

# **COLUMBIA COLLEGE SEXUAL MISCONDUCT POLICY**

## **I. INTRODUCTION**

Columbia College is a learning environment fostering common standards of conduct and a commitment to its institutional mission. Sexual Misconduct, including Sexual and Gender-Based Harassment, Sexual Assault, Relationship Violence, and Sexual Exploitation is prohibited by Title IX. In addition to being a violation of federal and state law, Sexual Misconduct interferes with the mission of Columbia College by endangering the physical, mental, and emotional safety of community members, disrupting the academic progress of survivors as they recover, and flagrantly violating the community of trust. The Board of Trustees, faculty, staff, and students who comprise the Columbia College community will not tolerate Sexual Misconduct. Columbia College prohibits all forms of Sexual Misconduct, including but not limited to Sexual and Gender-Based Harassment, Sexual Assault, Stalking and Relationship Violence, whether perpetrated by a stranger or acquaintance, whether occurring in connection with an education program or activity, and whether directed against a member of the Columbia College community or someone outside the Columbia College community (“Prohibited Conduct”).

All members of the Columbia College community play a role in building a safe and just educational environment by:

- Modeling healthy and respectful behavior in personal and professional relationships;
- Increasing personal awareness of what constitutes Sexual Misconduct;
- Speaking out against behavior that encourages Sexual Misconduct or discourages reporting;
- Developing the necessary skills to be an effective and supportive ally to survivors of Sexual Misconduct;
- Intervening in situations that can lead to Sexual Misconduct and related misbehavior; and
- Interrupting an incident of Sexual Misconduct if it is safe to do so.

If you or someone you know has experienced Sexual Misconduct, you are not alone. Anyone can be a victim of Sexual Misconduct.

## **II. DEFINITIONS**

### **A. PROHIBITED CONDUCT**

Columbia College prohibits all forms of Sexual Misconduct, including but not limited to, Sexual and Gender-Based Harassment, Sexual Assault, Stalking and Relationship Violence, whether perpetrated by a stranger or acquaintance, whether occurring in connection with the College’s education program or activity, and whether directed against a member of the Columbia College community or someone outside the Columbia College community. Such conduct by a Columbia College Student, Employee, Trustee or Third Party is a violation of Columbia College policy.

Columbia College does not limit its ability to respond to inappropriate sexual conduct and forms of Sexual Misconduct that may not be specifically described in this policy or that does not constitute criminal conduct under other applicable Columbia College policies. None of the definitions below may be read to inhibit Columbia College's ability to address any incident or conduct that it reasonably deems to constitute Sexual Misconduct or that creates a discriminatory environment.

1. **SEXUAL MISCONDUCT** is a broad term that encompasses a range of behaviors including all forms of sexual harassment, including sexual assault, as well as other forms of misconduct or violence of a sexual nature, including, without limitation, relationship violence, stalking, and sexual exploitation. Sexual Misconduct can occur between individuals who know each other, have an established relationship, have previously engaged in consensual sexual activity, or between individuals who do not know each other. Sexual Misconduct can be committed by persons of any gender identity, and it can occur between people of the same or different gender.
2. **SEXUAL AND GENDER-BASED HARASSMENT** is unwanted or offensive sexual behavior that has the purpose or effect of creating a hostile or stressful living, learning, or working environment, or whenever toleration of such conduct or rejection of it is the basis for a personnel or academic decision affecting an individual. Examples of behavior that may constitute sexual harassment include, but are not limited to, sexual advances, any form of retaliation or threat of retaliation against an individual who rejects such advances, sexual epithets, jokes or comments, comments or inquiries about an individual's body or sexual experiences, unwelcome leering, whistling, brushing against the body, sexual gestures, or displaying sexually suggestive images.

Sexual harassment includes any unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity. This may include a single incident of sexual assault or other serious Sexual Misconduct.

If there is a single incident of one of the following crimes, the incident is considered "sexual harassment" under Title IX. Sexual harassment also includes a College faculty or staff member conditioning education benefits on participation in unwelcome sexual conduct (i.e., quid pro quo).

- 2.a. **Dating violence:** "means violence committed by a person— (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship, (ii) The type of relationship, (iii) The frequency of interaction between the persons involved in the relationship."

