

# **Hanover College Policy & Procedures on Sex/Gender Harassment, Discrimination and Misconduct**

## **Introduction**

It is the policy of Hanover College to comply with Title IX of the Education Amendments of 1972, which prohibits discrimination (including sexual harassment and sexual violence) based on sex in the College's educational programs and activities. Title IX also prohibits retaliation for asserting or otherwise participating in claims of sex discrimination.

Members of the college community, guests and visitors have the right to be free from all forms of sex/gender harassment, discrimination and misconduct, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The college believes in zero tolerance for sex/gender-based misconduct. Zero tolerance means that when an allegation of misconduct is brought to an appropriate administrator's attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied, including serious sanctions when a responding party is found to have violated this policy. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and college procedures establish a mechanism for determining when those expectations have been violated.

The college's sex/gender harassment, discrimination and misconduct policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom [Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or that touch on academic exploration of matters of public concern].

The college uses the preponderance of the evidence (also known as "more likely than not") as a standard for proof of whether a violation occurred. In campus resolution proceedings, legal terms like "guilt," "innocence" and "burdens of proof" are not applicable, but the university never assumes a responding party is in violation of university policy. Campus resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

## **TITLE IX COORDINATOR**

Hanover College has designated a Title IX Coordinator & Title IX Deputy Coordinator to oversee compliance with all aspects of the sex/gender harassment, discrimination and misconduct policy. The Coordinator reports to the Vice President of Student Life and is housed in the Student Life Office. Questions about this policy should be directed to the Title IX Coordinator. Anyone wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the college Title IX Coordinator:

### **Title IX Coordinator**

Casey Heckler  
Brown Campus Center 214  
812-866-6740  
[heckler@hanover.edu](mailto:heckler@hanover.edu)

### **Student on Student Complaints**

### **Deputy Title IX Coordinator**

Shelley Preocanin  
Long Administration Building 102  
812-866-7097

[preocanins@hanover.edu](mailto:preocanins@hanover.edu)

## Complaints regarding Employees

### Office for Civil Rights (OCR)

A person may also file a complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting: the [U.S. Department of Education's website](#) or calling 1-800-421-3481.

### Scope of Policy

#### Covered Incidents

The Sexual Misconduct Board shall hear only matters in which a student, guest or non-employee of the College alleges to have been victimized by a violation of the College's sexual misconduct policy at the hands of another student of the College. Sexual misconduct or harassment matters in which students are not involved shall be handled by other policies of the College. (See below for links to policies.)

[Staff](#)

[Faculty](#)

*What is Sexual Misconduct?* As regards students, sexual misconduct is an umbrella term that covers several inappropriate sexual activities. Sexual misconduct applies to all students, employees, vendors and guests of the college regardless of sexual orientation or gender identity. These activities include but are not limited to:

- **Sexual exploitation**-which is the unauthorized posting of visual representations of an individual; the refusal to refrain from such postings when requested; and actions that could be construed as voyeurism.
- **Sexual harassment**-which includes but is not limited to verbal or written conduct of a sexual nature, stalking, and other forms of non-physical, unwelcome attention.
  - **Hostile environment caused by sexual harassment**-any situation in which there is harassing conduct based on sex or gender that is severe and pervasive or persistent and objectively offensive such that it alters the conditions of education or employment from both a subjective and an objective viewpoint.
  - **Quid Pro Quo**- which is unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature where submission to or rejection of such conduct results in adverse educational or employment action.
- **Sexual assault**-which can be either non-consensual sexual contact or non-consensual intercourse. Non-consensual sexual contact is defined as intentional sexual contact without consent to any body part.
  - **Non-consensual sexual intercourse** is defined as intercourse without consent (whether by an acquaintance or a stranger); attempted rape; sodomy (oral sex or anal intercourse) without consent; or sexual penetration with an object without consent.
  - **Non-consensual sexual contact**- Sexual contact without effective consent, the deliberate touching of a person's intimate parts (including genitalia, groin, breast or buttocks, or clothing covering any of those areas), or using Force to cause a person to touch his or her own or another person's intimate parts.
- **Relationship violence** - Relationship violence can be defined as a pattern of behavior in any relationship that is used to gain or maintain power and control over an intimate partner. Abuse is physical, sexual, emotional, economic or psychological actions or threats of actions that influence another person. This includes any behaviors that frighten, intimidate, terrorize, manipulate, hurt, humiliate, blame, injure or wound someone.

