

## Wellesley College

### Interim Sexual Misconduct Policy and Procedures

Effective August 14, 2020

#### I. Wellesley College's Commitment to Nondiscrimination

Wellesley College values diversity, equity, and inclusion, and is dedicated to protecting the equal dignity of every member of the community and our sustained connection to one another, to our campus, and to our mission. Discrimination and harassment violate the dignity of member(s) of our community, and such behavior is not tolerated at the College. It is the policy of the College not to discriminate in its programs and activities (including in College-sponsored travel or events that occur off campus), on the basis of any legally-recognized status, including, but not limited to: race, color, age (40 and over), sex, gender identity or expression, sexual orientation, religion, ethnic or national origin or ancestry, physical or mental disability, HIV testing, genetic information (including testing and characteristics), pregnancy (including lactation, childbirth or related medical conditions), veterans' status, membership in uniformed services, certain criminal records, a personal admission to a facility for the care and treatment of a mentally ill person, requesting and/or taking of parental leave or any other protected status under applicable local, state or federal law.

Wellesley College's Sexual Misconduct Policy, which is designed to comply with recent federal Title IX regulations and to reflect the College's expectations for its community, defines sexual misconduct that is prohibited by the College. Wellesley's Policy Against Unlawful Discrimination, Harassment, and Retaliation (the "[Nondiscrimination Policy](#)") describes other types of prohibited discrimination and harassment, including the College's Expectations of Professional Conduct Between College Employees and Supervisees or Between Employees and Students. Each of these Policies inform individuals participating in Wellesley College's programs and activities of: their individual, organizational, and community rights and responsibilities with regard to the prohibited conduct, as well as the College's response to allegations of such conduct and resources available to individuals who have experienced such conduct. Anyone with questions about the scope, coverage, or processes in either of these Policies should contact the [Director of Nondiscrimination Initiatives/Title IX Coordinator](#).

#### II. Prohibited Conduct

The College prohibits conduct in other policies, including the Nondiscrimination Policy. For purposes of this Sexual Misconduct Policy, the following conduct is prohibited:

Title IX sexual harassment: As required by the federal Title IX regulations, Title IX sexual harassment is defined as conduct on the basis of sex that is unwelcome and determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Wellesley College's programs or activities.

Title IX sexual harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Title IX sexual harassment can:

- occur between persons of equal power status (e.g., student to student, staff to staff, faculty member to faculty member) or between persons of unequal power status (e.g., faculty member to student, coach to student-athlete).
- be committed by (or against) a person or by (or against) an organization or group.
- be committed by or against an individual of any sex, or sexual orientation.
- be committed by or against a group or organization.
- be committed by an acquaintance, a stranger, or someone in a personal, intimate, or sexual relationship.

Examples of behavior that might be considered Title IX sexual harassment include, but are not limited to:

- Unwanted sexual innuendo, propositions, sexual attention or suggestive comments and gestures;
- inappropriate humor about sex-specific traits;
- sexual slurs or derogatory language directed at another person's sexuality;
- display or circulation of written materials or pictures degrading to an individual or gender group where such display is not directly related to academic freedom, or an educational/pedagogical, artistic, or work purpose; and
- physical coercion or pressure of an individual to engage in sexual activity, or punishment for an individual's refusal to respond or comply with sexual advances.

**Sexual assault:** As required by the federal Title IX regulations, sexual assault is defined as any sexual act directed against another person, without that person's consent, including when the person is incapable of giving consent. This includes the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without consent. This also includes touching the private body parts of another person for the purpose of sexual gratification, without consent. Attempting to engage in sexual assault is also a violation of this Policy.

Consent is defined by the College as affirmative, voluntary, knowing, and continuous agreement to engage in a specific form of sexual activity. Consent may be communicated verbally or physically. Any lack of clarity regarding consent should be resolved through verbal communication. Consent may not be inferred from silence or lack of resistance to sexual advances, or from prior consensual sexual contact. Consent may be withdrawn at any time, and consent to one sexual activity does not imply consent to any subsequent sexual activity. Relationship status is not relevant to the issue of whether consent is present.

Consent cannot be obtained: 1) through silence alone (absent a non-verbal action clearly demonstrating consent); 2) from minors; 3) from individuals with mental or intellectual disabilities that render them unable to understand the behavior or its consequences; 4) from persons who are asleep, unconscious, or otherwise rendered incapable of knowingly agreeing to engage in an activity; 5) from persons who are observably incapacitated by alcohol and/or drugs such that a reasonable person would know that the individual is unable to give consent; or 6) through physical force, threat of physical force (by words, gestures, or non-verbal actions), coercion, fraud, or intimidation.

