

CONDUCT POLICIES

Law Center Policies

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The faculty expects all students to exhibit high standards of academic and professional responsibility. This chapter of the *Handbook* contains policies governing the behavior of members of the Law Center community.

ADMINISTRATIVE MEASURES TO PROTECT COMMUNITY WELFARE

Georgetown University Law Center is committed to promoting an environment that supports its educational mission and preserves the health and safety of its members. Sometimes a student may engage in behavior that threatens his or her well-being or the welfare of the community or is otherwise harmful or disruptive. Such behavior could include but is not limited to threats or attempts to harm oneself or others, disruptive behavior in or outside of class, or abusive behavior directed toward students, faculty, or staff. In these cases, the Law Center reserves the right to take appropriate administrative steps for the well-being of the students and of the community, which may include requiring a student to take an involuntary leave of absence.

STUDENT DISCIPLINARY CODE (as amended May 2015)

Preamble*

Students at the Georgetown University Law Center, as present and future members of a self-regulated profession, are required to conduct themselves with the highest degree of honesty, integrity and trustworthiness. Doubts about the propriety of particular conduct should be resolved in favor of avoiding even the appearance of impropriety. Each matriculating student is held to have notice of the high standard of conduct demanded by the Law Center. A student's failure to satisfy this standard of conduct in connection with academic or nonacademic activities subjects the student to sanctions under this disciplinary code. Jurisdiction is not limited to the territorial limits of the Law Center or to conduct which affects other members of the Law Center community. Allegations of minor misconduct are processed under the informal provisions of the Code governing administrative violations. Allegations of more serious misconduct, involving a degree of moral offensiveness or untrustworthiness that may call into question a student's suitability for the practice of law, are processed under the more formal provisions of the Code governing disciplinary violations. The Code is administered by a student-faculty disciplinary committee that is guided in its interpretation and implementation by the Code's overriding purpose of promoting among law students the highest degree of honesty, integrity and trustworthiness. If special circumstances so require, the Law Center may override the provisions of this Code.

Part One: Substantive Violations

§ 101 STANDARD OF CONDUCT

Without regard to motive, intentional student conduct that is dishonest, evidences lack of integrity or trustworthiness, or may unfairly impinge upon the rights or privileges of members of the Law Center Community is prohibited.¹

* Please note and read the "Notice to Law Center Community Regarding Disciplinary Proceedings Involving Sexual Misconduct (April 5, 2006, as amended, August 24, 2007, December 22, 2011, and June 1, 2015)" on page 110.

¹ The fact that conduct is negligent or motivated by a benign purpose does not preclude that conduct from being intentional, as long as the student intended the act upon which the charge is based. Unintentional acts that nevertheless

§ 102 ADMINISTRATIVE VIOLATIONS

Prohibited conduct that does not evidence a serious lack of honesty, integrity or trustworthiness on the part of the student engaged in such conduct constitutes an administrative violation, but does not constitute a disciplinary violation.

§ 103 DISCIPLINARY VIOLATIONS

Prohibited conduct that does evidence a serious lack of honesty, integrity or trustworthiness on the part of the student engaged in such conduct constitutes a disciplinary violation.

Part Two: Procedures

§ 201 GENERAL

- a. The Professional Responsibility Committee shall oversee operation of the Student Disciplinary Code. It will be composed of faculty and students. The Registrar, Ethics Counsel and those faculty members who are assigned as defense counsel will be members ex officio. The Committee Chair will be responsible for creating panels from the faculty and student members of the committee to hear disciplinary charges. Each panel shall consist of two faculty members and one student; panels are authorized to act by majority vote.
- b. The Ethics Counsel will be a member of the bar and an employee of the University, appointed by the Dean. The Ethics Counsel will investigate and resolve all administrative charges, and prosecute all disciplinary charges. In every case, the Ethics Counsel will act in accordance with fairness to the accused student, the need for accurate and prompt resolution of complaints, and the imperative for high standards of honesty by Law Center students. The Ethics Counsel is authorized to act on information received from any source, including a student seeking advice. The Ethics Counsel shall administer his or her duties with careful regard for the educative value of the Code and the rights of students.

result in unfairness do not come within the scope of this Code but, rather, are handled by the Dean and the Law Center administration. Nonexhaustive examples of prohibited conduct include: plagiarism (see the Plagiarism section), cheating or assisting another student to cheat in connection with an examination or assignment; unauthorized breach of anonymity in connection with a blind-graded examination; possession or use of unauthorized materials in connection with an examination or assignment; failure to follow the instructions given for an examination or assignment, such as unauthorized communication with other students, possession or use of unauthorized material, or failure to stop work at the prescribed time; receiving, providing, requesting or offering to provide unauthorized information concerning a deferred examination or assignment; unauthorized use of another student's work; unauthorized use of a student's own work for multiple purposes; unauthorized use, concealment or removal of library books or other University property; and neglect or abuse with respect to a clinic client.

Prohibited conduct also includes: misrepresentation in connection with an application for admission to the Law Center or for financial aid; misrepresentation in connection with a Law Center course, assignment, or competition; and misrepresentation on a transcript, or in connection with an application for employment or bar admission. Misrepresentation includes submitting a resume which lists journal membership without specifying a date of termination, if the student or graduate resigned or was suspended from the journal. The Code prohibits the use, transfer, possession and/or sale of illegal drugs on campus. In addition, conduct that may be independently illegal, for example, theft, destruction or mutilation of property, assault, sexual harassment, and sexual assault, is also prohibited by the Code to the extent that it interferes with the rights and privileges of the members of the Law Center community or it calls into question the student's suitability to the practice of law.

The Code also prohibits unauthorized refusal to cooperate with the disciplinary committee; failure to maintain required confidentiality in connection with administrative or disciplinary proceedings; failure to comply with an administrative or disciplinary sanction; and attempting or conspiring to commit an act prohibited by the Code. The examples are provided by way of illustration only. Whether or not particular conduct is prohibited is determined by the standard of conduct imposed under §101, not by whether it falls within the scope of the foregoing nonexhaustive examples.

- c. All students formally charged with violating the Student Disciplinary Code or questioned by Ethics Counsel in the course of an investigation of a complaint, shall have a right to counsel. Upon request, after the right attaches, counsel will be appointed for the student by the Committee Chair from a list of faculty prepared to be defense counsel maintained by the Chair. The student may also be represented by any other full-time faculty member who agrees to do so on a pro bono basis. The student also retains the right to retain outside counsel of the student's own choice and at the student's own expense.

§ 202 COMPLAINTS

Complaints regarding student conduct may be made by any member of the Law Center community. They should be directed to the Ethics Counsel and may be in writing or oral. The Ethics Counsel will decide whether the allegations should be processed as potential administrative or disciplinary charges. In close cases, before a final charging decision is made, the Ethics Counsel is encouraged to consult with the Committee Chair. The Ethics Counsel may not add charges unrelated to the allegations in a complaint without the approval of the Chair. All complaints of student misconduct shall be investigated promptly by the Ethics Counsel.

§ 203 ADMINISTRATIVE CHARGES

- a. If a complaint alleges administrative violations, the Ethics Counsel has the authority to dismiss the complaint or to bring and adjudicate administrative charges. If the Ethics Counsel elects to dismiss a complaint that alleges administrative violations, notice of the filing and disposition shall be given to the student named in the complaint. Administrative charges shall be in writing and filed with the Registrar who shall provide the student with a copy of the charges. Before finding an administrative violation, the Ethics Counsel must provide the student with notice of the charges and a fair opportunity informally to explain or defend his or her conduct. In the course of the investigation of the alleged administrative violation, if the Ethics Counsel wishes to speak to the student before deciding to proceed with administrative charges, the student must be advised of the right to counsel. The right to counsel otherwise attaches when the administrative charges are filed.
- b. The Ethics Counsel shall provide a written report to the Associate Dean for the J.D. or Graduate Programs, as appropriate, explaining the disposition of each administrative complaint. Such reports do not become part of any official student record, nor do they fall within the scope of outside requests for disciplinary information about particular students.²

§ 204 DISCIPLINARY CHARGES

- a. If a complaint alleges disciplinary violations, the Ethics Counsel may dismiss the complaint or bring disciplinary charges. If disciplinary charges are brought, the Ethics Counsel may reach an agreed disposition with the student, or prosecute the charges before a hearing panel. If, in the course of the investigation, the Ethics Counsel wishes to speak to the student before deciding whether to bring charges, the student must first be advised of the right to counsel.
- b. If the Ethics Counsel brings disciplinary charges they shall be in writing and filed with the Registrar who shall provide the charged student with a copy of the charges. The right to counsel, if it has not attached pursuant to § 204(a), attaches when the charges are filed.

² The Law Center does not have complete control over what information will be called for by bar admission's character committees and others outside the institution. The Law Center will, however, consistent with its obligation for candor, seek to prevent administrative violations from becoming a permanent stain on a student's record.

- c. If the Ethics Counsel dismisses the complaint, the Ethics Counsel shall notify the student and submit a brief written report to the Committee Chair and responsible Associate Dean, describing the complaint and the reason for the dismissal.
- d. The Ethics Counsel and the charged student may agree to a disposition of the charges. Such a disposition must be in writing and submitted to the Committee Chair for approval. The Ethics Counsel shall report approved dispositions to the responsible Associate Dean. In cases in which the Committee Chair rejects the disposition, the matter shall be referred to a hearing panel.
- e. If the charge or charges are referred to a hearing panel, the student may plead guilty, not guilty or no contest. Regardless of the plea entered, the panel must conduct a fair hearing and decide the charges only upon the evidence or stipulated facts that are presented. However, formal rules of evidence will not apply and procedural irregularities should be considered only when they result in actual prejudice.³ The hearing panel may acquit the student, or find the student guilty of a disciplinary or administrative violation and impose an appropriate sanction or sanctions. If the charges are contested, the hearing panel may convict only upon clear and convincing evidence of a violation. The hearing panel should submit to the Committee Chair and responsible Associate Dean a brief written report explaining its disposition. Convictions and approved dispositions of disciplinary charges normally become part of the student's official record. Disciplinary charges resulting in acquittals should not appear in a student's official record.

Part Three: Appeals

§ 301 GENERAL

Only appeals from final dispositions are permitted. No appeals from agreed dispositions approved by the Committee Chair are permitted.

§ 302 ADMINISTRATIVE APPEALS

Within 15 calendar days of the Ethics Counsel's finding of an administrative violation, a student may appeal to the Committee Chair by submitting a written notice of appeal to the Registrar. The written notice of appeal should conform to the requirements of § 304. An appeal may be taken only on the grounds that the penalty is disproportionately severe to those imposed on other students for similar conduct. No further review of administrative sanctions is authorized.

§ 303 DISCIPLINARY APPEALS

Within 15 calendar days after a hearing panel decides a disciplinary charge, either party may appeal to the full Professional Responsibility Committee by submitting a written notice of appeal to the Registrar. The written notice should conform to the requirements of § 304. The only grounds for appeal are a serious misreading of the Student Disciplinary Code, gross insufficiency of the evidence, or a gross impropriety that tainted the proceedings.

³ Charged students shall be accorded the basic components of procedural fairness, including a copy of the complaint, advance notice of the identities of adverse witnesses, the right to present relevant evidence, the right to cross-examine adverse witnesses, the right to forego a hearing by admitting guilt, the right to admit guilt but nevertheless appeal jurisdiction or sanction, the right to request a particular sanction, and the right to place in the record the student's own comment on committee action.

§ 304 PROCEDURE FOR FILING AN APPEAL

The only written document that will be required for all appeals will be a written notice indicating the date the appeal is filed with the Registrar, the ruling being appealed, the Disciplinary Code authority for the appeal and the entity or person to whom the appeal is taken. The Registrar shall notify the parties, the Committee Chair and the reviewing entity of the pendency of the appeal. Administrative appeals shall be presented orally. Disciplinary appeals may be presented orally but written presentations should be used by counsel to the extent practicable or as directed by the Committee. Appeals shall be heard as promptly as possible consistent with protecting the rights of the charged student.

§ 305 ADVISORY OPINIONS

If the Ethics Counsel or the chairperson is uncertain whether charged conduct, if proven, constitutes a serious offense, he or she may ask for an advisory opinion from the full committee. The ex parte ruling shall control the charging process and the track determination.

