

Decision-Maker & Appellate Officer Training

Domestic Violence/Dating Violence/Sexual Assault/Stalking

Chandler Buchfeller & Patty Hartshorn

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Objectives

- Identify Conduct Processes
- Identify Conduct Roles
- Review Definitions (DVDVSAS)
- Review Appeals Process
- Case Studies

Student Conduct Process

- Process for responding to violations of the Student Conduct Standards
- Policy and procedures can be found in the [Student Handbook](#)
- Decision-makers: Associate Dean of Students or three CRB members (internal pool)
- Appeals made to: Dean of Students or Appellate Panel

Title IX Process

- Process for responding to instances of discrimination and harassment, based on sex
- Policy on Sexual Misconduct, Harassment & Violence can be found on the [Title IX website](#)
- Procedures are kept in a separate document
- Decision-makers: up to three from a trained pool of internal staff or external professionals
- Appeals made to: Appellate Decision-Maker or Appellate Panel

Harassment & Discrimination Process

- Process for responding to instances of discrimination and harassment, based on a protected class (other than sex)
- Discrimination & Harassment Policy (and procedures) can be found on the [Non-Discrimination Policy website](#)
- Decision-makers: three trained employees or external professionals
- Appeals made to: Appellate Panel

Conduct Roles

Process Coordinator: individual responsible to coordinate resolution process as identified in the relevant policy.

Complainant: individual who is alleged to have experienced harm (e.g., victim/survivor)

Respondent: individual who is alleged to have violated policy (e.g., perpetrator)

Investigator: individual responsible for gathering information, through a variety of means, that indicates (a) whether policy was violated and (b) whether respondent is responsible

Conduct Roles (cont.)

Decision-Maker: individual responsible for determining whether the information gathered by the investigator indicated that (a) policy was violated; (b) whether respondent is responsible for violating policy; and if so (c) what sanctions are appropriate in response to the policy violation

Appellate Panel or Appellate Decision-Maker: individual(s) responsible for determining whether a request for appeal (a) meets eligibility criteria (i.e. “ground”) and, if so (b) determines whether the information provided indicates that an appeal ought to be granted

Definitions (DVIDVSAS)

Dating and Domestic Violence includes any act of violence against a Complainant who is or has been involved in a sexual, dating, domestic, or other intimate relationship with the Respondent, or against a person with whom the Respondent has sought to have such a relationship, as follows:

Dating Violence

Dating Violence: includes any act of violence committed by a person:

1. Who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
2. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - a. the length of the relationship;
 - b. the type of relationship; and
 - c. the frequency of interaction between the persons involved in the relationship.

Domestic Violence

Domestic Violence includes any act of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under Indiana state law, or by any other person against an adult or minor Complainant who is protected from that person's acts under Indiana state law.

Dating or Domestic Violence may also include other forms of Sexual Harassment under the Sexual Misconduct, Harassment & Violence Policy, including: Sexual Assault, Sexual Exploitation, and Stalking.

Sexual Assault

Sexual assault is having or attempting to have sexual contact with another individual without consent or where the individual cannot consent because of age or temporary or permanent mental incapacity (see below for definition of consent, including incapacitation). Sexual contact includes:

- sexual intercourse (anal, oral, or vaginal), including penetration with a body part (e.g., penis, finger, hand, or tongue) or an object, or requiring another to penetrate themselves with a body part or an object, however slight; or
- sexual touching of the private body parts, including, but not limited to, contact with the breasts, buttocks, groin, genitals, or other intimate part of an individual's body for the purpose of sexual gratification; or
- attempts to commit Sexual Assault.

Stalking

Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear for their own safety or the safety of others or suffer substantial emotional distress.

Course of conduct means two or more instances including but not limited to unwelcome acts in which an 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. Substantial emotional distress means significant mental suffering or anguish.

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.

Appeals Process

- After a determination, a request for appeals is submitted in writing to conduct process coordinator within **5** business days
- Appellate officer/panel determines:
 - 1) if the request meets the **grounds for appeal**
 - 2) pending grounds, **approval or denial** based on a thorough and timely review of the conduct process and all relevant evidence

Appeals Process (cont.)

“If an appeal is granted, the panel will identify the errors and return it to the process coordinator to correct the error and determine a new outcome. The appellate panel does not render a new determination of responsibility for the original allegation of policy violation. All appellate decisions are final.”

Grounds for Appeals

1. Procedural irregularity, such as an omitted or incomplete procedure, **that affected the outcome of the matter.**
2. New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, **that could affect the outcome of the matter.**

Grounds for Appeals (cont.)

3. New evidence of conflict of interest or bias against the parties on the part of conduct process personnel. Such conflict of interest or bias must be determined **to affect the outcome of the matter.**

- a. See individual process policy for definition of conflict of interest and bias.
Actions taken according to roles and responsibilities do not constitute conflict or interest or bias.
- b. Such bias or conflict of interest could not be reasonably known and therefore was not presented during the reporting, investigation and hearing processes.

Deference to Colleagues

“Decisions on appeal are to be deferential to the original decision, unless there is clear error, according to Goshen College policy. **The presumption is that the investigation and decision processes were appropriately conducted according to Goshen College policy**, and the burden is on the individual requesting the appeal to provide evidence that the appeal has merit.”

Case Studies

- 1) Jae & Charlie - Dating Violence
- 2) Nadia & Arnie - Stalking
- 3) Ife & Mark - Sexual Assault

Thank you

Questions?