

Student Non-discrimination, Anti-Harassment, and Sexual Misconduct Policy

This Policy is effective as of August 14, 2020, and applies to complaints received on or after that date. Complaints received prior to August 14, 2020 will be addressed pursuant to the [Equity Grievance Policy and Equity Grievance Process](#) as previously in effect.

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Student Guide

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I. Statement of Institutional Values

Colgate values the social and intellectual vibrancy that occurs when students, faculty, and staff with different life experiences, viewpoints, and belief systems come together to share knowledge and foster understanding. We aim to create and maintain a Colgate community whose members can study, live, and work together in an environment characterized by equal opportunity, inclusiveness, safety, and mutual respect. To that end, this policy prohibits discrimination, harassment (including sexual harassment), sexual assault, sexual exploitation, domestic violence, dating violence, stalking, and related retaliation (collectively “Prohibited Conduct”). Colgate is committed to maintaining an educational environment and workplace free from Prohibited Conduct. Any and all such acts are

serious violations of our community values. They impede our educational mission. (See Colgate's **Mission Statement**, and the discussion of community values in Colgate's **Statement on Academic Freedom and Freedom of Expression**.)

Colgate fully subscribes to all federal and state civil rights laws banning discrimination in the context of its programs and activities. These include but are not limited to Title IX and Title VI of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Rehabilitation Act, the New York State Human Rights Law, and New York State Education Law Article 129-B. Colgate is committed not only to compliance with these laws but with promoting a community that lives out the values these equal opportunity laws envision.

This policy addresses Prohibited Conduct by individual members of the campus community. However, the university also accepts complaints about discrimination or discriminatory impact caused by a policy, procedure or practice of the university, or a specific university department, office or operating unit. A complaint about a policy, procedure or practice should be made to the Office of Equity and Diversity, who will conduct an inquiry into the policy, procedure or practice, and, if a discriminatory impact is found, will issue recommendations for corrective and remedial action to the appropriate university personnel.

II. Policy Coverage

This policy sets forth behavioral expectations for all Colgate University students. This policy applies to conduct that occurs on Colgate's campus or property and to all Colgate programs and sponsored activities. This policy also applies to off-campus conduct under certain circumstances. For example, certain aspects of the policy apply when students travel off campus as part of a university activity or team.

Conduct that occurs off campus and not in connection with Colgate programs may violate certain aspects of this policy if the conduct creates a threatening or hostile environment on campus or within a Colgate program, or if the incident causes concern for the safety or security of Colgate's campus. A complaint that this policy has been violated will be addressed through one of the following university processes:

If the complaint includes allegations of Prohibited Conduct by or against a student or student organization that include alleged discrimination or harassment based upon sex, gender, sexual orientation, or gender identity or expression; sexual assault; sexual exploitation; domestic violence; dating violence; stalking based on sex; or related acts of retaliation, the complaint will be addressed pursuant to the **Colgate University Student Sex- or Gender-Based Discrimination and Harassment and Sexual Misconduct Resources** and Response Procedures.

If the complaint involves Prohibited Conduct by a student or student organization including alleged discrimination or harassment based only on other characteristics protected by applicable

law (including race, color, pregnancy, religion, creed, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, or domestic violence victim status), it will be addressed pursuant to the **Colgate University Student Discrimination and Harassment Resources and Response Procedures**.

Complaints involving Prohibited Conduct by or against employees, other than complaints addressed under the Student Sex- or Gender-Based Discrimination and Harassment and Sexual Misconduct Resources and Response Procedures because they involve allegations of Prohibited Conduct by or against a student or student organization as described above, will be addressed through applicable Colgate University procedures governing faculty or staff.

