

# MINERVA UNIVERSITY

## PROHIBITED SEXUAL CONDUCT POLICY

Effective May 1, 2022

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## Introduction

The mission of Minerva University is to nurture critical wisdom for the sake of the world. We apply critical wisdom in establishing policies and procedures that are fair and impartial, including this policy regarding sex/gender discrimination and prohibited sexual conduct. Minerva University has enacted this policy and coordinated procedures to:

- maintain our community values and expectations that all community members are free from all forms of sex/gender discrimination and sexual misconduct,
- reduce or eliminate barriers to educational opportunities caused by sex/gender discrimination and sexual misconduct,
- describe our procedures when violations of these policies are reported, and
- provide recourse for individuals and the community in response to policy violations.

Any report of Prohibited Sexual Conduct, as defined in this document, will be taken seriously and addressed promptly. Minerva University will act to end the prohibited conduct, prevent its recurrence, and provide appropriate remedies to affected parties. Individuals who violate these policies are subject to sanctions as described below, up to and including termination of employment (for faculty or staff), or expulsion (for students).

## Policy Revision

This policy will be reviewed annually, and updated as necessary, by the University Administration, and published on the Minerva University website, on MyMinerva, and in the Employee Handbook. Minerva University reserves the right to make changes to this document as necessary, or as required by law, and once those changes are posted online, they are in effect. Additionally, minor modifications to procedural elements that do not materially jeopardize the fairness owed to any Party may be made at the discretion of the Prohibited Sexual Conduct (PSC) Policy Coordinator. Typically, the policy that was in place at the time of an alleged incident will be followed, but procedural elements that were in place at the time of an Official Complaint will be applied.

## Scope of Policy

This policy applies to all members of the Minerva University community (including all current students, applicants, faculty, staff, and contract employees) and all members of the Minerva community are responsible for knowing the policies and procedures outlined here. Any individual who violates this Policy may also be subject to criminal prosecution and civil litigation. Minerva University will respond to complaints made by any individual outside of the Minerva University community if they involve a member of the Minerva University community. This policy applies only to locations, events, and circumstances over which Minerva exercises substantial control over both the Respondent and the context in which Prohibited Sexual Conduct is alleged.

Although Minerva University is not a federal or state funding recipient, and therefore not subject to Title IX of the Education Amendments Act of 1972, or similar California state laws applicable to state funding recipients, we have developed this policy to provide similar protections to the University community that those laws would mandate. Minerva University is committed to maintaining a community that is free of discrimination of all kinds, therefore, we have adopted this policy on Prohibited Sexual Conduct. This policy was developed to align with the Federal Regulations for Title IX and other requirements in the Code of Federal Regulations prohibiting discrimination on the basis of sex. In addition to Title IX regulations,

this policy also aligns with the Violence Against Women Reauthorization Act of 2013 (VAWA) amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) in response to reported Prohibited Conduct. These obligations include:

- providing a timely warning to all members of the community if a report of misconduct discloses a serious or continuing threat, in order to protect the health or safety of the community; and
- publishing an Annual Security Report that identifies the number of specific categories of reported crimes in or adjacent to Minerva-controlled areas, without identifying information about the parties involved.

Minerva University will comply with all applicable privacy laws in its application of this policy.

## **Applicability of this Policy**

Minerva University will follow this policy when formal complaints of Prohibited Sexual Conduct are alleged.

If a complaint is made about conduct that is prohibited by this policy as well as other policies (such as those found in Minerva University's Undergraduate and Graduate Student Handbooks), the PSC Policy Coordinator may coordinate with appropriate Minerva University personnel to implement a single investigation and adjudication process, in order to provide fair, consistent, and efficient responses to all allegations of misconduct.

Minerva University strongly encourages individuals to report any form of Sex/Gender Discrimination or Prohibited Sexual Conduct, regardless of who engaged in the conduct, to the PSC Policy Coordinator at Minerva University ([psc@minerva.edu](mailto:psc@minerva.edu)). Even if Minerva University does not have jurisdiction over the individual alleged to have engaged in misconduct, Minerva University will promptly take reasonable action to provide for the safety and security of any Minerva community member.

