and/or gender discrimination or harassment that may or may not be sexual in nature. Gender-based harassment, sexual
harassment, stalking, intimate partner misconduct, and sexual assault are all forms of gender-based misconduct under this policy. Misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Gender-based misconduct can be committed by men or by women, and it can occur between people of the same or different sex. It can take place on or off campus, during or outside of school-related activities. More detailed definitions of each type of conduct are outlined below.

Conduct alleged to constitute **gender-based harassment, sexual harassment, or stalking** will be evaluated by considering the particular circumstances, including the nature, frequency, intensity, location, context, and duration of the questioned behavior. Although repeated incidents generally create a stronger basis for finding a violation under this policy, an isolated incident can be sufficient. Gender-based misconduct forms the basis of a gender-based harassment or sexual harassment claim if it has the effect of unreasonably interfering with academic, other educational or employment performance, or in participation in a CLS activity; or if it creates an intimidating, hostile, demeaning, or offensive academic or living environment. Examples of gender-based harassment and sexual harassment are included at the end of the definitions section.

**Sexual Assault** is a violation that is determined solely by the definition included below and not by reference to the totality of the circumstances. Intimate partner misconduct may also constitute sexual assault if the conduct satisfies the definition below.

**B. Definitions**

1. **Gender-Based Harassment**

Acts of verbal, nonverbal, or physical aggression, intimidation, stalking, or hostility based on gender or gender stereotyping constitute gender-based harassment. Gender-based harassment can occur if students are harassed either for exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity or femininity. In order to constitute harassment, the conduct must be such that it has the purpose or effect of unreasonably interfering with an individual’s academic performance, other educational, or employment performance or participation in a CLS activity or creating an intimidating, hostile, demeaning, or offensive academic or living environment.

2. **Sexual Harassment**
Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s education, employment, participation in activities or opportunities; or

- submission to or rejection of such conduct by an individual is used as the basis for academic, employment or similar decisions affecting that individual; or

- such conduct has the purpose or effect of unreasonably interfering with an individual’s academic performance, other educational, or employment performance or participation in a CLS activity or creating an intimidating, hostile, demeaning, or offensive academic or living environment.

3. Stalking

Stalking is a course of conduct directed at a specific person that would cause a reasonable person to feel fear. Stalking also is committed by repeated and continued actions committed against the expressed wishes of another individual, which cause the targeted individual to feel, or are likely to make a reasonable person feel, emotional distress, including fear and apprehension. Stalking behaviors may include: pursuing or following; non-consensual (unwanted) communication or contact (face-to-face, telephone calls, voice messages, electronic messages, text messages, unwanted gifts, etc.); trespassing; and surveillance or other types of observation.

4. Intimate Partner Violence

Intimate partner violence includes any act of violence or threatened act of violence against a person who is, or has been involved in a sexual or dating relationship with that individual.

Examples of intimate partner violence include but are not limited to the following: threats; assault; property damage; violence or threat of violence to one’s self, one’s sexual or romantic partner, or to the family members of the sexual or romantic partner; or actions or threats used as a method of coercion, control, punishment, intimidation, or revenge.
5. Sexual Assault

Sexual assault is any non-consensual, intentional physical contact of a sexual nature, such as unwelcome physical contact with a person’s genitals, buttocks, or breasts. Sexual assault occurs when the act is committed by one of the following:

- physical force, violence, threat, or intimidation;
- ignoring the objections of another person;
- taking advantage of another's intoxication or impairment caused by the use of alcohol or other drugs;
- taking advantage of another person's incapacitation, helplessness, or other inability to consent.

Because of the extreme seriousness of sexual assaults and intimate partner violence, all faculty and staff who learn of allegations of such conduct against or concerning any Columbia student are expected to report it immediately to the Law School’s Deputy Title IX coordinator, who when investigating the matter will take into account the alleged victim’s condition, needs, wishes to prefer formal or criminal charges, or desire for confidentiality. In some cases, however, confidentiality cannot be preserved.

