

**AGNES SCOTT COLLEGE SEXUAL HARASSMENT AND SEXUAL MISCONDUCT POLICY with
PROCEDURES**

This policy is intended to address all forms of sex-based discrimination and harassment, including sexual violence, that impacts any member of the Agnes Scott community. The college

Complaint (or formal Complaint) means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or retaliation for engaging in a protected activity

2. Rationale for Policy

Agnes Scott is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from sexual harassment, sexual misconduct, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity,

Agnes Scott has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation sexual harassment or retaliation. Agnes Scott values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

3. Applicable Scope

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When the Respondent is a member of Agnes Scott community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of Agnes Scott community. This community

The Title IX Coordinator or designee promptly makes supportive measures available to the Complainant upon receiving notice or a Complaint. At the time that supportive measures are offered, Agnes Scott will inform the Complainant, in writing, that they may file a formal Complaint with Agnes Scott either at that time or in the future, if they have not done so already.

The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with

In addition, Agnes Scott may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from Agnes Scott property and/or events.

All vendors serving Agnes Scott through third-party contracts are subject to the policies and procedures of their employers. Additionally, the College may require understanding and adherence to nondiscrimination policies.

When the Respondent is enrolled in or employed by another institution

based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of Agnes Scott community.

Off-campus harassing speech by employees, whether online or in person, may be addressed by Agnes Scott only -related capacity.

15. Policy on Nondiscrimination

Agnes Scott College does not discriminate on the basis of race, color, national origin, religion, sex, gender, sexual orientation, age or disability as it applies to all the rights, privileges, programs, and activities generally accorded or made available to students at the college and to the administration of educational policies, scholarship and loan programs and all other programs administered by the college. The college likewise does not discriminate on the basis of sex in the recruitment and admission of students to its graduate and post-baccalaureate programs.

The corresponding Agnes Scott College **Sexual Misconduct and Other Discrimination, Harassment Policy* is intended to fully address all prohibited forms of discrimination, harassment, and violence.

16. Definition of Sexual Harassment

and the Equal Employment Opportunity Commission (EEOC) regard Sexual Harassment as an unlawful discriminatory practice.

Agnes Scott has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender of those involved.

Sexual Harassment, as an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex or that is sexual that satisfies one or more of the following:

- 1) Quid Pro Quo:
 - a. a

3) Sexual assault, defined as:

a) Sex Offenses, Forcible:

Any sexual act⁷ directed against another person⁸, without the consent of the Complainant, including instances in which the Complainant is incapable of giving

All Agnes Scott employees (faculty and staff (non-

Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Required Reporter can consult with the Title IX Coordinator on that assessment without revealing personally identifiable information.

Anonymous notice will be investigated by Agnes Scott to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, anonymous notice on what information is shared.

When may be withheld by a Required Reporter, but all other details must be shared with the Title IX Coordinator. Required reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements.

c. Required Reporters and Formal Notice/Complaints

All non-union employees of Agnes Scott (not student employees except Resident Advisors), with the exception of those who are designated as Confidential Resources, are Required Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Required Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, -outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from Agnes Scott.

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providing enough information for community members to make safety decisions in light of the potential danger.

21. False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under Agnes Scott policies.

22. Amnesty for Complainants and Witnesses

Agnes Scott community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to Agnes Scott officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of Agnes Scott community that Complainants choose to report misconduct to Agnes Scott officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, Agnes Scott maintains a policy of offering parties and witnesses amnesty from minor policy violations such as underage consumption of alcohol or the use of illicit drugs related to the incident.

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

vehicle theft, and arson;

Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;

VAWA-based crimes,¹¹ which include sexual assault, domestic violence, dating violence, and stalking; and

Arrests and referrals for disciplinary

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

Parties participating in the *Regulation Process/Formal Grievance Process* must have an Advisor at the hearing to cross-examine the other party.

*Parties participating in the *Policy Process/Adjudication Process* may have an Advisor at the hearing, but an advisor is not required. (*and no direct cross-examination is permitted in the Policy/Adjudication Process)

b. Advisor's Role in Meetings and Interviews

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

Agnes Scott cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, Agnes Scott is not obligated to provide an attorney.

c. Advisors in Regulation Process Hearings/Agnes Scott-Appointed Advisor [Does not apply to the Policy / Adjudication Pto the

these interviews or meetings. This pre-meeting will be allowed at the discretion of the Title IX Coordinator and solely for the purpose to clarify and understand their role and policies and procedures.

f. Advisor Violations of Agnes Scott Policy

Agnes Scott may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

j. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) or Title IX Coordinator of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a signed consent for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

k. Assistance in Securing an Advisor (primarily for the Regulation Process)

For representation, Respondents may wish to contact organizations such as:

FACE (<http://www.facecampusequality.org>)

SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

The Dekalb Volunteer Lawyers Foundation (<https://dekalbprobono.org/>)

The Victim Rights Law Center (<http://www.victimrights.org>),
<https://nwlc.org/times-up-legal-defense-fund/>]

6. Resolution Processes

are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the

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as well as an estimate of how much additional time will be needed to complete the process.

10. Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator or designee will assign an internal and/or external (third-party) trained Investigator (Pool member) to conduct a prompt, thorough, fair, and impartial investigation (typically using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed.

The college retains the authority and has the sole discretion in determining when to assign an internal and/or external (third-party) Investigator / Pool member.

11. Impartiality

Any individual materially involved in the administration of the resolution process including the Title IX Coordinator, Investigator(s), and Decision-maker(s), Appeal Officer may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether

Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding. Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included.

Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which Agnes Scott does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person

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deemed appropriate by the Investigator(s).

16. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

17. Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3)

Agnes Scott will designate a single Decision-maker or a panel from the Pool (internal or external), at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing. With a panel, one of the panel members will be appointed as Chair or Hearing Facilitator by the Title IX Coordinator.

For purposes of responsibilities, Chair, or Facilitator may be used interchangeably. Any distinction in responsibility is noted.

For a hearing in the Title IX Formal Grievance Process (Regulatory Process), the college will appoint a sole external Decision-maker for decisions during the hearing. The college will ensure that the sole external Decision-maker has had the requisite training and relevant experience. The college *may* engage a second Decision-

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

21. Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair/Facilitator will send notice of the hearing to the parties.

The Chair/Facilitator, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator

logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by the Chair or a non-voting hearing facilitator appointed by the Title IX Coordinator. The Chair or hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

28. Investigator Presents the Final Investigation Report

Following explanation of procedures and introductions, the Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not. The Investigator(s) summary can be brief with reference to the report for ease of the Decision-maker(s) and parties and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

In the Title IX Regulation / Formal Grievance Process, neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisor

other appropriate administrators, as necessary].

The Decision-maker(s) or Chair/Facilitator will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions.

The need for sanctions/responsive actions to bring an end to the sexual Harassment and/or retaliation

The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment and/or retaliation

The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the community

The impact on the parties

Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

a. Student Sanctions

Responsive actions for an employee who has engaged in harassment and/or retaliation include:
Warning Verbal or Written

Referral to the Employee Assistance Program
Education to the individual and/or the community
Permanent alteration of housing assignments

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