Part Four: Sanctions

§ 401 GENERAL

Sanctions shall be appropriate to the nature and severity of the violations to which they attach.⁴ When possible, sanctions should seek to educate the student about the nature and importance of honesty and mutual respect. Community service may constitute all or part of any sanction.

§ 402 ADMINISTRATIVE SANCTIONS

The Ethics Counsel may establish, in consultation with the Associate Deans, sanctions for administrative violations. Sanctions relating to the late return of take-home examinations, late arrivals to in-class examinations, missed examinations, and submission of the wrong document for grading are specified in §§ 402(a)–402(c).

§ 402(a) Late Return of Take-Home Examinations

- i. Requirements for returning take-home examinations.

All students must stop writing, save, and upload examinations to Georgetown's online examination system before the time allowed for taking the examination expires. Students must certify that they stopped writing before the time expired when they upload the examination. If a student experiences problems that prevent successful uploading of the examination to the online examination system before the time allowed expires, she must email a copy of the saved examination to examdropbox@law.georgetown.edu and contact the Registrar⁵ by email or by telephone within 10 minutes after the examination time expires to report the problem encountered in uploading the examination.

⁴ A nonexhaustive list of authorized sanctions, in order of increasing severity includes: warning; reprimand; probation, with or without conditions such as counseling; additional work such as writing extra papers, or accumulating extra credits in order to graduate; grade or credit reduction; imposition of a failing grade; suspension with or without automatic reinstatement; expulsion; and withdrawal of a degree. Administrative and disciplinary officials are encouraged to formulate additional sanctions appropriate to particular violations. When authorized, a transcript notation may be required to satisfy the Law Center's obligation of candor to those outside the Law Center community. Accordingly, a transcript notation can accompany both mild and severe sanctions, or it can be imposed as a sanction in and of itself.

⁵ Unless otherwise specified, references to the Registrar means the Registrar or her designee.

ii. Penalties.

1. All students who download⁶ their examination but fail to upload within twenty-four hours after the time allowed expires will be assigned a grade of AF (Administrative F) on the exam by the Registrar.
2. Examinations submitted within sixty minutes after the time allowed expires, but not in conformity with § 402(a)(i), will be graded and subject to the following penalties:
 - a. *First offenses:* If the student receives a passing grade in the course from the course professor, the Registrar will enter an AP (Administrative Pass) on the transcript. The student will earn the allotted credits for taking the course, and the AP grade will not factor into the student's GPA. The Registrar will notify the grading professor and the student when this action is taken.

If the student receives a failing grade in the course, the Registrar will enter an F on the transcript. The student will not earn the allotted credits for taking the course, and the F grade will factor into the GPA.

- b. *Second and subsequent offenses:* After a student has received an AP grade for the late submission of a take-home examination or has been penalized for submitting a take-home examination more than sixty minutes after the time allowed expired, any additional, late returns of take-home examinations by that student will be processed under the Student Disciplinary Code.
3. Take-home examinations submitted more than sixty minutes after the time allowed expires shall be processed under the Student Disciplinary Code.
4. Students who receive two grades of AP, AF (see § 402(b)(ii)), or a combination of both on their transcript will be ineligible for honors upon graduation.

iii. Request for Waiver of Penalties.

Any student subject to the AP penalty under this provision shall have the right to request that the late return penalty be waived. Requests must be made to the Registrar by email or in writing within twenty-four hours after the Registrar notifies the student that a penalty applies. All requests will be referred to the Ethics Counsel who shall meet with the student.

The student bears the burden of establishing that the failure to comply with this rule was excusable and that the violation did not allow the student to gain an unfair advantage. A saved copy of the examination indicating that it was completed within the time allowed is critical evidence in these cases. The Ethics Counsel will determine promptly whether the penalty will be waived.

A student may appeal an adverse decision by the Ethics Counsel to the Chair of the Professional Responsibility Committee. No further appeals will be allowed. Procedures for this review shall be specified in writing and provided to students affected by this provision.⁷

⁶ A student who fails to download the take-home examination should refer to section 402(b), as they will be treated under "Missed Examinations."

⁷ The Ethics Counsel may, in the course of his review, require students to submit their computer, external drives, or other relevant equipment for inspection to determine whether the time-stamp affixed to the saved copy of the examination is accurate and authentic. It is anticipated that this type of review will not be routine for first offenders, but second offenses will likely incur closer scrutiny.

§ 402(b) Late Arrivals and Missed Examinations

- i. A student who arrives late to an in-class examination may not enter the room once the proctor has placed the “Examination in Progress” sign on the exam room door. If a student arrives and the sign is on the door, the student must immediately proceed to the Office of the Registrar. The Registrar will advise the student of the right to take the examination during the remaining scheduled examination time with no grade penalty and, if that option is selected, escort the student to the examination room. These instructions shall be posted on the door of an examination room once the examination commences. If the remaining time is insufficient to complete the examination, or the student chooses to reschedule the examination, she will be treated under § 402(b)(ii).
- ii. Although the student may raise this issue first, within twenty-four hours after an examination ends (whether in-class or take-home), the Registrar will email all students who arrived too late to take the examination, missed the examination altogether, or failed to download the examination advising them of the problem. To avoid receiving a failing grade on the examination, the student must request that the examination be rescheduled within twenty-four hours from the time the email is sent. The student bears the burden of establishing that her failure to take the examination was due either to extenuating circumstances (illness or other emergency) or to a “good-faith” mistake (e.g., oversleeping, a car breaking down, a mistake as to time or date of the examination).

If the Registrar determines that the failure to take the examination was due to extenuating circumstances, the examination will be rescheduled as soon as practicable with no penalty imposed. If the failure was due to a “good-faith” mistake, the examination may be rescheduled as soon as practicable subject to a one-step grade reduction to be applied to the final grade for the course. Students may reschedule an examination missed due to a “good-faith” mistake once during their enrollment at the Law Center.⁸

If the student fails to establish extenuating circumstances or a “good-faith” mistake as a reason for failure to take an examination, the student will receive a grade of AF that will be reflected on the student’s transcript. The student will not earn the allotted credits for taking the course, and the AF grade will factor into the GPA as an earned F.

- iii. Students who receive two grades of AP, AF, or a combination of both on their transcript will be ineligible for honors upon graduation.

§ 402(c) Submission of the Wrong Document for Grading

If, before a grade is recorded, the Registrar is placed on notice that the wrong document or the wrong version of a document has been submitted, the Registrar will request that the student bring in her computer or other relevant equipment for inspection so that the correct document may be retrieved from the computer and submitted for grading. If a genuine, timely document is retrieved and submitted for grading, the student’s course grade will be subject to a one-step grade reduction. If the Registrar is unable to retrieve a genuine and timely correct document, the student will be allowed to have the previously submitted document processed as originally submitted. The one-step grade reduction may be used once during a student’s enrollment at the Law Center. Thereafter, the second submission of the wrong document for grading will be graded as submitted. This rule also applies to papers submitted for grading.

⁸ “Once during their enrollment at the Law Center” means once per degree received at the Law Center. Thus, an LL.M. student who also received her J.D. from the Law Center may invoke this “good-faith” mistake once for the J.D. and once for the LL.M.

§ 403 DISCIPLINARY SANCTIONS

Any appropriate sanction may be imposed for a disciplinary violation, including expulsion, suspension, failing grades, and transcript notation.

Part Five: Confidentiality and Reporting

§ 501 CONFIDENTIALITY

Confidentiality shall be maintained with respect to all proceedings under this Code, except that students charged with disciplinary violations have a right to a public hearing if they so desire.

§ 502 CENTRAL REPORTING

Notwithstanding the requirement of confidentiality, convictions involving suspension or expulsion may, to the extent permitted by law, be reported to a central collection service such as the Law School Data Assembly Service for use by other schools.

§ 503 PUBLICATION

The disciplinary committee shall publicize, without identifying details, the results of its disciplinary proceedings. In addition, each year the disciplinary committee shall publish, in summary form and without identifying details, a report disclosing the number of cases handled during the previous year, and the nature and disposition of each case. Copies of annual reports issued by the committee shall be available for inspection by students in the Office of the Registrar.

Plagiarism

Every law student must grasp the overriding importance of scrupulous honesty in the study and practice of law. In the presentation of written work, such honesty is the soul of academic integrity and, for the lawyer, at the heart of credible and effective assistance of counsel. The damage to reputation (and to a cause) which springs from deceit in the presentation of ideas will commonly prove both devastating and enduring. One becomes known as untruthful, or at least untrustworthy, and in either case careless of the rights of others. These are contingencies devoutly to be avoided.

This notion of deceit is not easily translated into an all-inclusive description of plagiarism. The Law Center, therefore, has not attempted a definition so meticulously crafted as to be worthy of inclusion in a criminal code. But surely some central propositions are declarable, and understandable, and no student can fail to be aware of the broad thrust of the notion that the work of others must never be claimed as one's own.

Here are several of those propositions. The use of another's work typically takes the form of either a direct quotation, where the other author's exact words are used, or a paraphrasing, where the true author's ideas or language are recast in the words of the borrower. Both these forms require that he or she who thus uses the work of another person give adequate credit to that person. Perhaps as important as the fact that the credit is given is the manner in which it is given. Where exact words are used, they must be designated as a quotation (quotation marks or indentation) and footnoted in the obligatory form, identifying source and precise page of location. Similar attribution is called for in the use of charts, tables, diagrams, and like presentations of rather more visual evidence, when originated by someone else. Paraphrasing, too, demands that the paraphraser candidly and fully account for the derivation of that which the paraphraser has reworded. As a general proposition, prolonged paraphrasing is to be discouraged, but when lengthy paraphrasing does occur the true source is not sufficiently cited when it is cited only at the

end, and generally. The rule should rather be that each discrete subportion of the material thus used receive its own recognition, in quite precise form, including page citation.

Of course, matters of general knowledge, and terms so commonly employed as to have entered the public domain need not be footnoted,⁹ just as this brief essay does not footnote the widely recognized truths appearing in the foregoing lines. But we strongly agree that, in any case involving the slightest doubt, you will be better served to grant rather than to withhold recognition of your dependency on the work of another. Attributions that are arguably unnecessary in these marginal instances will at the very least direct the reader to material which could be useful, and so advance the possibility for learning.

Finally, note that plagiarism can be said to have occurred without any affirmative showing that the student's use of another's work was intentional. Intent is presumed in any disciplinary case where the source of the material is both plain and unattributed. It will be for the affected student to demonstrate that the copying or restatement was, in any such case, innocent.

Forewarned is forearmed (no citation needed).

NOTICE TO LAW CENTER COMMUNITY REGARDING DISCIPLINARY PROCEEDINGS INVOLVING SEXUAL MISCONDUCT (April 5, 2006, as amended August 24, 2007, December 22, 2011, and June 1, 2015)

The "Clery Act," 20 U.S.C. § 1092f, the Department of Education (DOE) regulations promulgated thereunder, 34 C.F.R. §§ 668 et. seq., Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et. seq., the Violence Against Women Reauthorization Act of 2013, Pub Law 113-4, and regulations promulgated thereunder, as interpreted by DOE's Office for Civil Rights, require the University to implement particular procedures in certain disciplinary proceedings. In order to ensure compliance with the law and fair and responsive processes, the Law Center hereby directs the following:

In all disciplinary cases involving alleged conduct that implicate Georgetown University's Policy Statement on Sexual Misconduct¹, including allegations of sexual harassment, sexual assault, relationship violence, domestic violence, and stalking, in which the accused is a Law Center student, the following procedures shall be implemented. These policies and procedures are designed to provide for prompt, thorough, and equitable investigation and resolution of complaints involving sexual misconduct filed against Law Center students.

Initiation of a Complaint

a. Complaint.² Individuals (Complainants) may submit a complaint of violations of the University's Policy on Sexual Misconduct by a Law Center student by providing a written statement setting forth the allegations of sexual misconduct to the Ethics Counsel.³

b. Notification to the Accused. Upon the receipt of a complaint against a Law Center student, Ethics Counsel will promptly notify the accused (Respondent) of the existence of the complaint.

⁹ See Comment, *Plagiarism in Legal Scholarship*, 15 TOLEDO L. REV. 233, 235 n.12 (1983).

¹ See Student Handbook of Academic Policies, Conduct Policy, p.102.