6. Consent

The presence of consent involves explicit communication and mutual approval for the act in which the parties are/were involved. A sexual encounter is considered consensual when individuals willingly and knowingly engage in sexual activity. The use of coercion involves the use of pressure, manipulation, substances, and/or force. The absence of "No" is not a "Yes."

The use of alcohol and other drugs can have unintended consequences. Alcohol and other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and affirmatively given. The perspective of a reasonable person will be the basis for determining whether a person engaged in sexual activity should have known about the impact of alcohol and other drugs on another person’s ability to give consent. The use of alcohol and other drugs never makes someone at fault for being victimized.
C. Some Examples of Gender-Based Misconduct

The following are examples of some of the behaviors that may constitute gender-based harassment, sexual harassment, or stalking. Whether they would be considered gender-based misconduct would depend on the totality of the circumstances surrounding the action(s) in question. These examples do not include sexual assault or intimate partner misconduct.

- Pressure for a date or a romantic or intimate relationship
- Unwelcome touching
- Pressure for sexual activity
- Unnecessary and unwelcome references to various parts of the body
- Belittling remarks about a person’s gender or sexual orientation
- Inappropriate sexual innuendoes or humor
- Videotaping and photographing or other visual or auditory records of sexual activity made without explicit consent
- Obscene gestures of a sexual or gender-based nature
- Offensive sexual graffiti, pictures, or posters
- Sexually explicit profanity
- Use of email, the Internet, or other forms of digital media to facilitate any of the above referenced behaviors
- Suggestions that academic performance or employment opportunities may be based on the submission to or rejection of sexual advances, sexual overtures or requests for sexual favors

IV. IMPLEMENTATION AND ENFORCEMENT PROCEDURES

A. Introduction

The implementation and enforcement procedures at CLS seek to promote a variety of educational, informational, remedial and preventative ends. The implementation and enforcement structures aim to disseminate information about CLS’s Gender-Based Misconduct Policy, promote counseling and support to community members who believe they have been victims of gender-based misconduct, and provide and encourage resolution through informal procedures and formal procedures, as appropriate and mandated by the Policy. The Law School will apply these procedures under the circumstances set forth in this Section IV.C.3

The Dean of Students Office serves as a conduit for information, counseling and resources and provides information and assistance regarding formal disciplinary procedures and other processes which may be evoked, as well as mediating informal resolutions where so desired. Reports of alleged gender-based misconduct by a CLS student should be
filed with the Dean of Students who also serves as the Deputy Title IX Coordinator for the Law School.

When reporting incidents under this policy to the Dean of Students Office, a student will be informed of the informal and formal procedures available. A student may choose to pursue an informal resolution of gender-based misconduct in most cases. In cases involving gender-based harassment, sexual harassment and stalking, the student will always be offered the opportunity to pursue formal procedures. In cases of sexual assault and intimate partner violence, only formal procedures are available.

B. Confidentiality

In general, University policy and federal law make information about disciplinary proceedings private. Students should be aware, however, that the Law School may share official record information with bar admission committees, and that federal law makes limited exceptions to the confidentiality principle in cases involving certain crimes of violence. Information collected in connection with serious incidents may also be subject to subpoena in the event that a criminal investigation is instituted.

CLS will endeavor to preserve and protect the confidentiality of the victim and be guided by his or her preferences with respect to following informal or formal procedures in investigating claims of gender misconduct. In cases of sexual assault and intimate partner violence, the required formal process may limit confidentiality.

C. Procedures

Department of Education guidelines implementing Title IX require CLS to make available different procedures in investigating and determining whether instances of gender misconduct have occurred from those it uses for determining other kinds of disciplinary infractions. In both cases, CLS personnel, with appropriate assistance from others, gather information from persons involved in order to determine if incidents can be resolved on an informal basis to the satisfaction of the parties in accord with the institutional responsibilities of Columbia Law School.

