

CCAD SEXUAL MISCONDUCT POLICIES AND PROCEDURES

CCAD strictly prohibits sexual misconduct of any kind. Incoming students and employees are informed about ways to prevent sexual misconduct, including domestic violence, dating violence, sexual assault, and stalking, through New Student Seminar and new employee orientation programs. Additionally, ongoing campus-wide programs to prevent such incidents are conducted during the academic year through passive informational campaigns and workshop opportunities.

WHAT IS SEXUAL MISCONDUCT?

Actions that fall under the category of sexual misconduct include sexual assault, unwelcomed sexual advances, coercion for sexual favors, non-consensual sexual touching or contact, domestic or dating violence, stalking, actions committed through exploitation of another's mental or physical condition (for example, impairment due to alcohol or drugs) of which the assailant was aware or should have been aware, sexual harassment, gender-based discrimination, or any other sexual activity done without the consent of one of the parties. Sexual assault involves sexual conduct with a recipient whose ability to resist or consent is substantially impaired because of an administered substance or a mental or physical condition, or when the act is compelled through force or the threat of force. Rape is one form of sexual misconduct and is defined as 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 victim. Domestic violence is defined as knowingly causing, attempting, or threatening to cause physical harm to a family or household member. Dating violence refers to violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Stalking means engaging in a pattern of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. See US Code Title 18, Part I, Ch. 110A, Sec. 2261-2266 and Title 42, Ch. 136, Subchapter III, Sec. 13925, as well as Ohio Revised Code Title 29, Ch. 2903.211, 2907.01 and 2919.25 for legal definitions of these terms.

Sexual harassment is a form of sexual misconduct and includes unwelcomed verbal, visual, and physical sexual behavior that is severe, persistent, or pervasive and that occurs under the following circumstances:

1. when submission to such conduct is made an explicit or implicit term or condition of employment, enrollment, status, or service;
2. when submission or rejection of such conduct by an individual is used as a basis for a decision affecting such an individual; or
3. when such conduct has the purpose or effect of substantially interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment.

REQUIREMENT OF CONSENT

Consent for sexual contact must be unambiguously obtained prior to any sexual activity, including the escalation of any ongoing sexual activity. Consent for sexual contact is an active state that is informed, knowing, and voluntary. Silence, in and of itself, cannot be interpreted as consent. Additionally, the consumption of alcohol by any involved individuals is never an excuse for sexual misconduct

EVIDENCE COLLECTION

Victims of sexual violence can have evidence collected up to 96 hours after a sexual assault. All Columbus-area hospital emergency departments can provide evidence collection and call for a survivor

advocate to be with the victim. Evidence collection does not mean the victim has to file a report or press charges; it does, however, secure any evidence in the event that the victim would like the option of filing/pressing charges in the future. The Emergency Department will have to call law enforcement to file a report, but victim has the option to remain anonymous or not talk to law enforcement at all. If a victim would like to wait and think about evidence collection, note that brushing teeth, wiping from the bathroom, showering, smoking, and eating can damage evidence. It is recommended that the victim bring any clothes that may have evidence on them from the assault.

FILING A REPORT

Victims have the option of filing a report with any or all of these departments:

- The Columbus Police Department. This could lead to a criminal investigation and legal proceedings. Victims can file a report while at the Emergency Room or later. There is a 20-year statute of limitations on rape.
- The dean of students or the Safety & Security Office at CCAD. This could lead to an internal investigation and findings related to a violation of the Student Code of Conduct.

REPORTING AN ALLEGATION TO CAMPUS AUTHORITIES

Students who believe they have been a victim of sexual misconduct (including sexual assault, harassment, or discrimination) should report this to the vice president for student affairs (who serves as the campus Title IX coordinator), or the dean of students. The vice president's office is located on the second floor of the Canzani Center, or he can be contacted at 614.222.4015 or dtodd@ccad.edu. The dean of students' office is located in the Student Affairs office on the first floor of the Crane Center, or he can be contacted at 614.222.4004 or cmundell@ccad.edu. Students may also complete an incident report or witness statement through the Safety & Security office. Incidents involving sexual assault must be reported to local law enforcement authorities, but the College will only disclose the name of the alleged recipient to law enforcement authorities with his or her permission.

