Reporting and Complaint Procedures

December 2014: We are continually updating our processes and practices to enhance the sexual misconduct complaint process for participants. We are mindful of ever-changing governmental regulations and requirements, while most importantly considering making our process more positive for those who engage with it. The process outlined below is what we are currently operating under, however because there are ongoing governmental regulation changes, there may be portions of our process that look somewhat different than what is currently published. The policy and processes are currently under review by the College and will be going through the governance process during the 2015 winter and spring terms. For an explanation of further proposed modifications, please contact a member of the Title IX Lead Team.

FACULTY AND STAFF COMPLAINT PROCEDURES

Instances of misconduct involving faculty and staff members should be reported to the College consultant on sexual harassment and assault. The consultant will investigate the complaint and provide the adjudicator with an investigative summary. If the complaint involves faculty members, the dean of the College will be the adjudicator; if the complaint involves staff members, the vice president and treasurer will be the adjudicator.

Students filing a complaint or reporting sexual misconduct by a faculty or staff member may seek support from any of the College resources (go.carleton.edu/sexual_misconduct).

STUDENT REPORTING AND COMPLAINT PROCEDURES

* Please note that the procedures outlined here are to address student-to-student sexual misconduct.

Definitions

COMMUNITY BOARD ON SEXUAL MISCONDUCT (CBSM): The College body charged with adjudicating complaints of student-to-student sexual misconduct.

COMMUNITY CONCERN: A written form informing the College and the Office of the Dean of Students of an instance of sexual misconduct or a behavior of concern. The Office of the Dean of Students will follow up on concerns but will not initiate the complaint process on behalf of a student. See the College’s Sexual Misconduct Prevention and Response Web site (go.carleton.edu/sexual_misconduct) for the online community concern form.

COMPLAINT PROCESS COORDINATOR: A person designated by the College to coordinate the complaint process and talk with students who are considering pursuing the complaint process. See the College’s Sexual Misconduct Prevention and Response Web site
COMPLAINT: A request for an investigation and hearing regarding an allegation of sexual misconduct, submitted to the complaint process coordinator.

COMPLAINANT: A person who makes a complaint of sexual misconduct.

CONFIDENTIAL SUPPORT PERSON: Carleton’s Student Health and Counseling staff members (psychologists, nurses, director) and the chaplain are confidential support people. This means that in most circumstances they have a professional and legal obligation not to reveal information shared in the course and scope of performing their duties. When students talk to a confidential support person about a possible violation of the sexual misconduct policy, that support person will not reveal or report this conversation in any identifying manner. The confidential support person will, however, report the incident in a non-identifying manner to be part of the College’s end-of-term report on sexual misconduct, in compliance with state and federal laws.

INVESTIGATION: A fact-finding inquiry into a complaint.

INVESTIGATOR: A person designated by the College to investigate a complaint of sexual misconduct.

INVESTIGATIVE SUMMARY: A summary written by the investigator, based on interviews with the complainant, respondent, and witnesses, and any other sources of information used in the investigation. This summary will be part of the documentary record and will be presented to the CBSM panel at a hearing.

REQUIRED REPORTING: Carleton faculty and staff members and peer leaders who have advisory roles on campus are required to report certain information whenever they are informed of incidents of sexual misconduct. This information is indicated within the community concern form, which is the mechanism for reporting. A community concern form is not a complaint and will not initiate an investigation, although the Title IX Coordinator may decide it is necessary to follow up on the community concern. See the College’s Sexual Misconduct Prevention and Response Web site (go.carleton.edu/sexual_misconduct) for more information.

RESPONDENT: A person against whom a complaint of sexual misconduct is made.

SEXUAL MISCONDUCT SUPPORT ADVISER: A student may choose to have one adviser of their choice participate in the complaint process. Carleton provides well-trained support people who are trained to assist the complainant or respondent during the Carleton College complaint process. An adviser can be selected from a pool of Sexual Misconduct Support (SMS) Advisers. SMS Advisers may also be contacted prior to filing a complaint to help a student discuss options and find appropriate support. See the College’s Sexual Misconduct Prevention and Response Web site (go.carleton.edu/sexual_misconduct) for a listing of SMS Advisers.

WITNESS: Any person who may have information about the incident in question.
**“Community Concern” Forms**

When sexual misconduct or inappropriate behavior occurs on campus, it affects our entire community. Because the College cares about the safety of its students and the climate of its community, we encourage you to communicate with us about your concerns—regardless of whether you believe any College policies have been violated. When we are well-informed about what is happening on campus, we can make decisions to better support and protect our community.