The most significant differences from the Procedures for Student Discipline used in other contexts at the Law School concern formal hearings when those are necessary. CLS’s regular disciplinary procedures for contested allegations of wrongdoing, or for infractions deemed major whether or not contested, are triggered by the Dean's determination that such proceedings are warranted following an administrative report concerning the incident or incidents. Most CLS disciplinary matters do not involve a
fellow student as a complainant, but rather are alleged violations related to academic integrity.

Although the disciplinary rules provide for hearings at which students may be asked to give evidence, CLS itself proceeds as the aggrieved party even in the exceedingly rare case where formal charges involve one or more students' behavior directed at other students. The rules permit the assistance of counsel and the right to question witnesses. These protections take into account that these disciplinary violations must be reported to Bar Admission Committees, and may well delay or preclude becoming a licensed attorney.

By contrast, the Title IX guidelines, and the University's interpretation of them, have some elements more similar to a civil trial. The complainant has the same procedural rights to participate in the process as the person charged. For example, these rights include reviewing the information collected concerning the incident; raising issues concerning possible conflicts of interest by members of the adjudicative body; giving evidence; having the case resolved by a preponderance of the evidence; and appealing the results.

If appropriate, a student will be supported to pursue informal procedures with the assistance of specially trained CLS personnel to resolve the issue. A student may choose, for example, to ask the Dean of Students or a trusted faculty member to mediate an informal resolution or to assist the student in approaching the offender and requesting that the behavior stop. A student may always choose to pursue formal procedures as outlined below.

An incident that is subject to informal resolution and is resolved informally, will be reported to the designated University official as required by law but will not contain identifying information.

An incident that is subject to informal resolution and is resolved informally shall not become part of the student’s official record, or be regarded by the law school as falling within the scope of outside requests for information concerning the discipline of students if the respondent abides by the conditions of the resolution during the student’s matriculation in the law school.

These then, are the procedures CLS will use in investigating and adjudicating cases of alleged gender misconduct:

1. Reporting Incidents of Gender-Based Misconduct

All gender-based misconduct reports involving students will be received
and processed by the Dean of Students in person, via email or over the phone.

Students who wish to submit a report alleging gender-based misconduct can meet with the Dean of Students or specially trained CLS personnel to learn more about the process and procedure. Students should be advised that the person to whom they speak may be obligated to act on any report of alleged sexual assault.

If the respondent is NOT a CLS student but a student in another division of the University, the policy that governs that student will be the University’s Gender-Based Misconduct Policy. That policy is posted at http://www.columbia.edu/cu/dpsa/docs/policy/ and the Dean of Students can provide additional information about the University’s procedures. Likewise, if the complaint concerns a member of the faculty or staff, it should be reported to the Office of Equal Opportunity and Affirmative Action, see http://eoaa.columbia.edu/employment-policies.

Students may also choose to file a report with the New York City Police Department or the local law enforcement agency where the misconduct occurred, potentially triggering a criminal investigation. That investigation is independent of these CLS procedures. Students can file reports under these procedures, with law enforcement, or with both systems. Because the standards for finding a violation of criminal law are different from the standards in this policy, criminal investigations or reports are not determinative of whether or not gender-based misconduct, under this policy, has occurred.

2. Timeframe

The Law School does not limit the timeframe for filing a report of gender-based misconduct. Reports can be submitted at any time following an incident, although the Law School’s ability to take any action may be limited by the matriculation status of the alleged respondent.

3. Jurisdiction:

Under this policy, the Law School is able to respond formally to alleged incidents of gender-based misconduct:

- where the respondent is a matriculated law student, or
• when it involves job-application activities or other programs sponsored by or arranged through CLS. Employers who utilize the resources of CLS are subject to this policy. Reports concerning these employers should also be made to the Dean of Students.

Questions about an individual’s student status at the Law School can be directed to the Dean of Students. Students are considered to be matriculated until their degree is awarded unless they permanently withdraw or are otherwise separated from the Law School. In some unique circumstances where a person may be considered an employee and a student, the University’s Office of Equal Opportunity and Affirmative Action will determine which policy and procedure should be used.