If someone is determined to have intentionally induced incapacitation in an individual by providing drugs, alcohol, or other substances to a person(s) with or without their knowledge, with the intent to impair their awareness or ability to withhold consent, that will be considered an aggravating factor in determining appropriate sanctions.

Quid pro quo: Conditioning the provision of an aid, benefit, or service of Wellesley College (including employment, grades, recommendations, extracurricular programs or activities, or employment opportunities) on any other person's participation in unwelcome sexual conduct.

Dating or domestic violence: Violence committed by: a person who is or has been in a romantic or intimate relationship with the victim; a current or former spouse or intimate partner of the victim, or someone similarly situated; a person with whom the victim shares a child in common; or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the location in which the crime of violence occurred. Dating or domestic violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Relationship violence: Any harmful intentionally controlling behavior of one individual by a person who is, or was, in a sexual, romantic or intimate relationship with that individual. Relationship violence includes actual or threatened physical injury to self or others, psychological abuse, economic control, displaying and/or threatening to use weapons, and/or progressive social isolation. Although not specifically prohibited by the federal Title IX regulations, engaging in this type of behavior within a relationship is inconsistent with Wellesley College's values and is therefore prohibited under this Policy.

Stalking: Stalking is defined as engaging in two or more direct or indirect acts of following, monitoring, observing, surveilling, threatening, or communicating to or about a person, directed at that specific person, that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress. Stalking can include electronic communication, such as on social media. Stalking can include vandalizing or interfering with a person's property, and providing unwanted gifts.

Sexual exploitation: Abusive utilization of another person's sexuality for illegitimate purposes, including but not limited to for personal benefit, financial gain, or sexual gratification. Examples include: observing or recording (by photograph, video, audio or other means) another individual's nudity or sexual activity, or allowing another individual to observe or record someone's nudity or sexual activity without the knowledge and consent of all parties involved; streaming or distributing images or audio recording of sexual activity or nudity, without the knowledge and consent of all parties involved; and knowingly exposing another individual to a sexually transmitted disease or infection without their knowledge. Attempting to engage in sexual exploitation is also a violation of this Policy. Although not specifically prohibited by the federal Title IX regulations, this type of behavior is inconsistent with Wellesley College's values, and will be addressed using the process described in this Policy.

Retaliation: Any negative words or actions (such as intimidating, threatening, coercing, or in any way discriminating against a person) taken against a person because that person complained of

suspected discrimination or harassment, or because that individual provided information or declined to participate in a proceeding under this Policy. To be retaliation, the words or actions must be sufficiently adverse to deter a reasonable person from reporting or assisting in reporting prohibited conduct, seeking protections under this Policy, or participating in a proceeding under this Policy. Words or actions that are only a minor annoyance or lack of good manners do not constitute retaliation. Retaliation alleged along with or related to sexual misconduct may be addressed under this Policy.

Retaliation is a violation of this Policy, even if the facts alleged in a formal complaint are ultimately not proven by a preponderance of the evidence.

If retaliation allegations are not connected with a matter properly addressed under this Policy, the College retains discretion to address the allegation under a different policy and procedure, such as the [Nondiscrimination Policy](#).

### **III. Statement on Educational Setting**

As an institution that embraces the principles of freedom and rigor in scholarly inquiry, Wellesley College recognizes that academic curriculum and pedagogical goals that serve legitimate and reasonable educational purposes do not, in and of themselves, constitute sexual misconduct or other unlawful discrimination.

Nothing contained in this Policy shall be construed to limit the legitimate and reasonable academic responsibilities and academic freedoms of the College's faculty, or the University's educational mission.

### **IV. Definitions**

Advisor: A person chosen by a party, who may be (but does not have to be) an attorney, who provides support and advice to the party during the process responding to a formal complaint, and who conducts questioning, including cross-examination, if a hearing is held.

A party is not required to have an advisor during an investigation. However, each party must have an advisor in the hearing who will question parties and witnesses on the party's behalf. If a party does not select an advisor of their choice to participate in a hearing, the College will appoint an advisor, so that person can conduct questioning on the party's behalf during the hearing.

An advisor is expected to maintain privacy regarding the information they learn about alleged prohibited conduct under this Policy.