You may inform the Title IX Lead Team about sexual misconduct and inappropriate behavior by submitting a community concern form or by contacting them directly. A member of the Title IX Lead Team will follow up with you to make sure that we understand your concern, to discuss any next steps (including whether the student wants to file a complaint and initiate the student sexual misconduct complaint process), and discuss possible support options for those involved. A community concern form is not a complaint and will not initiate an investigation toward a complaint, although it may be necessary to follow up on the community concern and take some action to ensure the campus is safe and that victims are aware of support.

For more information or to submit a community concern form, go to the College's Sexual Misconduct Prevention and Response Web site (go.carleton.edu/sexual_misconduct).

**Not all students want to resolve incidents of sexual misconduct through an adjudicated model, and this is okay. Students interested in non-adjudicated resolution can talk with a member of the Title IX Lead Team about their options. By filing a community concern form, and meeting with a member of the Title IX Lead Team, these options will be offered.**

**Student Sexual Misconduct Complaint Process**

The complaint process is the process by which the college investigates and resolves allegations of student-to-student sexual misconduct. If a student is found in violation of the Policies Against Sexual Misconduct, he/she will be sanctioned by the College.

If you are interested in filing a complaint, would like to discuss your options, or have any questions about the process, contact a member of the Title IX Lead Team or one of the SMS advisers. These conversations may require the coordinator or adviser to file a non-identifying report of sexual misconduct (for federally mandated record-keeping) but will not obligate you to begin the complaint process.

*Please note that the complaint process outlined here is for student-to-student sexual misconduct. Instances of misconduct involving faculty or staff members should be reported to the College consultant on sexual harassment and assault. Students also may contact their class dean for support.*

The student complaint process can be broken into the general steps outlined here:

1. **Initiating the Complaint Process**

   The complaint process begins when a student meets with a coordinator of the complaint process and files a complaint of sexual misconduct. Together, this student (the complainant) and the coordinator will review information about expectations of the complaint process and select an adviser for the complainant. If an adviser is not selected, one will be assigned.

   When a complaint has been filed against a student, that student becomes the respondent. The respondent will be contacted by a coordinator and informed of the complaint. The respondent, together with the coordinator, will review the same information and expectations that were
shared with the complainant and will select an adviser. If an adviser is not selected, one will be assigned.

Both the complainant(s) and respondent(s) will then be asked to meet with the Investigator to discuss their participation and perspective on the incident(s) in question. The parties will be provided with information, including a list of questions and prompts to help them prepare for this meeting. Under the Policies Against Sexual Misconduct, Carleton community members and others are protected against false complaints of sexual misconduct. Disciplinary action will be taken against any person knowingly and deliberately making a false complaint.

The coordinator will remain available to answer questions by the complainant and respondent about the complaint process.

2. Investigation

Every complaint brought forward will be promptly investigated. This means that prior to the Community Board on Sexual Misconduct (CBSM) resolution meeting, a qualified person (the investigator) will gather information regarding the incident, from whatever source, that will help the CBSM make a determination as to whether a policy has been violated. As part of the investigation, the investigator will meet with the complainant(s) and respondent(s) to gather facts about the incident.

The investigator also may meet with other parties (witnesses) who may have information about the incident and also may review e-mails, text messages, photographs, and/or other documents that may be relevant to the complaint. The investigator then will prepare and submit to the CBSM a written fact-finding summary regarding the investigation.

2. Adjudication

Community Board on Sexual Misconduct (CBSM)

The Community Board on Sexual Misconduct is the College body charged with adjudicating complaints of student-to-student sexual misconduct. The CBSM is comprised of faculty, staff, and students. The board is chaired by the Title IX Coordinator who is responsible for arranging the adjudication meetings and for leading Board meetings and trainings. When a complaint of sexual misconduct arises, one faculty, one staff, and one student representative will be called upon to hear and adjudicate the complaint as Community Panel members. The CBSM Chair leads, but does not vote in the deliberations.

Representatives on the board are expected to meet five weeks each term for trainings in the College's Sexual Misconduct policy and procedures, to discuss current scholarship and case studies relevant to their tasks, and to share appropriate information about the ongoing history of the CBSM's adjudications. During a resolution meeting, only the three selected Panel members will be in attendance; the full CBSM will not meet. The CBSM's on-going training covers, among other things: Carleton's Policies Against Sexual Misconduct and the Student Complaint Process, resources for students, facilitation, sensitivity, current events/trends, practice resolution meetings and scenarios, FERPA and legal privacy requirements.