A complainant is the student who files a report or the person who a report is filed on behalf of by a third party. A respondent is the student who is alleged to have violated a policy and is responding to the allegations.

In cases where the gender-based misconduct is reported to the Office of Student Services by a third party (e.g., a faculty member; a fellow student) the complainant will be notified that a report has been received. The Dean of Students will make every effort to meet with the complainant to discuss her or his options and resources at the University and in the community.

4. Complainant Request for Confidentiality/Privacy:

A complainant may make a request for confidentiality/privacy at any point. This type of request may mean that the complainant does not want her or his identity known to the respondent and witnesses, or that the complainant wishes to withdraw a report. If at any point the complainant requests privacy, the Law School will make all reasonable attempts to comply with this request. In situations where a complainant requests privacy, the Law School’s ability to investigate and respond to the allegations may be limited.

The Law School is required by Title IX to weigh the complainant’s request for confidentiality/privacy with the University’s and the Law School’s commitment to provide a reasonably safe and non-discriminatory environment. The Dean of Students will notify the complainant if the University or the Law School cannot maintain the complainant’s confidentiality/privacy. The complainant’s identity will only be revealed to those individuals who need to know the name of the complainant in order for an investigation to commence.

If the offender is unknown or is not a member of the University community, specially trained CLS and University staff will assist students in identifying
appropriate campus resources or local authorities if the student would like to file a report. In addition, CLS and the University may take other actions to protect the student and the community.

When a report of gender-based misconduct is filed, the complainant, the respondent, and all identified witnesses who are named in the investigation, will be notified of CLS’s expectation of confidentiality/privacy with respect to the investigation. CLS will make all reasonable efforts to maintain the confidentiality/privacy of parties involved in gender-based misconduct investigations. Breaches of confidentiality/privacy or retaliation against any person involved in the investigation, including the complainant, respondent, witnesses, or the investigators, may result in additional disciplinary action.

5. Interim Measures

During the investigation and until resolution of the matter, interim measures may include but are not limited to: restrictions on contact between the complainant and the respondent, restrictions from areas of campus, and/or removal or relocation from the residential areas. Failure to adhere to the parameters of any interim measures is a separate violation of this policy and may lead to additional disciplinary action.

6. Informal Resolution

In instances where it is deemed possible and safe, CLS may choose to resolve reports through informal means, with the consent of both parties. Informal resolution is not an option for resolution in cases involving allegations of sexual assault and intimate partner violence. If it is determined that an informal resolution may be appropriate, the Dean of Students will speak with the complainant about this option. If the complainant agrees, the Dean of Students will speak with the person alleged to have engaged in the misconduct. If a satisfactory resolution is reached through this process of discussion, the matter will be considered completed. If these efforts are unsuccessful, the complainant will be given the opportunity to begin a formal procedure.

The Dean of Students may also determine whether mediation is an appropriate mechanism of resolution based on information provided about the incident. In cases where mediation is deemed to be an option, the parties will be informed of this option. If this option is selected, the parties should not contact each other to discuss mediation. Mediation will be pursued only with the consent of both parties. If the mediation results in a resolution, the formal disciplinary procedure will be concluded and the
case will be closed. If the parties are unable to reach a resolution, the complainant will be given the opportunity to begin a formal procedure. Either party can cease an informal process at any time and seek to proceed with a formal process.

CLS may, at any time, institute forms of remedial, community-based efforts such as educational initiatives and trainings.

7. Investigation

Reports of gender-based misconduct will be investigated in a thorough and prompt fashion. Following the receipt of a report, the respondent will be notified that a report has been filed and will be given written notice of the allegations. The respondent will have the opportunity to submit a written statement within five business days, whenever possible. The respondent and complainant will be given the opportunity to meet separately with the Dean of Students to review the policy and procedure.

The Dean of Students or a specially trained CLS investigator designated by her or him will interview the complainant, respondent, and any witnesses. The investigator will not interview witnesses whose sole purpose is to provide character information. This investigator will also gather any pertinent documentation materials. The investigator will then prepare a report detailing the relevant content from the interviews and the documentation materials gathered.

