

## CHESTNUT HILL COLLEGE

**Subject:** Sex Discrimination, Sexual Harassment and Sexual Violence

**Policy:** 2.11

**Effective:** May 23, 2011  
Reviewed August 5, 2015  
Revised August 2016  
Revised August 2018

**Contact:** Chief of Staff

---

*Please Note: This policy was originally modified in April 2011 to ensure that Chestnut Hill College procedures are in compliance with the guidance issued by the Office for Civil Rights on April 4, 2011 relating to college and universities' obligations under Title IX to respond appropriately to allegations of sexual harassment and sexual violence. Sexual harassment and sexual violence are forms of sex discrimination prohibited by Title IX. In addition to sexual violence, this policy addresses any discrimination or harassment based on gender, sexual orientation, gender identity, or gender expression. This policy was subsequently modified in August 2014 and August 2015 to ensure that Chestnut Hill College is in compliance with the VAWA amendments, Campus SaVE Act, the April 2014 Questions and Answers on Title IX and Sexual Violence from the Office for Civil Rights, and guidance issued under The White House Document, Not Alone. This policy is reviewed and updated annually in order to ensure compliance with federal guidance and to best support members of the College community.*

*While this policy speaks specifically to harassment based on sexual discrimination, all incidents involving harassment under protected classifications as outlined in the [College's Non-Discrimination Policy](#), will follow the same procedures for investigation, hearing and appeal.*

### **Policy Statement**

It is the policy of Chestnut Hill College that while employed or enrolled at Chestnut Hill College no administrator, faculty member, staff member or student shall be subject to discrimination based upon sex, which can include acts of sexual violence, sexual harassment, domestic violence, dating violence and stalking, by another member of the College community. Chestnut Hill College expects all members of the campus community to conduct themselves in a manner that does not infringe upon the rights of others; the College believes in a zero tolerance policy for gender-based or sexual misconduct.

Included within this Policy is the College's commitment to protect the individuals who are involved in an investigation of a potential violation of this Policy against retaliation from any member of the College community. Such retaliation will be deemed a separate basis for violating the College's Policy on Sex Discrimination, Sexual Harassment and Sexual Violence 2.11. For the purposes of this policy, sex discrimination, sexual harassment and sexual violence all fall under the category of sexual misconduct.

## Policy Rationale

Chestnut Hill College values appropriate relationships, respect for all and shared responsibility. Therefore, Chestnut Hill College is committed to fostering an educational and working environment that is free from sexual harassment and sexual violence. In recognition of and respect for the dignity of all at Chestnut Hill College, sexual misconduct in any form, cannot, and will not, be tolerated. This policy directly supports our mission in the areas of shared responsibility, social justice, and communal respect. The last decade has witnessed a heightened awareness in our society of the various forms of sexual misconduct, and a deep and sincere concern for the entire College Community prompts us to form a Policy on Sex Discrimination, Sexual Harassment and Sexual Violence.

The purpose of this policy is:

- To educate the community on the definitions of sexual misconduct,
- To outline the steps necessary to deal most effectively with cases involving allegations of sexual misconduct, and
- To define the rights and responsibilities for members of the Chestnut Hill College community.

## Scope of Policy

- This policy and the procedures set forth herein apply to and cover all members of the College community in all three Schools without exception. The College community includes all administrators, faculty, staff, and students. Title IX protects students from sexual harassment in a school's educational programs and activities.
- The College also contracts a number of vendors on campus. These individuals are also protected from all forms of discrimination and are held accountable to policies and procedures outlined by their respective employers. If a vendor is accused of misconduct against a member of the College community, the College will work collaboratively with the individual's employer. At the request of the College, these individuals may also be subject to interim measures (outlined below) while an incident is investigated and resolved.
- Employees are protected from sexual discrimination in all phases of their employment including applications, job performance, salary, and promotions.
- Members of the College community, who are traveling abroad on College business or due to a College course, are expected to comply with this Policy regardless of local laws and/or customs.
- Title IX also prohibits harassment based upon sex or sex-stereotyping.
- Members of the College community are protected from being retaliated against for filing a claim or for cooperating in an investigation
- This policy and the procedures cover all members of the College community in all three Schools for claims of discrimination, harassment or retaliation under any other protected category as outlined in the College's [Non-Discrimination Policy 2.20](#).

## **Legal Definition**

Discrimination or harassment on the bias of sex is a violation of Section 703 of Title VII of the 1964 Civil Rights Action and Title IX of the Educational Amendments of 1972. Unwelcome sexual advancements, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's employment or academic advancement;
- Submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating, hostile, or offensive educational, living or working environment.

## **Title IX Coordinator**

Chestnut Hill College designates Dean of Student Life Krista Bailey Murphy, Ph.D. as the Title IX Coordinator. Dr. Murphy can be reached at 215-248-7142 or via email at [murphyk@chc.edu](mailto:murphyk@chc.edu). Dr. Murphy's office is located in Fournier Hall, Room 144.