Faculty members are appointed by the Faculty Affairs Committee, staff members are appointed by the President's Office, and students are appointed by the Carleton Student Association. Membership will be on rotating terms of two or three years to ensure that there are always returning members from the previous year.
Purpose of the Resolution meeting

The goals of the resolution meeting are: a) to allow both the complainant and the respondent the opportunity to present their experiences, discuss the investigative summary, and to ask questions pertinent to the incident(s) in question; b) to have the matter considered and decided by an impartial panel representing different segments of the College community; and c) to determine whether a violation of College community standards has occurred.

This process is intended to determine whether there was a violation of College Community Standards as stated in the Policies Against Sexual Misconduct. It is not a legal procedure, and is not intended to mimic or substantially duplicate a civil or criminal trial.

The Panel

A panel from the CBSM, comprised of: one voting faculty member, one voting staff member, and one voting student, plus the Chair will convene to hold a resolution meeting and make a determination regarding a complaint of sexual misconduct. The Chair participates in deliberations, but does not vote. Each party will be advised of the identity of the CBSM panel members in advance of the resolution meeting and given an opportunity to provide written objection if the party believes that there is a conflict with one of the panel members serving. The Chair shall also advise the members of the panel in advance of the identity of the parties and ask if they have any relationship with the parties that would affect their ability to adjudicate. The Chair determines whether a different person should serve as a member of the CBSM. The three voting members of the Panel must represent gender diversity.

Pre-Resolution meeting Preparation

The Chair of the CBSM or the Chair’s designee is responsible for arranging the administrative details for the resolution meeting, including: 1) notifying the CBSM that a complaint has been filed; 2) selecting three members of the CBSM to serve on the panel to hear and adjudicate the complaint; 3) arranging a time and place for the resolution meeting; and 4) making the Documentary Record available to the complainant, the respondent, and the panel members.

Before the resolution meeting, the CBSM Chair will meet separately with the complainant and the respondent (and their advisers) to discuss areas of dispute and review resolution meeting procedures. At this time, the student will also be provided with time and a private space in which to review the Documentary Record and ask any questions of the CBSM Chair.

The Documentary Record

The Documentary Record will be compiled by the Investigator, will be maintained in a confidential manner, and will be made available for review by the CBSM panel and the complainant and respondent prior to the resolution meeting. The Documentary Record may include, but is not limited to the following:

Investigative Summary
Pertinent policies
Other documents utilized by the Investigator that he/she deems relevant to the adjudication

The Documentary Record is made up of confidential information, and all participants must sign a confidentiality statement and not share information with others that are not involved in the procedure.
The Investigative Summary

At the end of the investigation, the investigator will compile a summary based on interviews with the complainant, respondent, and witnesses. This summary will be part of the Documentary Record.

Resolution meeting Accommodations

Because the College recognizes that participation in a resolution meeting may be difficult for those involved, the resolution meeting can be set up such that the complainant and the respondent will have minimal interaction during the resolution meeting or will not be in the resolution meeting room at the same time. If this accommodation is requested by either party, the Chair of the CBSM will discuss and make arrangements for alternative resolution meeting set-ups. These alternatives might include: a screen separating the parties, closed circuit video, webcam, or other arrangements.

Role of Advisers

The role of the adviser at the resolution meeting is to offer support and assistance in a manner that does not disrupt the proceedings; they will not be permitted to speak or offer information about the complaint to the Panel. Each party will be responsible for presenting his/her own information and answering the Panel’s questions.

Witnesses

Witnesses generally will not be permitted in the resolution meeting until they are asked to appear before the Panel, and will leave immediately afterward. The CBSM Chair will determine whether it is necessary for the Panel to hear and/or question particular witnesses. The CBSM Chair may adjust the order that witnesses are heard based on factors such as the witness’s availability.

Resolution Meeting Procedures

Resolution Meeting are conducted in private and are not open to members of the College community or the public. Present during a hearing are: three members of the Panel, the Chair of the CBSM, the Investigator, The complainant, the complainant adviser, the respondent, the respondent adviser, and a designated note-taker from the Dean of Students Office. If either party has requested separate accommodations, arrangements will be made so that the complainant and respondent are not in together in the hearing room. Any additional persons in attendance must be approved by the Chair.