Complainant: A person who is currently participating in, or attempting to participate in, Wellesley College's domestic educational programs or activities and who alleges they experienced conduct prohibited by this Policy.

**Educational program or activity:** Locations, events, or circumstances in which the College, or a student organization officially recognized by the College, exercises substantial control over the context in which the conduct occurs.

**Formal complaint:** A document filed by a complainant or signed by the Title IX Coordinator alleging a violation of this Policy and requesting that the College investigate the allegations. If the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a party to a matter and may still fulfill any and all roles they are assigned.

**Grievance process:** The process outlined in this Policy to respond to formal complaints.

**Parties:** Both the complainant and the respondent.

**Prohibited conduct:** Conduct defined in Section II. of this Policy.

**Relevant:** As used in this Policy, “relevant” is any evidence that tends to make it more or less likely that something happened. Information about a complainant’s sexual predisposition or prior sexual behavior is generally not considered relevant, unless it is offered for the limited purpose of proving that someone other than respondent committed the conduct; or that consent was present, based on the complainant’s prior sexual behavior with the respondent.

**Respondent:** A person reported to be the perpetrator of conduct prohibited by this Policy.

**Sanctions:** Punitive or educational measures put in place by the College in response to a determination that a respondent has violated this or another Wellesley College policy. Sanctions may include, but are not limited to: expulsion, termination, demotion, suspension, probation, reprimand, warning, restitution, education/counseling requirement; restrictions on participation in a program or activity; permanent No Contact Orders; permanent No Trespass Orders; loss of privileges; loss of leadership opportunities or positions; housing restriction; and/or restrictions on employment by the College. The determination of appropriate sanctions will include consideration of the nature and circumstances of the misconduct; the impact of the misconduct on the complainant, and/or on the College community; the disciplinary history of the respondent; and any other mitigating or aggravating circumstances. As with any Honor Code case, sanctions of suspension, dismissal, and expulsion will be noted on a student’s transcript. Actions that are agreed to by parties as a result of mediation or some other form of informal resolution are not considered sanctions.

**Supportive measures:** Individualized services designed to restore or preserve equal access to Wellesley College’s education program or activity, offered to the complainant (or to the complainant and respondent if a formal complaint is filed), without cost, regardless of whether a formal complaint has been filed. Supportive measures may include, at the College’s discretion, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual interim No Contact Orders, interim No Trespass Orders, mutual restrictions on time and use of campus locations until the end of the process defined in this Policy, changes in work or housing locations, removal of contact information listed in the College Directory, interim removal or leaves of absence, increased security and

monitoring of certain areas of the campus, and other similar measures. Supportive measures may not unreasonably burden the other party. Wellesley College will generally maintain privacy regarding supportive measures, to the extent possible. Privacy may not be possible regarding supportive measures when, for example, it is necessary to share limited information in order to provide supportive measures.

## **V. Confidential Resources**

Speaking with another person, in an environment that feels safe, can be tremendously helpful to individuals who have experienced sexual misconduct or other forms of discrimination and harassment. Recognizing that some individuals may wish to share their experiences with another person without having those experiences reported to the Title IX office, Wellesley College has designated the following College resources “confidential.”

The following resources are available to Wellesley College students in responding to sexual misconduct, while keeping the student’s experiences confidential:

- Health Service (781.283.2810). Located in Simpson, 1st Floor.
- Stone Center Counseling Service (781.283.2839). Located in Simpson, 2nd Floor.
- Office of Religious & Spiritual Life (781.283.2685). Located in Billings, 2nd and 3rd floors.

When a confidential resource for a student learns of sexual misconduct while acting in the scope of their professional licensure, they will not share identifiable information about the student they are supporting, without that person’s permission, unless:

- sharing is required to address imminent risk of harm to the safety of the campus community or the person they are supporting, or
- they reasonably believe that the person they are supporting experienced abuse or neglect while that person is/was a minor (under 18), in which case [the Massachusetts Department of Children and Families must be notified](#).

Wellesley College employees may access the following confidential resource, who can assist the employee in responding to sexual misconduct, while keeping the employee’s experiences confidential:

- Employee Assistance Program (800.451.1834 phone answered 24/7 year round). <https://www.mylifeexpert.com/login> company code: college

Additional [resources and supports](#) are listed on the College’s Title IX website.

