Hearing Procedures

The following hearing procedures (“Procedures”) are generally followed for a hearing under Section VI of Carleton’s Policy Against Sexual Misconduct (“Policy”). The College, and the presiding Hearing Officer, reserve the right to adjust these procedures as appropriate and as permitted by law. If a complaint of Sexual Harassment also includes allegations of conduct that would violate other College policies, these procedures may be applied to the resolution of the complaint in its entirety.

I. Pre-Hearing

A. Designation of Hearing Officer. The hearing will be presided over by a Hearing Officer selected by the College. The Hearing Officer will be impartial and free from actual bias or conflict of interest. The Title IX Coordinator will provide the parties the name of the Hearing Officer no later than seven days in advance of the hearing. Objections to the Hearing Officer must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than five days prior to the hearing. The Title IX Coordinator will give the Hearing Officer a list of the names of all parties, witnesses, and advisors in advance of the hearing. The Hearing Officer will notify the Title IX Coordinator of potential bias or conflict of interest.

B. Identification of Hearing Advisor. Only one Advisor per party may attend the hearing. All parties must inform the Title IX Coordinator at least five days before the hearing who the party’s Advisor at the hearing will be and whether that person will be an attorney.

C. Pre-Hearing Procedures. No later than three days prior to the hearing, the parties must submit to the Hearing Officer all questions and topics they intend to have addressed at the hearing so that the Hearing Officer can, among other things, rule on relevance ahead of time. The Hearing Officer may also consider any argument by a party that evidence identified as relevant is not, in the party’s view, relevant. The Hearing Officer may rule on such matters prior to the hearing and share rulings with the parties prior to the hearing to assist in preparation for the hearing.

D. Close of Evidence. In general, documents and information that were not submitted to the Investigator during the investigation and included in the Investigative Report may not be presented to the Decision-Makers prior to or at the hearing. In general, a Complainant, Respondent, or relevant witness who had the opportunity to participate during the investigation but elected not to participate will not be allowed to participate in the hearing.
The Hearing Officer may grant exceptions to these limitations in their discretion and only upon a showing of extenuating circumstances. Exceptions are expected to be rare.

E. **Witnesses.** The Hearing Officer will identify any witnesses that they wish to hear from at the hearing based on a review of the final Investigative Report. The Complainant and Respondent may each request the presence of any additional witnesses at the hearing, which will be determined based on relevance by the Hearing Officer. The College cannot compel the attendance of any witness. The Investigator may not be called as a witness at the hearing. Unless the Hearing Officer determines otherwise, character witnesses and expert witnesses are not allowed.

F. **Acceptance of Responsibility.** The Respondent may choose to accept responsibility for some or all of the alleged misconduct. To do so, the Respondent must notify the Title IX Coordinator in writing no later than three days prior to the hearing. For any allegations for which the Respondent has accepted responsibility, the hearing structure will generally begin at Section II.D.9, below.

II. **Hearing.**

A. **Timing.** The hearing will be scheduled as soon as reasonably possible, but no sooner than ten days after the parties receive the final Investigative Report. The Hearing Officer may place time limits on the length of the hearing or phases thereof.

B. **Decorum.** The Hearing Officer is responsible for maintaining an orderly, fair, impartial and respectful hearing. The Hearing Officer has wide discretion over matters of decorum at the hearing, including authority to excuse from the hearing participants who are unwilling to observe rules of decorum.

All hearing participants are required to act respectfully during the hearing. The following behaviors will not be tolerated during the hearing: yelling, verbal abuse, disruptive behavior, interrupting or talking over one another, name calling, or using profane or vulgar language (except where such language is relevant). The parties and their advisors will remain seated at all times during the hearing.

Any participant in the hearing who is not currently involved in questioning should refrain from disrupting the hearing, making gestures, facial expressions, audible comments, or the like, as manifestations of approval or
disapproval during any testimony. The parties may confer with their advisors during the hearing but must not be disruptive in doing so.

When cross-examining a party or witness, advisors shall not repeat, characterize, express an opinion about, editorialize, or otherwise state any response to the answer given by the party or witness except to ask a follow up question to elicit relevant evidence.