- **Stalking** -a knowing or an intentional course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened and that actually causes the victim to feel terrorized, frightened, intimidated, or threatened.

## Consent

**What is Consent?** Effective consent is informed, freely and actively given, mutually understandable words or action, which indicate a willingness to engage in mutually agreed upon sexual activity.

- Consent is a voluntary agreement to engage in sexual activity;
- Past consent does not imply future consent;
- Silence or an absence of resistance does not imply consent;
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another;
- Consent can be withdrawn at any time; and
- Coercion, force, or threat of either invalidates consent.
- Someone who is incapacitated cannot consent;
  - Incapacitation (such as due to the use of drugs or alcohol (voluntary or involuntary), when a person is asleep or unconscious, or because of an intellectual or other disability that prevents the student from having the capacity to give consent)
  - One may not engage in sexual activity with another whom one knows or should reasonably know to be physically incapacitated.

## Other Misconduct Offenses (will fall under Title IX when sex or gender-based)

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of sex or gender;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy);
- Bullying, defined as
  - Repeated and/or severe
  - Aggressive behavior
  - Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally
  - That is not speech or conduct otherwise protected by the 1<sup>st</sup> Amendment.
- Any other University policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender.

## Related Misconduct, Intimidation & Retaliation of a Witness

Any reported violations of the Standards of Conduct directly related to a report of alleged sexual misconduct may be considered by the Sexual Misconduct Board in accordance with these procedures. This may include, but is not limited to, conduct that threatens the complainant or any other participant, violations of the rules of confidentiality, intimidating a witness from participating, or Standards of Conduct violations arising in the course of the sexual misconduct.

Hanover 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 Hanover College, and individuals who engage in such actions are subject to discipline up to and including suspension, expulsion, or dismissal from the College, consistent with College procedure. 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 Student Life Staff Member, who shall take appropriate actions to address such conduct in a prompt and equitable manner.

### **Overview of College Procedures**

Sexual misconduct is a crime punishable by both civil and criminal legal action. Students are strongly encouraged to report misconduct to law enforcement authorities. Sexual misconduct is also a serious violation of the Student Code of Conduct, which can be found in the College Catalog. All members of the College Community are expected to become familiar with the College's policies and regulations.

The College offers a variety of support services to the complainant in an incident of sexual misconduct.

(1) If the complainant chooses to file charges with law enforcement authorities, the Office of Campus Safety will assist in helping the complainant to navigate the process. If the allegation does not result in criminal prosecution, the College offers support in understanding the results of the criminal investigation and any decisions that have been made by the prosecuting attorney. Throughout this process the support of Health Services and Counseling Services will be available to the student. The college reserves the right to pursue judicial action through campus procedures even if the case is heard in the local court system.

(2) If the complainant chooses not to file charges with law enforcement authorities, the college's Title IX Coordinator will assist the student in requesting and preparing for a hearing by the Sexual Misconduct Hearing Board. Throughout this process the support of Counseling and Health Services as well as residence life personnel will be available to the student.

(3) If the complainant chooses not to proceed with a hearing by the Sexual Misconduct Hearing Board, the College reserves the right to proceed with a hearing on behalf of the college. Throughout this process the support of Health Services and Counseling Services will be available to the student.

In cases where the complainant and the respondent are both students procedural options will be coordinated through the Title IX Coordinator. In cases involving an employee and a student the procedural options will be coordinated through the Director of Human Resources. Nothing in these procedures is intended to preclude the Vice-President and Dean of Student Life or other College Official from taking appropriate action to ensure the safety of the complainant. Actions that could be taken include, but are not limited to, restricting contacts between the parties, making alternative classroom or living arrangements, or the imposition of an interim suspension. The College may take appropriate protective and administrative action even in situations where the complainant is absent.

Use of these procedures does not preclude the use of other dispute resolution options, including civil and/or criminal proceedings.

### **C. Jurisdiction**

**Covered Incidents** The Sexual Misconduct Board shall hear only matters in which a student, guest or non-employee of the College alleges to have been victimized by a violation of the College's sexual misconduct policy at the hands of another student of the College. Sexual misconduct or harassment matters in which students are not involved shall be handled by other policies of the College.

#### **D. Availability of Procedures**

A complaint may be lodged by the complainant or through Safety Department included reports. If the complainant chooses not to proceed with a hearing by the Sexual Misconduct Hearing Board, the College reserves the right to proceed with a hearing on behalf of the college.

A complaint of sexual misconduct by a faculty or staff member may be reported to any member of the Student Life staff. These complaints will then be referred to the Title IX Deputy in Human Resources.