² As described more fully in the University Policy on Sexual Misconduct, individuals may also choose to file a criminal complaint with the Metropolitan Police Department.

³ The Ethics Counsel may also initiate a complaint against a student on behalf of the Law Center.

c. Protective Measures and Interim Accommodations. At the initiation of a complaint, the Ethics Counsel will notify the Deputy Title IX Coordinator, and the Deputy Title IX Coordinator will determine what protective measures and interim accommodations are to be put in place during the pendency of the disciplinary investigation. The Deputy Title IX Coordinator may direct that both the Complainant and the Respondent refrain from contact with the other, either directly or indirectly, during the pendency of the disciplinary investigation and at any other times as appropriate. In addition, upon request of the Complainant or Respondent, they may change the student's academic and/or University-controlled living conditions, if the changes are deemed to be reasonable.

d. Right to Counsel. Both the Complainant (if a student or employee of Georgetown University) and the Respondent shall be entitled to counsel to represent them in these proceedings. If either side requests that the Law Center provide counsel to them, the Chair of the Professional Responsibility Committee will secure counsel at Law Center expense. The determination of the counsel to be secured at Law Center expense shall be a Law Center decision. Both Complainant and Respondent shall have the right to have their counsel present at the disciplinary hearing, appeal, and other proceedings.⁴ If the Complainant is not a student or employee of Georgetown University, he/she may be represented by counsel at his/her own expense. In addition, Complainants and Respondents may have an advisor of their choosing accompany them throughout all aspects of the disciplinary proceedings.

Investigation and Hearing

e. Investigation. The Ethics Counsel, and/or an appointed investigator, shall investigate complaints. The investigation may include interviews of the parties, relevant witnesses, statements submitted by the parties or witnesses or other evidence in the discretion of the investigator. The investigator may provide the parties timelines for submitting their information or testimony. At the conclusion of the investigation, the investigator will submit an investigative report to the parties and the Hearing Panel at least five days prior to the hearing. The investigative report shall not make recommendations or findings. No documents may be submitted by either party after the conclusion of the investigation, unless otherwise permitted by the Hearing Panel.

f. The Hearing. The hearing will be conducted by a Hearing Panel, consisting of two faculty, one of whom will be designated as the panel Chair, and one student from the Professional Responsibility Committee and named by the Committee Chair. The Committee Chair will take steps to ensure there are no conflicts of interest between the members of the Hearing Panel and any party. The Hearing Panel Chair will determine the date, time, and manner of conducting the hearing. The parties will be provided with advance notice of the identities of witnesses that are scheduled to appear at the hearing, the right to present witnesses and relevant evidence, the right to cross-examine adverse witnesses, the right to propose a particular sanction. Under no circumstances shall the Respondent be allowed to personally question or cross-examine the Complainant, nor shall the Complainant student be allowed to personally question or cross-examine the Respondent, at any disciplinary proceeding. In addition, information regarding the Complainant's sexual history with anyone other than the Respondent is not permitted to be introduced. Furthermore, when requested by either party, the Hearing Panel Chair will arrange the hearing such that the Complainant and Respondent do not have to be present in the same room at the same time. The Hearing Panel shall be permitted to question the

⁴ The requirement that counsel be a faculty member that previously was provided here and otherwise exists under the Code is no longer in force here. The Chair of the Professional Responsibility Committee may request that the Dean provide reasonable compensation to attorneys who are not members of the faculty and accept appointments under this provision.

parties. The standard of proof to be applied by the hearing panel shall be a preponderance of the evidence standard (more likely than not).

g. Informal Resolution of Complaint. All forms of sexual misconduct, with the exception of sexual harassment or stalking must be resolved via a hearing. In cases of sexual harassment or stalking, the Complainant and Respondent may choose to resolve the complaint via an informal method of resolution, such as mediation. In such cases where both parties choose to resolve the complaint in this manner, the Ethics Counsel will work with the parties to determine the appropriate means of resolution. Either party may choose to stop pursuing informal resolution at any time.

h. Training. The Hearing Panel and Ethics Counsel will receive training on handling sexual violence complaints, as well as the Policy Statement on Sexual Misconduct and the rules relating to disciplinary proceedings.

i. Confidentiality. The investigation, the investigative report, and the disciplinary hearing shall be confidential and not open to the public.

j. Timing of Resolution. The hearing panel must conduct its hearing within 45 days of the filing of a complaint and render its report within 15 days of the conclusion of the hearing. This time limit, and all time limits contained herein, are not jurisdictional and may be extended for good cause shown by the Chair of the Professional Responsibility Committee.

k. Outcome and Sanctions. The Hearing Panel may acquit the student, or find the student guilty of a disciplinary or administrative violation, including a violating the Policy Statement on Sexual Misconduct, and may impose an appropriate sanction or sanctions. Sanctions for findings of violation include expulsion, suspension, and any sanction that appropriately addresses the nature and severity of the conduct as determined by the Hearing Panel.

l. Notice of Outcome. Both the Complainant and the Respondent shall be concurrently notified of the outcome of the disciplinary proceeding, including any sanctions imposed, in writing.

Appeal

m. Right to Appeal. The Complainant and the Respondent shall both have the right to appeal as provided by Sections 303 and 304 of the Student Disciplinary Code. An appeal must be resolved within 15 days after all briefs have been filed or after oral argument is concluded, whichever occurs later. These time limits are not jurisdictional and may be extended for good cause shown by the Chair of the Professional Responsibility Committee. Both the Complainant and the Respondent shall be concurrently notified of the outcome of any appeal proceedings in writing.

Other Rules and Procedures

Past and future guidance directives from the Department of Education and the Office for Civil Rights, such as the April, 2011 “Dear Colleague” letter, are incorporated into these provisions by reference and shall be followed by hearing panels to the extent that they impose requirements not otherwise provided here or in the Student Disciplinary Code.

To the extent that any of these provisions is inconsistent with provisions of the Student Disciplinary Code, the Code is hereby overridden, as authorized by the Code “if special circumstances so require.” These superseding provisions shall take effect immediately and apply to all disciplinary proceedings pending at this time or arising thereafter, regardless of when the

underlying conduct occurred. This announcement shall be distributed to the Law Center Community and included in the next published Handbook.

On-Campus Resources for Students

The Law Center offers resources for students who have experienced sexual misconduct.

1. Confidential Counselors

Counselors are available to assist students in accessing medical care, crisis support, navigating disciplinary proceedings, safety planning, academic modifications, support groups, and housing relocation:

Sexual Assault and Relationship Violence Liaison (SARVL)

Nicole M. Sandoz, J.D., McDonough Hall 212, 202-662-9293, ns1028@law.georgetown.edu
<http://www.law.georgetown.edu/campus-life/advising-counseling/personal-counseling/sarvl/>

Counseling and Psychiatric Services (CAPS)

Dr. Laura Lokker and Dr. Jamila Cunningham, Gewirz Center, Room L-101-G,
 202-687-6985; after hours 202-444-7243 to reach the on-call clinician

2. Additional Resources

Deputy Title IX Coordinator for Law Center Students

Consistent with Title IX of the Education Amendments of 1972, Georgetown will respond to reported incidents of sexual misconduct in order to protect and maintain the safety of the University community.

To report an incident of sexual misconduct, or to receive guidance, law students may contact the Deputy Title IX Coordinator for the Law Center, Mitchell Bailin, Dean of Students, 202-662-4066, titleixlaw@georgetown.edu

Title IX Coordinator for Georgetown University

Laura M. Cutway
 Office of Institutional Diversity, Equity, and Affirmative Action
 M-36 Darnall Hall
 37th and O Streets, NW
 Washington, D.C. 20057
 Phone: 202-687-4798

For more information about resources for students, confidentiality and employees' duty to report, and how you can help prevent sexual misconduct, please visit sexualassault.georgetown.edu.

DISCIPLINARY HEARING PROCEDURES FOR SEXUAL MISCONDUCT CASES (as approved by the Professional Responsibility Committee, April 2016)

Introduction

These procedures apply to sexual misconduct disciplinary cases. The Professional Responsibility Committee adopted them to help implement the Law Center policies and procedures that apply to Disciplinary Proceedings Involving Sexual Misconduct, as amended through June 1, 2015 (hereinafter, "Sexual Misconduct Procedures"). Those policies and procedures are published in the Student Handbook ("Notice to Law Center Community Regarding Disciplinary Proceedings Involving Sexual Misconduct") and are available at: http://www.law.georgetown.edu/campus-services/registrar/handbook/upload/conduct_policies.pdf.

Any conflict between these rules and published procedures shall be resolved in favor of the published procedures.

1. The Hearing Panel and Its Mandate

A hearing panel will be named by the Committee Chair within five calendar days of the filing of the investigative report. Every effort will be made to conduct hearings as soon as practicable following the conclusion of the investigation, ideally within 21 calendar days after the hearing panel is named.

The hearing panel determines whether the Student Disciplinary Code has been violated, and, if so, imposes appropriate sanctions. The hearing panel consists of three Committee members (two faculty and one student member) trained in evaluating sexual misconduct cases.¹

The hearing panel submits its decision in writing to the Chair of the Professional Responsibility Committee at the conclusion of the case. The parties shall receive copies of the decision.

2. Sexual Misconduct Hearings-Course of Proceedings

The hearing panel will have the opportunity to thoroughly review the investigative report and documentation submitted by the investigator(s) prior to the hearing. It may request that the investigator(s) conduct further investigation or gather additional evidence before or after a hearing has commenced. Notice of such requests shall be given to the parties. Whenever possible, the hearing panel chair should give the complainant and respondent at least five calendar days' notice to prepare for the hearing. The hearing is a closed proceeding.

The general course of the hearing in sexual misconduct cases will be as follows, whenever possible:

- Chair of the hearing panel will start the proceeding, identify everyone in the room, and announce that the hearing will be recorded.
- Complainant statement (oral-may be made by counsel)
- Respondent statement (oral-may be made by counsel)
- Questions to the complainant from the hearing panel
- Questions to the respondent from the hearing panel
- Witness testimony and questioning by the hearing panel (if the hearing panel determines it is necessary)
- Clarification from the investigator (if the hearing panel determines it is necessary)
- Follow-up questions to the parties from the hearing panel
- Closing statement by respondent (oral-may be made by counsel)
- Closing statement by complainant (oral-may be made by counsel)
- Any rebuttal statements permitted by the hearing panel

The hearing panel may impose reasonable time limits on any stage of the hearing process.

¹ The Sexual Misconduct Procedures provide that “The Hearing Panel and Ethics Council will receive training on handling sexual violence complaints, as well as the Policy Statement on Sexual Misconduct and the rules relating to disciplinary proceedings.” (¶ h).

3. Guidelines for Sexual Misconduct Hearings

A. GENERAL

Unless otherwise noted here or allowed by the hearing panel, all submissions from parties will be in writing and provided to the hearing panel and opposing party on a timetable established by the panel. Whenever a party is represented by counsel, service of written submissions shall be through counsel and in a manner that protects confidentiality.²

The hearing is designed to supplement the investigative report, and the hearing panel shall determine what evidence it needs in addition to the statements from the parties. When the complainant, respondent, or witnesses are not able to be present for the hearing, the hearing panel may make arrangements for them to participate via alternate means (e.g., phone).

Only the panel may ask questions at the hearing. Both parties shall have the opportunity to propose questions to be posed to parties or witnesses by submitting the questions to the panel in writing prior to the hearing. The parties are not required to serve proposed questions on the other party, but copies of the submissions will be made available to the parties after the panel determines whether the charged student is culpable. The hearing panel reserves the right to revise or decline to ask submitted questions on the grounds that they are irrelevant or duplicative.

An audio recording of the hearing (guilt and penalty phase (if any)) will be kept for the use of the panel and for purposes of appeal. This recording may be transcribed at the request of the Committee Chair if needed for an appeal.

B. WITNESSES

The parties may request in writing that witnesses be called, but the request must include an explanation for why that testimony is needed. The hearing panel by majority vote will then determine the witnesses (if any) that will be asked to testify.

C. EVIDENCE

Before the hearing, parties may submit evidence to the investigator and identify potential witnesses to be contacted as part of the investigation. Additional testimony and evidence may be submitted at the hearing to the extent the hearing panel deems it necessary or appropriate.