The Title IX Coordinator and Equity and Diversity Officer oversees implementation of the applicable processes for responding to complaints of Prohibited Conduct. Any person assigned a role pursuant to this policy may delegate their authority, or the Title IX Coordinator and Equity and Diversity Officer may require reassignment of such authority, to another appropriate person to avoid bias or conflicts of interest, or in other circumstances, as deemed necessary. In addition, to the extent permitted by applicable law (including Title IX and New York Education Law Article 129-B), appropriately trained personnel other than the Title IX Coordinator may oversee cases for reasons including, but not limited to, the need to facilitate efficient and timely administration of such cases. The university may also utilize appropriately trained individuals for any role under this policy as it may deem necessary or appropriate.

Inquiries may be made to:

Tamala Flack
Title IX Coordinator and Equity and Diversity Officer
The Office of Equity and Diversity
102 Lathrop Hall
Colgate University
13 Oak Drive
Hamilton, NY 13346
315-228-7014

III. Definitions of Prohibited Conduct

A. Discrimination

Colgate University complies with all federal and state civil rights laws banning discrimination in private institutions of higher education. Colgate will not discriminate against, and prohibits discrimination against, any person because of race, color, sex, gender, sexual orientation, gender identity or expression, pregnancy, religion, creed, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status, or any other protected category under applicable local, state, or federal law (collectively, “Protected Characteristics”).

The term “discrimination” refers to an act that disadvantages a person and that occurs because of the affected individual’s Protected Characteristics. Examples of discrimination include but are not limited to excluding a student from membership in an organization, denying a student a research opportunity, or giving a student a lower grade than deserved, because of the student’s Protected Characteristic.

B. Harassment (other than Sexual Harassment)

Harassment is unwelcome, offensive conduct that occurs on the basis of race, color, pregnancy, religion, creed, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, or domestic violence victim status.

Harassing conduct can occur in various forms, including:

Verbal – Conduct such as unwelcome, demeaning, or graphic comments; using ethnic, racial, religious, or other slurs to refer to a person or group; or jokes or comments that demean a person or a group on the basis of one of the above-referenced Protected Characteristics.

Physical – Conduct such as physical threats toward or intimidation of another on the basis of one of the above-referenced Protected Characteristics.

Visual – Conduct such as creating or displaying racially, ethnically, or religiously offensive pictures, symbols, flags, cartoons, or graffiti that disparages another person or group because of one of the above-referenced Protected Characteristics.

Communication-based – Conduct such as phone calls, e-mails, text messages, chats, blogs or online communications that offend, demean, or intimidate another on the basis of one of the above-referenced Protected Characteristics. Members of the community are expected to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome messaging, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of, or group within, the university community.

A determination as to whether harassment occurred depends on the totality of the circumstances, including the context of a communication or incident, the relationship of the individuals involved in the communication or incident, whether an incident was an isolated incident or part of a broader pattern or course of offensive conduct, the seriousness or severity of the incident, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual or group and the learning community. A “hostile environment” is created when the offensive behavior interferes with an individual’s ability to participate in the university’s programs (i.e., to work and to learn) when judged against a reasonable person standard. However, Colgate encourages individuals experiencing or witnessing offensive behavior to make a report as early as possible so as to have the situation corrected before it reaches the level of a hostile environment. Individuals with a concern need not worry about whether the behavior is sufficiently serious to constitute a hostile environment. The University reserves the right to remedy harassment pursuant to this policy even if the behavior in question does not rise to the level of legally recognized or actionable discrimination or harassment.

The fact that a person was personally offended by a statement or incident does not alone constitute a violation of this policy. The determination as to whether this policy has been violated takes into account the totality of the circumstances as described above. In all instances, a key factor is whether the complained-of behavior occurred because of Protected Characteristics. If it did not, the behavior is not regulated by this policy. However, even if the conduct is not based upon a Protected Characteristic and/or does not rise to the level of Prohibited Conduct under this policy, the university may respond by providing individual and community support and resources to those who have been impacted. In addition, such conduct that is not based on Protected Characteristics may constitute a violation of the university’s Code of Student Conduct and, if so, will be addressed pursuant to the System of University Standards and Student Conduct.