Directly following the conclusion of the investigation, a determination of whether or not to proceed to the administrative resolution (see below) phase will be made. This determination will be based on whether reasonable cause exists to believe that a policy violation has occurred. If reasonable cause does not exist, the procedure will be concluded at this point.

The romantic or sexual history of either the respondent or the complainant will not be admissible in cases involving allegations of sexual assault, except for relevant testimony offered by the respondent or the complainant about her or his own sexual history. If such information is offered and deemed relevant by the investigator, the other party has the right to respond to the testimony. If the respondent and complainant had a romantic or sexual history, testimony and questions about this history is permitted if it is deemed relevant by the investigator.

While previous conduct violations of the respondent are generally not admissible as information about the present alleged violations, information about the respondent’s prior conduct history during his or her law school matriculation or that is part of any record that the respondent has previously provided to the law school may be provided to the hearing
panel if the respondent was previously found to be responsible and the previous incident was substantially similar to the present allegation and/or the information indicates a pattern of behavior by the respondent has allegedly continued in the case at hand.

In cases where a complainant and/or respondent refuses to participate in the investigative process and/or the hearing panel, and where it is determined that reasonable cause exists to believe the policy has been violated, a hearing panel will convene and determine a finding based on the information available to them. Refusal to participate in the investigative process may preclude a party’s ability to participate in the hearing.

8. Administrative Resolution

If reasonable cause exists to move to the administrative resolution phase of the process, the respondent and complainant will have the opportunity to review the investigative report and the documentation from the investigation consistent with federal law. The Dean of Students will ensure that ample time is afforded to the complainant and respondent, within reason, to review the report prior to responding to the allegations.

Following this review, the respondent will be given the opportunity to respond to the alleged violation of policy in the following ways: 1) No response; 2) Not Responsible; or 3) Responsible.

If the respondent accepts responsibility, the hearing panel, as provided below, will be convened and will be notified and determine the sanction based on the evidence provided in the investigative report and documentation. The hearing panel can take into consideration whether the respondent accepted responsibility for his or her actions when determining the appropriate sanction. The hearing panel will notify the parties of the sanctioning outcome as soon as possible after the sanction has been decided.

The complainant and respondent will be made aware of the sanctioning decision. The respondent and complainant will then have the opportunity to appeal to the Dean. The acceptance of responsibility, however, is not appealable (see Appeals Process).

If the respondent declines responsibility, or chooses not to respond, a hearing panel will be convened.

9. The Hearing

Every effort will be made to convene a hearing panel as soon as practicable following the conclusion of the investigation, ideally within 20
calendar days after the receipt of the initial report. Whenever possible, the complainant and respondent will be given at least five calendar days’ notice to prepare for the hearing. The hearing is a closed proceeding.

The hearing panel is charged with determining whether a Gender-Based Misconduct Policy has been violated and providing the Dean of the Law School with its finding. The Hearing Panel is a committee of five specially trained members, two who are students elected by the Law School Student Senate from its membership at the beginning of each fall semester, to serve for the academic year; two who are members of the faculty of the Columbia Law School and one who is a senior administrator of the law school selected annually by the Dean, in consultation with the faculty. The Dean shall designate the Chair of the hearing panel, who shall be a member of the Columbia Law School faculty, and may designate alternate members as necessary, including when a member of the committee may have a conflict of interest.

10. The Hearing Procedure

The hearing panel will have the opportunity to thoroughly review the investigative report and documentation submitted by the investigator(s) prior to the hearing. The panel is not charged with reviewing the appropriateness of the investigator(s)’ decision to forward the report and documentation for a hearing.