In a hearing, the involved parties have the right and responsibility to a) address fully and honestly the allegations of the complaint; b) offer information about the incident(s) in question; c) request that the CBSM Chair have specific witnesses with relevant information appear at the hearing; and d) to challenge information in the Documentary Record. The CBSM Chair leads the hearing and is responsible for providing the parties with the opportunity for an orderly and fair exchange of information and perspective. If anyone during the hearing acts without respect or proper decorum, they may be warned and asked to leave the hearing.

The CBSM Chair is responsible for resolving all questions that arise during the hearing, including but not limited to procedural issues and issues regarding the propriety or relevance of specific questions, arguments and information presented. Unrelated past behavior, including
the sexual history, of the complainant and respondent will typically be excluded by the Chair. In complaints involving more than one complainant and/or respondent, the Chair will determine whether hearings will be scheduled jointly or separately.

The order of a hearing will be determined by the Chair of the CBSM, but will generally follow this outline:

1) The Title IX Coordinator/Chair will call the Resolution Meeting with a Panel to order and state the purpose of the meeting: to determine whether it is more likely than not that there has been a violation of the College’s Community Standards and, if a violation has occurred, to assign appropriate sanctions. The meeting will be recorded for documentation of attendance, and for appeal purposes.

Complainant and Respondent are both in their separate listening rooms at the start of the Resolution Meeting. Steps 1-3 will happen with only the panelist, chair, and investigator in the meeting room.

2) Introductions will be made by all participants in both the meeting room and two listening rooms, and recorded for documentation to identify who is participating in the meeting with a panel.

3) The Investigator will present the Investigative Summary (5-10 minutes). The Panel may ask clarifying questions and identify areas of agreement and dispute.

4) Complainant will enter the meeting room.

5) Complainant is present with the panel first and introductions are made—each person involved in the meeting will introduce themselves. The Respondent will listen from a separate room.

6) Members of the Panel may ask questions of the Complainant, such as clarifying questions about her/his statement and about the Investigative Summary.

7) Complainant will leave the meeting room and go to the listening room. The Respondent will leave the listening room and enter the meeting room.

8) Respondent meets with the panel second and introductions are made—each person involved in the meeting will introduce themselves.

9) Members of the Panel may ask questions of the Respondent, such as clarifying questions about her/his statement and about the Investigative Summary.

10) Respondent will leave the meeting room, and return to their listening room.

11) Witnesses may be invited in to the meeting to present their information and answer questions from the Panel. Witnesses will not be permitted in the meeting until they are asked to appear before the Panel, and will leave immediately afterward. The Title IX Coordinator/Chair determines if witnesses need to be present.

12) The Chair will call for the members of the Panel to discuss areas of dispute and determine whether any additional clarification or information is needed from the Complainant, Respondent, Investigator, or Witnesses.
13) The Respondent is invited back to the meeting room to provide any final remarks to the Panel (5-10 minutes). The Complainant would remain in their listening room.

14) The Complainant is invited back to the meeting room to provide any final remarks to the Panel (5-10 minutes). The Respondent would remain in their listening room.

15) The Panel may ask the Investigator, Complainant, the Respondent, and/or Witnesses to answer further clarifying questions. As appropriate, those individuals would be asked to return to the Resolution Meeting room.

16) The Chair will close the Resolution Meeting. The Panel will go into closed session to determine whether a violation of policy occurred at a preponderance standard. The recorder will be turned off at this time.

17) Once the Panel has reached a decision, the Title IX Coordinator/Chair will verbally report the finding of violation or no violation to the Complainant and Respondent, each separately.

A POLICY VIOLATION IS NOT FOUND

18) If a policy violation is not found, the following day or whenever reasonably practical, both parties will meet separately with the Title IX Coordinator/Chair and will receive a letter stating the outcome of the Panel Resolution Meeting. If interim measures were in effect, those interim measures will no longer be required.

A POLICY VIOLATION IS FOUND

If a violation has been determined, after a designated time (typically 20 minutes), the parties will be invited back separately into the Panel Resolution Meeting room to share an impact and sanction statement with the Panel, which would result in questions from the Panel. This portion of the meeting is recorded.

19) The Complainant meets first with the panel while the Respondent is in a listening room. The Complainant shares an impact and sanction statement with the Panel.

20) Members of the Panel may ask the Complainant clarifying questions about the impact and sanctions statement.

21) The Respondent will meet with the panel while the Complainant is in a listening room. The Respondent shares an impact and sanction statement with the Panel.