## **Freedom of Speech and Statement of Non-Discrimination**

Minerva University is committed to the principles of academic freedom, including free inquiry and expression. These policies are not intended to stifle the freedom of Minerva students, faculty, and staff to properly engage in vigorous discussion and debate and to express ideas that may be controversial, provocative, or unpopular. However, this protection of free speech has limits, such that speech or conduct that rises to the level of unlawful harassment based on sex or gender is neither legally protected expression nor an exercise in academic freedom. Minerva University supports an environment free of sex or gender-based harassment and misconduct, including discrimination based on gender identity or gender expression.

Minerva confronts and rejects all manifestations of discrimination, including those based on race, ethnicity, gender, age, disability, sexual orientation, gender identity, national origin, or citizenship, religious or political beliefs, status within or outside Minerva, or any of the other differences among people that have been excuses for misunderstanding, dissension, or hatred.

## Key Policy Elements

This policy prohibits conduct based on sex (including gender identity, gender expression, sexual orientation, and sex stereotypes) that may also be called “sexual misconduct,” just as “sexual harassment” may be used as an umbrella term for many forms of prohibited sexual conduct. The terminology used in this policy is explained in this section of the document.

### A. FORMS OF CONDUCT

The following forms of conduct are violations of this policy:

#### 1. Sex/Gender Discrimination

Sex/Gender Discrimination refers to any unwelcome conduct by any member of the Minerva community based on actual or perceived characteristics related to sex, sexual identity, sexual orientation, gender, gender expression, or gender identity.

Discrimination based on gender identity or expression (including intersex, transgender, agender, and gender fluid) is not tolerated by Minerva University. This may include intentional misgendering (using a pronoun or identifier that is different from what an individual has chosen and made known to others) or deadnaming (using a transgender person’s name assigned at birth rather than their chosen name). Misgendering or deadnaming may be unintentional, in which case a simple apology and correction is appropriate; however, when it is known that the named person uses different pronouns, identifiers, or names and an individual intentionally misgenders or uses a deadname to discriminate or otherwise hurt the named person, that may be a violation of this policy.

#### 2. Quid Pro Quo Sexual Harassment

Quid Pro Quo Sexual Harassment is when an individual conditions (implicitly or explicitly) the provision of an aid, benefit, or service on another individual’s participation in unwelcome sexual conduct.

#### 3. Sexual Harassment

Sexual Harassment is unwelcome conduct determined by a reasonable person to be so severe, pervasive, or objectively offensive that it effectively denies a person equal educational access to Minerva University’s educational programs or activities.

#### 4. Sexual Assault

Sexual Assault includes any sexual act directed against a Complainant without their consent, including instances where the Complainant is incapable of giving consent. Sexual acts in this context include:

- Rape: Forcible 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 consent and including when the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Sodomy: Oral or anal intercourse with a Complainant, forcibly and/or against their will, or when the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Sexual Assault with an Object: Use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of the Complainant, forcibly and/or against their will, or when the Complainant is incapable of

giving consent because of age or because of temporary or permanent mental or physical incapacity.

- Fondling: The touching of the private body parts of the Complainant (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against their will, or when the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Incest: Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by California law.
- Statutory Rape: Non-forcible sexual intercourse with a person who is under California's statutory age of consent, 18 years of age. A person over the age of eighteen who engages in felony unlawful sexual intercourse as described in the California penal code does so without effective consent as defined by these policies.

## **5. Dating Violence**

Dating Violence is defined as violence based on sex committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence, below.

## **6. Domestic Violence**

Domestic Violence is defined as violence on the basis of sex 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, a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of California, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of California. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates.

## **7. Stalking**

Stalking is defined as engaging in a course of conduct, based on sex, directed at the Complainant that would cause a reasonable person to fear for the person's safety or the safety of others; or to suffer substantial emotional distress. "Cyber-stalking" is 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. To qualify as stalking, the conduct is not required to be sexual in nature. Furthermore:

For the purposes of this definition:

- A "course of conduct" means two or more acts, including, but not limited to, acts in which the Respondent 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.