## **VI. Reporting Sexual Misconduct**

### **A. Initial Report**

Any member of the Wellesley College community may report suspected sexual misconduct, or other discrimination or harassment, in person, by phone, by mail, or electronically, to:

Director of Nondiscrimination Initiatives/Title IX Coordinator

Schneider 214  
781.283.2451  
[Titleix@wellesley.edu](mailto:Titleix@wellesley.edu)  
<https://www.wellesley.edu/administration/offices/titleix>

Reporting to the Title IX Coordinator does not obligate any person to engage in any type of process outlined in this Policy. Instead, a report gives an individual an opportunity to access supportive measures, and to learn about options for response such as filing a formal complaint.

The Title IX Coordinator keeps private reports of sexual misconduct and other discrimination or harassment, to the extent permitted by law. The Title IX Coordinator may share information related to reports of sexual misconduct and other discrimination or harassment on a limited, need-to-know basis such as in order to ensure that supportive measures or sanctions are put in place.

Members of the Wellesley College community may also report sexual misconduct to the Wellesley College Police Department (Davis Parking Facility, emergency: 781.283.5555, or non-emergency: 781.283.2121), or to their Human Resources representative, or to any faculty or staff member of the College who can help community members report alleged sexual misconduct and other discrimination and harassment to the Director of Nondiscrimination Initiatives/Title IX Coordinator.

Other than the Confidential Resources identified in this policy, any Wellesley College employee who manages or supervises others, and any Wellesley College employee who works directly with students, is obligated to notify the Director of Nondiscrimination Initiatives/Title IX Coordinator promptly upon learning of any possible violation of this Policy, or of the College's Nondiscrimination Policy. Student workers and student leaders are not subject to this reporting obligation.

#### **B. Initial Response**

Upon learning of allegations of prohibited conduct, the Title IX Coordinator will notify the complainant about the process for filing a formal complaint, and about the availability of supportive measures, with or without filing a formal complaint. If appropriate, the Title IX Coordinator will also notify the complainant about their right to report, or decline to report, the matter to the Wellesley College Police and/or to local law enforcement.

### **VII. Procedures for Response to Formal Complaint of Sexual Misconduct**

The procedures described in this section will be used when an employee or student is alleged to have engaged in conduct prohibited under this Policy, whether the employee or student is hired, admitted, enrolled, or actively employed. The College may respond using different processes when the individual accused of engaging in prohibited conduct is not an employee or student of the College.

If a formal complaint alleges violations of this Policy and violations of other policies such as the Nondiscrimination Policy or the Honor Code, the College has discretion to adjudicate all allegations using the procedures in this Policy.

## A. Formal Complaint

### 1. Notification

The Title IX Coordinator will provide written notice to the parties, if known, upon receiving a formal complaint. This notification will include:

- A copy of this Policy, including the procedure;
- A description of the alleged sexual misconduct and, if known, the identities of the parties involved, and the date and location of the alleged incident(s);
- A statement that the respondent is presumed not responsible for the alleged conduct, and that a determination regarding responsibility will be made at the conclusion of the grievance process;
- Notification to the parties that they may be accompanied to any meeting or interview by an advisor of their choice who may be, but who is not required to be, an attorney;
- Notification to the parties that they must be accompanied by an advisor to any hearing process and if they do not have an advisor, the College will assign them at no cost an advisor chosen by the College, who may or may not be an attorney;
- Notification to the parties of the prohibition on retaliation; and
- Notification to the parties of the duty of honesty (below).

### 2. Dismissal

If a formal complaint is filed that does not allege sexual misconduct, it will be dismissed under this Policy. Any allegation in a formal complaint that is dismissed because it does not constitute sexual misconduct under this Policy, may be addressed through another process such as the Nondiscrimination Policy or the Honor Code.

A formal complaint may also be dismissed, in whole or in part, at any time if:

- a complainant notifies the Title IX Coordinator in writing that they wish to withdraw the formal complaint or any allegations contained in that formal complaint; or
- the Title IX Coordinator determines that specific circumstances will prevent the College from gathering sufficient information to reach a determination on the formal complaint, or any allegations contained in the formal complaint.

Written notice will be provided to the parties, informing them of the reasons for the dismissal if a formal complaint or allegation(s) is dismissed.

### 3. Investigation

An individual(s) trained in the Policy and appointed by the College, will investigate any formal complaint allegation(s) that are not dismissed. The person(s) conducting an investigation are referred to in this document as the “investigator”. If the Title IX Coordinator is the investigator, the College reserves the right to designate the Title IX Coordinator’s assigned functions under this Policy.