#### **E. Exceptions**

If a complaint is filed within sixty calendar days of an accused student's intended graduation, during a College recess, or in other circumstances where the Title IX Coordinator determines that the complaint cannot otherwise be resolved in a timely manner pursuant to these procedures, procedural options may be limited. In particular, any conduct process may be limited to an administrative hearing by a faculty or staff member appointed by the Title IX Coordinator. If an administrative hearing takes place, the hearing procedures set forth below for the Sexual Misconduct Board will apply to the extent practicable.

#### **F. Related Misconduct, Intimidation & Retaliation of a Witness**

Any reported violations of the Standards of Conduct directly related to a report of alleged sexual misconduct may be considered by the Sexual Misconduct Board in accordance with these procedures. This may include, but is not limited to, conduct that threatens the complainant or any other participant, violations of the rules of confidentiality, intimidating a witness from participating, or Standards of Conduct violations arising in the course of the sexual misconduct.

Hanover College strictly prohibits retaliation against any individual for reporting, providing information, exercising ones 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 Hanover College, and individuals who engage in such actions are subject to discipline up to and including suspension, expulsion, or dismissal from the College, consistent with College procedure. 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 Student Life Staff Member, who shall take appropriate actions to address such conduct in a prompt and equitable manner.

#### **G. Sexual Misconduct Hearings and Conduct Review Hearings**

In rare cases, complaints are filed with the designated agency alleging both physical assault (or violation of other Student Code of Conduct) and sexual misconduct arising out of the same incident. In such cases, the Community Conduct Review Board shall work with the Chair of the Sexual Misconduct Board and the Title IX Coordinator, to explore whether a single hearing on all claims arising out of the incident should be initiated. If it is determined that it is fair and efficient to hold a combined hearing, the process utilized by the Sexual Misconduct Board shall govern the conduct of such a proceeding.

#### **H. Amnesty**

The institution will grant amnesty to complainants and witnesses in regards to policy violations of alcohol and drugs. This will allow for the open exchange of information without fear or threat of additional charges for the complainant and/or witnesses.

## **II. HEARING PROCEDURES**

### **A. Adjudication by The Sexual Misconduct Board**

A hearing by the Sexual Misconduct Board is a formal adjudication of a sexual misconduct complaint by a board of College faculty and staff. The Board encourages an open exchange of information within the framework of the confidential procedure. While procedures are designed to ensure fairness for the parties involved, the Board is not bound by the technical provisions of criminal or civil procedure. Use of this

procedure by the reporting student does not preclude the student's filing a civil or criminal complaint in the local courts.

### **1. Composition of the Board**

The Sexual Misconduct Board shall be composed of an odd number of non-student employees of the College numbering no fewer than 3. The Board may be composed of any proportion of tenured or non-tenured faculty and staff as deemed appropriate by the Title IX Coordinator.

### **2. Advisors to the Parties**

Both the complainant and the respondent may have an advisor present during all College conduct processes related to the sexual misconduct complaint. The complainant/respondent may select an advisor of their choice to assist them. The advisor may be any individual selected by the complainant/respondent including another student. College officials, who have had prior involvement in the case, may decline the complainant/respondent's request to serve as his/her advisor. The advisors personally support the parties during the investigation, pre-hearing, hearing and appeal stages of the process. They will be present during the hearing, and may be consulted by the parties. Advisors may not direct questions to the board or witnesses at the hearing, but may present requested questions in writing to the board and may consult with the student they are assisting. The Chair shall not allow their presence to inhibit the parties' opening statement or the conduct of the hearing.

### **3. Confidentiality of the Proceedings**

The confidentiality of the hearings process is of great importance to all involved. The identity of the reporting or accused individual and any formal discipline resulting from the hearing, may not be publicly disclosed by any participant in the hearing process, either directly or indirectly, except where disclosure may be authorized by law or disclosed in connection with duties on behalf of the College. Witnesses will be reminded during the hearing that their participation and statements should remain confidential following the hearing. Records of the proceedings will be confidentially respected by the participants and not disclosed except where disclosure may be authorized by law or on behalf of the College in connection with College policy. Violations of the rules of confidentiality are subject to administrative sanctions.