The general course of the hearing procedure will be as follows, whenever possible:

- Complainant statement
- Respondent statement
- Questions to the complainant
- Questions to the respondent
- Witness testimony and questioning (if the hearing panel determines it is necessary)
- Clarification from the investigator (if the hearing panel determines it is necessary)
- Closing statement by respondent
- Closing statement by complainant
- Any rebuttal statements permitted by the hearing panel
The panel may impose time limits on any stage of the procedure. The panel may determine the relevance of and place restrictions on any witnesses or information presented. When the complainant and respondent are not able to be present for the hearing panel, the panel may determine whether to make arrangements for the parties to participate via alternate means (e.g. phone).

In cases where the respondent and/or complainant have chosen not to participate in the hearing procedure, the panel will commence and hear from the party (if one exists) who has chosen to participate in the process.

Only the panel may ask questions of the parties and of any witnesses. Both parties have the opportunity to put forth questions of the other party and of witnesses. This is done by submitting questions to the panel in written format. The panel may determine whether questions are irrelevant or duplicative in nature. The panel reserves the right to revise or remove submitted questions. The panel will determine the time frame for submissions including submission of questions and closing statements.

An audio recording of the hearing will be kept for the use of the panel and for purposes of appeal. This recording may be transcribed at the request of the panelists or the Dean.

11. Witnesses

The hearing panelists will determine the witnesses (if any) they would like to hear testimony from based on the investigative report and documentation.

12. Supporter and Counsel

Both the respondent and the complainant are entitled to have counsel or another supporter present at the hearing and during any meetings regarding the process. CLS will arrange for volunteer counsel for any student requesting counsel. The central function of counsel is to provide advice to their client about the procedures and the hearing process. Counsel may submit recommendations about the process to the hearing panel; submit proposed questions for the hearing panel to ask; submit proposed witnesses for the panel to question; submit an opening and closing statement; and submit evidence for the panel to consider. All submissions will be in writing only and provided to the other student on a timetable established by the panel. Any objections to any submission shall also be only in writing. The panel will consider but is not bound to accept any submission. Counsel may not question witnesses directly nor object to
the questions posed by the hearing panel during the hearing. Objections may be included in any closing statement. If a student chooses to appeal, the entire record will be made available to the Dean for his or her consideration.

13. Complainant Rights

Complainants are afforded the following rights in this process:

- To be treated with respect, dignity, and sensitivity throughout the process.
- To seek support services.
- To confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). The Law School and the University will make all reasonable efforts to ensure preservation of privacy, restricting information to those with a legitimate need to know.
- To be informed of the Gender-Based Misconduct Policy.
- To a prompt and thorough investigation of the allegations.
- To an adequate amount of time to prepare for the hearing. Participants shall be given at least five calendar days notice prior to the hearing except in rare circumstances.
- To challenge a hearing panel member if a conflict of interest is present.
- To be accompanied at the hearing by counsel or another supporter.
- To participate or decline to participate in the investigation or hearing panel process. However, the hearing panel will determine an outcome with the information available to them and not participating in the hearing precludes participation in the hearing panel.
- To refrain from making self-incriminating statements. However, the hearing panel will determine a resolution with the information available to them.
- To appeal the decision made by the hearing panel and sanctions determined by the Dean.
- To be notified, in writing, of the case resolution – including the outcome of any appeal.
• To report the incident to law enforcement if she/he wishes to do so.

• To understand that information collected in this process may be subpoenaed in criminal or civil proceedings.

14. Respondent Rights

Respondents are afforded the following rights in this process:

• To be treated with respect, dignity, and sensitivity throughout the process.

• To seek support services.

• To confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). The University will make all reasonable efforts to ensure preservation of privacy, restricting information to those with a legitimate need to know, taking into consideration the law school’s reporting obligations for purposes of bar admission.

• To be informed of the Gender-Based Misconduct Policy.

• To a prompt and thorough investigation of the allegations.

• To an adequate amount of time to prepare for the hearing. Participants shall be given at least five calendar days notice prior to the hearing except in rare circumstances.

• To challenge a hearing panel member if a conflict of interest is present.

• To be accompanied at the hearing by counsel or another supporter.