- 2.b. **Domestic violence:** “includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.”. Dating and Domestic violence are patterns of abusive behaviors that are used by an intimate partner to gain or maintain power and control over the other partner. Relationship violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. Relationship violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship is determined based on the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- 2.c. **Stalking:** “means engaging in a course of conduct directed at a specific person that would cause a reasonable person to— (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.” Generally, stalking involves a course of conduct which is defined as two or more acts including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Examples include but are not limited to: following a person; appearing at a person’s home, class or work; making frequent phone calls, emails, text messages, etc.; continuing to contact a person after receiving requests not to; leaving written messages, objects or unwanted gifts; vandalizing a person’s property; and threatening, intimidating or intrusive behavior.

**3. SEXUAL ASSAULT** is “an offense classified as a forcible or nonforcible sex offense as defined below:

- 3.a. **Rape:** “The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.”
- 3.b. **Sex Offenses:** “Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
- 3.c. **Fondling**—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including

instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

- 3.d. **Incest**—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- 3.e. **Statutory Rape**—Sexual intercourse with a person who is under the statutory age of consent.”

- 4. **SEXUAL CONTACT** includes intentional contact with the intimate parts of another person, causing another person to touch one’s intimate parts, or disrobing or exposure of another person without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.
- 5. **SEXUAL PENETRATION** includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand, etc.) or object, or oral penetration involving mouth to genital contact.
- 6. **SEXUAL EXPLOITATION** means taking sexual advantage of another person and includes, without limitation: indecent exposure; causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over him or her; causing the prostitution of another person; recording, photographing, or transmitting images of private sexual activity and/or the intimate parts of another person without consent; observing or allowing third parties to observe private sexual acts or otherwise violating a person’s sexual privacy without consent; and knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection.
- 7. **“PROHIBITED CONDUCT”** means any of the defined terms under this Section II.A. Misconduct that is not defined as Prohibited Conduct under this Section may be prohibited by other College policies such as the Student Code of Conduct or the policies applicable to employees and faculty.
- 8. **“RETALIATION”** means intimidation, threats, coercion, or discrimination, including charges against an individual for policy or code of conduct violations that do not involve Sex Discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of Sex Discrimination, or a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege under this Policy. Retaliation may be directed against a Party, or against anyone who participates or who refuses to participate in any process under this Policy. However, charging an individual with a policy or code of conduct violation for making a materially false statement in bad faith in the course of the process under this Policy does not constitute Retaliation under this Policy. A determination regarding

responsibility, alone, will not be sufficient to conclude that any Party made a materially false statement in bad faith.

Notwithstanding this definition of Retaliation, the exercise of rights protected under the First Amendment of the U.S. Constitution does not constitute Retaliation under this Policy. A person engaged in retaliatory conduct is subject to disciplinary sanctions under this Policy. For students, this may include but is not limited to denial of certain privileges, disciplinary probation, suspension, or expulsion. For employees, this may include but is not limited to warnings, suspensions, or termination. The College will consider interim measures in response to Retaliation-related concerns in order to stop prohibited conduct and its recurrence. In some instances, this may lead to the removal of the person accused of Retaliation from campus pending resolution of the matter, in accordance with Section III.F.

## **B. OTHER DEFINITIONS**

1. **“RESPONSIBLE EMPLOYEES”** means all employees, trustees, and contractors except those employees, trustees, or full-time contractors who have legally-defined confidentiality privileges, including but not limited to College counselors, nurses and pastors. Exempted from this section includes the College’s physical and mental health counselors.
2. **“ACTUAL KNOWLEDGE”** means notice of Prohibited Conduct or allegations of Prohibited Conduct Under this Policy by the Title IX Coordinator(s) or any Responsible Employees as defined herein. However, the College is not deemed to have Actual Knowledge when the only Responsible Employees with Actual Knowledge is the Respondent.
3. **“COERCION”** means the use of express or implied threats, intimidation, or physical force which places an individual in reasonable fear of immediate harm or physical injury.
4. **“COMPLAINANT”** means an individual who is alleged to be the victim of conduct that could constitute Prohibited Conduct.
5. **“CONSENT”** means mutually understandable words or actions that clearly indicate a willingness to engage in a specific sexual activity. Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Silence alone, without actions evidencing permission, does not demonstrate consent. While consent may be expressed by words or by actions, it is highly recommended that consent be expressed and obtained verbally. Non-verbal consent

expressed though actions may lead to confusion and potential for misunderstandings, which may lead to a violation of this Policy. It is the responsibility of the initiator of any sexual activity to obtain their partner's consent. An individual's use of alcohol or drugs does not diminish that individual's responsibility to obtain consent if that individual is the one who initiates sexual activity. Consent must be knowing and voluntary. To give consent, a person must be of age in the state where the activity takes place. The age of consent in South Carolina is 16. Assent does not constitute consent if obtained through "coercion" or from an individual whom the respondent knows or reasonably should know is "incapacitated".

Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of consent has been expressed, the sexual activity must cease immediately. Consent is automatically withdrawn by a person who is no longer capable of giving consent due to incapacitation. A current or previous consensual dating or sexual relationship between the Parties does not itself imply consent or preclude a finding of responsibility under this Policy"

6. **"FORMAL COMPLAINT"** means a document filed by a Complainant or signed by the Title IX Coordinator(s) alleging Sexual Harassment against a Respondent and requesting that the College investigate the allegation of Sexual Harassment. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the College. A Formal Complaint may be filed with the Title IX Coordinator(s) in person, by mail, or by email, by using the contact information contained in Section III.B. of this Policy. As used in this definition, the phrase "document filed by a Complainant" means a document or electronic submission that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.
7. **"GRIEVANCE PROCESS"** means the process used by the College to investigate and adjudicate Formal Complaints.
8. **"INCAPACITATED"** means, by reason of mental or physical condition, an individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Someone who is drunk or intoxicated is not necessarily incapacitated. Individuals who are asleep, unresponsive, or unconscious are incapacitated. Factors the College will use to assess whether someone is incapacitated for purposes of this Policy include, but are not limited to: inability to communicate coherently, inability to dress or undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance. The

existence of any one of these factors may support a finding of incapacitation for purposes of this Policy.

9. **INCAPACITATION** is the inability to make informed, rational judgments and decisions. If alcohol or drugs are involved, incapacitation may be measured by evaluating how the substance affects a person’s decision-making capacity, awareness, and ability to make informed judgments. The impact of alcohol and drugs varies from person to person; however, warning signs of possible incapacitation include slurred speech, unsteady gait, impaired coordination, inability to perform personal tasks such as undressing, inability to maintain eye contact, vomiting, and emotional volatility.
10. **“PARTY”** or **“PARTIES”** means any Complainant or Respondent, individually or collectively.
11. **“RESPONDENT”** means an individual who has been reported to be the perpetrator of conduct that could constitute Prohibited Conduct.
12. **“SUPPORTIVE MEASURES”** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. These measures are designed to restore or preserve equal access to the College’s education program or activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the College’s educational environment, or deter Prohibited Conduct. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College will maintain as confidential any Supportive Measures provided to either Party, to the extent it can do so without impairing its ability to provide the Supportive Measures, and unless otherwise required by law. The Title IX Coordinator(s) is/ are responsible for coordinating the effective implementation of Supportive Measures.

### **III. TO WHOM THIS POLICY APPLIES**

This policy applies to students who are registered or enrolled for credit – or non-credit – bearing coursework (“Students”); Columbia College employees, consisting of full-time, part-time and adjunct faculty, and College staff (“Employees”); the Board of Trustees; and contractors, vendors, visitors, guests or other third parties within Columbia College’s control (“Third Parties”). This policy pertains to acts of Prohibited Conduct committed by or against Students, Employees; the

Board of Trustees and Third Parties on Columbia College campus and/ or in connection with Columbia College's education program or activity.

#### **IV. APPLICABLE PROCEDURES UNDER THIS POLICY**

The procedures referenced below provide for prompt and equitable response to reports of Prohibited Conduct. The procedures designate specific timeframes for major stages of the grievance process and provide for thorough and impartial investigations that afford all parties notice and an opportunity to present witnesses and evidence and to view the information that will be used in determining whether a policy violation has occurred. Columbia College applies the Preponderance of the Evidence standard when determining whether this policy has been violated. "Preponderance of the Evidence" means that it is more likely than not that a policy violation occurred. "Complainant" means the individual who is reporting they were a victim of Prohibited Conduct. "Respondent" means the individual who allegedly committed the Prohibited Conduct.

A Student or Employee determined by Columbia College to have committed an act of Prohibited Conduct is subject to disciplinary action, up to and including separation from the College. Trustees determined to have committed an act of Prohibited Conduct are subject to removal from the Board of Trustees. Faculty or staff who commit Prohibit Conduct may have their employment suspended or terminated. Third Parties who commit Prohibited Conduct may have their relationship with the College terminated and/or their privilege of being on College premises withdrawn.

##### **A. WHERE THE RESPONDENT IS A STUDENT, EMPLOYEE OR TRUSTEE**

The Procedures for reports of Prohibited Conduct committed by Students, Employees or Trustees follow this document in both the Student and Employee Handbooks.