### **4. Procedures**

(a) Interview/Investigation: The Title IX Coordinator, upon receipt of the complaint of sexual misconduct, will initiate a preliminary investigation based on interviews with the complainant, the respondent, and others deemed to have pertinent information. If the Title IX Coordinator determines based on the evidence presented at that time that there is a substantial basis for a hearing, notice of charges will be prepared and delivered to the parties. The Sexual Misconduct Hearing Board will be convened. The Title IX Coordinator's determination of a substantial basis for a hearing shall be based on whether sufficient facts have been presented or discovered to allow the Sexual Misconduct Board as the finder of fact to find that it is more likely than not that the accused committed the offense. The Title IX Coordinator's decision is final. The Title IX Coordinator may take any protective action he/she deems appropriate concerning the interaction of the parties pending the hearing.

(b) Notice of Charges: The Title IX Coordinator will begin the adjudication process by providing written notice to the accused student stating: (a) the nature of the complaint; (b) the Standards of Conduct allegedly violated; (c) the name of the reporting person; (d) the date, time, and place of the pre-hearing meeting; (e) the names of at least three Board members selected by the Coordinator to serve as the hearing board. The board will include at least three faculty/staff members; the Title IX Coordinator will preside over the hearing but will not be a member of the board. If the Title IX Coordinator is unavailable, the Vice President of Student Life shall defer to the Title IX Deputy or designee to select the board members, and designate an individual to preside over the hearing.

(c) Delivery of Notice: Due to the complex nature of the issues surrounding sexual misconduct, the Title IX Coordinator will make every effort to personally meet with the respondent (formerly known as the accused) to notify him/her of the alleged violation and answer any questions regarding the procedures of the hearing. At this time the respondent will be given a copy of the Rights of Respondents, the hearing procedures and the opportunity to read the statement of the complainant.

The notice shall be considered effective when delivered at the accused student's local residence for the current

academic term, as listed with the College Registrar, or otherwise when actually received by the accused. The hearing must take place not more than thirty days after delivery of the notice, unless the Chair allows a longer period. Should either party fail to appear at the scheduled hearing, the Chair may continue the proceedings or the board may proceed and determine the complaint on the basis of evidence presented, provided the responding student was duly advised of the scheduled hearing date.

(d) Pre-Hearing Meetings: In addition to any preliminary meetings that may be held with the parties, the Title IX Coordinator will schedule prehearing meetings separately with the complainant, respondent and the hearing body at least 5 academic days prior to the scheduled hearing. At this time, the Title IX Coordinator will present the statements to all parties, review procedures and answer any questions. The parties will also have an opportunity to submit additional documents or evidence to be introduced at the hearing. For confidentiality, no party may receive hard copies of statements, but may take as long as needed to review the documents. The Title IX Coordinator will review procedures with the hearing board, determine a Chair for the hearing and review the submitted documents. The hearing body will determine questions for the hearing at this time.

(e) Pre-Hearing Discussion: Once a Board member has been named to a hearing board by the Chair, he or she may not discuss the merits of the case with the parties or with anyone acting on the parties' behalf. The Chair will provide the board members with the statements of the parties, and a copy of the written notice of charges.

(f) Power to Enjoin (deny): The Chair may prohibit the parties from engaging in disruptive conduct pending the hearing. The affected party must be given reasonable notice and the opportunity to be heard by the Chair prior to a directive. Violation of such a directive shall constitute a related offense to be heard by the Sexual Misconduct Board.

(g) Negotiated Resolution: The Chair may negotiate a resolution of a complaint of sexual misconduct with the consent of the complainant in cases in which the respondent wishes to acknowledge guilt and agree to a sanction. This option is not available in cases involving assault of any type.

(h) Board Advisor: The Chair and Board shall be entitled to advice throughout the hearing process from the Title IX Coordinator on questions of policy application and procedure; however, factual determinations are the sole domain of the Board.

(i) Conflicts of Interest: A board member who feels his or her presence on the board would be inappropriate because of prior or present connections with a party or any other person involved in the hearing must inform the Chair and withdraw from the adjudication process. A party may challenge a board member for cause. Cause shall be evaluated in light of personal bias or conflict, and not merely because a given board member may have received training in sexual misconduct issues. The Chair will rule on the challenge, and if it is sustained, the Chair will replace the challenged member with another member of the Board or authorize the proceeding to continue with remaining members if replacements are not immediately available. Such challenges must be made no later than the date of the pre-hearing meeting, without exception.