- A "reasonable person" means a reasonable person under similar circumstances and with similar identities to the Complainant.
- "Substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Examples of Stalking include, but are not limited to:

- non-consensual communication, including in-person communication, telephone calls, voice messages, text messages, email messages, social networking site postings, instant messages, postings of pictures or information on websites, written letters, gifts, or any other communications that are undesired and/or place another person in fear;
- following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, or other locations frequented by a person;
- surveillance and other types of observation, whether by physical proximity or electronic means; and
- gathering of information about a person from family, friends, co-workers, and/or classmates.

## **8. Non-Consensual Sexual Contact**

Non-Consensual Sexual Contact is similar to, but more broadly defined than "fondling," and includes any sexual contact with another person by force or threat of force, or without affirmative consent. Sexual contact includes intentional contact with the intimate body parts of another, causing an individual to touch their own body parts, or disrobing or exposure of another person without permission. Intimate body parts may include breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched or exposed in a sexual manner.

## **9. Sexual Exploitation**

Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another person for one's own advantage or benefit, or to benefit or advantage anyone other than the person being exploited. Examples of sexual exploitation include, but are not limited to:

- Surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Non-consensual sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity of the person being exploited, or distribution of such without the knowledge and consent of all parties involved;
- Exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances;
- Knowingly exposing another individual to a sexually transmitted disease or virus without their knowledge;
- Prostitution; and/or
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.



## **10. Prohibited Relationships by Persons in Authority**

Prohibited Relationships by Persons in Authority are defined as sexual or other intimate relationships in which one party maintains – and fails to promptly report and discontinue – a direct supervisory or evaluative role over the other party. In general, this includes all sexual or other intimate relationships between students and their managers, supervisors, professors, advisors, or other Minerva University employees or contractors. Similarly, faculty and staff who supervise or otherwise hold positions of authority over others are prohibited from having a sexual or other intimate relationship with an individual under the employee's direct supervision.

Intimate or sexual relationships between individuals in asymmetrical positions of power may undermine the professionalism of faculty and staff and may raise sexual harassment concerns. Even when all parties consent, the person with greater authority may be subject to allegations of Prohibited Sexual Conduct if the perspective of another party regarding the consensual nature of the relationship changes. Such relationships may impact third parties based on perceived or actual favoritism or special treatment based on the relationship.

Therefore, if an individual contemplates beginning, or is involved in, a sexual or intimate relationship with another, over whom the individual holds direct supervisory or evaluative responsibilities, the individual must promptly:

- discontinue any supervising role or relationship over the other person, and
- report the circumstances to their own supervisor or member of the senior staff at Minerva University.

Failure to comply fully and in a timely way with these requirements is a violation of this Policy, and the person in authority could be subject to disciplinary action, up to and including dismissal from employment.

## **11. Retaliation**

Retaliation is defined as any materially adverse action taken against a person for making a good faith report of Sex/Gender Discrimination or Prohibited Sexual Conduct or for participating (formally or informally) in any proceeding under this Policy. All parties involved in any Prohibited Sexual Conduct case are prohibited from engaging in retaliatory behavior.

Adverse action includes conduct that threatens, intimidates, harasses, coerces or in any other way seeks to discourage a reasonable person from engaging in activity protected under this Policy. Retaliation may be direct, such as denying a student access to a program, or it may be indirect, such as acting in a way that is intimidating, threatening, or harassing to an individual who has made a report of, or otherwise participated in an investigation of Prohibited Sexual Conduct. Retaliation can be committed by or against any individual or group of individuals, not just a Respondent or Complainant.

Retaliation may be present whether or not there is ultimately a finding of responsibility on any allegations of Prohibited Sexual Conduct. Therefore, an individual making an initial report or complaint is entitled to protection from any form of retaliation following a report or complaint that is made in good faith, even if the Respondent is later found not responsible for a policy violation. Any instance of

retaliation should be reported to the PSC Policy Coordinator. Minerva University will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate.