The Title IX Coordinator oversees the College's centralized review, investigation, and resolution of reports of sexual misconduct. The coordinator also coordinates the College's compliance with Title IX. The Title IX coordinator is:

- responsible for oversight of the investigation and resolution of all reports of sexual misconduct;
- knowledgeable and trained in relevant state and federal laws and College policy and procedure;
- available to advise any individual, including a complainant, a respondent, or a third party, about the courses of action available at the College, both informally and formally;
- available to provide assistance to any College community member regarding how to respond appropriately to reports of sexual misconduct;
- responsible for monitoring full compliance with all requirements and timelines specified in the complaint procedures; and
- responsible for compiling annual and semi-annual reports.

## **SEXUAL MISCONDUCT OFFENSES INCLUDE, BUT ARE NOT LIMITED TO:**

- **Sexual Harassment**
- **Sexual Assault**
  - **Non-Consensual Sexual Contact (or attempts to commit same)**
  - **Non-Consensual Sexual Intercourse (or attempts to commit same)**
- **Sexual Exploitation**

- **Stalking**
- **Intimate Partner Violence: Domestic Violence or Dating Violence**
- **Bullying or Intimidation**

Detailed definitions and examples of these forms of misconduct are included in the Supplemental Materials section of this Policy.

### **Reporting Sexual Misconduct in Any Form**

If you have been subjected to an act of sexual misconduct, you are urged to report the incident immediately. You may also want to discuss the event with a close friend, roommate, Resident Assistant, staff, faculty, family member, etc. who can support you through the initial medical treatment (if necessary) and reporting of the events. If you have been the victim of sexual violence you are urged to report the incident to the police immediately.

If you have been the victim of an act of sexual misconduct, you may be wondering what to do next. Here are some of your **options**:

- Get to a place where you feel physically and emotionally safe.
- Contact someone you trust to stay with you for moral support.
- Immediately report the incident to the appropriate College personnel.
  - This could include a Resident Assistant (RA), Campus Safety and Security, the Title IX Coordinator, or another individual whom you trust.
- If you were a victim of sexual violence and wish to contact the police, you may do so by calling 911.
- If you were a victim of sexual violence, it is important to seek medical care so you can be treated for injuries and tested for pregnancy and sexually transmitted diseases. Philadelphia has created the Philadelphia Sexual Assault Response Center (PSARC). PSARC is located at 300 E. Hunting Park Avenue, Philadelphia, PA 19124 and can be reached via phone at 215-685-3251.
  - PSARC has specially trained and certified Sexual Assault Nurse Examiners (SANE) to assist in the medical process related to forensic exams. Forensic evidence can be collected up to 96 hours after an assault has occurred.
  - A forensic exam, completed by a medical practitioner, is the process through which physical evidence is collected. This evidence could be used in a judicial case, if the victim chooses to pursue charges. Physical evidence can include photo documentation of injuries, collection of fluids (blood, semen, urine, saliva) and other identifiable objects (hair, clothing with potential DNA). Forensic exams are free of charge to victims of assault and will not be billed to the victim or the insurance company.
- Avoid showering, bathing, douching or cleaning in any other way to help preserve medical evidence if you choose to prosecute. Any clothes, sheets, or other items that may be considered evidence should be stored in paper (not plastic) bags. If you are still

wearing the clothes you had on at the time of the assault be sure to bring a change of clothes with you to the hospital.

### **To File a Complaint with the College**

To make a report of an act of sexual misconduct, we encourage you to seek out another member of the College community with whom you feel comfortable (this may include a friend, coach, advisor, etc.). Campus Security (215-242-7777) can be reached 24 hours a day should you wish to file a complaint or need immediate assistance. Campus Security can also assist you in contacting the police if you would like to file a report with the police. All reports of sexual discrimination, harassment and violence will be reported to Krista Bailey Murphy, the College's Title IX Coordinator. Individuals should be advised that the Title IX Coordinator is obligated to act on any report of sexual misconduct. The College does not limit the timeframe for filing a report of misconduct. Reports can be submitted at any time following an incident, although the College's ability to take any action may be negatively affected by the length of time between the alleged incident and the report.

You may choose to pursue the incident through the College's hearing process; you may choose to prosecute through the police; or you may choose to do both. Once the matter is reported to the College, the College may have a responsibility to investigate the situation even if you chose not to cooperate with the College. You should not feel pressured into any option; you may want to consult with your family before making a decision.

### **Types of On Campus Reports/ Confidentiality of Reports**

The College encourages complainants of sexual misconduct to talk to somebody about what happened – so complainants can get the support they need, and so the College can respond appropriately. Different employees on campus have different abilities to maintain a complainant's confidentiality.

- Some individuals are required to maintain complete confidentiality; talking to them is sometimes called a "privileged communication." These individuals have a legal and professional obligation not to reveal information shared with them in the scope of performing their duties.
- Other employees may talk to a complainant in confidence, and generally only report to the College that an incident occurred without revealing any personally identifying information, such as the complainant's name. Disclosures to these employees will not trigger a College investigation into an incident against the complainant's wishes.
- All other College employees are designated as responsible employees and are required to report all the details of an incident (including the identities of both the complainant and alleged respondent) to the Title IX coordinator. A report to these employees constitutes a report to the College – and generally obligates the College to investigate the incident and take appropriate steps to address the situation.

- By virtue of their responsibilities in the residence halls, Resident Assistants (RAs) and Resident Coordinators (RCs) are considered responsible employees.

**A. Privileged and Confidential Communications**

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) and nurses in the Health Center are not required to report any information about an incident to the Title IX coordinator without a complainant’s permission.