The investigation will include interviews with parties and witnesses, and collecting documentation and other evidence, as appropriate. The parties will be provided an equal opportunity to identify witnesses that they wish to be interviewed, and documentation they wish the investigator to review. The parties are strongly encouraged to provide this information in writing with a brief explanation of why a witness or document is relevant. The investigator will not review any information that is protected by a legal, medical, or other recognized privilege, unless that privilege is waived.

The parties can be accompanied by an advisor of their choice in all meetings with the investigator. During interviews and any other meetings as part of the investigative process, an advisor may ask clarifying questions about process, but may not otherwise speak on behalf of the party. An advisor may ask to suspend any meeting or interview to briefly consult privately with the party they are supporting.

#### 4. Review of Evidence by the Parties

Before an investigative report is created, the parties and their advisors will be provided electronic or hard copy access to all evidence obtained as part of an investigation that is directly related to allegations raised, including inculpatory or exculpatory evidence, regardless of whether the College intends to rely on it in reaching a determination of responsibility. The parties will be given ten business days after being provided the evidence, to submit a written response to the evidence gathered. That response will be considered by the investigator before an investigation report is completed.

#### 5. Investigative Report

The investigator will create an investigative report that consists of a record of statements by the parties, relevant information gathered during the investigation, and any written responses submitted by the parties after reviewing the evidence gathered. The investigative report will include the dates of all interviews, and identification of the source of all evidence.

#### C. Informal Resolution

Before a final investigative report is created, either party may ask the Title IX Coordinator to attempt informal resolution to reach an agreement with the other party. Informal resolution will typically include mediation or facilitated conversations between the parties. The option of informal resolution, its format, and the length of the informal resolution process is determined by the Title IX Coordinator in their sole discretion.

Upon request for informal resolution, the Title IX Coordinator will notify the other party of the request and ask whether the other party wishes to attempt an informal resolution. If both parties

are interested in informal resolution, and the Title IX Coordinator agrees it is appropriate, the Title IX Coordinator will issue written notification to each of the parties regarding:

- The allegations;
- The initiation of an informal resolution process;
- The right of either party to withdraw from the informal resolution and resume the formal complaint grievance process at any time;
- The inability to resume a formal complaint grievance process based on the exact same allegations, if a successful resolution is reached through the informal resolution process; and
- That the parties have five business days after issuance of the notification to provide written consent to engage in the informal resolution if they so choose.

If each of the parties agrees voluntarily in writing to attempt an informal resolution process, the Title IX Coordinator will designate a trained, impartial individual to perform the mediation. The parties must work diligently together during the mediation to attempt to reach an agreed-upon resolution addressing the concerns raised in the formal complaint. Any agreement reached must be made in writing, signed by the parties. The parties may consult with their advisors during the informal resolution process.

Unless the mediator notifies the Title IX Coordinator that an extension is warranted for logistical or other reasons, the informal resolution process will be ended and the grievance process will resume if an informal resolution process has not successfully completed within two weeks of the initiation of the mediation. The mediator, in consultation with the Title IX Coordinator, retains discretion to determine the appropriateness and length of any extensions provided.

Informal resolution will not be possible when the formal complaint concerns allegations that an employee engaged in sexual harassment of a student.

#### D. Hearing

In compliance with federal Title IX regulations, after the parties have reviewed and responded to the evidence gathered, the Title IX Coordinator will schedule a hearing to address the formal complaint. Parties and their advisors will be given notice of the hearing and a copy of the final investigative report, at least five business days before the hearing is scheduled to take place.

##### 1. Participants

The hearing will be conducted by a hearing panel (the “Panel”) comprised of up to three members, at least one of whom is a Wellesley College employee. Students may not be members of the Panel. One Panel member will be appointed Chair, and will be responsible for running the hearing including ensuring decorum is maintained during the hearing. The Panel will have been provided the investigative report no fewer than five business days in advance of the hearing.

If one or both parties do not have an advisor for the hearing, for any reason, the College will assign an advisor to ask questions on behalf of each party.

The parties in the hearing will each be located in separate rooms with their advisors, and will be connected to one another and to the Panel by means of video conference technology. Witnesses will join the video conference only while their presence is required to answer questions. The parties and their advisors will be allowed to observe the statements and questioning of witnesses.

A hearing may be conducted in the absence of the complainant or respondent or any witness(es), at the discretion of the Title IX Coordinator and/or the Chair of the Panel. However, the Panel will not consider the evidence of any individual who refuses to be examined in the hearing process.