C. Sex-Based, Gender-Based, and Sexual Misconduct

Sexual activity or contact must be based on *mutual and affirmative consent* to the *specific activity or contact*.

Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression. Whenever the word “consent” is used in this policy, it should be understood to mean affirmative consent as defined here.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to take reasonable steps to ensure that the other has consented before engaging in the activity.

A person cannot consent if that individual is incapacitated. Incapacitation is defined as a state where someone lacks the ability to knowingly choose to participate in a specific activity. Incapacity may be caused by the lack of consciousness, sleep, involuntary restraint, or other factors that prevent voluntary choice. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants may be incapacitated and therefore unable to consent. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. "Should know" is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment. Consent is required regardless of whether the initiator is under the influence of alcohol or other drugs. It is not an excuse that the person initiating the sexual activity was intoxicated or incapacitated due to alcohol or other drugs and, therefore, did not realize the incapacity of the other.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. Further, past consent to engage in sexual activity with any person cannot be presumed to be consent to sexual activity in the future with the same or a different person.

The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. A person can withdraw consent at any time during sexual activity by expressing in words or actions that they no longer want the act to continue. When consent is withdrawn or can no longer be given, the other person must stop immediately.

Consent cannot be given as result of coercion, intimidation, force, or threat of harm. Coercion is a threat, undue pressure, or intimidation to engage in sexual activity. Coercion is more than an effort to persuade, seduce, entice, or attract another person to engage in sexual activity. A person's words or conduct are sufficient to constitute coercion if they deprive another individual of the ability to freely choose whether or not to engage in sexual activity.

In New York State, a minor (meaning a person under the age of 17 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 17 years old is a crime as well as a violation of this policy, even if the minor wanted to engage in the act.

Acts of sexual harassment, sex offenses, dating violence, domestic violence and stalking can occur regardless of the sex, gender, sexual orientation and/or gender identity of those involved. The issue in any case is not the gender or gender identity of the persons involved, but rather the activity and whether the parties to the activity affirmatively consented to engage in it.

Definitions of Specific Violations

This policy applies to alleged conduct violative of Title IX of the Education Amendments of 1972 ("Title IX Violations"), and also applies to a broader range of contexts and behaviors inconsistent with

the university's commitment to equal opportunity and, in some cases, the university's obligations under other applicable laws such as New York Education Law Article 129-B (i.e., "University Standards Violations").

The designation of conduct or allegations as either "Title IX Violations" or "University Standards Violations" is not a function of the seriousness of the alleged conduct but rather a function of the scope and coverage of Title IX versus the university's broader obligations under New York Education Law Article 129-B and its discretion to prohibit and discipline a larger scope of inappropriate behavior.

1. Title IX Violations

Title IX of the Education Amendments of 1972 provides: "No person in the United States shall, on the basis of sex, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

In accordance with Title IX as interpreted by the United States Department of Education, the university recognizes the following as conduct violations within the meaning of Title IX, provided that the context and circumstances of the conduct fall within the scope of Title IX. Among other things, this means that the complainant was in the United States at the time of the alleged conduct, that the complainant is participating in or seeking to participate in the university's education program or activity at the time of the complaint, and that the conduct is alleged to have occurred in the context of the university's education program or activity:

Sexual harassment

"Sexual harassment", as a Title IX Violation, means conduct on the basis of sex, gender, sexual orientation, or gender identity or expression, that satisfies one or more of the following:

An employee of the university conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct (commonly referred to as a "quid pro quo"); or

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 university's education program or activity (commonly referred to as a sexually or gender-based "hostile environment").

Unwelcome conduct on the basis of sex, gender, sexual orientation, or gender identity or expression, that does not rise to the level described above may be addressed as a University Standards Violation as described below, provided that it meets the definition of sexual harassment as a University Standards Violation.