Sheila Kennedy, SSJ, Ph.D.	Director, Counseling Center Psychologist	215-248-7104	SJ 345
Deirdre Horan, MSN, CRNP	Director, Health Center, Nurse Practitioner	215-248-7111	FZ Lobby
Jeneane Fitzmaurice, BSN, RN	Registered Nurse	215-248-7111	FZ Lobby
Sandy Bumgardner, Psy.D.	Psychologist	215-248-7104	SJ 341
Lisa Johnson, Psy.D.	Therapist	215-248-7104	SJ 343

**B. Non-Professional Counselors and Advocates**

Individuals who work in Campus Ministry can generally talk to a complainant without revealing any personally identifying information about an incident to the College. A complainant can seek assistance and support from these individuals without triggering a College investigation that could reveal the complainant’s identity or that the complainant has disclosed the incident. While maintaining a complainant’s confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the complainant – helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the complainant to ensure that no personally identifying details are shared with the Title IX Coordinator. The Title IX Coordinator will report this information to the Director of Security for inclusion in the Daily Crime Log and Annual Campus Crime Statistics.

Joannie Cassidy, SSJ	Director of Campus Ministry	215-248-7095	SJ 348
Julia Marcel	Assistant Director of Campus Ministry	215-248-7107	SJ 337
Robert Mulligan, OSFS	Chaplain	215-248-7058	SJ 330

A complainant who speaks to a professional or non-professional counselor or advocate must understand that, if the complainant wants to maintain confidentiality, the College may be unable to conduct an investigation into the particular incident or pursue disciplinary action against the respondent. Even so, these counselors and advocates will still assist the complainant in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. A complainant who at first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated.

### **C. Reporting to Responsible Employees**

Unless specifically listed above, all other College employees are considered responsible employees. A responsible employee is a College employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other misconduct, or who is an individual who is reasonably believed to have this authority. Resident Assistants and Resident Coordinators are also considered responsible employees.

When a complainant tells a responsible employee about an incident of sexual violence, the complainant has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. A responsible employee must report to the Title IX coordinator all relevant details about the incident shared by the complainant so that the College can determine what happened – including the names of the complainant and respondent(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College's response to the report. A responsible employee should not share information with law enforcement without the complainant's consent or unless the complainant has also reported the incident to law enforcement. Before a complainant reveals any information to a responsible employee, the employee should ensure that the complainant understands the employee's reporting obligations – and, if the complainant wants to maintain confidentiality, direct the complainant to confidential resources.

If the complainant wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the complainant that the College will consider the request, but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the complainant's request for confidentiality.

Responsible employees will not pressure a complainant to request confidentiality, but will honor and support the complainant's wishes, including that the College investigate an incident

fully. By the same token, responsible employees will not pressure a complainant to make a full report if the complainant is not ready to do so.

### **Requesting Confidentiality From the College: How the College Will Weigh the Request and Respond.**

If a complainant discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College must weigh that request against the College's obligation to provide a safe, non-discriminatory environment for all individuals, including the complainant.

If the College honors the request for confidentiality, a complainant must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the respondent(s) may be limited.

Although rare, there are times when the College may not be able to honor a complainant's request in order to provide a safe, non-discriminatory environment.

When weighing a complainant's request for confidentiality or determining that no investigation or discipline will be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the respondent will commit additional acts of sexual or other violence, such as:
  - whether there have been other sexual violence complaints about the same respondent;
  - whether the respondent has a history of arrests or records from a prior school indicating a history of violence;
  - whether the respondent threatened further sexual violence or other violence against the complainant or others;
  - whether the sexual violence was committed by multiple respondents;
  - whether the sexual violence was perpetrated with a weapon;
  - whether the complainant is a minor;
  - whether the College possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
  - whether the complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the College to investigate the alleged incident. If the College determines that it cannot maintain a complainant's confidentiality, the College will inform the complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response.

The College will remain ever mindful of the complainant's well-being, and will take ongoing steps to protect the complainant from retaliation or harm and work with the complainant to create a safety plan. Retaliation against the complainant, whether by students or College employees, will not be tolerated. The College will also:

- assist the complainant in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus (see portion of policy identifying these);
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the respondent pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the complainant of the right to report a crime to campus or local law enforcement – and provide the complainant with assistance if the complainant wishes to do so.

Because the College is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices. If the College determines that it can respect a complainant's request for confidentiality, the College will also take immediate action as necessary to protect and assist the complainant.

### **Investigation, Hearing and Resolution**

In order to assure a prompt and equitable resolution to the complaint, complainants will be asked to provide details of the reported incident, either verbally or in writing, detailing the specifics of the incident, names of individuals, date, time, place, specifics which occurred, witnesses to the events described, etc. This complaint will start the College's investigation of the events reported.

- An investigation will be conducted once a complaint is filed. Complaints may be filed by the complainant, by a parent, or by a third party.
- The person who makes the report is the complainant and the individual named in the report is the respondent.
- If requested, every effort will be made to investigate the incident confidentially. The College cannot promise complete confidentiality. Information can only be shared within the College if there is a "legitimate educational need." In order for information to be shared outside of the College, a complainant would need to give explicit permission or that information would need to be subpoenaed. It should be noted that the College's ability to thoroughly investigate and resolve incidents of sexual misconduct may be

limited should the complainant not want his or her name or any identifiable information shared.