DUTY TO INVESTIGATE AND LIMITS OF CONFIDENTIALITY

When an allegation of sexual misconduct comes to the attention of any school official, the incident may be investigated by the college. CCAD is required by law to investigate credible allegations of sexual misconduct, whether communicated verbally, in writing, or through hearsay. This obligation may exist whether or not the alleged recipient chooses to pursue charges or to participate in the investigatory process. The alleged recipient or any other reporting individual may choose not to participate in any action taken by the college. Requests for anonymity, while not guaranteed, will be respected to the greatest extent possible; however, a request for anonymity may result in conditions that make it difficult for the college to conduct a full and proper investigation.

Students who desire strict confidentiality may discuss their concerns with a licensed counselor in the CCAD Counseling and Wellness Center, who is exempt from legal requirements to report the incident to other college administrators or law enforcement personnel, except in cases where the individual or others are at significant risk of harm.

SEXUAL MISCONDUCT INVESTIGATION AND HEARING PROCEDURES

Once the matter is in the hands of the coordinating investigator, any actions, communications, meetings, or hearings will be considered part of the "proceedings" of the case. The coordinating investigator will conduct a fact-finding investigation with involved individuals or those who may have relevant information to share about the case. The respondent will be notified at least two calendar days prior to the date of any investigatory meeting or hearing, unless the coordinating investigator

determines that extenuating circumstances require an earlier meeting or hearing date. The notice will include a general description of the alleged policy violation(s) and the time, date, and location of the meeting or hearing.

After conducting the investigation, the coordinating investigator will present the case file to the vice president for student affairs, who serves as the campus Title IX coordinator. The vice president will either make an administrative finding based on the evidence presented or convene the Student Conduct Committee to hold a hearing panel. The college reserves the right to add or change administrators to the Student Conduct Committee at its discretion.

During any meetings or hearings, the college may separate the complainant and respondent, or any witnesses, from the other party in order to provide an orderly and emotionally safe environment for the proceedings. The complainant and the respondent will have the right to have witnesses speak on their behalf to the coordinating investigator. If a panel hearing is held, witnesses or other individuals may be invited to speak to the panel during the hearing at the discretion of the hearing officer or panel.

The complainant and the respondent have the right to have legal counsel with them during any portion of the investigation, including a hearing; however, individuals from outside the college community, including legal representation, will not be permitted to speak (other than giving private advice to their client) unless asked a direct question by the investigator, the Title IX coordinator, or the hearing panel.

At its discretion, the college may impose immediate and temporary remedies to protect any individuals involved during the time that the investigation and hearing is underway. In particular, the complainant or the respondent may receive assistance through the dean of students in changing academic schedules and on-campus living arrangements. Campus investigations and hearings conform to basic rules of fairness and are conducted by individuals who receive annual training on conducting such processes. A campus hearing is not a court trial. The main purpose of any investigation and hearing is to consider allegations and determine the likeliness of a violation by considering the evidence presented. The hearing officer or board will use a preponderance of the evidence standard (in other words, "more likely than not") to determine whether a student is or is not responsible for a violation.

In the absence of an involved party at a meeting or hearing, the hearing officer or panel will decide whether to continue without the missing individual present. Failure to attend a meeting or hearing may affect the outcome and the sanctions imposed. A student's absence, without sufficient reason, may be grounds for disciplinary action as well.

A record of any meetings or hearings may be made either by audio or video recording at the discretion of the coordinating investigator or hearing panel. All persons present will be notified if a meeting is being recorded.

Both the complainant and the respondent will be informed of the outcome ("result") of any investigation and hearing, including the finding and any sanctions imposed that directly impact the complainant, within a reasonable timeframe (typically with five working days) by email sent to their CCAD email addresses and/or by postal mail. In some cases, the victim or his or her next of kin will be notified when the law requires it or when it is permitted by law at the discretion of the Title IX coordinator. Additionally, some faculty or staff members may be informed of the outcome if the information is necessary for the conduct of their responsibilities. Finally, parent(s) may be informed of the outcome as permitted by law and with the alleged victim's consent.

As determined by the U.S. Department of Education, compliance with these provisions does not constitute a violation of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

POSSIBLE SANCTIONS

Sanctions that may be imposed on those found responsible for sexual assault/misconduct, dating or domestic violence, or stalking include warning/reprimand, no-contact order, change in course schedule, change in residence hall assignment, suspension, or expulsion.