Sexual Assault

Consistent with federal law, Colgate defines sexual assault as a sexual act directed against another person, without consent of the other person, including instances where the other person is incapable of giving consent. Sexual assault consists of the following specific acts:

Non-Consensual Sexual Intercourse: Sexual assault of this type includes the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the other person.

Non-Consensual Sexual Contact: This form of sexual assault includes any intentional touching, however slight, for purposes of sexual gratification, of the private body parts (including genitalia, anus, groin, breast, inner thigh, or buttocks) of another person without the consent of the other person, including instances where the other person is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity. This may include non-penetrative acts, touching directly or with an object, and/or touching the private body parts of another over clothing.

Incest: Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York is 17.

Dating Violence

Dating violence refers to violence (including but not limited to sexual or physical abuse or the threat of such abuse) 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 shall be determined based on a consideration of the following factors:

1. the length of the relationship;
2. the type of relationship;
3. the frequency of interaction between the persons involved in the relationship.

Dating violence can include behavior such as coercion, isolation or other forms of emotional, verbal or economic abuse if it reflects a threat of sexual or physical abuse as described above. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence

Domestic violence refers to 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 where the university is located, 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. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship as described above.

Stalking

Stalking is engaging in a course of conduct directed at a specific person on the basis of sex that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition,

1. a "course of conduct" means two or more acts, including, but not limited to, acts in which the individual 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;
2. "reasonable person" means a reasonable person under similar circumstances and with similar identities to the complainant; and
3. "substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Examples of behavior that may constitute stalking include repeated, intentional following, observing or lying in wait for another; using "spyware" or other electronic means to gain impermissible access to a person's private information; repeated, unwanted, intrusive, and frightening communications by phone, mail, email, text, etc.; making direct or indirect threats to harm an individual or the individual's relatives, friends, or pets; or damaging or threatening to damage the property of the targeted individual. Stalking that does not occur on the basis of sex may be addressed as a University Standards Violation as described below.

2. University Standards Violations

The university prohibits the following behavior under circumstances in which a university interest is implicated (such as an impact on individuals as members of the university community). For the purpose of University Standards Violations, the below conduct is prohibited even if the conduct occurs off-campus, outside the United States, if the complainant is not participating or seeking to participate in the university's education program or activity, or otherwise in circumstances over which the

university does not have influence or control, including but not limited to during university academic breaks.

Sexual harassment

“Sexual harassment” means unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex or gender, sexual orientation, or gender identity or expression, when such conduct has the purpose or effect of unreasonably interfering with an individual’s work, academic, or extracurricular performance, or creating an intimidating, hostile, or offensive work or learning environment, even if the reporting individual is not the intended target of the sexual harassment.

Harassing conduct can occur in various forms, including:

Verbal – Conduct such as unwelcome sexually suggestive, demeaning, or graphic comments; unwelcome verbal sexual advances; using slurs to refer to a person; bullying, yelling or name-calling; refusing to use a person’s preferred pronouns or name; or jokes or comments that demean a person on the basis of sex or gender, sexual orientation, gender identity or gender expression.

Physical – Conduct such as unwanted sexual contact or physical sexual advances (e.g., unwanted touching, pinching, patting, kissing, hugging, grabbing, brushing against another person’s body or poking another person’s body); sexual intimidation through physical threats; or physical threats toward or intimidation of another on the basis of sex or gender, sexual orientation, gender identity or gender expression.

Visual – Conduct such as exposing another person to unwanted pornographic images; creating or displaying pictures, symbols, flags, cartoons, or graffiti that is/are sexually offensive or disparage(s) another person or group based on sex or gender, sexual orientation, gender identity or gender expression.

Communication-based – Conduct such as phone calls, e-mails, text messages, chats, blogs or online communications that offend, demean, or intimidate another on the basis of sex or gender, sexual orientation, gender identity or gender expression. Members of the community are expected to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-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, or group within, the university community.