- As a residential educational institution, the College has a responsibility to protect the community from potential harm. As such, the respondent may face interim suspension from the College or from College housing during an investigation, prior to the hearing, during the hearing, during deliberation or during the appeal process. If appropriate, the College will work with the respondent to continue his/her course of study online.
- The respondent will be given the opportunity to provide his/her version of the reported incident. This can occur either verbally or in writing by the respondent to the investigator; the respondent has the right to decline this option.
- The complainant's statement will be shared with the respondent.
- The respondent's statement (if provided) will be shared with the complainant.
- At the conclusion of the investigation, the investigator(s) will prepare an Investigative Report to be used by the Title IX Coordinator and hearing panel (if applicable).
- In the event there is little or no dispute between the versions of the events and the respondent admits the conduct, the matter may be resolved without a hearing at the discretion of the Title IX Coordinator or designated investigator. The appropriate discipline may be imposed by the College based upon the facts admitted during the investigation. If the complainant concurs with the College's resolution, the matter is concluded without the need for a hearing.
- Even when there is significant difference in the facts relayed by the complainant and respondent, the College may impose interim measures on the respondent.
- If the facts are in dispute and the Title IX Coordinator concludes there is a basis to move forward, a private disciplinary hearing will be held where the complainant and respondent will each be treated without prejudice or bias and where each will only be asked to answer questions relevant to the specific misconduct under consideration.
- A specially trained hearing panel will be convened to adjudicate allegations of sexual misconduct. New members of this hearing panel receive extensive training on Title IX, current guidance from OCR and the College's judicial process; additionally, refresher trainings are held for the full panel each semester.
  - The hearing panel will contain between 3-5 members for each hearing. These members are drawn from a pool of between 10-20 trained members. Panel members may recuse themselves from any hearing due to conflict of interest or other inability to fully participate in a complete hearing.
  - The Title IX Coordinator will provide oversight to the hearing panel as it relates to policies and procedures. The Title IX Coordinator has no decision making responsibility and is not a voting member of the hearing panel.
- The College will use its best efforts to complete its investigation within 14 business days of the date it receives the complaint and to schedule a disciplinary hearing within another seven (7) business days.
  - At times, a thorough investigation may take longer than 14 days. In instances where extra time is needed, both parties will be notified of the reasons and an expected completion date.

- The parties may mutually agree to extend these time periods.
- This hearing will not be, and may not be, taped. Out of respect for privacy, the College requests that all students keep information from a hearing confidential and that employees exercise discretion regarding the information disclosed in the hearings.
- Every effort is made to collect all information during the investigation. In the event that additional information is presented, both parties need to submit this additional documentation to the Title IX Coordinator at least 48 hours prior to the hearing; the Title IX Coordinator will share this information with the respective parties. Both parties will be shown a copy of the Statements provided by the other party; this includes Statements from any witnesses of fact.
  - Additional information presented at this point may result in the investigation being reopened.
- At least 72 hour's notice will be given to both complainant and respondent to appear at the hearing.
- If desired, the complainant will be permitted to attend the entire hearing. If the complainant chooses not to attend the hearing, he or she will be offered the opportunity to submit a written statement of fact to be read at the hearing. If the respondent fails to appear, he or she may submit a written statement of fact to be read at the hearing. If either party declines to participate, the hearing will move forward and no adverse inference will be drawn.
- During the hearing, both the complainant and the respondent have the right to be assisted by an advisor of their choice. The advisor may be any person, including an attorney engaged at the party's expense, who is not otherwise a party or witness in the investigation. The advisor may confer quietly with the complainant or respondent to provide advice or support, the advisor may not speak on behalf of the complainant or respondent or otherwise actively participate in, or in any manner disrupt, the hearing. To serve as an advisor, the individual will be required to meet with the Title IX Coordinator in advance of participating in the hearing to understand the expectations of the role, privacy, and appropriate decorum. The Title IX Coordinator has the right at all times to determine what constitutes appropriate behavior on the part of an advisor. No copies of written materials or any other evidence will be given to an advisor.
- Once the original complaint has been filed, the College will use its best efforts to process the incident (this includes investigation of facts, hearing notification, the hearing, deliberation, notification of the outcome of the hearing and the appeal process) within 60 business days. Circumstances may arise that require the extension of time frames, including extension beyond sixty (60) days. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances. In the event that the investigation and resolution exceed this time frame, the College will notify all parties of the reason for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

- Character witnesses are not permitted at the hearing.
- In determining a remedy, the College may take into consideration the prior disciplinary history of the respondent.
- The College utilizes a preponderance of evidence as the standard of proof in disciplinary proceedings; this standard is met if the proposition is more likely to be true than not true. Preponderance of evidence is the acceptable standard for civil cases.
- A written decision, complete with sanctions, if any, will be received within 10 business days after the hearing.
- The complainant and respondent will be notified of the outcome of the hearing; this notification will be made in writing and will occur as concurrently as possible.
- The process will terminate if the respondent is no longer a student or employee.
  - Please note that the College will still provide appropriate accommodations to the complainant if the respondent is no longer a student or employee.
- The College will cooperate to the extent permitted by law with criminal proceedings.
- The College does not condone retaliation towards the respondent or the complainant.
- Any claims of retaliation will be investigated and those individuals will be subject to disciplinary action. Please see the end of this policy for additional information on retaliation.
- Mediation will not be used to resolve sexual violence complaints.