## **B. ADDITIONAL TERMINOLOGY**

The following terminology relates to key elements of what is defined by this policy as Prohibited Sexual Conduct:

### **1. Affirmative Consent**

Affirmative Consent in the context of this policy means clear, affirmative, conscious, and voluntary agreement to engage in sexual activity with an adult person. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other(s) to engage in sexual activity. Essential elements of affirmative consent are the following:

- a. *Informed and reciprocal*: All parties must demonstrate a clear and mutual understanding of the nature and scope of the act(s) to which they are consenting and a willingness to engage in those act(s).
- b. *Freely and actively given*: Consent cannot be obtained using force, coercion, threats, intimidation, or pressuring, or by taking advantage of the incapacitation of another individual.
- c. *Mutually understandable*: Communication regarding consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage in sexual activity. Consent may not be inferred from silence, passivity, lack of resistance, or lack of active response.
- d. *Not indefinite*: Affirmative consent must be ongoing throughout the activity. Consent may be withdrawn by any Party at any time.
- e. *Not unlimited*: Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Even in the context of a current or previous intimate relationship, the mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.
- f. Being intoxicated by drugs or alcohol is no defense to any violation of this policy and does not diminish one's responsibility to obtain consent.

### **2. Incapacitation**

Incapacitation is a state in which an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act and/or is physically helpless.

- a. An individual is incapacitated, for example, if the individual is asleep, unconscious, or otherwise unaware that sexual activity is occurring, or unable to understand the nature of the activity or communicate effectively due to a mental or physical condition. An individual may be incapacitated due to the use of alcohol, drugs, or other medications.
- b. Consumption of alcohol, drugs, or medication alone is insufficient to establish incapacitation. An evaluation of incapacitation requires an assessment of how consumption impacts an individual's decision-making ability, awareness of consequences, ability to make informed judgments, or capacity to appreciate the nature and quality of the act(s).
- c. When determining the responsibility of a Respondent regarding whether the

other Party was incapacitated, an evaluation will be made using a reasonable person standard. It is irrelevant whether the Respondent's own incapacitation caused the Respondent to misjudge the other Party's capacity to provide affirmative consent.

### **3. Force**

In the context of this policy, Force is the use or threat of physical violence to overcome an individual's freedom to choose whether or not to participate in sexual activity or to provide consent. Consent obtained by force is not valid. Evidence of resistance by a Complainant is viewed as clear demonstration of a lack of consent, but there is no requirement that a Complainant must physically or verbally resist a sexual advance or request to demonstrate that force has been used. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not by definition forced.

### **4. Intimidation**

Intimidation is the use of implied threats to overcome an individual's freedom to choose whether or not to participate in sexual activity or to provide consent. Consent obtained by intimidation is not valid.

### **5. Coercion**

Coercion is the improper use of pressure to compel another individual to initiate or continue sexual activity against that person's will. A person is acting in a coercive manner if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Consent obtained through coercion is not valid. Coercion may take the form of a range of behaviors, including but not limited to intimidation, manipulation, threats, and blackmail. Examples of coercion include, but are not limited to:

- threatening to "out" a person based on their sexual orientation, gender identity, or gender expression,
- threatening to harm oneself or another if the other party does not engage in sexual activity.

An evaluation of coercion requires consideration of the frequency and duration of the application of pressure, the intensity of the pressure, and the degree of isolation of the person being pressured.

## **C. PARTICIPANTS**

The following definitions refer to individuals who are part of the reporting, investigation, and/or adjudication processes under this policy. There may be more than one individual in each of these categories in any particular case:

### **1. Prohibited Sexual Conduct (PSC) Policy Coordinator**

The PSC Policy Coordinator ([psc@minerva.edu](mailto:psc@minerva.edu)) has primary responsibility for coordinating the efforts of Minerva University to protect all persons' rights and accord equal dignity to all Parties involved in any allegations of Sex/Gender Discrimination, Sexual Harassment, Retaliation, or Prohibited Sexual Conduct, as broadly defined by this Prohibited Sexual Conduct Policy. The PSC Policy Coordinator will coordinate the intake, investigation, and resolution of any complaint made under this policy, and will facilitate supportive measures, as possible, to stop, remedy, and/or prevent violations of this policy, acting without bias or conflict of

interest.