D. EVIDENCE OF SEXUAL HISTORY

The Sexual Misconduct Procedures (¶ f), provide that “information regarding the Complainant’s sexual history with anyone other than the Respondent is not permitted to be introduced.”³

E. SUPPORTER AND COUNSEL

Both the respondent and the complainant are entitled to have counsel and/or another supporter present at the hearing and during any pre-hearing meetings with the Hearing Panel. The Committee Chair will arrange for counsel for a student who is a party to the proceedings and requests this assistance. The central function of counsel is to provide advice to the student

² If filing and/or service is by email, care should be taken to not use the names of the parties in the e-mail transmission. The case number may be used in the subject line.

³ Although the Sexual Misconduct Procedures do not address the sexual history of the defendant, it would appear that the same rule should apply to both parties but that question is not addressed here.

about the hearing process and ensure that all relevant evidence and testimony is presented to the hearing panel.

F. PENALTY PROCEEDINGS

At the conclusion of the hearing, either before or after a finding of culpability, the parties shall have the opportunity to address the issue of appropriate sanctions and answer any questions from the hearing panel.

STUDENT CONDUCT IN THE JOB SEARCH PROCESS

Students are expected to exhibit high standards of professional responsibility in all of their job-seeking activities. Students are cautioned to avoid even the appearance of impropriety in the preparation of their job resumes, letters, and application forms. The inclusion of material that is misleading, inaccurate, or false may be a violation of the Student Disciplinary Code. Students are expected to attend all scheduled interviews, unless the student cancels in a timely and appropriate manner. Students should view the acceptance of an offer, whether for a paid or unpaid position, as a binding commitment, and after accepting an offer, students should withdraw from consideration any applications(s) that are pending with other employers. Failure to honor commitments may have implications for the student's reputation and that of the Law Center. If unusual or extenuating circumstances arise following an acceptance of an offer, students should consult with a career advisor at the Law Center before taking actions that may violate this policy.

STUDENT DISCRIMINATION GRIEVANCE PROCEDURES RELATING TO THE JOB SEARCH PROCESS

This policy is administered by the Office of Career Strategy, the Office of Public Interest and Community Service, and Graduate Career and Professional Development.

Policy Statement

The policy of Georgetown University Law Center is to provide equal opportunity in its programs, activities, and employment practices; to prohibit discrimination and harassment in education and employment because of race, color, religion, national origin, sex, age, handicap or disability, or sexual orientation, personal appearance, family responsibility, gender identity or expression, genetic information, marital status, political affiliation, veteran's status, or any other factor prohibited by law; and to promote the realization of equality of opportunity in education and employment throughout the Law Center in accordance with the policy expressed in the University-wide Affirmative Action Plan.

This internal grievance procedure has been established to provide a mechanism for any Law Center degree candidate who believes that under the standards stated in the above policy he or she has been the subject of discrimination by a prospective employer recruiting students to fill part-time, temporary, and full-time positions.

Students who have a question about whether a particular action or statement might constitute improper conduct should speak with a counselor in the Office of Career Strategy, the Office of Public Interest and Community Service, or Graduate Career and Professional Development.

Requirements for Filing Grievances

Any degree candidate, enrolled as a student at the Law Center when the alleged discriminatory act occurred, has the right to file a discrimination complaint with the Office of Career Strategy (private sector and clerkships), the Office of Public Interest and Community Service (government and non-profit), or Graduate Career and Professional Development (LL.M. and S.J.D. students).

Complainants must file a grievance within 30 days of the alleged discriminatory act. Earlier filing is encouraged, including a confidential statement of probable intention to file based upon specific allegations of misconduct. Later filing may be permitted for good cause shown.

A grievance must be filed with either the Assistant Dean of the Office of Career Strategy (OCS), the Assistant Dean of the Office of Public Interest and Community Service (OPICS), or the Director of Graduate Career and Professional Development. The grievance may be filed using the grievance form available in OCS, OPICS, or the Office of Graduate Programs, but any written submission containing the information requested by that form will be satisfactory. In addition to briefly describing the event in question, the complaint should set forth as precisely as possible any allegedly offensive language that was part thereof.

Procedures for Processing Grievances

Upon receipt of the complaint the Assistant Dean (or Director, for LL.M. and S.J.D. students) shall first determine whether the complaint states a violation of the Law Center non-discrimination policy set forth above. If the Assistant Dean or Director finds that no violation has been stated, the student shall be promptly informed and may appeal the decision to the Dean, who may confirm the decision or forward the matter for handling under the next process described. If the complaint states a violation, the Assistant Dean or Director shall immediately apprise the individual respondent(s) and the organization's ultimate hiring authority of the charge and request a written response to the allegations.

The Assistant Dean or Director shall seek to resolve the complaint within 21 working days from the notification of the respondent. The Assistant Dean or Director may conduct interviews with all relevant persons and seek information in any other relevant form. The Assistant Dean or Director may delegate the interviewing and information seeking functions to the Law Center's Ethics Counsel.

If a mutually acceptable resolution is achieved through the efforts of the Assistant Dean or Director, the case shall be closed. A written notice shall list findings and indicate the agreement reached. The agreement shall be retained in the files of OCS or OPICS and copies provided to the complainant, the respondent and his/her ultimate hiring authority.

If no mutually acceptable resolution can be achieved, the Assistant Dean or Director shall make, and provide the parties with, a written finding on the merits of the complaints.

Upon a finding adverse to the respondent, sanctions may be imposed depending on the severity of the offense, including but not limited to requesting a written apology or other conciliatory steps, issuing a reprimand to the individual and/or the organization, placing the individual and/or the organization on probation, or denying the individual or organization recruiting access to Law Center facilities and services for a specified time. The sanctions of probation or denial of individual or organization recruiting access may only be imposed by the Law Center Dean upon the recommendation of the Legal Profession and Career Services Committee. Refusals of an individual or organizational respondent to issue an apology or take some other conciliatory step as may be called for by the Assistant Dean or Director shall be

referred to the Legal Profession and Career Services Committee for a determination of appropriate further sanctions to be recommended to the Dean.

Appeal to the Dean

The complainant or the respondent shall have the right to file a written appeal of the decision of the Assistant Dean or Director to the Dean of the Law Center within ten days of receiving the decision. The notice of appeal shall indicate the reasons for the party's appeal. The Dean may with written explanation affirm or remand the matter for further consideration by the Assistant Dean or Director.

Record

The Assistant Dean or Director shall submit to the Chair of the Legal Profession and Career Services Committee a bimonthly summary of all grievances filed during that period, and of further action taken with regard to all such cases previously pending. Confidentiality with regard to these summaries shall be maintained so far as is possible.

Nothing contained herein shall be considered as limiting a complainant's right to pursue any other remedy provided by federal or local law, or as requiring the University to pursue any process other than those described by this code.

USE OF PERSONAL ELECTRONIC RESOURCES

The use of personal computers, tablets, cell phones, and similar personal electronic resources in classrooms should be limited to activity directly related to course content and note-taking as directed or permitted by the professor. Use of electronic resources for other purposes (e.g., browsing the Internet, playing games, using email, streaming video, watching or listening to DVDs, etc.) is inappropriate to the classroom, and may provide a significant and unwanted distraction to those near the student using these devices.

GEORGETOWN UNIVERSITY INSTITUTIONAL DIVERSITY, EQUITY, AND AFFIRMATIVE ACTION POLICY STATEMENT ON HARASSMENT (RELATING TO PROTECTED CATEGORIES) (revised February 25, 2014)

Harassment is a form of discrimination prohibited by law. It is the policy of Georgetown University to prohibit harassment on the basis of age, color, disability, family responsibilities, gender identity and expression, genetic information, marital status, national origin and accent, personal appearance, political affiliation, pregnancy, race, religion, sex, sexual orientation, source of income, veteran's status or other factors prohibited by federal and/or District of Columbia law ("Protected Categories"). Sexual harassment is addressed under the University's Policy Statement on Sexual Misconduct.

Harassment is verbal or physical conduct that denigrates or shows hostility or aversion to an individual because of a Protected Category as specified above, when such conduct has the purpose or effect of: unreasonably interfering with an individual or third party's academic or work performance; creating an intimidating, hostile, or offensive educational or work environment; or otherwise adversely affecting an individual or third party's academic or employment opportunities.¹

¹ This policy does not apply to conduct that is unrelated to a Protected Category.

Harassment may include, but is not limited to: verbal abuse or ridicule, including slurs, epithets, and stereotyping; offensive jokes and comments; threatening, intimidating, or hostile acts, and displaying or distributing offensive materials, writings, graffiti, or pictures. Harassment may include conduct carried out through the internet, email, social media, or other electronic means.

Interpretive guidance:

- A hostile, intimidating, or offensive environment exists when conduct is severe or pervasive. Factors to be considered in determining whether conduct is severe or pervasive include the nature, scope, frequency, and duration of the conduct and the number of persons involved. Simple teasing, offhand comments, or isolated incidents that are not severe or pervasive do not create a hostile or offensive environment.
- If an issue of harassment is raised in strictly academic areas, such as coursework, the matter will be handled in consultation and coordination between IDEAA and the Executive Vice President or Dean of the faculty member's school because such matters may also concern issues of academic freedom.
- To constitute harassment, the conduct in question must be objectively intimidating, hostile or offensive, and must interfere with a person's ability to participate in employment or educational programs or activities of the University. The injured party's perception of the offensiveness of the alleged conduct, standing alone, is not sufficient by itself to constitute harassment.
- Harassment is especially serious when it occurs between teachers and students or supervisors and subordinates. In such situations, harassment unfairly exploits the power inherent in a faculty member's or supervisor's position. Although harassment often occurs when one person takes advantage of a position of authority over another, the University recognizes that harassment may also occur between people of equivalent status. This includes peer harassment.

This policy applies to any allegations of harassment against an employee (including faculty and staff) or student of Georgetown University or a Georgetown University operated program, regardless of where the alleged conduct occurred.

This Policy Statement on Harassment will be widely disseminated to members of the University community, and will be consistently enforced. The policy will be reexamined, updated as appropriate, and distributed regularly to all students, faculty, and staff. Training will be provided to employees and students for the purpose of preventing harassment and promoting a respectful community. All employees are responsible for completing training identified as mandatory.

Reporting Obligations for Faculty and Staff

The University recognizes that supervisors (including those who supervise employees and those who supervise students) bear a particularly important responsibility to deter harassment. Any faculty or staff member (other than those who are statutorily prohibited from reporting) who learns of conduct that may violate this policy must contact the Office of Institutional Diversity, Equity, and Affirmative Action (IDEAA) at 202-687-4798, within 24 hours, or as soon as possible. If in doubt as to whether certain conduct violates this policy, or if you have any questions about this policy or its application, call IDEAA for a consultation.

Procedure for Filing Complaints

Any member of the University community who believes conduct that violates this policy has occurred, or who has questions concerning this policy, is encouraged to contact IDEAA at 202-

687-4798. This Office is staffed with trained individuals, and administers both a confidential mediation process and a confidential grievance procedure. A full description of the IDEAA Grievance Procedures to Investigate Allegations of Discrimination and Harassment may be obtained from IDEAA and is also located on IDEAA's website.

Allegations against students are handled under the following disciplinary procedures:

- Code of Student Conduct (for students in the College of Arts and Sciences, the Business School, the School of Foreign Service, the School of Nursing and Health Sciences, Biomedical Graduate Education, and the School of Continuing Studies).
- Law Center Student Disciplinary Code (for students at the Law Center)
- School of Medicine Student Code of Professionalism (for students in the School of Medicine)

Where an accused individual is both a student and employee of the University, the procedures that apply will depend on the status of the individual during the alleged incident. If there is ambiguity regarding which procedures shall apply, the Vice President of Institutional Diversity and Equity shall decide.

Bias Reporting

Any member of the University community can make a report about a possible bias incident or hate crime through the Bias Reporting System. For more information go to <http://biasreporting.georgetown.edu/>. Making a report through the Bias Reporting System is not the same as filing a complaint under the grievance procedures described above. The Bias Reporting System allows the University to track and review bias-related incidents, offer supportive counseling services and other resources, and may lead to an investigation under which the accused may be held accountable for his or her acts. Anonymous reports are permitted under the Bias Reporting System.