### **Sanctions for Students**

Individuals found responsible for violating this policy may face one or more of the following sanctions. The severity of the incident, past judicial record, attitude, and willingness to make amends will be taken into consideration when determining sanctioning.

- **Disciplinary Warning:** notice to the student, orally or in writing, that continuation or repetition of the conduct found wrongful, within a period of time stated in the warning, may be cause for more severe disciplinary action.
- **Disciplinary Probation:** an official written notice to a student that violation of College policies, regulations, or patterns contrary to College standards or expectations, will not be tolerated. Repeated offenses or violations of any conditions of probation will result in more severe action, including possible suspension or expulsion. Disciplinary probation lasts for a stated time.
- **Educational Sanctions:** including counseling, reflection papers, research papers, classes and/or community engagement/service.
- **Fines:** fines range from \$10 to \$200 for punitive purposes and/or restitution.
- **Restitution:** the student or group may be required to make payment to the College, or to other persons, groups or organizations for damages to or misappropriation of property.
- **Loss of Residency:** a student will be required to leave the College residence community and may forfeit any housing costs. The student will be barred from entering all residence halls during the time of removal from the campus. A

student who loses residency may be considered for future on-campus accommodations at the discretion of the Vice President for Student Life and the Director of Residence Life.

- Disciplinary Residence Hall Room Change: an action that requires a student to vacate his/her current room and relocate to another room because of the disciplinary process.
- Restrictions of Housing Lottery: an action may exclude a student from participation in a particular housing lottery or affect his/her ranking in a particular lottery.
- Suspension: separation of the student/group from the College for a specified period of time. This could include exclusion from classes and other privileges or College activities.
- Expulsion: termination (after due process) of student status for an indefinite period. The conditions of readmission, if permitted, shall be stated in the order of expulsion.

## Appeals

- Both parties have the right to appeal. A letter of appeal should be addressed to the Title IX Coordinator within three (3) business days of receipt of the decision. Appeals may only be submitted on the following grounds:
  - evidence of improper or inadequate procedure;
  - prejudicial conduct;
  - disproportionate penalty;
  - new evidence, not available at the time of the investigation.
- An appeal based on new evidence, not available at the time of the hearing will be referred back to the investigative process. Following the completion of the new evidence, the original hearing panel will reconvene for a second hearing.
- Upon receipt of an appeal for improper or inadequate procedure, the Title IX Coordinator will review the case from initial complaint to resolution to determine if there was improper or inadequate procedure.
- Upon receipt of an appeal for prejudicial conduct or disproportionate penalty, the Title IX Coordinator will convene a specially trained appeals board
- If an appeal meets none of the above criteria, the complainant and/or respondent will be notified that the appeal does not meet the criteria to move forward.
- The respondent's and/or complainant's letter(s) of appeal, the hearing panel's decision letter, and all other documents used in the hearing will comprise the official file to be used by the Appeal's Board.
- The parties will receive written notice of an appeal decision within 10 business days.
- Appeals will go a specially trained appeals board. While the College Appeals Board consists of faculty, staff, administrators or students as appointed by the President, no students will serve on appeals related to violations of the Policy on Sexual Discrimination, Sexual Harassment and Sexual Violence.

- The non-appealing party will be notified that the appeal has been filed. Once it is formed, the Appeals Board will notify the parties if additional documentation is requested and the time period for its submission. All documentation reviewed by the Board will be made available in advance for both parties to review and submit comments; comments will be shared with one another. If evidence is discovered after the conclusion of the hearing, this new evidence will be reviewed by the Appeals Board. Both parties will be made aware of any new evidence. The Appeals Board will, after reviewing all available evidence and documentation, make a recommendation to the Title IX Coordinator or her designee. In cases involving a recommendation of suspension or expulsion, the recommendation of the Appeals Board will be issued to the President. In cases not involving suspension or expulsion, there is no right for either party to appeal to the President. Both parties will receive written notice of the appeal decisions within 10 business days after the Appeals Board has received any additional documentation it may request. As stated earlier, the review of the Appeals Board is limited to fact based issues, this includes evidence of improper or inadequate procedure, prejudicial conduct and/or disproportionate penalty.
- Sanctions, such as interim suspension from College housing or from the College itself, or from employment may be imposed during the appeals process at the decision of the Vice President for Student Life or the Assistant to the President for Administration and Special Projects.

### **Procedures for Employees**

Any person who believes he or she has experienced sexual misconduct, as defined in the College's Policy on Sexual Discrimination, Sexual Harassment and Sexual Violence, may file a complaint against the Chestnut Hill College faculty, staff, or administration member (the person filing a complaint is referred to as a "complainant"). The procedures outlined below are designed to create a fair and confidential process for the complainant and respondent, while also ensuring a community built on appropriate relationships and respect for all. As acts of sexual misconduct present a threat to the community, the President is kept apprised of all training and prevention efforts, as well as allegations of sexual misconduct.