## **2. Complainant**

A Complainant is the individual who is alleged to be the victim of conduct that could constitute Sex/Gender Discrimination or Prohibited Sexual Conduct, whether or not that individual makes an informal report or formal complaint. A Complainant may be an individual outside of the Minerva community who makes an allegation against a Minerva University student, staff, or faculty member.

## **3. Respondent**

A Respondent is an individual alleged to be the perpetrator of conduct that could constitute Sex/Gender Discrimination or Prohibited Sexual Conduct, whether or not that individual makes an informal report or formal complaint.

## **4. Third-Party Reporter**

Third-Party Reporter refers to an individual who makes an initial report about, or on behalf of, a Complainant, but is not themselves a Complainant with regard to the allegations made.

## **5. Witness**

A Witness may be an individual who observed conduct that is related to an alleged violation of these policies or who may have communicated with the Complainant and/or Respondent after an alleged incident that may constitute Sex/Gender Discrimination or Prohibited Sexual Conduct.

## **6. Responsible Employee**

A Responsible Employee is any Minerva University employee who has been designated as such, including, but not limited to, all members of the Cabinet, all Deans including Associate and Assistant Deans, all Faculty, and all Student Life staff. Any Responsible Employee who is aware of policy violations must promptly inform the PSC Policy Coordinator and disclose all relevant information, including the names of the Parties, even when individuals have requested that their names remain confidential.

# **D. GENERAL POLICY ELEMENTS**

Throughout the process of enforcing this policy, the following elements apply:

## **1. Privacy/Confidentiality**

In the implementation of this Policy, Minerva University is committed to protecting the *privacy* of all individuals involved, as far as legally possible. Minerva University staff will make reasonable efforts to protect the privacy of individuals reporting or accused of Prohibited Sexual Conduct, as permitted by law and while balancing the need to gather relevant information to eliminate Prohibited Sexual Conduct, prevent its recurrence, and remedy its effects. This means that information related to a report of Prohibited Sexual Conduct will only be shared with only those professional staff members who “need to know” to assist in the Investigation and/or Resolution of a report.

The term *confidentiality* refers to information that cannot be revealed to others without an individual’s express permission. As governed by law, the only Minerva University employees who may offer legally protected confidentiality to students are licensed members of the Counseling and Psychological Support staff. These mental health

providers are prohibited from breaking confidentiality unless they have explicit permission from the student or there is an imminent threat of physical harm to self or others. Therefore, an individual student who seeks confidential assistance or support may do so by speaking with one of these staff members or with a confidential resource outside of Minerva University. (See MyMinerva or the Employee Handbook for available external resources.)

When a student makes a request for privacy or confidentiality in the context of reporting Prohibited Sexual Conduct, the PSC Policy Coordinator will evaluate the request, balancing the obligation to provide a safe and non-discriminatory environment with the obligation to provide fundamental fairness (by giving notice to the individual accused of a conduct violation, for example). In extreme cases, the PSC Policy Coordinator might issue a timely warning about any circumstances that present a serious or ongoing threat to community safety.

## **2. Standard of Evidence**

The standard used for determining whether a Respondent has violated this Prohibited Sexual Conduct policy is *Preponderance of the Evidence*, which means that in the eyes of the evaluator, it is more likely than not that a violation occurred, based on all available and relevant evidence. This is the standard of evidence applied in all student conduct and personnel processes that involve Hearings or other forms of adjudication at Minerva University.

Additional terminology found in this policy is defined in the Glossary. Any questions regarding these definitions should be directed to the PSC Policy Coordinator ([psc@minerva.edu](mailto:psc@minerva.edu)).