(j) Hearing Procedures: The hearing will not follow a courtroom model. The parties' advisors may be present, and may be consulted by the parties throughout the hearing. The Chair will determine the order of witnesses, and determine hearing procedures. Only the Chair and the Board will question the individual parties. However, either party may ask the Chair or the Board to pose additional questions by submitting such a question or questions in writing. The parties may present their witnesses and following the questioning of a witness by the Board, present additional questions to a witness. The Chair is empowered to disallow any questions that are irrelevant, improper, or redundant, in the Chair's sole discretion. After all witnesses have been questioned, each party may make a written or oral closing statement and may request a short recess to prepare it. If the Board determines that significant unresolved issues exist that would be clarified by the presentation of additional evidence, the Chair may recess the hearing and reconvene it in a timely fashion. A recess may not be based on the failure of witnesses to appear without good cause, or on the proposed introduction of documents or other evidence that should have been presented at the pre-hearing conference.

(k) Impact Statement: If the respondent is found responsible, the complainant may present the board with a statement recommending a sanction. The respondent may respond to the statement. Both the impact statement

and any response shall be provided to the opposing party if presented in writing to the Board. The board shall not be bound by the above statements in determining a sanction.

(l) Statement by the Respondent: The respondent shall also have the right not to provide a statement, but the board will adjudicate the case based on the evidence presented.

(m) Recording: The Chair will arrange for the hearing to be recorded, and may arrange for the preparation of any transcript or review of the recording which he or she deems appropriate or which a party requests. Such recording or review will be arranged through the Title IX Coordinator.

(n) Decisions and Burden of Proof: All decisions by the Board will be made by majority vote. The Board shall first determine whether the accused violated the College's sexual misconduct policy, and then, if appropriate, the sanction. A finding of responsibility must be supported by a preponderance of the evidence. A preponderance of the evidence means that the facts establish that it was more likely than not that a violation occurred or did not occur.

(o) Sanctions: The Board may recommend any sanction it finds to be fair and proportionate to the violation and which is authorized for violations of the Code of Conduct, including disciplinary probation, suspension, and separation from the college. In determining an appropriate sanction, the board may consider any record of past violations of the Code of Conduct, as well as the nature and severity of the misconduct.

(p) Decision: Within five (5) business days from the conclusion of the hearing (or such longer time as the Chair may for good cause determine), the Chair shall provide the parties and the Title IX Coordinator with copies of the Board's written decision. Board members may submit separate written statements if desired, and these shall also be provided to the parties and the Title IX Coordinator.

(q) Effective Date of Sanction: Sanctions imposed by the Board shall not be effective until a timely appeal of the decision is exhausted. However, if advisable to protect the welfare of the College community, the Board may include in its decision a determination that any probation, suspension or separation from the college is effective immediately and shall continue in immediate effect until such time as the Dean of Student Life may determine otherwise, in which case the Dean shall be informed of the Board's determination. The Dean may suspend the determination pending exhaustion of appeal, or the individual may be allowed to continue restricted activities on a supervised or monitored basis. The Dean's decision may not be appealed.

(r) Appeals: Either party may appeal the Board's decision to the Vice President of Student Life by notifying the Vice President in writing, within seven calendar days of the date of the decision. Appeals may only be premised on allegations of bias, conflict of interest, procedural violations that affects a substantial right or new information that was not available at the time of the hearing. The Vice President of Student Affairs, who may either affirm the sanction or modify the sanction based on information unavailable to the Hearing Board. Any modification of the sanction shall be done in consultation with the Hearing Board. The decision of the Vice President shall be rendered within five business days of receiving the appeal. Both parties will be notified of the outcome of the appeal. The college President will be notified of all final outcomes.

(s) Timeline of process: From the filing of the initial formal complaint the investigation, hearing and outcome should take no more than 60 days. This does not include the appeal process. The timeline may be adjusted due to institutional breaks (holiday, summer) or additional information coming forward to the Title IX coordinator. If the process extends the 60 timeframe, the complainant and respondent will be notified in writing by the Title IX Coordinator.

### **III. ADDITIONAL TERMS**

Failure by the College to strictly observe the time limits or other procedural requirements expressed in this policy shall not constitute an abridgment of the rights of parties so long as procedure is fundamentally fair. The College's Title IX Coordinator reserves the right to suspend implementation of these procedures in the event of

pending or imminent criminal charges or litigation involving the same complaint filed hereunder; provided, however, that nothing in this policy precludes proceeding with available procedures notwithstanding the pendency of criminal proceedings or civil litigation. Such action may not be appealed.

#### **IV. AMENDMENTS**

This procedure may be amended at any time, or from the time to time, in writing by the Vice President and Dean of Student Life in consultation with the Student Life Directors and the Director of Human Resources and with the approval of the President's Cabinet.

*Updated Fall 2017*