## 2. Process

The hearing will begin with a statement by the Chair of the Panel reviewing: the allegations to be addressed in the hearing; procedures that will be followed in the hearing; privacy requirements related to the hearing; and expectations for decorum.

After the Chair has made the opening statement, each of the parties will be permitted (but not required) to make opening comments. Advisors may not make opening comments on behalf of the parties. Opening statements that include abusive or otherwise inappropriate and irrelevant language may be halted by the Chair.

The Panel will prevent parties and witnesses from answering any questions that are deemed irrelevant by the Panel. If the Panel determines that the proposed question(s) are relevant, the advisor may ask those questions directly of the party and/or witness(es). Parties and their advisors who wish to expedite the determinations of relevance may submit proposed questions to the Panel in advance, for relevance determinations. Submitting questions in advance will not prevent any party's advisor from asking additional questions during the hearing, if those questions are deemed relevant by the Panel.

Prior to the conclusion of the hearing, each of the parties will be permitted (but not required) to make a closing comment. Advisors may not make closing comments on behalf of the parties.

At any point during these proceedings, the Panel may go into a closed session, including to discuss evidentiary issues, discuss potential questions, and ultimately to determine responsibility. During closed session, every party, advisor, or witness will be dismissed with instructions as to whether or when to return.

The parties and their advisors are expected to act in a civil and respectful manner during the hearing. The Panel has the right to remove any individual who impedes the hearing.

The College will create an audio and/or video record of the proceedings, with the exception of any closed session(s) by the Panel. The recording will be made available to the parties for review prior to the deadline for appeals, if they make a request to the Title IX Coordinator.

## 3. Determination

After a hearing, the Panel will confer in private and reach a determination regarding responsibility. If a Panel is considering allegations of more than one type of prohibited conduct, and/or allegations of violations of other College Policies, the Panel may determine that there is not a preponderance of the evidence to find that one type of prohibited conduct occurred, but that a different type of prohibited conduct has occurred or a different College Policy or community standard has been violated (for example, the Panel may determine that actions occurred in violation of the Nondiscrimination Policy).

If a party or witness does not participate in the hearing, or does not answer questions during the hearing, the Panel may not rely on any statement of that party or witness in making its determination of responsibility, or make any inference based on the party's or witness's non-participation. Any party or witness who appears before the Panel and is ready to answer questions, will be deemed to have participated in the hearing regardless of whether they are in fact asked questions during the hearing.

Within a reasonable period following the hearing, the Chair will issue a written determination regarding responsibility, that includes:

- a description of the allegations;
- findings of fact that support the determination;
- conclusions regarding whether this or other Wellesley College policies were violated;
- a statement of the rationale for any determination of responsibility; and
- appeal procedures including to whom an appeal should be directed.

The determination notification to the parties will also inform each of sanctions, if any, that are imposed by the Panel (see Section VII.E. below). The notification to the complainant will also inform the complainant of any steps taken by Wellesley College to restore or preserve the complainant's access to the College's educational program or activity(ies).

The determination notification will be provided simultaneously to the parties.

#### E. Sanctions

If the Panel determines that the respondent is responsible for violating this, and/or any other Wellesley College policy, the Panel will determine what sanction(s) will be imposed. After the determination of responsibility, but before any sanctions determination, the Title IX Coordinator will provide the Panel with information on any prior disciplinary history of the respondent. The Panel may, but is not required to, consider this prior disciplinary history in determining sanctions for the respondent. The Panel may also ask the Title IX Coordinator to provide information regarding how the College has adjudicated similar matters in the past.

The Panel should also consider whether any remedies should be offered to restore or preserve the complainant's access to the College's educational program or activity(ies). Remedies may include extending or making permanent any supportive measures.

#### F. Extensions or Delays

The College will make a good faith effort to complete its review and resolution of all formal complaints in a timely manner. Temporary delays of this process are permitted for good cause, such as: law enforcement activity; the absence of a party, a party's advisor, or a witness; or the need for language assistance or accommodation of disabilities. When delays occur, the Title IX Coordinator or a designee will provide written notice to the parties of the delay, and the reasons for the action.

The College will work to accommodate an advisor's schedule in the investigative and hearing processes. However, if an advisor's schedule causes unreasonable delays in these processes, the College reserves the right to continue the process without accommodating the advisor's schedule. The College will allow the party whose advisor is causing the unreasonable delay to choose a different advisor. If the party does not choose a different advisor, the College will appoint an alternate advisor for the hearing.