Sex stereotyping – Conduct in which another person’s or group’s conduct or personality traits are treated as inappropriate simply because they may not conform to other people’s ideas or perceptions about how individuals of a particular sex should act or look.

A determination as to whether sexual harassment occurred depends on the totality of the circumstances, including the context of a communication or incident, the relationship of the individuals involved in the communication or incident, whether an incident was an isolated incident or part of a broader pattern or course of offensive conduct, the seriousness or severity of the incident, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual or group and the learning community.

A “hostile environment” is created when the offensive behavior interferes with an individual’s ability to participate in the University’s programs (i.e., to work and to learn) when judged against a reasonable person standard. However, Colgate encourages individuals experiencing or witnessing offensive behavior to make a report as early as possible so as to have the situation corrected before it reaches the level of a hostile environment. Individuals with a concern need not worry about whether the behavior is sufficiently serious to constitute a hostile environment. The University reserves the right to remedy sexual harassment pursuant to this policy even if the behavior in question does not rise to the level of legally recognized or actionable harassment.

The fact that a person was personally offended by a statement or incident does not alone constitute a violation of this policy. The determination as to whether this policy has been violated takes into account the totality of the circumstances as described above. In all instances, a key factor is whether the complained-of behavior occurred based on sex or gender, sexual orientation, gender identity or gender expression or was sexual in nature. If it did not, the behavior is not regulated by this policy. However, even if the conduct is not sexual in nature or based upon on sex or gender, sexual orientation, gender identity or gender expression and/or does not otherwise constitute Prohibited Conduct under this policy, the university may respond by providing individual and community support and resources to those who have been impacted. In addition, such conduct that is not sexual in nature or based on sex or gender, sexual orientation, gender identity or gender expression may constitute a violation the university’s Code of Student Conduct and, if so, will be addressed pursuant to the System of University Standards and Student Conduct.

Colgate also prohibits “quid pro quo” sexual harassment, which means “this for that” harassment. It is a violation of this policy for any person to condition any benefit on submission to sexual activity.

Sexual Assault

“Sexual assault” includes any sexual act directed against another person without the consent of the other person, including instances where the victim is incapable of giving affirmative consent, but that does not constitute sexual assault as a Title IX Violation as defined above because of the nature of the behavior or the context in which it occurs (for example because the complainant was not in the United States at the time of the alleged conduct, because the complainant was not participating in or seeking to participate in the university’s education program or activity at the time of the complaint, or because

the conduct did not occur in the context of the university's education program or activity). Sexual assault consists of the following specific acts:

Non-Consensual Sexual Intercourse – Sexual assault of this type includes the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, forcibly or without the affirmative consent of the other person or where the other person is incapable of consent due to mental or physical incapacity. This type of sexual assault also includes non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.

Non-Consensual Sexual Contact – This form of sexual assault includes any intentional touching, however slight, for purposes of sexual gratification or with sexual intent, of the private body parts (including genitalia, anus, groin, breast, inner thigh, or buttocks) of another person without the affirmative consent of the other person, including instances where the other person is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity. This may include non-penetrative acts, touching directly or with an object, and/or touching the private body parts of another over clothing. This may also include forcing or causing another without affirmative consent to touch one's own private body parts.

Sexual Exploitation

Taking non-consensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited, if the conduct does not otherwise constitute another offense under this policy. Examples of Sexual Exploitation include:

1. sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed);
2. taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent or beyond the parameters of consent), including the making or posting of revenge pornography;
3. exposing one's genitals in non-consensual circumstances or non-consensual disrobing of another person so as to expose the other person's private body parts;
4. prostituting another person;
5. engaging in sexual activity with another person while knowingly infected with a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the STD or STI;

6. causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity;
7. misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections;
8. forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity;
9. knowingly soliciting a minor for sexual activity.