Other Reporting Avenues

Complainants are encouraged to exhaust internal procedures established to enforce this policy before pursuing administrative remedies outside the University. However, the University acknowledges the rights of complainants to seek redress from any external enforcement agency, including the District of Columbia Office of Human Rights, the Equal Employment Opportunity Commission, and the Office of Civil Rights of the United States Department of Education.

Retaliation Prohibited

This policy prohibits retaliation, harassment, or other adverse action against an individual for making a complaint in good faith, assisting in an investigation, opposing harassment or otherwise exercising rights protected by law. It also prohibits taking any adverse academic or employment related action against an individual based on an unsubstantiated allegation or rumor of harassment. Retaliation should be reported promptly to IDEAA and may result in disciplinary action up to and including dismissal.

GEORGETOWN UNIVERSITY INSTITUTIONAL DIVERSITY, EQUITY, AND AFFIRMATIVE ACTION POLICY STATEMENT ON SEXUAL MISCONDUCT (effective February 25, 2014)

Georgetown University has adopted this Policy Statement on Sexual Misconduct in recognition of our commitment to provide a safe and hospitable environment for all members of our community to work and study. Sexual misconduct subverts the University's mission,

diminishes the dignity of both victim and perpetrator, and threatens permanent damage to the careers, educational experience, and well-being of our students, faculty and staff.

This policy prohibits sexual misconduct that constitutes sexual harassment, sexual assault, relationship violence, stalking, and related claims of retaliation.

Sexual harassment is a form of sex discrimination and is prohibited by University policy, Title VII of the Civil Rights Act of 1964 (“Title VII”), Title IX of the Education Amendments of 1972 (“Title IX”), and the District of Columbia Human Rights Act. Sexual assault, relationship violence and stalking are also forms of sexual misconduct, and are prohibited by law and this policy.

Both women and men may be victims of sexual misconduct. Sexual misconduct may occur between persons of the same or opposite sex. In the case of sexual harassment, the injured party does not have to be the person harassed but could be anyone affected by the offensive conduct. This policy applies to any allegations of sexual misconduct against faculty and staff (an “employee”) or student of Georgetown University or a Georgetown University operated program, regardless of where the alleged conduct occurred.

The actions of third parties (e.g., contractors, vendors, recruiters) that impact students and/or employees may also be subject to review under this policy. If a third party is the accused, IDEAA will refer the grievance to an appropriate authority for resolution.

This Policy Statement on Sexual Misconduct will be widely disseminated to members of the University community, and will be consistently enforced. The policy will be reexamined and updated as appropriate. Training will be provided to employees and students on this policy for the purpose of preventing sexual misconduct and promoting a respectful community. All employees are responsible for completing training identified as mandatory. Investigations involving alleged violations of this policy shall be conducted by officials who receive training on issues related to sexual harassment, sexual assault, relationship violence, and stalking as well as on how to conduct a grievance process that protects the safety of survivors and promotes accountability.

Definitions of Sexual Misconduct and Related Terms¹

Sexual misconduct is unwanted conduct of a sexual nature that constitutes sexual harassment, sexual assault, relationship violence (including domestic violence and dating violence), or stalking, and includes related acts of retaliation.

Sexual harassment is defined as any unwelcome conduct of a sexual nature, including sexual advances, request for sexual favors, or other verbal or physical conduct of a sexual or gender-based nature when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual’s employment or academic relationship; or
2. Submission to or rejection of such conduct is used as a basis for making an employment or academic decision affecting an individual; or
3. Such conduct has the purpose or effect of interfering with an individual’s work or academic performance, denying or limiting an individual’s ability to participate in or

¹ The definitions used in this policy are based on federal and/or state law, as applicable. Under the Violence Against Women Act, institutions are required to define terms in accordance with state law. In such circumstances, this policy uses terms as defined in the District of Columbia.

benefit from the University's education programs, or creating an intimidating, hostile, or offensive environment for work or academic pursuit.

Interpretive guidance:

- A hostile or offensive environment exists when conduct is severe or pervasive. Factors to be considered in determining whether conduct is severe or pervasive include the nature, scope, frequency, and duration of the conduct and the number of persons involved. Simple teasing, offhand comments, or isolated incidents that are not severe or pervasive do not create a hostile or offensive environment.
- If an issue of sexual harassment is raised in strictly academic areas, such as coursework, the matter will be handled in consultation and coordination between IDEAA and the Executive Vice President or Dean of the faculty member's school because such matters may also implicate issues of academic freedom.
- To constitute sexual harassment, the conduct in question must be objectively intimidating, hostile or offensive, and must interfere with a person's ability to participate in employment or educational programs or activities of the University. The victim's perception of the offensiveness of the alleged conduct, standing alone, is not sufficient by itself to constitute sexual harassment.
- Sexual harassment is especially serious when it occurs between teachers and students or supervisors and subordinates. In such situations, sexual harassment unfairly exploits the power inherent in a faculty member's or supervisor's position. Although sexual harassment often occurs when one person takes advantage of a position of authority over another, the University recognizes that sexual harassment may also occur between people of equivalent status. This includes peer sexual harassment. Regardless of the form it may take, the University will not tolerate unwelcome conduct of a sexual nature that creates an unacceptable working or educational environment.

Sexual assault is a forcible or non-forcible sexual act or sexual contact that occurs without the consent or permission of the other person. Sexual assault is divided into five categories, described below. Sanctions may vary depending on the category of offense.

1. Engaging in a sexual act with the use of force; use of threats or fear; after rendering the person unconscious; or by administering a drug, intoxicant, or other substance that substantially impairs the ability of the other person to appraise or control his or her conduct.
2. Engaging a sexual act where the person knows or reasonably should know that the other person is incapable of appraising the nature of the conduct; incapable of declining participation in the sexual conduct; incapable of communicating unwillingness to engage in the sexual conduct; or incapable of giving consent (such as when the person is incapacitated due to alcohol use).
3. Engaging in sexual contact with another person with the use of force; use of threats or fear; after rendering the person unconscious; or by administering a drug, intoxicant, or other substance that substantially impairs the ability of the other person to appraise or control his or her conduct.
4. Engaging in sexual contact where the person knows or reasonably should know that the other person is incapable of appraising the nature of the conduct; incapable of declining participation in the sexual conduct; incapable of communicating unwillingness to engage in the sexual conduct; or incapable of giving consent (such as when the person is incapacitated due to alcohol use).

5. Engaging in a sexual act or sexual contact with another person with knowledge or reason to know that the sexual act or sexual contact was committed without the person's permission or consent.

For purposes of this definition, the following terms are defined:

Sexual act is penetration, however slight, of the anus or vulva of another by a penis; contact between the mouth and the penis, vulva, or anus; or the penetration, however slight, of the anus or vulva by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person. The emission of semen is not required to be considered a sexual act.

Sexual contact means the touching with any clothed or unclothed body part or any object, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Consent is words or overt actions indicating a freely given agreement to the sexual act or sexual contact in question.

Interpretive guidance:

- The willingness to participate must be clearly indicated prior to any sexual act or sexual contact.
- If at any time during the sexual act or sexual contact any confusion or ambiguity should arise on the issue of consent, it is incumbent upon the individual to stop the activity and clarify, verbally, the other's willingness to continue.
- A verbal "no," even if it may sound indecisive or insincere, constitutes lack of consent.
- The absence of an overt action or an explicit verbal response to a verbal request for consent constitutes lack of consent.
- It is expected that, once consent has been established, a person who changes his/her mind during the sexual act or sexual contact will communicate through words or overt actions his/her decision to no longer proceed.
- Past consent to sexual act or sexual contact does not imply future ongoing consent, and the fact that two persons are in an on-going relationship shall not preclude the possibility that sexual misconduct might occur within that relationship.
- A person's use of alcohol and/or other drugs shall not diminish such person's responsibility to obtain consent.
- Lack of verbal or physical resistance, or submission by the unwilling participant, when such submission results from the use of force, threats, or coercion by the respondent shall not constitute consent.
- A person is considered incapable of giving consent if he/she is asleep, unconscious, and/or losing and regaining consciousness, or clearly mentally or physically incapacitated, for example, by alcohol and/or other drugs (signs of incapacitation include, but are not limited to, difficulty walking, inability to speak in a coherent manner, vomiting or the presence of vomit, etc.).

Force means the use or threatened use of a weapon; the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or the use of a threat of harm sufficient to coerce or compel submission by another person.

Forcible is defined as any sexual act or sexual contact directed against another person, with force and/or against that person's will; or without force or against the person's will where the victim is incapable of giving consent.

Relationship violence means a violent or threatening familial or intimate partner relationship that causes one to fear for his/her safety or causes physical or psychological injury, pain, or illness. Relationship violence includes:

Domestic violence: an intrafamily offense that results in physical injury, including physical pain or illness, or that caused or was intended to cause reasonable fear of imminent serious physical injury or death.

Dating violence: an offense against an intimate partner (romantic, dating, or sexual relationship) that results in physical injury, including physical pain or illness or that caused or was intended to cause reasonable fear of imminent serious physical injury or death.

Stalking is a course of conduct directed at a specific individual with the intent to cause that individual (or where the person knows or should have known that it would cause the individual) to fear for his or her safety or the safety of another person; feel seriously alarmed, disturbed, or frightened; or suffer emotional distress.

Student means an individual who is registered or enrolled as a student at the University (or where there is an expectation of continued enrollment) at the time the alleged sexual misconduct occurred and at the time a complaint is made to the University. For purposes of this policy, a student includes a graduate student with instructional responsibilities.

Employee means a person who is employed by the University at the time the alleged sexual misconduct occurred and at the time the grievance procedures are invoked.

Title IX Coordinator and Deputy Title IX Coordinators

The following person has been designated as the Title IX Coordinator to coordinate Georgetown University's compliance with Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex, including sexual harassment and sexual assault:

Title IX Coordinator (Laura M. Cutway)
Georgetown University
M-36 Darnall Hall
37th & O Streets NW, Washington, DC 20057
Phone: 202-687-4798
Email: titleixidea@georgetown.edu

Our Deputy Title IX Coordinator for the Law Center is:

Associate Vice President and Dean of Students (Mitchell C. Bailin)
Georgetown University Law Center
600 New Jersey Ave., NW, Washington, DC 20001
Phone: 202-662-4066
Email: titleixlan@georgetown.edu

A list of other Deputy Title IX Coordinators is available on the University's website at <http://sexualassault.georgetown.edu/titleix>.

Reporting Obligations for Faculty and Staff

The University recognizes that supervisors (including those who supervise employees and those who supervise students) bear a particularly important responsibility to deter sexual misconduct. Any faculty or staff member (other than those who are statutorily prohibited from reporting) who learns of conduct that may violate this policy must contact the appropriate Deputy Title IX Coordinator within 24 hours, or as soon as possible. Only those individuals who are statutorily prohibited from reporting (such as health professionals and certain members of Campus Ministry to whom the pastoral privilege applies) shall not have a duty to report to the Deputy Title IX Coordinators. If in doubt as to whether certain conduct violates this policy, or if you have any questions about this policy or its application, call IDEAA for a consultation.

Confidentiality

Complaints and investigations under this policy are treated as confidential. IDEAA expects complainants, respondents, and witnesses who participate in this process to maintain confidentiality due to the sensitive nature of grievances. The University will preserve the confidentiality of information provided in connection with enforcement of this policy to the extent possible, consistent with the goals of prompt and thorough investigation and resolution as well as compliance with the law. The University complies with the Family Educational Rights & Privacy Act (FERPA) / Health Insurance Portability and Accountability Act (HIPAA) at all times in the course of investigations. To the extent permissible by law, all publicly available records required to be maintained by law will omit the names and other personally identifiable information about complainants and other victims who choose not to file a grievance.

Procedure for Filing Complaints

Any member of the University community who believes conduct that violates this policy has occurred, or who has questions concerning this policy, is encouraged to contact the Office of Institutional Diversity, Equity and Affirmative Action (IDEAA) or one of the Deputy Title IX Coordinators.

The Deputy Title IX Coordinators will assist complainants in initiating a complaint under the applicable grievance procedures that apply to complaints of sexual misconduct:

For allegations against a Georgetown University employee (including faculty and staff): IDEAA Grievance Procedures to Investigate Allegations of Discrimination and Harassment.