For all timeframes listed in this Policy, business days are defined as days that normal business operations are being conducted by Wellesley College (i.e. weekdays that are not otherwise designated a holiday recognized by the College).

#### G. Appeal

Any party may appeal an emergency removal decision, a determination of responsibility, or the dismissal of a formal complaint or any allegations therein, within ten business days of notification of the determination. Appeals are permitted only on the following bases:

- A failure to follow the procedures in this Policy, that affected the outcome of the matter;
- New evidence has become available, that was not reasonably available before the outcome, that could change the outcome of the matter; and/or
- The Title IX Coordinator, investigator, or a Panel member had a conflict of interest or bias for or against complainants or respondents generally, or for or against any individual complainant or respondent, that affected the outcome of the matter.

Appeals must be provided in writing to the individual designated in the outcome letter to the parties (the "Appeals Officer"), as described in Section VII.D.3. above. Appeals must have all materials attached that the individual wishes to have considered in the appeal process. After an appeal is submitted, if it is determined to make a claim for which appeal is permitted, the other party will be notified of the appeal. The other party will be given the opportunity to submit a written statement challenging the appeal, within five business days of notification of the appeal. Appeals are intended to determine whether sufficient information is present to warrant a reconsideration of the decision being appealed. Sanctions of all types (including, but not limited to, suspension, dismissal or separation) may continue to be imposed while an appeal is pending, at the College's discretion.

After the time has elapsed to submit written statements, the Appeal Officer will consider the Panel's determination and supporting documentation, in addition to the information presented by the parties in the appeal.

The Appeal Officer will issue simultaneous notification to the parties of the outcome of the appeal. The Appeal Officer may affirm all or part of the decision, or refer the matter to the Panel for reconsideration, as specified by the Appeal Officer. In rare instances, the Appeal Officer does have the authority to require a new investigation and hearing of the matter.

## **VIII. Additional Considerations**

### **Alcohol and Drug Policy Amnesty**

In order to encourage students to refer incidents of sexual misconduct to the College, the College has determined that it will generally waive an Alcohol and Other Drug Policy violation in instances of alleged sexual misconduct for parties, witnesses, and for individuals who are helping someone to obtain support related to alcohol or drug consumption or related to discrimination or harassment, including sexual misconduct. A student for whom an Alcohol or Other Drug Policy violation is waived may be referred for a meeting with the Associate Director of Residential Life & Coordinator for Community Standards and Integrity. The College may also waive violations for other College policies or rules, unless in the College's discretion it is determined that the behavior placed the health and safety of any person at risk, or if it created a continuing danger to the College community.

The use of alcohol or other drugs by a respondent shall not be considered as a mitigating factor in determining whether a respondent has violated this Policy, and may be considered an aggravating factor in setting sanctions.

### **Burden of Gathering Evidence**

The College, not the parties, maintains the obligation to collect relevant evidence in a process under this Policy. Notwithstanding this burden, the parties are expected to provide the investigator with the identities of potential witnesses and with documentation or other evidence that are known at the time of investigation, and that they wish to be considered in the investigation and in any subsequent hearing.

### **Modification of Process and Designation Authority**

At times, aspects of these procedures may need to be altered. For example, steps required to be taken by a designated individual in these procedures (such as the Title IX Coordinator) may instead be taken by a designee. Similarly, timeframes established in these procedures may be delayed in unusual circumstances for good cause. Such alterations will only be made if absolutely necessary, and will be done in a manner that is equitable for the parties. If such alterations are made, the parties will be notified of said alterations and the rationale for the change.

### **Disability Accommodations**

Wellesley College is committed to ensuring that all community members have an equal opportunity to participate in all of its programs and activities. If any person requires an accommodation, because of disability, to access any part of this process, they may make that

request to Wellesley's Office of Accessibility and Disability Resources at [accessibility@wellesley.edu](mailto:accessibility@wellesley.edu), or 781.283.1300, or in person in Clapp Library, third floor, PLTC area.

### **External References**

As appropriate, in making determinations related to this policy and procedures, the College may reference: statutes and regulations; case law; guidance from the U.S. Department of Education, Office for Civil Rights; guidance from the U.S. Equal Educational Opportunities Commission; and the Federal Rules of Civil Procedure.