### **Interim Measures**

Upon the filing of a complaint, the Title IX Coordinator will review the allegations and determine the necessity and scope of any interim measures to prevent further acts of harassment, misconduct, or retaliation and to provide a safe educational and work environment. The range of interim measures may include, but not be limited to:

- Adjusting the complainant's or respondent's work schedule, assignment, or location for employment.
- Changing the complainant's or respondent's academic schedule, allowing the complainant to take an incomplete in one or more courses, allowing the complainant

to drop (or retake) a course without penalty, or complete course work via alternate delivery methods.

- Providing an escort to ensure safe movement between classes, work sites, and other activities.
- Allowing the complainant to withdraw from or retake a class without penalty, or extending deadlines for examinations or other assignments.
- Providing access to tutoring or other academic support.
- Putting the respondent on paid administrative leave until the conclusion of the investigation.
- Issuing a no contact order.

An individual's failure to comply with restrictions imposed by interim measures is a violation of this policy and a basis for disciplinary action, up to and including termination of employment.

## **Investigation of a Complaint**

### **Investigator**

The Title IX Coordinator will designate an Investigator (ordinarily a member of Human Resources, the Office of the President, or when necessary, an outside third party investigator) specifically trained in sexual misconduct investigations to conduct a prompt, thorough, and fair investigation of any sexual misconduct complaint against a College employee. Every effort will be made to eliminate any possible or perceived bias in the selection of an investigator.

### **Investigation Findings**

At the conclusion of the investigation, the Investigator will prepare a report summarizing and analyzing the relevant facts determined through the investigation, with reference to any supporting documentation or statements.

The final Investigative Report will provide a summary of the Investigator's impressions, including context for the evidence, and will make a determination as to whether the respondent's conduct violated Policy on Sexual Discrimination, Sexual Harassment and Sexual Violence. The Investigative Report will then be provided to the Title IX Coordinator who will convene a hearing panel to determine if a violation has been found. Members of the hearing panel are drawn from a slate appointed by the President and are specially trained in handling cases of sexual misconduct. All proceedings are confidential.

If there is no finding of responsibility, all materials will be returned to the Title IX Coordinator for inclusion in records (please see Preservation of Records for additional information).

If there is a finding of responsibility, the hearing panel will submit a report to the Vice President for Academic Affairs (if the respondent is full-time faculty), the Dean of the respective College (if the respondent is adjunct faculty) or the Director of Human Resources (if the respondent is

staff) to make a final determination as to the appropriate disciplinary sanction, per policies outlined in the Faculty Manual and the Employee Manual, for the respondent's violation of the Policy. In the event that the respondent is a tenured faculty member, procedures outlined in the Termination of Contract and Dismissal Policy (Faculty Manual Policy F101.5) will be followed. If a conflict of interest exists that could create real or perceived bias against either the complainant or the respondent, another Vice President may be appointed. All decisions related to suspension or termination of employment are made by the President.

### **Imposition of Sanctions**

#### **Suspension or Termination of Faculty.**

Any disciplinary sanction that involves the suspension or termination of a faculty member will be conducted pursuant to the procedures outlined in the Faculty Manual

#### **Disciplinary Actions against Staff.**

Disciplinary sanctions involving staff members will be consistent with any applicable policies outlined in the Employee Manual.

### **Appeals**

The respondent has the right to appeal the investigative determination and the sanction imposed. Appeals will be submitted to the Title IX Coordinator and will be handled by a third party contracted service.

The College's determination as to whether the respondent's conduct violated the Policy will be presumed to have been reached reasonably and appropriately, by a preponderance of the evidence. Therefore, an appeal is available only on the following grounds:

- evidence of improper or inadequate procedure;
- prejudicial conduct;
- disproportionate penalty;
- new evidence, not available at the time of the hearing.

Any appeal must be in writing and should be filed with the Title IX Coordinator within ten (10) calendar days of the date of receipt of the relevant Vice President's final decision.

### **Preservation of Records**

A confidential record of all complaints, including their disposition, will be maintained by the Title IX Coordinator.

### **Retaliation**

Chestnut Hill College strictly prohibits retaliation against any individual for reporting, providing information, exercising one's rights or responsibilities, or otherwise being involved in the

process of responding to, investigating, or addressing allegations of sex discrimination, sexual harassment, and sexual violence. Therefore, any retaliation, intimidation, threats, coercion, or discrimination against any such individual, undertaken or attempted either directly or by someone acting on behalf of another, will be addressed in the most serious way by the College, and individuals who engage in such actions are subject to discipline up to and including suspension, exclusion, or dismissal. These behaviors will result in subsequent disciplinary proceedings. Anyone who is aware of possible retaliation or has other concerns regarding the response to a complaint of sexual misconduct should report such concerns to the Title IX Coordinator or to any Deputy Coordinator, who shall take appropriate actions to address such conduct in a prompt and equitable manner.

### **To File a Complaint with the Office of Civil Rights**

Anyone who wishes to file a complaint with the Office of Civil Rights (OCR) may do so through the mail, email or online. Prior to filing a complaint with OCR against an institution, a potential complainant may want to find out about the institution's grievance process and use that process to have the complaint resolved. However, a complainant is not required by law to use the institutional grievance process before filing a complaint with OCR. If a complainant uses an institutional grievance process and also chooses to file the complaint with OCR, the complaint must be filed with OCR within 60 days after completion of the institutional grievance process. For more information on filing a complaint, please visit the OCR website at <http://www2.ed.gov/about/offices/list/ocr>.