For allegations against a student, including student-on-student sexual misconduct:

- Code of Student Conduct (for students in the College of Arts and Sciences, the Graduate School of Arts and Sciences, the Business School, the School of Foreign Service, the School of Nursing and Health Sciences, Biomedical Graduate Education, and the School of Continuing Studies).
- Law Center Student Disciplinary Code (for students at the Law Center)
- School of Medicine Procedures of the Sexual Misconduct Subcommittee (for students in the School of Medicine)

Where an accused individual is both a student and employee of the University, the procedures that apply will depend on the status of the individual during the alleged incident. If there is ambiguity regarding which procedures shall apply, the Title IX Coordinator shall decide.

Time limits, if any, for filing grievances are determined under the applicable grievance procedures. Individuals are encouraged to report sexual misconduct immediately in order to

maximize the University's ability to obtain evidence, and conduct a thorough, impartial investigation. Failure to report promptly may impair the University's ability to enforce this policy.

In accordance with the guidelines of the Equal Employment Opportunity Commission and the Office for Civil Rights of the Department of Education, all complaints will be investigated promptly, reliably, and impartially. Corrective or disciplinary action will be taken where appropriate for violations of this policy.

Sanctions for Violations of This Policy

Individuals who have been found to have violated this policy may be subject to sanctions, which may include, but are not limited to: written reprimand; restitution; training; no-contact order; referral; housing suspension; housing expulsion; probation (academic or employment); reduction in salary or rank; demotion; removal of administrative appointment; suspension (academic or employment); termination of employment; expulsion; or any other sanction that is determined by the decision-maker to be fair and proportionate to the violation. Faculty members who are subject to sanctions under this policy will receive the procedural protections set forth in the Faculty Handbook.

Administrative Action

In the event that an aggrieved individual declines to pursue a grievance and resolution, Title IX nonetheless requires the University to investigate and take reasonable action in response to the information provided. However, the University's ability to respond may be limited. The University will consider the seriousness of the alleged misconduct, whether there have been complaints against the same accused individual, the accused's rights to receive information about the allegations, and other factors in determining how to proceed. The University reserves the authority to take reasonably necessary action. The University will take steps to prevent recurrence of any sexual misconduct and to correct its discriminatory effects on the complainant or third parties, as appropriate. The University will also ensure that appropriate steps are taken to protect the complainant from any deleterious acts related to the complaint during investigation and resolution.

Other Reporting Options

In the event of a safety emergency, individuals should call the Georgetown Law Department of Public Safety (202-662-9325 or <https://www.law.georgetown.edu/campus-services/public-safety/>) or the Metropolitan Police Department (MPD) (<http://mpdc.dc.gov/>). Complainants may also choose to file a complaint with Public Safety or MPD at any time. At a complainant's request, IDEAA or a Title IX Coordinator, as applicable, is available to assist in notifying MPD. All complainants have the right to seek a protective order or similar lawful order issued by a criminal or civil court.

A complainant who wishes to file a criminal complaint or seek a protective order is urged to take steps to preserve evidence, as it may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order.

Because the standards for finding a violation of a criminal law are different from the standards articulated in this policy, criminal investigations or reports are not determinative of whether a violation of this policy has occurred. The filing of a complaint under this policy is independent of any criminal investigation or proceeding. The University's investigation may be temporarily delayed while the criminal investigators gather evidence. However, the University will not wait for the conclusion of any criminal investigation or proceeding before beginning its own investigation or taking interim measures to protect the complainant and the University community, if necessary.

Complainants are encouraged to exhaust internal procedures established to enforce this policy before pursuing administrative remedies outside the University. However, the University acknowledges the rights of complainants to seek redress from any external enforcement agency, including the District of Columbia Office of Human Rights, the Equal Employment Opportunity Commission, and the Office of Civil Rights of the United States Department of Education. The filing of an external complaint or investigation will not preclude the University from investigating and addressing issues or concerns raised to the University, nor will it preclude a complainant from receiving assistance from the University in changing academic, living, transportation or working conditions, if such arrangements are reasonably available.

Support Resources

Concerned individuals are encouraged to seek confidential counseling and other support resources offered by the University and third parties. Individuals are encouraged not to wait to seek confidential counseling, and University counselors can take proactive steps to assist concerned individuals. A description of these resources is available on the University's website at: <http://studenthealth.georgetown.edu/health-issues/sexual-assault-relationship-violence-stalking/>. In addition, a description of the Faculty Staff Assistance Program is available at: <http://hr.georgetown.edu/fsap/>.

Retaliation Prohibited

This policy prohibits retaliation, harassment, or other adverse action against an individual for making a complaint in good faith, assisting in an investigation, opposing harassment or otherwise exercising rights protected by law. It further prohibits taking any adverse academic or employment related action against an individual based on an unsubstantiated allegation or rumor of sexual misconduct. Retaliation should be reported promptly to IDEAA or the Title IX coordinators and may result in disciplinary action up to and including dismissal. The University encourages individuals to make good faith reports.

GEORGETOWN UNIVERSITY INSTITUTIONAL DIVERSITY, EQUITY, AND AFFIRMATIVE ACTION GRIEVANCE PROCEDURES TO INVESTIGATE ALLEGATIONS OF DISCRIMINATION AND HARASSMENT (revised February 25, 2014)

Introduction

Georgetown University complies with federal laws and regulations and the District of Columbia Human Rights Act and acts in accordance with the University's Affirmative Action Plan. Therefore, the University has established these grievance procedures for the Office of Institutional Diversity, Equity, and Affirmative Action ("IDEAA") to review, investigate, and resolve alleged violations of the University's Equal Opportunity and Non-Discrimination in Employment and Non Discrimination in Education Policies, Affirmative Action Policy, the Policy Statement on Harassment, and the Policy Statement on Sexual Misconduct.¹

These procedures cover allegations of unlawful discrimination and harassment in employment or education on the basis of age, color, disability, family responsibilities, gender identity and expression, genetic information, marital status, matriculation, national origin, personal appearance, political affiliation, race, religion, sex, sexual orientation, veteran status and other factors prohibited by law.

¹ The definitions in the Policy Statement on Harassment and the Policy Statement on Sexual Misconduct are incorporated in this procedure.

These internal Grievance Procedures to Investigate Allegations of Discrimination and Harassment provide a mechanism for faculty, staff, students, third parties and applicants for employment and admission to receive a prompt, fair, and impartial investigation and resolution on grievances of discrimination, harassment, and related retaliation. Proceedings involving grievances of sexual misconduct shall be conducted by officials who receive training on issues related to sexual harassment, sexual assault, relationship violence (including domestic violence and dating violence) and stalking and how to conduct a grievance process that protects the safety of injured parties and promotes accountability.

With respect to allegations of sexual misconduct, these procedures apply to situations in which a faculty or staff member is the accused. Students may also use these procedures to address off-campus behaviors, which may violate the policies on harassment and discrimination as they relate to educational and employment opportunities. If a student is the accused, the disciplinary codes of conduct of each of the campuses shall govern.² If an outside third party is the accused, IDEAA may refer the grievance to an appropriate authority for resolution and coordinate necessary corrective actions. A complainant may report a violation of the Policy on Sexual Misconduct to IDEAA or any Deputy Title IX Coordinator identified below, regardless of the identity of the accused individual or the place of occurrence of the alleged conduct, and IDEAA or the Deputy Title IX Coordinator will ensure that the report is forwarded to the correct individual.

The University strongly encourages any victim of unlawful discrimination, harassment, and/or related retaliation to report the incident and seek redress through IDEAA's Grievance Procedures. The University will provide a prompt investigation and thorough and careful resolution.

Complainants are encouraged to exhaust these procedures with regard to any grievance before pursuing remedies outside the University. However the University acknowledges the rights of Complainants to seek redress from any external enforcement agency including the District of Columbia Human Rights Commission, the Equal Employment Opportunity Commission, the Office of Civil Rights of the United States Department of Education and the United States Department of Labor's Office of Federal Contract Compliance. Complainants may also file a criminal complaint with the Metropolitan Police Department. The filing of an external complaint or investigation will not preclude the University from investigating and addressing issues or concerns raised to the University.

It is a violation of this policy to file a discrimination or harassment complaint for the purpose of injuring the reputation or causing harm to another person. Without minimizing the injury that can be suffered by the victim of discrimination or harassment, the University also recognizes that the filing of a discrimination or harassment complaint can have serious consequences for the person accused. That person, too, has rights that the policies on discrimination and harassment must preserve and protect. Therefore, any person who abuses this policy by knowingly filing a false complaint will be subject to discipline if IDEAA determines that the complaint was filed in bad faith. This provision is not meant in any way to discourage legitimate complaints. All complaints will be treated as confidential, as described further below.

² If the alleged perpetrator is both a University student and an employee, IDEAA will coordinate with the student's campus to determine the grievance procedures to apply. If an employee is the complainant and a student is the accused, the employee may consult with IDEAA in the investigation of the complaint, and IDEAA will coordinate with the student's campus to determine any sanctions.

Confidentiality

IDEAA expects complainants, respondents, and witnesses who participate in this process to maintain confidentiality due to the sensitive nature of grievances. IDEAA will preserve the confidentiality of information provided in connection with a grievance to the extent possible, consistent with the goals of a prompt and thorough investigation and resolution as well as compliance with the law. Educational Rights & Privacy Act (FERPA) / Health Insurance Portability and Accountability Act (HIPAA) at all times in the course of investigations. All publicly available records required to be maintained by law will omit the names and other personally identifiable information about complainants and other victims who choose not to file a grievance, to the extent permissible by law.

Requirements for Filing Grievances

- 1) Any applicant for employment or admission, current or former employee or student, or third party (hereinafter referred to as “Complainant”) of Georgetown University may file a discrimination or harassment complaint with IDEAA. With respect to complaints of sexual misconduct where the accused is a student, a Complainant should contact the Deputy Title IX Coordinator of the student’s campus who will explain the process for filing a complaint.
- 2) Complainants must file a grievance in writing within 180 days following the alleged act of discrimination, harassment, or related retaliation or the date on which the Complainant knew or reasonably should have known of the act. Nevertheless, individuals are encouraged to report acts immediately in order to maximize the University’s ability to obtain evidence, and conduct a thorough, impartial investigation. Failure to report promptly may impair the University’s ability to enforce its policies. IDEAA may, in its sole discretion, review grievances filed after one year under special circumstances.
- 3) A grievance must be filed in writing with IDEAA at M-36 Darnall Hall, electronically at ideaa@georgetown.edu, or by fax at (202) 687-7778.

Provisions on Time Limits

All of the time limits contained within these grievance procedures may be extended solely at the discretion of IDEAA. Any party requesting an extension must do so in writing. In cases of sexual misconduct complaints, IDEAA will make every effort to be reasonably prompt in investigating and resolving complaints. A typical investigation will conclude within ninety days from receipt of the grievance. IDEAA’s investigation may be temporarily delayed while criminal investigators gather evidence. In the event any time frames need to be extended, IDEAA will inform both parties.

Retaliation Prohibited

University policies prohibit retaliation, harassment, or other adverse action against an individual for making a complaint in good faith, assisting in an investigation, opposing harassment/discrimination or otherwise exercising rights protected by law. University policies further prohibit taking any adverse academic or employment related action against an individual based on an unsubstantiated allegation or rumor of Prohibited Conduct. Retaliation should be reported promptly to IDEAA or the Deputy Title IX Coordinators and may result in disciplinary action up to and including dismissal. The University encourages individuals to make good faith reports.

Administrative Review

IDEAA has the authority to initiate an administrative review at any time when, in the judgment of the Vice President for Institutional Diversity and Equity (who is also the Title IX Coordinator), such action is warranted. A department head or other University official may also request IDEAA to conduct an administrative review, if this official becomes aware of alleged discrimination, harassment, or related retaliation. In cases where IDEAA conducts an administrative review and a respondent is identified, IDEAA will proceed to Step II of the Procedures for Processing Grievances below.³

Conflict of Interest

If there is a conflict of interest between the fact-finder or decision-maker and the Complainant or the accused (hereinafter referred to as the “Respondent”), the Director of Affirmative Action Programs will designate an alternate fact-finder or decision-maker. If the Director of Affirmative Action Programs has a conflict of interest, the Vice President of IDEAA will designate an alternate fact-finder or decision-maker. If the Vice President of IDEAA has an actual conflict of interest, the matter shall be referred to the Office of the President, which will designate an alternate fact-finder or decision-maker.