##### **B. PROCEDURES FOR REPORTS OF PROHIBITED CONDUCT COMMITTED BY THIRD PARTIES**

Columbia College's ability to take appropriate corrective action against a Third Party will be determined by the nature of the relationship of the Third Party to the College. The Title IX Coordinator(s) will determine the appropriate manner of resolution consistent with the College's commitment to a prompt and equitable process consistent with federal law, federal guidance, and this policy.

#### **V. PREVENTION EDUCATION, TRAINING, AND NOTIFICATION**



The core of Columbia College’s response to Sexual Misconduct is through proactive education and training, with emphasis on prevention. Our response is designed to collect and disseminate information about Sexual Misconduct, promote open discussion, encourage reporting, and provide information and training about prevention to faculty, staff, and students. The College will:

1. Provide prevention programs on topics related to Sexual Misconduct;
2. Provide information to all students regarding our Sexual Misconduct Policy and reporting requirements twice a year;
3. Train all College employees on Sexual Misconduct and reporting;
4. Train student staff, such as resident assistants, orientation leaders, and student success leaders on their role as responsible employees of the College regarding Sexual Misconduct;
5. Discuss the topic of Sexual Misconduct and the College’s expectations for an environment free of Sexual Misconduct during first year fall orientation; and
6. Distribute Sexual Misconduct awareness materials and flyers with information about where to go for help in several high-traffic areas twice a semester.

## VI. CONFIDENTIAL RESOURCES & FOLLOW-UP AND RECOVERY SERVICES FOR PERSONS AFFECTED BY SEXUAL MISCONDUCT

Follow-up support and counseling is of significant benefit to individuals impacted by of Sexual Misconduct. The counseling may begin at any time after an incident, from hours to years. On campus and off campus counseling and other services are available to a Complainant or Respondent, , whether or not a crime is reported or prosecuted.

### Confidential On-Campus Resources

If you would like to talk with someone at the College confidentially about an assault or harassment, please see our Director of Counseling Services. **Information shared to other College employees outside of that individual has to be reported to the College’s Title IX Coordinator(s).**

Mimi Meriwether, Director of Counseling Services: 803-786-3603

Hiluv Johnson, LMSW,: 803-786-3727

Rev. Fadetra Boyd, Chaplain: 843-910-1813

### Off-Campus Resources

Police: 911

Prisma Richland Hospital Emergency Room: 803-434-7000

*A Sexual Assault Nurse Examiner (SANE) is available at this location.*

Sexual Trauma Services of the Midlands: 803-771-7273 (24 hour hotline)

*Free and confidential off-campus counseling*

*Please call 803-771-7273 for on campus office hour*

## VII. AMNESTY CONSIDERATION

If a survivor of a crime is suspected of having used alcohol and/or drugs, amnesty will be extended to the survivor and any person(s) seeking assistance on behalf of the survivor. Amnesty means a person will be exempt from sanctioning through the Student Conduct process regarding the College's alcohol and drug policies. Prosecution of individuals under federal, state, or local laws would be at the discretion of appropriate officials of the applicable jurisdiction.

## VIII. CRIMINAL PROCEEDINGS

If the incident occurred on campus and you wish to pursue criminal charges, please contact the **Columbia College Police Department (CCPD)**. If the incident occurred off-campus, CCPD can assist you with contacting the proper authorities.

Because Prohibited Conduct may constitute both a violation of College policy and criminal activity, the College encourages students to report alleged Sexual Misconduct promptly to local law enforcement agencies. Criminal investigations may be useful in gathering relevant evidence, particularly forensic evidence. For purposes of this policy, criminal investigations or reports are not determinative of whether Sexual Misconduct has occurred. In other words, conduct may constitute Sexual Misconduct under this policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to prosecute.

The filing of a complaint of Prohibited Conduct under this policy is independent of any criminal investigation or proceeding, and (except that the College's investigation may be delayed temporarily while the criminal investigators are gathering evidence) the College will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation and take interim measures to protect the Complainant and the College community, if necessary.

Disclosure of Sexual Misconduct by or about a Complainant who is under the age of 18 must be reported to law enforcement.

## IX. OBLIGATION TO PROVIDE TRUTHFUL INFORMATION

All Columbia College community members are expected to provide truthful information in any report or proceeding under this policy. Submitting or providing false or misleading information in bad faith

or with a view to personal gain or intentional harm to another in connection with an incident of Prohibited Conduct is prohibited and subject to disciplinary sanctions under the Columbia College Honor Code, the disciplinary action under the applicable Employee disciplinary policy, or the Board of Trustees bylaws. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.