• To participate or decline to participate in the investigation or hearing panel process. However, the hearing panel will determine an outcome with the information available to them and not participating in the hearing precludes participation in the hearing panel.

• To refrain from making self-incriminating statements. However, the hearing panel will determine a resolution with the information available to them.

• To appeal either the hearing panel’s decision or the sanctions determined by the Dean.
• To be notified, in writing, of the case resolution – including the outcome of the appeal.

• To understand that information collected in this process may be subpoenaed in criminal or civil proceedings.

15. Panel Findings

The panel will use preponderance of the evidence as the standard of proof to determine whether a policy violation occurred. Preponderance of the evidence means that a panel must be convinced based on the information provided that a policy violation was more likely to have occurred than to not have occurred in order to find a student responsible for violating a policy.

Based on this standard, the panel may find a student responsible for an alleged violation of policy based on a majority vote. The panel may also vote by majority to dismiss the charge based on the same evidentiary standard. The panel will render a decision within five calendar days following the conclusion of the hearing.

Upon finding a student responsible, the panel will then determine the appropriate sanctions. Consideration may be given to the nature of and circumstances surrounding the violation, prior disciplinary violations, precedent cases in the law school, safety concerns, or any other information deemed relevant by the panel. The Hearing Panel will render a sanctioning decision within five calendar days following the receipt of notice of the panel’s decision. The Hearing Panel will notify the parties of the sanctioning outcome as soon as possible after the sanction has been decided.

16. Range of Sanctions

A student who has been found to have violated the Gender-Based Misconduct Policy may be subject to sanctions including, but not limited to, reprimand/warning, disciplinary probation, suspension, and dismissal. A student also may be barred from certain CLS and/or University facilities or activities, or be required to attend educational programming.

17. The Appeals Process

The respondent and complainant may appeal: 1) the decision made by the hearing panel, and 2) the sanctions determined by the hearing panel. The three grounds upon which an appeal of the decision or sanctions may be made are:
1. The student believes a procedural error occurred, which the student feels may change or affect the outcome of the decision;

2. The student has substantive new evidence that was not available at the time of the hearing and that may change the outcome of the decision;

3. The student feels that the severity of the sanction is inappropriate given the details of the case.

Disagreement with the finding or sanctions is not, by itself, grounds for appeals.

The appeal should be submitted in writing to the Dean within five business days following the date on the sanctioning letter.

Both the complainant and the respondent will be notified if either party submits an appeal and will be informed of the grounds of the appeal by the Dean of Students. After this notification, the party will have seven business days to submit a short written response to the request for appeal, if he or she so chooses. The Dean will review this statement during the appeals process.

The Dean can determine whether a change in the hearing panel’s decision or in the sanction is warranted. This decision is not appealable.

Regardless of the outcome of the appeal, the Dean will notify the complainant and respondent of the final decision in writing. If a complainant and respondent appeal, the appeals will be considered concurrently. Appeals decisions will be rendered within 10 business days after the receipt of the formal appeal is filed.

18. Outcome Notification

Every effort will be made to ensure that both the complainant and respondent are updated at several points during the investigation and procedure. Both the complainant and respondent will be notified in writing at the following times:

• After the conclusion of the investigation – both parties will be allowed to review the investigative materials
  • If the respondent accepts responsibility for being “in violation”
  • The sanctions determined by the Dean after the respondent accepts responsibility
  • The hearing panel’s finding of “in violation” or “not in violation”
• If the panel’s finding is “in violation” the sanctions determined by the Dean

• If an appeal has been filed by either party at any point in the outcome phase

• The final resolution of the appeals process

19. File Retention Policy

CLS will maintain disciplinary files and release information contained in those files with appropriate permissions for seven years. After seven years, the files will no longer be available except in cases resulting in expulsion or suspension.

Disciplinary proceedings conducted by CLS are subject to the Family Educational Rights and Privacy Act (FERPA, also called the “Buckley Amendment”). There are several important exceptions to FERPA that will allow CLS to release information to third parties, including requests from Bar Admissions Committees under particular circumstances.