## **Educational Training and Risk Reduction**

All Minerva University staff, faculty, contractors, and students are required to complete educational programs that familiarize them with the policies and procedures governing Sex/Gender Discrimination and Prohibited Sexual Conduct. Staff, contractors, and faculty are required to complete sexual harassment training on an annual basis. Minerva University undergraduate students complete a two-part educational program immediately preceding and during their first semester and participate in annual supplementary programs.

All staff with investigatory and/or decision-making authority shall complete (or have completed) a minimum of eight hours of appropriate training for these roles. These trainings include content about requirements for impartiality, no conflict of interest, no bias, no sexual stereotypes, no prejudgment, as well as presumption of innocence, rape shield laws, and other best practices. The PSC Policy Coordinator has extensive expertise and training.

In addition to these training resources, the following list of risk reduction tips may help members of the Minerva community reduce their risk for experiencing non-consensual sexual behavior. These tips in no way suggest that a victim of sexual misconduct is ever responsible for the misconduct of another person, but they are offered here as useful considerations:

- Clearly communicate limits you may have regarding sexual interactions, and make your limits known as early as possible.
- Tell a sexual aggressor NO clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.

- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Give thought before sharing your intimate content, pictures, images, and videos with others, even those you may trust. If you do choose to share, clarify your expectations as to how or if those images may be used, shared, or disseminated.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

To reduce your risk for being accused of sexual misconduct, consider these tips:

- As the initiator of sexual behavior, clearly communicate your intentions to your sexual partner(s) and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- **DO NOT MAKE ASSUMPTIONS ABOUT CONSENT.**
- Do not assume that someone is sexually available, that they are attracted to you, or that they are physically able to consent without receiving affirmative and continuous consent during a sexual encounter. If there are any questions or ambiguity, you do not have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension, and communicate better. You may be misreading your partner, or they may not have figured out how far they want to go with you yet.
- Do not take advantage of someone's altered state, whether a result of alcohol or drug use, even if they willingly consumed substances.
- Realize that your potential partner(s) could feel intimidated or coerced by you. You may have a power advantage simply because of your gender or physical presence. Do not abuse that power.
- Do not share intimate content, pictures, images, and videos that are shared with you.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior. Silence, passivity, or non-responsiveness cannot be interpreted as an indication of consent. Read your potential partner(s) carefully, paying attention to verbal and non-verbal communication and body language.

If you are accused of Sexual Misconduct or any form of sex/gender discrimination, do not contact the Complainant. Such communication could be interpreted as intimidation or retaliation, as described above. You may want to speak with a confidential counselor from Counseling and Psychological Services or seek external counseling services. You may want to contact someone who can act as an Advisor in any forthcoming Investigation process. You may also contact anyone on the Student Affairs staff, and/or the PSC Policy Coordinator at Minerva University, who can explain your rights and responsibilities under this policy.

## **Reporting Procedures**

### **A. REPORTING OPTIONS**

We encourage any member of the Minerva University community who experiences any form of Sex/Gender Discrimination or Prohibited Sexual Conduct to [report](#) such incidents to the PSC Policy Coordinator, [psc@minerva.edu](mailto:psc@minerva.edu). The PSC Policy Coordinator will respond promptly to put a stop to any ongoing prohibited sexual conduct, to remedy the effects of this conduct, and to prevent its recurrence. An individual does not have to request a

particular course of action, nor do they need to predetermine the exact application of policy to an incident they have experienced to request information from the PSC Policy Coordinator. Making a report does not require an individual to file a Formal Complaint, although such a report may be a preliminary step prior to filing a Formal Complaint. To raise any concern involving bias, conflict of interest, misconduct, or discrimination on the part of anyone involved in an investigation or resolution of a matter related to this policy, contact the PSC Coordinator ([psc@minerva.edu](mailto:psc@minerva.edu)). To raise any concern involving bias, conflict of interest, misconduct, or discrimination on the part of the PSC Coordinator, contact Minerva University cabinet member Teri Cannon at [teri@minerva.edu](mailto:teri@minerva.edu).