C. Role of Advisor at Hearing. While an Advisor may be present, the Advisor may not speak or otherwise participate in the hearing except for purposes of conducting cross-examination when directed to do so by the Hearing Officer. Only the parties’ Advisors, and not the parties themselves, will be permitted to ask the other party and any witnesses relevant questions.

Other than cross-examination, the Advisor may not address the Decision-Makers and must comport themselves in a manner that is not disruptive to the proceedings. An Advisor may confer privately and in a non-disruptive manner with their advisee during the hearing.

D. Structure of Hearing. At the hearing, the Decision-Makers will consider evidence gathered during the investigation process and information provided by the parties and witnesses at the hearing in the form of statements or answers to questions. The hearing will usually proceed as follows, although the Hearing Officer may vary the procedure at their discretion:

1. The Hearing Officer reads introductions and a description of the hearing procedures. The parties will introduce themselves.

2. The Hearing Officer: (a) states the alleged policy violation(s); (b) states that there is a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the hearing; and (c) asks the Respondent to either accept or deny responsibility. If the Respondent accepts responsibility, the hearing as to those portions of the allegations will proceed to Section II.D.9 below.

3. The Complainant may make an opening statement up to ten minutes in length, followed by the opportunity of the Hearing Officer and Decision-Makers to ask questions of the Complainant. The Respondent’s advisor will then have the opportunity to conduct
cross-examination of the Complainant. The Hearing Officer may ask follow-up questions as necessary.

4. The Respondent may make an opening statement up to ten minutes in length, followed by the opportunity of the Hearing Officer and Decision-Makers to ask questions of the Respondent. The Complainant’s advisor will then have the opportunity to conduct cross-examination of the Respondent. The Hearing Officer may ask follow-up questions as necessary.

5. Witnesses approved by the Hearing Officer may be called. The Hearing Officer and Decision-Makers may ask questions of the witnesses. The Complainant’s advisor and the Respondent’s advisor will then have the opportunity to conduct cross-examination of the witnesses. The Hearing Officer may ask follow-up questions as necessary.

6. Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a question, the Hearing Officer will determine whether the question is relevant. If the Hearing Officer excludes a question as not relevant, they will orally explain their decision to do so. Formal rules of evidence that apply to civil or criminal judicial processes are not applicable.

Parties, advisors, and witnesses should present information and ask questions in an efficient matter. Unnecessary repetition or duplication may be deemed irrelevant and prohibited by the Hearing Officer.

Questions and evidence about a Complainant’s sexual predisposition or prior sexual behavior are not relevant unless: (a) they are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or (b) they concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.

Parties and witnesses who provided statements or other evidence during the investigation are expected to appear at the hearing. However, the Decision-Makers will not draw an inference about the determination regarding responsibility based solely on a party or witness’s absence from the hearing or refusal to answer cross-examination or other questions.
7. The Complainant may make a brief closing statement, up to five minutes in length followed by the same opportunity for the Respondent. The Decision-Makers may ask any final questions.

8. The Decision-Makers then deliberate in private to determine whether the Respondent is responsible for a policy violation. The Decision-Makers will apply a preponderance of the evidence standard and otherwise follow the decision-making process outlined in the Policy.

9. If the Decision-Makers determine the Respondent is responsible for a policy violation, or if the Respondent has accepted responsibility for a policy violation, the Decision-Makers will determine sanctions. The Complainant will be allowed to give a brief statement regarding sanctions, up to five minutes in length, followed by the same opportunity of the Respondent. The Decision-Makers may ask additional questions of either party.

E. Breaks/Adjournment. The Hearing Officer may call for breaks during the hearing. Participants in the hearing may request breaks, as needed, which may be granted at the discretion of the Hearing Officer. The Hearing Officer has discretion to adjourn the hearing at any time. Any participant needing accommodations should contact the Title IX Coordinator in advance of the hearing.

F. Recording/Electronic Devices. The hearing will be recorded by the Hearing Officer. The recording will be made available to the Complainant, Respondent, and their Advisors for review after the hearing. All other recording is prohibited.

All electronic devices such as cell phones and tablets must be turned off or set to “Do Not Disturb” during the hearing. Participants may use electronic devices to read statements or pose questions during the hearing.

I have read and understand the above rules, and I agree to abide by them.

________________________
Signature
date