### **Record Keeping**

After a matter is concluded, the individual who conducted the investigation shall prepare a written summary of the matter. The purpose of the summary is (1) to insure the College is aware of repeat incidents by the same individual and (2) for record keeping purposes so the College can evaluate the effectiveness of its anti-harassment policy and procedures. This summary will be kept in a separate file which may be consulted for the two purposes stated.

### **Supplemental Information**

#### **Definitions of Sexual Misconduct**

- **Sexual Harassment**

Sexual Harassment is:

- unwelcome, gender-based verbal or physical conduct that is,
- sufficiently severe, persistent or pervasive that it,
- unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational program and/or activities, and is
- based on power differentials (quid pro quo, i.e. where an employee or student is informed their job or academic progress is dependent on their providing sexual favors to

someone with authority over them), the creation of a hostile environment, or retaliation.

Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence, stalking; gender-based bullying.

Sexual harassment also includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical.

- **Sexual Assault**

Sexual assault is defined as having sexual intercourse or sexual contact with another individual without consent, including:

1. by the use or threat of force or coercion;
2. without effective consent; or
3. where that individual is incapacitated.

Sexual contact includes intentional contact with the intimate parts of another, causing another to touch one's intimate parts, or disrobing or exposure of another 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.

Sexual intercourse 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.

It is important to note that a person who is incapacitated cannot consent to sexual activity. *Consent* to engage in sexual activity must be knowing and voluntary; it must exist from the beginning to end of each instance of sexual activity and for each form of sexual contact. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Consent is active, not passive. Incapacitation may result from the use of alcohol and/or drugs. Incapacitation and consent are further defined at the end of this policy.

Sexual contact and sexual intercourse are defined in additional detail below:

○ NON-CONSENSUAL SEXUAL CONTACT

Non-Consensual Sexual Contact is:

- any intentional sexual touching,
- however slight,
- with any object,
- by a man or a woman upon a man or a woman,
- that is without consent and/or by force.

Sexual Contact includes:

- Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

○ NON-CONSENSUAL SEXUAL INTERCOURSE

Non-Consensual Sexual Intercourse is:

- any sexual intercourse
- however slight,
- with any object,
- by a man or woman upon a man or a woman,
- that is without consent and/or by force.

Intercourse includes:

- i. vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

• Sexual Exploitation

Occurs when an individual takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to the benefit or advantage of anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another individual;
- Non-consensual video or audio-taping of sexual activity;

- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- Engaging in voyeurism;
- Knowingly transmitting an STI/D or HIV to another individual;
- Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

- **Stalking**

Stalking occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances that demonstrate either of the following:

- place the person in reasonable fear of bodily injury; or
- reasonably cause substantial emotional distress to the person.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Examples of stalking include:

- unwelcome and repeated visual or physical proximity to a person;
- repeated oral or written threats;
- extortion of money or valuables;
- unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and activity through social media or other online mediums;
- unwelcome/unsolicited communications about a person, their family, friends, or co-workers; or
- sending/posting unwelcome/unsolicited messages with an assumed identity; or
- implicitly threatening physical contact;
- or any combination of these behaviors directed toward an individual person.

- **Intimate Partner Violence: Domestic Violence or Dating Violence**

Intimate-partner violence, also referred to as dating violence, domestic violence, and relationship violence, includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with that person. It may involve one act or an ongoing pattern of behavior. Intimate-partner violence can encompass a broad range of behavior, including, but not limited to, physical violence, sexual violence, emotional violence, and economic abuse. Intimate-partner violence may take

the form of threats, assault, property damage, or violence or threat of violence to one's self, one's sexual or romantic partner, or to the family members or friends of the sexual or romantic partner. Intimate-partner violence affects individuals of all genders, gender identities, gender expressions, and sexual orientations and does not discriminate by racial, social, or economic background.

- **Bullying or Intimidation**

Bullying includes any intentional electronic, written, verbal, or physical act or a series of acts directed at another individual or individuals that is severe, persistent, or pervasive and that has the intended effect of doing any of the following: (i) substantially interfering with a student's education; (ii) creating a threatening environment; or (iii) substantially disrupting the orderly operation of the College. Bullying is prohibited, and participating in such acts will result in disciplinary action. Bullying that is based on gender, sexual orientation, gender identity, or gender expression, or based on any other protected classification as outlined in the College's [Non-Discrimination Policy 2.20](#) will be handled under this policy.

Intimidation is any verbal, written, or electronic threats of violence or other threatening behavior directed toward another person or group that reasonably leads the person(s) in the group to fear for her/his physical well-being. Intimidation is prohibited and will result in disciplinary action.

Anyone who attempts to use bullying or intimidation to retaliate against someone who reports an incident, brings a complaint, or participates in an investigation in an attempt to influence the judicial process will be in violation of retaliation as described within this policy and will be subject to disciplinary action.