Procedures for Processing Grievances

INTAKE

- 1) IDEAA staff shall schedule an intake meeting with a potential complainant in order to provide the individual with a general understanding of the relevant policy and this grievance procedure, as well as University support resources, as appropriate. The intake meeting may also involve a discussion of any interim measures that may be appropriate concerning the individual’s academic, University housing, and/or University employment arrangements.
- 2) At the request of the individual, IDEAA staff shall proceed to Step I Mediation, or the Step II Investigation process detailed below. Mediation shall not be used to resolve allegations of sexual misconduct, except in instances of alleged sexual harassment where both the individual and the accused request to proceed to Step I Mediation. If the individual wishes to proceed with Step I Mediation or Step II Investigation, then IDEAA staff will meet with the respondent (hereinafter, the “Respondent”) to provide the Respondent a general understanding of the relevant policy and this procedure.

If the individual does not wish to pursue resolution or requests that his or her complaint remain confidential, IDEAA staff will inform the Complainant that the University’s ability to respond may be limited. In certain circumstances, IDEAA may determine that a Step II Investigation is necessary, even if the Complainant elects a different course of action. In such cases, the Step II Investigation will proceed as an Administrative Review, as outlined above.

In the event the Respondent is a member of a collective bargaining unit, IDEAA will coordinate with Human Resources or the appropriate administrative unit to ensure that all required notices are provided to the union. Questioning of a witness or party who is a member of a collective bargaining unit will proceed in accordance with applicable law, policies, and collective bargaining agreements.

³ These procedures will proceed without a Complainant.

STEP I. MEDIATION

- 1) IDEAA shall propose mediation to a Complainant desiring to resolve a dispute between himself/herself and a potential Respondent. If the Complainant agrees to mediate, the potential Respondent will be informed about the issue and asked to participate in mediation. If there is no agreement to mediate, the Complainant may proceed to Step II. In cases where sexual misconduct is alleged related to a student, IDEAA will not offer mediation to resolve Complainant's allegations, except in instances of alleged sexual harassment where both the Complainant and the Respondent request to mediate, and the Complainant will not be asked to resolve his or her concerns directly with the alleged perpetrator.
- 2) If both parties agree to mediate, IDEAA's staff or a representative chosen by IDEAA will conduct the mediation within a prompt and reasonable time frame.
- 3) If a mutually acceptable resolution is achieved through mediation, a written agreement between the parties will reflect the resolution and shall be signed and dated by the parties. Copies will be provided to both parties and IDEAA will monitor compliance with the terms of the agreement by both parties. The case will then be closed.
- 4) If mediation fails, IDEAA will inform the Complainant about the option to proceed to Step II.
- 5) All Complainants and Respondents have a right to end the Step I Mediation process at any time and can ask in writing for IDEAA to begin a Step II Investigation.

STEP II. INVESTIGATION BY IDEAA

- 1) An individual or group of individuals may initiate a formal complaint by providing IDEAA a written and signed statement and any supporting documentation detailing the allegations of discrimination, harassment or related retaliation and identifying the individuals who engaged in the alleged conduct (the Respondent(s)).
- 2) IDEAA shall provide the Respondent and his/her supervisor, if applicable, a copy of the formal complaint and its supporting documents. The Respondent shall have an opportunity to submit a written response to the allegations and any supporting documents within twenty days of receipt of the formal complaint and its supporting documents. The Complainant will be provided a copy of this response and given the opportunity to submit a written rebuttal to Respondent's statement within ten days of receipt of the response. Respondent will be given a final opportunity to respond in writing to Complainant's written rebuttal within ten days of receipt of the rebuttal. Both Complainant and Respondent may present evidence and identify witnesses who can provide information relevant to the allegations.
- 3) IDEAA shall within a prompt and reasonable time frame investigate the complaint and shall have access to all necessary information to do so and the opportunity to interview witnesses, as well as Complainant and Respondent.
- 4) Upon completion of the investigation, IDEAA shall prepare a written report. IDEAA uses the standard of preponderance of the evidence to ascertain if the University's policies have been violated. IDEAA shall maintain documentation to support the findings in its report, including, as applicable written findings of fact, and at the discretion of IDEAA, transcripts, and audio recordings.

STEP III. NOTIFICATION

- 1) When IDEAA finds that no violation of policies governing harassment or discrimination has occurred, IDEAA will provide notice of the results to the parties on the same day, which shall be within thirty days of the conclusion of its investigation. Such notification will include an explanation of the appeal procedures in Step V.

- 2) When IDEAA finds that a violation of policies governing harassment or discrimination has occurred, IDEAA will:
 - a) Provide notice of the results to the parties on the same day, to the extent consistent with the confidentiality accorded to University personnel actions,⁴ and within thirty days of the conclusion of its investigation. Such notification will include an explanation of the appeal procedures in Step V.
 - b) Forward its report to the Respondent's Executive Vice President or Senior Vice President, or his or her designee, or other University officials on a need-no-know basis, consistent with the above provisions addressing confidentiality.⁵
 - c) Direct that prompt remedial action be taken to correct the situation. Any sanction that is fair and proportionate to the violation may be imposed. In determining an appropriate sanction, any record of past violations of University policies, as well as the nature and severity of such past violations, may be considered. Sanctions will be determined with consideration given to applicable University policies.

STEP IV. CORRECTIVE ACTION

If corrective actions are imposed, IDEAA shall monitor their implementation. The appropriate Executive Vice President or Senior Vice President shall ensure that the approved corrective actions are smoothly implemented and take measures to protect against retaliatory actions related to the allegations resulting in the corrective actions.

STEP V. APPEAL

An appeal may be made by Complainant or Respondent within 14 business days of IDEAA's notification of the results.

1) Grounds for Appeal

There are certain limited circumstances under which a case may be appealed. The appellant must demonstrate:

- a) A material failure to follow these Grievance Procedures during the investigation.
- b) Significant evidence was not considered, which would have altered the outcome of the investigation.

The other party (ies) will be given a chance to respond to the request for an appeal within [5] business days. The Vice President for Institutional Diversity & Equity, or her/his designee, will determine whether the request for an appeal is warranted. The parties will be informed of the decision within ten business days of receiving the request for appeal.

2) Appeal Procedures

- a) If the request for an appeal is granted, IDEAA shall notify the appropriate Vice President, Executive Vice President or Senior Vice President. This notification shall include a copy of the formal complaint naming the Complainant and Respondent and will explain the grounds on which the appeal was granted.

⁴ Where IDEAA finds a violation of the Policy Statement on Sexual Misconduct, IDEAA may notify the Complainant of the sanction or remedial action imposed on the Respondent where the sanction or remedial action relates to the Complainant.

⁵ For purposes of these procedures, if the Executive Vice President or Senior Vice President is a party to the matter, the President will be informed of the results and take the required actions.

- b) IDEAA shall then initiate the selection procedures to form a three member Grievance Panel selected from the Equal Opportunity Examining Board made up of Georgetown University administrators, faculty and staff.⁶ Grievances involving discriminatory denials of tenure, promotion or reappointment of faculty members shall be heard by panels composed of faculty or academic administrators only. The three member Grievance Panel to serve on an appeal shall be selected in the following manner:
 - i) Within five days from the date of IDEAA's decision to grant an appeal, the Complainant shall select one member of the Equal Opportunity Examining Board, and the Respondent shall select another.
 - ii) IDEAA shall promptly convene a meeting of these two selected panelists who shall choose the third member from the Equal Opportunity Examining Board to form the Grievance Panel.
- c) A member of IDEAA's staff shall present information about the complaint to the panel members who shall recuse themselves if they have prior knowledge of the complaint, the circumstances surrounding the incidents, or any other reason which might prevent them from rendering an impartial decision. If the panelist selected by the Complainant is recused, then Complainant shall select another panelist. If the panelist selected by Respondent is recused, then Respondent shall select another panelist. If the panelist selected by the two selected panelists is recused, then the two selected panelists shall select another panelist.
- d) The Grievance Panel is charged with reviewing IDEAA's investigation and determining whether the procedures were properly followed and that significant evidence was properly considered and weighed.
- e) The Grievance Panel shall have access to all relevant information and the opportunity to interview witnesses, including the opportunity to interview the IDEAA investigator(s), Complainant, and Respondent separately.
- f) The information presented to the Grievance Panel and its deliberations is confidential.
- g) Each party may choose an Advisor to accompany him/her to meet with the Grievance Panel. The Advisor may not speak on behalf of the party or otherwise represent the party, but may provide support and consult with the party outside of the presence of the Grievance Panel. Any party who will be accompanied by an Advisor who is an attorney must notify the Grievance Panel at least three business days prior to the meeting, so that arrangements may be made for the University's attorney to attend.
- h) The Grievance Panel shall by majority vote reach one of the following results:
 - i) support the full results of IDEAA's investigation;
 - ii) support the results but recommend different corrective actions than those recommended by IDEAA; or
 - iii) reach different results and, if necessary, recommend different corrective actions than those recommended by IDEAA.
- i) Within 45 business days from its formation, the Grievance Panel shall submit a report of its results to the Vice President for Institutional Diversity & Equity, or his/her designee, who will forward it with his or her approval and/or comments (if, for example, the

⁶ The members of the Equal Opportunity Examining Board are selected by IDEAA and include a diverse cross section of University employees. The Faculty Senate will also appoint at least two members to this Board.

- Panel has not supported the full results of IDEAA’s investigation) to the appropriate Executive Vice President or Senior Vice President. The appropriate Executive Officer may accept the Panel’s recommendations or may reasonably modify the results with the concurrence of the Vice President for Institutional Diversity & Equity, or his/her designee. This official’s decision is final and will be made within ten business days of receipt of the Grievance Panel’s report. IDEAA shall provide notice on the same day to the Complainant, Respondent, and his/her supervisor, if applicable, of the final result.
- j) If corrective actions are imposed, IDEAA shall monitor their implementation. The appropriate Executive Vice President or Senior Vice President shall ensure that the approved corrective actions are smoothly implemented and take measures to protect against retaliatory actions relating to the appeal or the underlying investigation or allegations.

GEORGETOWN UNIVERSITY POLICY ON CONSENSUAL SEXUAL RELATIONSHIPS¹ BETWEEN SENIOR AND JUNIOR MEMBERS OF THE UNIVERSITY COMMUNITY (revised October 16, 2009)

Introduction

There are various approaches an institution could take to address the issue of consensual sexual relationships between a “senior” and a “junior” person. (See definitions below.) One extreme is to ban all such relationships. The other is to pretend such relationships do not exist. The University has taken a middle ground in this policy.

The policy not only points out the potential legal and ethical pitfalls of consensual sex in the University setting, but also, and more specifically in the section called “Standards and Procedures,” asserts the University’s right to protect the integrity of its own operations from the conflicts of interest and disruptions in the academic and employment environments that can arise from consensual sexual activity involving members of the University community.

The Nature of the Problem

Consensual sexual relationships between “senior” and “junior” members of the Georgetown community—that is, between two persons where one party (the “senior”) possesses direct academic, administrative, counseling, or extracurricular authority over the other (the “junior”)—do not violate laws prohibiting sex-based discrimination.² Nevertheless, such relationships are a matter of significant concern to the University because of the ethical and administrative problems they can pose. Those problems are most severe when a consensual relationship takes place between a teacher (e.g., professor, teaching assistant, clinical fellow) and a student and the student is enrolled in one of the teacher’s courses for which the student will receive a grade, or when the student is likely to be enrolled in such a course in the future. These problems can also be very severe in a counseling setting between counselors and counsees. Given the potential for such problems, the University strongly recommends that members of the University

¹ This policy does not apply to married couples. The policy on nepotism offers clarification on this point. This policy does not replace *The Benefit of this Establishment: A Student Code of Conduct*.

² “Consensual” means a sexual relationship between two people who both genuinely desire the relationship and neither of whom is coerced into having the relationship. The term consensual is used throughout this document to mean such a relationship. “Extracurricular” refers to participation in extracurricular student activities such as a student newspaper or law review. A “senior” student is sometimes in a position to influence whether a “junior” student will gain some desired position within the organization.

community avoid any senior-junior consensual sexual relationships. This recommendation has particular force with regard to undergraduate students. At Georgetown University, virtually all undergraduate students are between the ages of eighteen and twenty-two, and many are living away from home for the first time. Because of the unique susceptibility of these young men and women, teaching professionals are under a special obligation to preserve the integrity of the teacher-student relationship in situations involving undergraduate students. If members of the community choose by mutual consent to enter into such relationships, however, the University requires that they take specific steps to minimize the problems that may arise from them. Sanctions shall be commensurate with the magnitude of the harm, if any, caused.