Dating Violence

Dating violence refers to violence (including but not limited to sexual or physical abuse or the threat of such abuse) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, but that does not constitute dating violence as a Title IX Violation as defined above because of the nature of the behavior or the context in which it occurs (for example because the complainant was not in the United States at the time of the alleged conduct, because the complainant was not participating in or seeking to participate in the university's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the university's education program or activity). The existence of such a relationship shall be determined based on a consideration of the following factors:

1. the length of the relationship;
2. the type of relationship; and
3. the frequency of interaction between the persons involved in the relationship. Dating violence can include behavior such as coercion, isolation or other forms of emotional, verbal or economic abuse if it reflects a threat of sexual or physical abuse as described above. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence

Domestic violence refers to 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 where the university is located, 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 in which the act of violence occurs, that does not constitute domestic violence as a Title IX Violation

as defined above because of the nature of the behavior or the context in which it occurs (for example because the complainant was not in the United States at the time of the alleged conduct, because the complainant was not participating in or seeking to participate in the university's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the university's education program or activity). To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship as described above.

Stalking

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress, but that does not constitute stalking as a Title IX Violation as defined above because of the nature of the behavior or the context in which it occurs (for example because the complainant was not in the United States at the time of the alleged conduct, because the complainant was not participating in or seeking to participate in the university's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the university's education program or activity). For the purposes of this definition:

- 1.** a "course of conduct" means two or more acts, including, but not limited to, acts in which the individual 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;
- 2.** "reasonable person" means a reasonable person under similar circumstances and with similar identities to the complainant; and
- 3.** "substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Stalking behavior may include but is not limited to repeated, intentional following, observing or lying in wait for another; using "spyware" or other electronic means to gain impermissible access to a person's private information; repeated, unwanted, intrusive, and frightening communications by phone, mail, email, text, etc.; making direct or indirect threats to harm an individual or the individual's relatives, friends, or pets; or damaging or threatening to damage the property of the targeted individual.

Prohibited Consensual Relationships

Colgate University employees (including both faculty and staff) need to be especially sensitive to the power/authority relation in their interactions with students. Consensual romantic, sexual or dating relationships between University employees and students contradict both professional ethics and this policy and are prohibited by Colgate. Consensual relationships that begin prior to the date on which the involved parties become student and employee are not prohibited by this policy, but the employee is required to report the existing relationship to their supervisor as of the date the parties are simultaneously enrolled and employed by the university. In such circumstances the university reserves the right to take such actions as may be necessary to address any resulting conflict of interest (for example, ensuring that the employee does not have responsibility for evaluating work submitted by the student for academic credit).

Retaliation

Retaliation is an adverse act perpetrated to “get back” at a person because the person reported misconduct, filed a complaint, or participated or refused to participate as a complainant, respondent or witness in an investigation or proceeding conducted in response to reported violation of this policy by the university or by an external agency. Retaliation also includes an adverse act against someone for the purpose of interfering with any right or privilege under this policy or applicable law. Retaliation can take many forms, including, but not limited to, adverse action or violence, threats and intimidation that would discourage a reasonable person (under similar circumstances and with similar identities to the targeted individual or group) from engaging in protected activity. A person who acts in good faith is protected from retaliation. The fact that a statement is not determined to be proven or established following investigation and adjudication does not mean that the statement lacked good faith; a person may provide inaccurate information believing it is accurate, which is still good faith. If a person makes a statement knowing that it is false, the person has acted without good faith.

Hate Crimes

For the purpose of this policy, a “hate crime” is defined as violence to a person or damage to property (or a threat to do so) or any other criminal act that is motivated entirely or partly by hostility toward or intolerance of another’s Protected Characteristics.

The following example demonstrates the difference between a non-hate crime and a hate crime: A student who selects a car at random in a campus parking lot and smashes the windshield has committed criminal mischief. A student who is biased against Muslims and smashes a windshield because they know that the car belongs to a Muslim student has likewise committed criminal mischief. However, this second incident is also a hate crime because the student was motivated by anti-Muslim bias.