22) Members of the Panel may ask the Respondent clarifying questions about the impact and sanctions statement.

23) The Panel will go into closed session to determine appropriate sanctions. The recorder will be turned off at this time.

24) The following day or whenever reasonably practical, both parties will meet separately with the Title IX Coordinator/Chair and will receive a letter stating the outcome of the Resolution Meeting with a Panel.
Sanctioning

A simple majority vote is required for sanctions that do not require the respondent to leave campus. For sanctions that do require the respondent to leave campus, either voluntarily or by suspension or expulsion from the College, a unanimous vote of the CBSM Panel is required. The following represent the range of sanctions used at Carleton. Possible sanctions are not limited to those listed below. Sanctions may be combined.

No Contact/Limited Contact Agreement
Restricted Campus Access/Course Enrollment
Change of Housing
Chemical Health Assessment
Reflection Statement
Mandated Education/Training
Warning and Censure
Disciplinary Probation
Suspension for 1 or more terms
Suspension with required Counseling
Dismissal from the College

The Dean of Students Office has the responsibility for insuring compliance with the sanctions set forth by the CBSM Panel, and maintaining the disciplinary record in accordance with the College Student Records policy.

Record of the Resolution Meeting

Resolution Meetings will be audio recorded for use by the Dean of Students in the event of an appeal. The recording will be destroyed following the period of time in which an appeal may be filed. Any notes taken during the hearing by members of the panel, including the CBSM Chair, will be destroyed after the time for the appeal has run. After the hearing, a brief hearing summary will be prepared, without identifying terms to be used for mandated reporting purposes, and internal review of Appeal

Either party has the right to appeal the decision of the CBSM Panel. The purpose of an appeal is to review the adjudication process. Appeals are accepted on the basis of one or more of the following criteria:

1) procedural errors that may have substantially impacted the final decision;
2) relevant new information that was not available at the time of the resolution meeting, and would have substantially affected the Panel’s decision;
3) sanctions that are substantially inconsistent with past institutional responses.

The right of appeal is contingent upon participation in the investigative and resolution meeting process. An appeal must be made in writing to the Title IX Coordinator within five business days of the date that the party receives notification of the Panel’s decision and imposed sanctions (which is generally the day of the resolution meeting).

An appeal will generally follow the process outlined below. Please note that the original sanctions are immediately put in place after the CBSM makes a determination. The sanctions continue during an appeal process.
The VP/Dean of Students will first determine if an appeal is warranted, based on any of the above three criteria. If an appeal is allowed, the VP/Dean of Students will determine next steps. Below is general format of the appeal process:

1) A student will submit a written appeal indicating on what grounds they are appealing, along with the specific argument or rationale to support the appeal. Written appeals must be delivered to the Title IX Coordinator/CBSM Chair within 5 business days of the date that the party receives notification of the Panel’s decision and sanctions.

2) The Coordinator/Chair will communicate the nature of appeal to the VP/Dean of Students (or the VP’s designee) to review the appeal.

3) The Coordinator/Chair will communicate the details of the appeal to the other party(s) involved in the complaint.

4) If the appeal is regarding procedure, the Chair of the CBSM will be consulted and the record of the resolution meeting will be reviewed. If a procedural error is determined, a new panel may be asked to re-hear the case, or the same panel may be reconvened, depending on the nature of the procedural error.

5) If the appeal is regarding new information, the VP will consult with the Chair of the CBSM who will then communicate with the CBSM panelists to see if this new information may have substantially impacted the outcome of the resolution meeting. If it is determined that the new information may have substantially impacted the outcome, the same CBSM panelists will review the new information and make a new determination.

6) If the appeal is regarding inconsistent sanctions, the VP will review past sanctions and make a determination regarding whether to impose different sanctions consistent with past practices.

7) The appealing student may meet with the Coordinator/Chair and/or the VP reviewing the appeal, if the VP has any clarifying questions or needs additional information to move forward with the appeal.

8) If relevant, the Chair of the CBSM will submit to the VP an informational response to the appeal, detailing the Panel’s procedures and decision-making process with regards to the issue being appealed. The VP may also meet with the Chair if the VP needs clarification on any information.

9) The VP will notify both parties (appealing student and the other party(s) to the complaint process) in writing as to her/his determination regarding the appeal.

The VP will act upon a written appeal within a reasonable time period, normally five business days after receipt of the appeal. Decisions of the VP are the final institutional response and may not be appealed.