**ADDITIONAL APPLICABLE DEFINITIONS:**

- Consent: Consent is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. The lack of a "no" cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.
  - Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
  - Previous relationships or prior consent cannot imply consent to future sexual acts.
  - The College affirms a "yes means yes" standard for consent; by this standard, consent is an affirmative, conscious and voluntary agreement to engage in sexual activity

- Force: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent (“Have sex with me or I’ll hit you. Okay, don’t hit me, I’ll do what you want.”).
  - Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
  - NOTE: There is no requirement that a party resists the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.
  - In order to give effective consent, one must be of legal age.
  - Sexual activity with someone who one should know to be -- or based on the circumstances should reasonably have known to be -- mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), constitutes a violation of this policy.
    - Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
    - This policy also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another individual is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>
- Use of alcohol or other drugs will never function as a defense for any behavior that violates this policy.
- The sexual orientation and/or gender identity of individuals engaging in sexual activity is not relevant to allegations under this policy.
- For reference to the pertinent state statutes on sex offenses, please see <http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/18/00.031..HTM>.

## External Resources

### Medical Care for Sexual Assault:

#### Philadelphia Sexual Assault Response Center (PSARC)

300 E. Hunting Park Avenue

Philadelphia, PA 19124  
215-685-3251  
Hotline: 215-425-1625

**24 Hour Hotlines:**

Women Organized Against Rape 215.985-3333\*  
National Sexual Assault Hotline: 800-656-HOPE\*  
Philadelphia Domestic Violence Hotline: 866-SAFE-041

**Sexual Harassment:**

Women’s Law Project 215.928.9801  
Philadelphia Commission on Human Relations 215.686.4692

**Prosecution:**

Special Victims Unit 215.685.3251  
Police Sex Crimes Unit 215.685.1180/81/82 Rape Prosecution Unit 215.686.8083

*Please note that these resources are in Philadelphia. For locations outside of Philadelphia, please call 911.*

\*These resources are confidential

**Campus Wide Prevention Efforts**

Prevention efforts focus on not only education, but also primary prevention techniques such as bystander intervention, as well as providing alternative programming for individuals. Alternative programming sometimes has an educational component, but sometimes it is purely designed to provide an alcohol and drug free environment for individuals, thus helping to minimize their own risk. Examples of programs are included in the chart below:

<b>Type of Program</b>	<b>Examples</b>
Lectures & Workshops	Escalation Workshop “DUI: A Powerful Lesson” – Mark Sterner Women Organized Against Rape Workshop Healthy Choices Orientation Session
Awareness Programs	It’s On Us Week of Action Alcohol 101 (in first year seminars and for policy violators) Denim Day Sobriety/Safe Drinking Pledge

	<p>It's On Us Pledge  DUI Simulator  Virtual Bar  Various Residence Hall Programs  National Collegiate Alcohol Awareness Week  Day of Silence</p>
Alcohol Free Programming	<p>Fridays After Dark (every Friday after 9 pm),  Midnight Madness (funded by an NCAA CHOICES grant, Alternative programming on high risk days (Super Bowl, World Series, Halloween, St. Patrick's Day, etc.)</p>
Training	<p>Step UP to be a Dear Neighbor (bystander intervention training)  Responsible Employee/Campus Security Authority Training with Faculty, Staff, Resident Assistants and other paraprofessional staff  Sexual Harassment Training</p>
Electronic	<p>Social Media campaigns  It's On Us Campaign  Use of campus wide TVs</p>

**Educational Resources**

Our goal is to always prevent an incident from occurring. With this goal in mind, the remaining section includes examples of policy violations and risk reduction tips.

**Risk Reduction Tips**

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor "NO" clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

1. Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
2. Understand and respect personal boundaries.
3. DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
4. Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
5. Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
6. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
7. Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
8. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

## Examples

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 pm until 3:00 am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being "a prude." Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a "hand job" (hand to genital contact). Amanda would never had done it but for Bill's incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left.

**Bill is responsible for violating the Non-Consensual or Forced Sexual Contact section of this policy. It is likely that a College hearing would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it**

**is forced. Consent is not effective when forced. Sex without effective consent is sexual misconduct.**

- Jiang is a junior and Beth is a sophomore. Jiang comes to Beth's dorm room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses the desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation?

**Jiang would be held responsible in this scenario for Non Consensual Sexual Intercourse. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, students should attempt to be as clear as possible as to whether or not sexual contact is desired, but students must be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.**

- Sam and Chris are at a party. Sam is not sure how much Chris has been drinking, but is pretty sure it's a lot. After the party, Sam walks Chris to Chris' room, and Chris comes on to Sam, initiating sexual activity. Sam asks if Chris is really up to this, and Chris says yes. Clothes go flying, and they end up in Chris' bed. Suddenly, Chris runs for the bathroom. When Chris returns, Chris' face is pale, and Sam thinks Chris may have thrown up. Chris gets back into bed, and they begin to have sexual intercourse. Sam is having a good time, though Sam can't help but notice that Chris seems pretty groggy and passive, and Sam thinks Chris may have even passed out briefly during the sex, but Sam does not let that stop him. When Sam runs into Chris the next day, Sam thanks Chris for the wild night. Chris remembers nothing, and decides to make a complaint to the Dean.

**This is a violation of the Non-Consensual Sexual Intercourse Policy. Sam should have known that Chris was incapable of making a rational, reasonable decision about sex. Even if Chris seemed to consent, Sam was well aware that Chris had consumed a large amount of alcohol, and Sam thought Chris was physically ill, and that Chris passed out during sex. Sam should be held accountable for taking advantage of Chris in that intoxicated condition. This is not the level of respectful conduct expected of students.**