

AAMI Student Conduct Process for Non-Academic Misconduct

500.8 Student Conduct Process for Non-Academic Misconduct

This process is provided to promptly and fairly address complaints of non-academic misconduct by students, in compliance with other AAMI policies and laws.

Making a Complaint

A complaint of student misconduct may be made either orally or in writing to the Director of Academic and Student Services. If a complaint is made orally, the Director of Academic and Student Services or designee will prepare a written statement of the complaint for the complainant's review, correction if necessary and signature. All complaints, whether prepared with the assistance of the Director of Academic and Student Services or not, must include:

1. The complainant's name and contact information.
2. A brief description of the alleged misconduct, including date(s) and time(s) it occurred, and/or the date the complainant first knew of the alleged misconduct.
3. The name(s) of the student(s) allegedly responsible for the misconduct ("respondent").
4. Copies of materials and names of witness(es), if any, that may be relevant to the investigation of the allegations.
5. Whether or not the complainant has initiated a court action or a complaint of discrimination or other complaint with a local, state, or federal agency.
6. The remedy sought by the complainant.
7. The signature (may be electronic) of the complainant.

AAMI encourages prompt reporting of complaints of student misconduct so that rapid response and appropriate action may be taken. Due to the sensitive nature of many such complaints, including sexual misconduct and discrimination, and the effect such misconduct may have on some complainants, there will be no time limits on reporting misconduct pursuant to this process. However, given that with the passage of time, investigating may become more difficult, complaints should be reported as soon as reasonably possible.

Sexual Misconduct

AAMI previously had one process for addressing sexual misconduct. Given the Title IX Regulations promulgated in May 2020 and effective August 14, 2020, AAMI will now have two processes for addressing sexual misconduct. The Title IX regulations provide a more restrictive definition of "sexual harassment" and a more restrictive geographic scope that AAMI must investigate and adjudicate pursuant to the requirements of Title IX. The Title IX reporting, investigation and adjudication process in the AAMI Title IX Policy will apply only to allegations that meet the Regulations' definitions ("Title IX Category Violations"). Those definitions are reflected in the AAMI Title IX Policy, available at <https://funeraleducation.org/title-ix-policy/>.

AAMI will also address any allegations of violations of its policies, including allegations of sexual misconduct that do not meet the strict definitions of the Regulations. Those allegations

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("College Category Violations") are also reflected in the Title IX Policy <https://funeraleducation.org/title-ix-policy/>, and will be addressed through this Student Conduct Policy and the employee conduct process in the Employee Handbook <https://funeraleducation.org/title-ix-policy/>, as applicable to the accused individual.

AAMI encourages all individuals who make a complaint of sexual misconduct to do so pursuant to the Title IX Policy <https://funeraleducation.org/title-ix-policy/>, so that it can be processed and adjudicated through the applicable policy.

Disability Accommodations

A complainant or respondent with a disability who requires accommodation in the complaint, investigation, hearing or any other phase of the process is responsible for disclosing the need for accommodation to the Associate Director of Academic and Student Services ("Associate Director of Student Services"), whose contact information is:

Rita Roemmelt, Title IX Coordinator and
Associate Director of Academic and Student Services
Administration Office
619 West 54th Street, 2nd floor
New York, New York 10019
Phone: 212-757-1190
Fax 212-765-5923
Toll-Free 866-932-2264
rroemmelt@aami.edu

The Associate Director of Academic and Student Services may consult with the Director of Enrollment Services and Disability Officer ("Disability Officer") in deciding whether to grant a disability accommodation request. The Disability Officer's contact information:

Gerard Bellizzi, Director of Enrollment Services
and Disability Officer
Administration Building
619 West 54th Street, 2nd floor
New York, New York 10019
Phone: 212-757-1190
Fax 212-765-5923
Toll-Free 866-932-2264
gbellizzi@aami.edu

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Informal Resolution

The Associate Director of Student Services or designee, who may be internal or external to the college, may resolve any misconduct allegation with a respondent as the College deems appropriate, except for allegations of Clery Act crimes of violence or allegations of sexual misconduct, which shall only be resolved informally by agreement among the college, the complainant and respondent. Any such agreement must be voluntary and must be memorialized in writing.

Investigation of Complaint

The Associate Director of Academic and Student Services or designee, who may be internal or external to the college, will initiate an investigation of the alleged conduct within five (5) business days of notification, which will be handled by an impartial individual who may be internal or external to AAMI. The investigation will include written notification to the parties of the investigation, and interviews with the complainant, the respondent(s), and at the discretion of the investigator, other individuals who may have information regarding the alleged conduct.

The investigator shall prepare a written report that fairly summarizes the relevant evidence within thirty (30) business days following the initiation of the complaint. A copy of the report will be simultaneously provided to the complainant and respondent(s).

Advisors and Support Persons

A complainant or respondent in a sexual misconduct matter where the requested penalty is suspension or expulsion may be accompanied by an advisor of their choice, at their own expense, or by an advisor appointed by the college (who may be internal or external to the college, and must be unbiased) during any stage of the process.

A complainant or respondent in a non-sexual misconduct matter where the requested penalty is suspension or expulsion may be accompanied by an advisor of their choice, at their own expense, during any stage of the process, but are not entitled to an advisor appointed by the college.

An advisor may ask questions on behalf of their advisee at the hearing, may not participate in other meetings during the process except to consult with their advisee in a quiet and non-disruptive manner. An advisor's questioning at a hearing must be conducted in a respectful, non-intimidating and non-abusive manner.

A party with a disability may be granted a support person for the process, which is different from an advisor. A support person will be permitted to assist the party as needed.