The Problems

There are many ways problems can arise when a senior member of the Georgetown community engages in a consensual sexual relationship with a junior member. First, when one person has the ability to grade, advance, promote, recommend, or otherwise influence the employment or academic status of the other, there is the possibility that what appears to be a consensual relationship is falsely perceived to be so. Some recipients of sexual advances may fear that refusal will result in loss of an employment or academic benefit. They may go along with the requested relationship even though it is in fact unwelcome to them (and may even cause them psychological harm). The United States Supreme Court has ruled that such a person is a victim of illegal sexual harassment, and that a school can be liable for monetary damages for a teacher's coercive intercourse with a student.³ Apart from a policy of avoiding legal liability for such conduct, the University wants to ensure that it provides an environment free from sexual coercion and intimidation in which to study and work.

The person in the position of authority who may desire a sexual relationship with a junior nevertheless has strong reasons to avoid it, since what seems initially to be consensual may turn out to be unwelcome or coercive from the perspective of the junior participant. The junior participant may file an internal grievance or a formal lawsuit, creating a risk that the person in authority will suffer negative career consequences and may have to pay damages to the victim. Because of the serious consequences to the senior participant, that person also subjects himself or herself to the possibility of coercion or blackmail.

Even when such a relationship is genuinely consensual (and therefore does not constitute sexual harassment or raise the other concerns noted above), the relationship can cause problems for both parties and harm the academic and work environment at the University. There is the appearance and often the reality of a conflict of interest on the part of both parties to the relationship. Others may believe that the senior favors the junior because of the sexual relationship, thus creating an atmosphere of suspicion and resentment among other juniors who think the junior in the relationship is obtaining undeserved benefits. The junior person's professional reputation or academic standing may be injured because of the perception that the benefits were due to the sexual relationship, rather than to the junior's own work or study.

There is also a serious risk that either party may exploit the other. The senior person may be interested in the junior solely for purposes of sexual gratification, but the junior may construe that attention as related to the junior's intellect, as revealed through his or her studies or work. If

³ *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986); *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60 (1992) (unlimited damages). Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, now provides for monetary damages for victims of sexual harassment in federal employment discrimination suits as well. 42 U.S.C. Section 1981(a)(b)(3) (maximum damages of \$300,000 for employers of more than 500 employees). See also *Harris v. Forklift Systems*, 510 U.S. 17 (1993).

the junior participates in a sexual relationship and then discovers the true situation, there is a potential for a damaging loss of self-esteem by the junior (especially where the two are teacher and young student and there is a significant age disparity between them). There is also the risk of the junior exploiting the senior. For example, a junior might seek out a relationship solely because of a desire to obtain some academic or employment benefit from the relationship (such as a higher grade or a promotion).⁴

Standards and Procedures

For the reasons expressed in the previous section of this Policy, the University strongly urges members of the University community to refrain from engaging in consensual sexual relationships with another member of the University community when one person possesses direct authority over the other, whether that authority is used by one who is a teacher, counselor or supervisor of the other or by someone who can directly influence the academic or work status of the other (e.g., a senior professor serving as a member of the tenure committee for a junior professor, a professor serving as the thesis advisor for a graduate student, a senior student on the editorial board of a newspaper or journal voting whether a junior student should attain the same status, a supervisor filling out a performance evaluation for his or her subordinate).

If the two nevertheless commence such a relationship, the University requires that they take the following measures, in order to lessen or minimize the conflict of interest and disruption of the academic and employment environment that can arise in such situations. The University emphasizes that the following measures cannot eliminate entirely the substantial likelihood of conflict and disruption, and that the course of action strongly preferred by the University would be for the two to refrain from engaging in consensual sexual relations for as long as necessary to prevent conflict and disruption.

A. RELATIONSHIPS BETWEEN TEACHERS AND STUDENTS

The University has determined that there is an inherent conflict of interest when a faculty member and a student simultaneously maintain both a direct student-teacher relationship and a consensual sexual relationship, and therefore prohibits simultaneous participation in both roles. Thus, if one party to a consensual sexual relationship is a student of the other person in a course for which the student will receive a grade, the student should immediately withdraw from the course and should never again take a course with that teacher. In such case it is the duty of the teacher to take all steps, including if necessary consultation with the appropriate Dean, to assure that the student's enrollment in the course is promptly terminated. If the student is not currently enrolled in any of the teacher's courses when the relationship begins, the student should refrain from taking any future course with the teacher. The policy of not taking courses with the teacher should continue even after the relationship has ceased.

B. COUNSELORS AND COUNSELEES

Because of the potential for emotional harm, individuals should not engage in both a consensual sexual relationship and an official counselor/counselee relationship. If a consensual sexual relationship commences during an official relationship, the official relationship should immediately be terminated and never be started again. Similarly, individuals in, or who have been in a consensual sexual relationship should thereafter never enter into an official counseling relationship.

⁴ A number of problems analogous to those described in this section affect consensual sexual relationships among members of the University community of relatively equal status, but these rules do not apply to this behavior, which may become subject to disciplinary action for other reasons.

C. ALL OTHER SENIOR–JUNIOR RELATIONSHIPS

In any other situation where a senior has direct authority over a junior, and can thus advance, promote, recommend, or in any other way directly influence the academic or work status of the junior, the senior person should recuse himself or herself from any decision involving the status of the junior.⁵ If the fact of recusal causes the senior to experience difficulty with a superior, the senior should explain the reason for the recusal to the person in authority. The senior's obligation to explain also exists where an unexplained failure to participate might create an inference of a negative evaluation of the junior by the senior.

Sanctions for Violations of this Policy; Review; Other Limitations

Any teaching professional who violates the procedures outlined in this Policy, or any other individual engaged in a consensual sexual relationship who violates any of the procedures outlined in this Policy, shall be subject to sanctions commensurate with the severity of the offense. The sanction shall be determined in the case of a teaching professional, by the appropriate Dean or Executive Vice President, after consultation with the chair, if any, of the teaching professional's department; and in the case of other individuals covered by this section, by the appropriate director or other supervisory official, including the Senior Vice President for Georgetown University. But in the case of a student violating these procedures sanctions shall be determined by the appropriate Dean on that student's campus.

The imposition of any sanction imposed under this Policy may be subject to review under any applicable provision of an established University grievance procedure.

GEORGETOWN UNIVERSITY FACULTY RESPONSIBILITIES CODE

The Faculty Handbook identifies faculty rights and faculty responsibilities. Consistent with the Faculty Responsibilities Code, anyone—including students, faculty, staff, and administrators—with a concern that a faculty member may not be fulfilling his or her responsibilities may express the concern to an appropriate Unit Head (department chair or dean of the unit in which the faculty holds a primary appointment). The concern will be resolved consistent with the procedures of the Faculty Responsibilities Code in the Faculty Handbook (<https://facultyhandbook.georgetown.edu/toc/section3>).

GEORGETOWN UNIVERSITY COMPUTER SYSTEMS ACCEPTABLE USE POLICY

The Law Center follows Georgetown University's Technology Policies and Procedures (<http://security.georgetown.edu/technology-policies/>), including the *Computer Systems Acceptable Use Policy* excerpted below, and Georgetown University's Copyright Information (<http://www.georgetown.edu/copyright-information/>).

Guiding Principles

Our community is encouraged to make innovative and creative use of information technologies in support of education and research. Access to information representing a

⁵ For example, a senior faculty member who has had a relationship with a junior faculty member should not participate in the deliberations of a tenure committee concerning the junior, or on an academic personnel committee deciding such issues as salary increases for the junior. Similarly, a teacher should not provide a letter of recommendation for a student with whom the teacher has had a relationship even if the relationship began after the course was completed (and thus did not violate the University policy on teacher-student relationships.) Another example is that a senior student on a student publication editorial board should not vote on whether a junior student with whom the senior has had a relationship should be promoted to the editorial board.

multitude of views on current and historical issues promotes the interest, information and enlightenment of the Georgetown University community. Consistent with other University policies, the *Acceptable Use* and *Copyright in the Information Age* policies were written to promote and respect the rights and obligations of academic freedom. The University recognizes that the purpose of copyright is to protect the rights of the creators of intellectual property and to prevent the unauthorized use or sale of works available in the private sector.

The University cannot protect individuals against the existence or receipt of material that may be offensive to them. As such, those who make use of electronic communications are warned that they may come across or be recipients of material they find offensive. Those who use email and/or make information about themselves available on the Internet should be forewarned that the University cannot protect them from invasions of privacy and other possible dangers that could result from the individual's distribution of personal information.

The University's computing and network resources are to be used only for University-related research, instruction, learning, enrichment, dissemination of scholarly information, and administrative activities. The computing and network facilities of the University are limited, and should be used wisely and carefully with consideration for the needs of others. Computers and network systems are powerful communication tools. When used appropriately, these tools can enhance dialog and communications. However, when used unlawfully or inappropriately, they can infringe on the beliefs or rights of others.

Responsibilities

The following examples, though not covering every situation, specify some of the responsibilities that accompany computer and network use at Georgetown University.

1. Users may not attempt to modify or destroy the University's network facilities or computing systems. Users may not tamper with any software protections or restrictions placed on computer applications or files.
2. Users may only use their own computer accounts. Users may not supply false or misleading data, or improperly obtain another person's account information to gain access to computers, network systems, data or information. The negligence or naiveté of another user in revealing an account name or password is not considered authorized use. Convenience of file or printer sharing is not sufficient reason for sharing a computer account. Users should not attempt to subvert the restrictions associated with their computer accounts.
3. Users are responsible for all use of their computer account(s). They should make appropriate use of the systems and take precautions against others obtaining access to their computer resources. Individual password security is the responsibility of each user.
4. Users may not encroach on others' use of computer resources. Such activities would include, but are not limited to, game playing; sending harassing messages; sending frivolous or excessive messages, including chain letters, junk mail, and other types of broadcast messages; using excessive amounts of storage; intentionally introducing computer viruses, worms, Trojan Horses, or other rogue programs to Georgetown University hardware or software; physically damaging systems; or running grossly inefficient programs when efficient ones are available.
5. Users are responsible for following all copyright and licensing restrictions as listed in the various University policies. Georgetown University equipment and software may not be used to violate copyrights or the terms of any license agreement. No one may

inspect, modify, distribute, or copy proprietary data, directories, programs, files, disks or other software without proper authorization.

6. Users must remember that information distributed through the University's computing and networking facilities is a form of publishing, and that some of the same standards apply. For example, anything generated at Georgetown University that is available on the Internet represents Georgetown University, not just an individual. Even with disclaimers, the University is represented by its students, faculty and staff; thus appropriate language, behavior and style is warranted.

Administration and Implementation

The University encourages all members of its community to use electronic communications in a manner that is respectful to others. While respecting users' confidentiality and privacy, the University reserves the right to examine all computer files. The University takes this step to enforce its policies regarding harassment and the safety of individuals; to prevent the posting of proprietary software or electronic copies of electronic texts or images in disregard of copyright restrictions or contractual obligations; to safeguard the integrity of computers, networks, and data either at the University or elsewhere; and to protect the University against seriously damaging consequences. The University may restrict the use of its computers and network systems when faced with evidence of a violation of University policies or federal or local laws. The University reserves the right to limit access to its network through University-owned or other computers, and to remove or limit access to material posted on University-owned computers.

All users are expected to conduct themselves in a manner that is consistent with these responsibilities and policies. Abuse of computing privileges will subject the user to disciplinary action, as established by the applicable operating policies and procedures of the University. Abuse of networks or computers at other sites through the use of Georgetown University resources will be treated as an abuse of computing privileges at the University. If necessary, restrictive actions can and will be taken by system or network administrators pending further disciplinary action; the loss of computing privileges may result.

The University recognizes that all members of the University community are bound by federal and local laws relating to civil rights, harassment, copyright, security and other statutes relating to electronic media. It should be understood that this policy does not preclude enforcement under the laws and regulations of the United States of America or the District of Columbia.