Federal and state laws prohibit hate crimes, and hate crimes often result in enhanced criminal penalties. Students who commit hate crimes are subject to criminal prosecution in addition to discipline pursuant to this policy. The criminal process is separate and distinct from this policy. The fact that a criminal complaint has been filed, prosecuted, or dismissed will not prevent Colgate from pursuing disciplinary action.

IV. Amnesty

The health and safety of every student at Colgate is of utmost importance. Colgate recognizes that students who have been underage drinking and/or using drugs (whether such use is voluntary or involuntary), and/or engaged in other minor violations of Colgate policy, at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault, or other conduct in violation of this policy, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Colgate strongly encourages students to report domestic violence, dating violence, stalking, sexual assault or other violations of this policy to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, sexual assault or other violation of this policy to Colgate's officials or law enforcement will not be subject to Colgate's code of conduct action (including but not limited to action under this policy) for violations of alcohol and/or drug use policies, or other minor policy violations, occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault. For purposes of this provision, "other minor policy violations" do not include more serious allegations such as physical abuse, hazing, unlawful sale or distribution of drugs, or other conduct that would typically result in a sanction of suspension or expulsion if the student is found responsible.

V. Supportive Resources and Reporting Options

Individuals experiencing conduct that may violate this policy have a variety of options to obtain supportive or protective resources, and/or to request that the university pursue disciplinary action in response to violations:

For information about confidential resources, reporting procedures (including confidentiality and privacy), supportive or protective measures and/or applicable investigation and adjudication processes for incidents that include discrimination or harassment based upon sex, gender, sexual orientation, or gender identity or expression; sexual assault; sexual exploitation; domestic violence; dating violence; stalking; or related acts of retaliation, please see the **Colgate University Student Sex- or Gender-Based Discrimination and Harassment and Sexual Misconduct Resources and Response Procedures**.

For information about confidential resources, reporting procedures (including confidentiality and privacy), supportive or protective measures and/or applicable investigation and adjudication

processes for incidents of discrimination or harassment based only upon Protected Characteristics other than sex, gender, sexual orientation, or gender identity or expression, see the **Colgate University Student Discrimination and Harassment Resources and Response Procedures**.

VI. Disability Accommodations

Colgate University is committed to full compliance with the Americans With Disabilities Act (ADA) and its amendments, Section 504 of the Rehabilitation Act of 1973, and the New York State Human Rights Law, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities.

This policy covers claims of disability-related harassment and discrimination. Disability accommodation requests are handled separately from this policy. The Director of Disability Services is responsible for coordinating efforts to comply with these disability laws, including evaluation of accommodation requests. Procedures for requesting accommodations are described elsewhere in the Student Handbook. Student requests for accommodations should be directed to the **Director of Disability Services**.

The Director of Benefits and Employee Wellness, Amy Ryan (aryan@colgate.edu), has been designated as the ADA Coordinator and is authorized to receive employee complaints alleging noncompliance with these requirements.

VII. Role of Academic Freedom

Colgate is a vibrant academic environment that encourages discussion of competing ideas both inside and outside the classroom and in both formal and informal settings. Consistent with the university's policy on **academic freedom**, and the principles articulated by the university's **Task Force on Academic Freedom and Freedom of Expression**, this policy is not meant to inhibit or prohibit germane educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters. The expression of ideas offered in the course of respectful, responsible teaching, learning, working and academic debate are not violations of this policy.

VIII. Policy Enforcement

The person responsible for the implementation of this policy internally is:

Tamala Flack
Title IX Coordinator and Equity and Diversity Officer
The Office of Equity and Diversity
102 Lathrop Hall

Colgate University
13 Oak Drive
Hamilton, NY 13346
315-228-7014

Inquiries and complaints may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: 800-421-3481
Facsimile: 202-453-6012 TDD#: 877-521-2172
E-mail: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

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