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Hearing

The Associate Director of Academic and Student Services shall designate an impartial Hearing Officer, who may be internal or external to the college, who will convene a hearing within ten (10) business days of the parties being provided the investigative report. The college will present charges and has the burden of proof by preponderance of the evidence. Each party may testify, present witnesses and evidence, and be cross-examined by the other party's advisor, if any. Parties may not directly cross-examine each other. A party that does not have an advisor may submit to the Hearing Officer suggested cross-examination questions to be asked of the other party and the other party's witnesses to the Hearing Officer. The college may cross-examine respondent and respondent's witnesses. Formal rules of evidence will not apply. A recording or transcript shall be made of the hearing. The Hearing Officer has discretion over the procedures of the hearing, including whether to ask suggested cross-examination questions.

Following the conclusion of the hearing, the Hearing Officer will review the investigation report and the evidence, deliberate and determine whether the respondent is responsible or not responsible for the alleged conduct, and will notify both parties and the Associate Director of Student Services. If the respondent is found responsible for any charge, both parties will have ten (10) business days to submit a personal impact statement to the Associate Director of Academic and Student Services, who will provide these to the Hearing Officer. The Hearing Officer will consider those statements along with all other evidence and testimony in determining the sanction.

The sanctions imposed will be determined by the severity of the conduct, any prior misconduct, and the student's understanding and willingness to accept responsibility for his or her behavior. Possible sanctions include, but are not limited to those listed in the Title IX Policy.

<https://funeraleducation.org/title-ix-policy/>.

The Hearing Officer will issue a written determination that includes:

1. The charges.
2. The findings of fact.
3. The rationale for determination of responsibility or non-responsibility for each charge.
4. The sanctions.
5. Information about how the procedures of both parties to appeal.

The Hearing Officer will provide the written determination to the parties simultaneously.

Transcript Notations

If a student is found responsible for a crime of violence that meets the Clery Act (20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII)) reporting requirements, AAMI shall make a notation on the transcript of the student indicating the student was "suspended after a finding of responsibility for a code of

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conduct violation” or “expelled after a finding of responsibility for a code of conduct violation.” The transcript of a respondent who withdraws from the institution while conduct charges are pending, and who declines to complete the disciplinary process, will indicate the student “withdrew with conduct charges pending.” Those students who withdraw from AAMI and decline to complete the student conduct process forfeit any right to resume the conduct proceedings at any point in the future.

A transcript notation regarding a suspension may not be removed prior to one year after conclusion of the suspension, at the discretion of the Associate Director of Student Services. Notations for expulsion shall not be removed unless the finding of responsibility is vacated.

Only definitive proof can vacate a finding a responsibility. A not-guilty verdict in a criminal court is not definitive proof of non-responsibility, nor is a failure to prosecute. Before vacating a finding of responsibility, if there is a student complainant in the underlying conduct process, AAMI will notify the student complainant, and the student complainant will have an opportunity to be heard if a respondent provides definitive proof resulting in vacating a responsibility determination.

Appeals

Either party may appeal a finding or sanction by submitting a written statement to the Program Director and Dean of Academic and Student Services (“Program Director”) within five (5) business days of the report being provided to them. The appeal will be heard by the AAMI Faculty Council, which is a panel of three unbiased instructors, one of whom shall be the chairperson. If the allegations concern sexual misconduct, the Faculty Council shall not include the Title IX Coordinator. The Program Director shall provide a copy of a party’s appeal to the other party. The other party may submit a statement to the Program Director within five (5) business days of the submission of the appeal. The decision shall be rendered within ten (10) business days of the submission of the opposing party’s statement, or if there is no statement from the opposing party, within fifteen (15) business days of the submission of the appeal.

Time Limits

The college will make every effort to adhere to all time limits in this policy. However, it may be appropriate in certain circumstances for the college to extend a time limit in this policy for as short a time as possible when extenuating circumstances require additional time. In such case, the appropriate college official shall so inform the complainant and respondent(s) in writing. Any extensions should be kept to a minimum and must be reasonable.

Conduct of Meetings and Hearings

All interviews, meetings and hearings conducted pursuant to this policy may be conducted either in-person, in separate rooms, and/or virtually, in the discretion of the college. Interviews and meetings may be conducted by telephone or other electronic means. Hearings must be

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conducted so that the Hearing Officer and the parties may simultaneously see and hear any party or witness providing information or answering questions.

Clery Act Compliance

The college is required to include for statistical reporting purposes the occurrence of certain incidents in its Annual Security Report (ASR). Neither the names of individuals involved in incidents nor the specific details of the incidents are reported or disclosed in ASRs. In the case of an emergency or ongoing dangerous situation, the college will issue a timely warning to the campus, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. In such circumstances, the name of the alleged perpetrator may be disclosed to the community, but the name of the victim/complainant will not be disclosed.

Coordination With Other Policies

A sexual misconduct complaint made pursuant to AAMI's Title IX Policy may be referred to this process if it is dismissed for failing to meet the Title IX requirements. If such a complaint has been investigated pursuant to the Title IX Policy, it will not be re-investigated. AAMI retains discretion to not respond to, investigate or adjudicate circumstances in which no college interest is implicated.

A particular situation may potentially invoke one or more college policies or processes. The college reserves the right to determine the most applicable policy or process and to utilize that policy or process.

Students' Bill of Rights

The College is committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in College-wide and campus programs, activities, and employment. All victims/survivors of these crimes and violations, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad:

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;

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3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the College;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the College courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few College representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the College, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the College;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College.

Policy Effective November 5, 2020