### **Freedom from Bias**

The Title IX Coordinator, investigator, Panel members, and anyone designated to facilitate an informal resolution process under these procedures must not have a conflict of interest or bias for or against complainants or respondents generally, or for or against any individual complainant or respondent.

If any party believes that the Title IX Coordinator, an appointed investigator, a Panel member, or anyone designated to facilitate an informal resolution process under this Procedure is biased or conflicted from fairly addressing a proceeding under these Procedures, they must notify the Title IX Coordinator with specificity and in writing within three business days after being informed by the College of the individual's identity. The Title IX Coordinator will consider the raised conflict and, if necessary, appoint a different person to carry out the individual's responsibilities. The Title IX Coordinator may, in their discretion, consult with other College staff in making this determination, but the Title IX Coordinator's ultimate decision is final. If one or more individuals is replaced after concerns of bias or conflict are raised, the parties will have a similar opportunity to raise conflicts regarding the newly designated individual.

### **Honesty**

All parties and witnesses are obligated to be completely honest during the course of the entire process set forth in the Policy. Any person who voluntarily participates in any part of this process and knowingly makes a false statement – either explicitly or by omission – in connection with any part of the process may be subject to separate College disciplinary action. No negative inference will be drawn from either party's election not to participate in any stage of this grievance process.

The initiation of a good faith complaint of sexual misconduct or retaliation will not be grounds for disciplinary action, even if the allegations are not substantiated. Any individual who makes a complaint that is demonstrated to be intentionally false may be subject to discipline.

### **Preponderance of the Evidence**

The standard used by Wellesley College to determine responsibility for this and other discrimination and harassment matters is the preponderance of the evidence.

### **Privacy**

The College values the privacy of individuals involved in the reporting, investigation, and/or resolution of matters subject to this Policy. The College will maintain privacy regarding

proceedings under this Policy, to the extent possible while meeting its legal and other obligations, including maintaining a safe environment for all members of the Wellesley College community.

Participants in an investigation are asked to maintain privacy regarding any new information learned through the investigation, including through questions asked or statements made by the investigator.

### **Recording**

It is prohibited for parties, their advisors, or witnesses to make video, audio, or other electronic, photographic, or digital recordings of documentation or other evidence shared as part of the process, or any meeting, interview or hearing held in accordance with these procedures. As is described in Section VII.D.2. above, the College is required by federal Title IX regulations to audio or video record a hearing under this process. The Title IX Coordinator will maintain the record of the hearing, and parties may ask the Title IX Coordinator for an opportunity to review a copy of that recording after the conclusion of the hearing.

## **IX. Reporting to Law Enforcement or other Agencies**

### **A. Law Enforcement**

Complainants may pursue criminal action for incidents of sexual misconduct identified in this Policy, when those actions are also crimes under Massachusetts law. The Title IX Coordinator can assist complainants in making criminal reports, either to the Wellesley College Police Department or to the Town of Wellesley Police Department. For more detailed information about reporting to outside law enforcement, please see the [Title IX site](#).

The College will, to the extent permitted by law, cooperate with law enforcement agencies if a criminal process is initiated.

### **B. State and Federal Agencies**

Individuals who believe that they have been subjected to sexual misconduct or other unlawful discrimination, harassment or retaliation, may file formal complaints with:

- **U.S. Department of Education, Office for Civil Rights (“OCR”)**  
5 Post Office Square, 8th Floor  
Boston, MA 02109-3921  
telephone number (617.289.0111)  
TTY (800.877.8339)

Complaints filed with OCR generally must be filed within 180 days of the incident giving rise to the claim.

- **U.S. Equal Employment Opportunity Commission (“EEOC”)**  
John F. Kennedy Federal Building

15 New Sudbury Street, Room 475  
Boston, MA 02203-0506  
telephone number (800.669.4000)  
TTY (800.669.6820)

Complaints filed with the EEOC generally must be filed within 300 days of the incident giving rise to the claim.

- **Massachusetts Commission Against Discrimination (“MCAD”)**  
One Ashburton Place, Suite 601  
Boston, MA 02108  
telephone number (617.994.6000)  
TTY (617.994.6196)  
Language assistance (617.994.6071)

Complaints filed with the MCAD generally must be filed within 300 days of the incident giving rise to the claim.

#### C. Other Colleges and Universities

A Wellesley College community member who has experienced sexual misconduct at another educational institution may choose to report or not report the misconduct to the other educational institution. The Title IX Coordinator is available to assist an individual who wishes to explore options to report sexual misconduct to another educational institution.