PROHIBITION AGAINST RETALIATION

Retaliation of any kind in response to an individual's participation in the investigation or hearing is strictly prohibited and will result in an immediate response from the college, which may involve temporarily separating the responsible individual from the campus community. Any concerns about retaliation should be addressed promptly with the dean of students or the vice president for student affairs.

RIGHT TO APPEAL

Both the complainant and the respondent may appeal the initial findings and/or sanctions from a sexual misconduct investigation process. The appeal must be made in writing to the vice president for student affairs within five business days of having received notice of the initial findings, unless otherwise notified in the findings letter. Generally, findings and sanctions remain in effect during the appeal process.

The written appeal must be based on a factual disagreement surrounding the violation, a perceived violation of fundamental fairness or demonstration of bias, or the presentation of new evidence that was not available at the time of the initial finding was made. The vice president for student affairs may make a direct decision on the appeal, convene a new hearing panel, or return the case back to an investigator for further consideration. The decision of the vice president for student affairs is final.

COMPLAINANT'S RIGHTS

When bringing forward a complaint of sexual misconduct and throughout the investigation and hearing process, complainants have the following rights:

- To decide whether or not they want to participate in any part of the investigation or hearing process, and to change that decision at any point in the process
- To deny the use of their name if a report must be made to a local law enforcement agency
- To be informed about any limits of confidentiality that may pertain to the allegation
- To be informed of their options of services available to them and any time limits associated with each option
- To have an advocate or other support person to assist them through the process
- To request a change in their on-campus housing assignment or academic schedule if they feel unsafe
- To bring witnesses in person or to present witness statements during an investigation
- To have the advice of their own legal counsel (although legal counsel may not represent any individuals involved during the process or hearing)
- To be informed of the outcome of the investigation and finding
- To appeal the outcome of the initial finding

RESPONDENT'S RIGHTS

When responding to a complaint of sexual misconduct and throughout the investigation and hearing process, respondents have the following rights:

- To be clearly informed of the allegations made against them (though the complainant's identity may need to remain confidential)
- To have an opportunity to respond to the allegations
- To have an advocate or other support person to assist them through the process
- To request a change in their on-campus housing assignment or academic schedule if they feel unsafe
- To bring witnesses in person or to present witness statements during an investigation
- To have the advice of their own legal counsel (although legal counsel may not represent any individuals involved during the process or hearing)
- To be informed of the outcome of the investigation and finding
- To appeal the outcome of the initial finding

RESOURCES, OPTIONS, AND PROTECTIVE MEASURES FOR VICTIMS OF SEXUAL VIOLENCE

There are numerous on-campus and off-campus resources available for those who have been victimized by sexual misconduct or violence. On-campus resources include licensed mental health counselors in the Counseling and Wellness Center for counseling support, the Dean of Students' office for arranging accommodations that may be needed, and the Safety & Security office for seeking immediate help with safety concerns.

There are also professional resources available in the community. Victims or their advocates can contact the Sexual Assault Response Network of Central Ohio (SARNCO) at their 24-hour helpline, 614.267.7020, or the Rape, Abuse and Incest National Network (RAINN) helpline at 800.656.HOPE. SARNCO works with local law enforcement and social services agencies to provide medical and social support services to victims of sexual assault. Services include evaluation and treatment in local emergency departments, emotional support from volunteer advocates, a 24-hour rape helpline, referrals to aftercare counseling, and community outreach and prevention education. Those who are concerned about specific individuals who may pose a threat to their safety are also able to request a protection order through the Franklin County Clerk of Courts, which establishes legal restrictions on the ability of the individual to be in close proximity to the complainant. Information about the types of protection orders and how to request them is available at www.franklincountyohio.gov/clerk/po.cfm.

A "no contact order" can also be requested through the Dean of Students office at CCAD, which does not have legal authority but would make any prohibited contact a violation of the Student Code of Conduct or college policy and subject to campus disciplinary action. The Dean of Students, or his/her designee, can also arrange for a temporary or permanent change of class schedule or residence hall assignment for victims or perpetrators of sexual misconduct when such measures are deemed appropriate. Additionally, the Director of Safety and Security at CCAD can arrange for security escorts or other protective services, as necessary and available.