The PSC Policy Coordinator will remain impartial and unbiased about any disclosure of Sex/Gender Discrimination or Prohibited Sexual Conduct, treating all Parties with fairness, equity, and respect. Unless a person's physical safety is at serious risk, an initial report will not be officially investigated until such time as the individual affected by misconduct chooses to file a Formal Complaint. The PSC Policy Coordinator may file a Formal Complaint themselves under unusual circumstances, such as when there is credible evidence of a serious incident of Sex/Gender Discrimination or Prohibited Sexual Conduct that could reasonably result in physical harm to one or more individuals, but there is no official Complainant.

Although anyone may provide information to the PSC Policy Coordinator concerning possible violations of this policy, only an individual who experienced Sex/Gender Discrimination or Prohibited Sexual Conduct may file a Formal Complaint. A Formal Complaint may be filed with the PSC Policy Coordinator in person, by mail, by email ([psc@minerva.edu](mailto:psc@minerva.edu)), or by completing the [PSC Policy Violation Report](#) form.

To respect an individual's autonomy in deciding if or how to proceed, the PSC Policy Coordinator will neither pressure an individual to file a Formal Complaint, nor dissuade an individual from filing a Formal Complaint, but will provide the individual with information that is relevant to inform such a decision. Decisions to make Formal Complaints often unfold over time, and Minerva University will provide support to any individual making such a decision. Additionally, any student may consult with Counseling and Psychological Services staff regarding an incident of Sex/Gender Discrimination or Prohibited Sexual Conduct on a strictly confidential basis, whether or not they make a Formal Complaint.

Minerva University will support any individual who chooses to report an incident that might also be a crime to law enforcement. If an individual has experienced an incident of sexual violence, for example, Minerva University strongly encourages that individual to seek assistance immediately from a medical provider and/or local law enforcement. This may allow the appropriate authorities to collect and preserve evidence, execute search warrants, make arrests, and assist in seeking emergency protective orders, as necessary and if available in a particular location. The definitions of criminal conduct and the burden of proof used in the criminal justice system are different from the definitions used in Minerva University policies. These reporting options are not mutually exclusive and may be made simultaneously or at different times. An Investigation process at Minerva University will not be delayed unless officially requested by law enforcement.

## **B. OTHER REPORTING CONSIDERATIONS**

### **1. Supportive Measures**

The PSC Policy Coordinator will offer Supportive Measures, as appropriate, to anyone who discloses a potential violation of this policy, whether or not a Formal Complaint is made. These may include accelerated access to Counseling and Psychological Services, academic accommodations such as extending deadlines for assignments, assignment to new classes or different sections of a class, modifications to work study, residence adjustments such as being assigned to a different building or different section of a building, mutual contact restrictions, or other measures deemed appropriate by the PSC Policy Coordinator.

The PSC Policy Coordinator may also implement emergency removal procedures, determining the least restrictive action possible considering safety concerns, based on a threat assessment for the Minerva University community. These measures are never taken for a punitive purpose prior to the final resolution of a Formal Complaint; they may include, but are not limited to: removing a student from a residence hall, temporarily reassigning an employee, restricting the use of University resources, allowing a student to withdraw or take a leave without financial penalty, allowing an employee to take an administrative leave, suspending a student's participation in non-academic activities or organizations, work study employment, or leadership roles.

### **2. Mutual Contact Restrictions**

As a supportive measure, Minerva University may impose a Mutual Contact Restriction on either or both Parties involved in an alleged violation of these policies. This may include being restricted from entering another's room and other behavioral restrictions intended to prevent interactions between Parties to the degree reasonably possible. Any violation of a Contact Restriction, once imposed, will be treated as a separate violation of this policy.

### **3. Advisors**

All Parties are allowed to have an Advisor accompany them at all stages of the reporting and Investigation processes; however, it is not required, and an Advisor will not be provided by Minerva University. An Advisor may not be an attorney or an employee of Minerva. An Advisor may be a friend, mentor, family member, or any other person, if they are not also official participants in the Investigation process.

An Advisor may provide advice to a Complainant or Respondent, in addition to emotional support, but they may not represent a Complainant or Respondent during an Investigation process, nor may they present evidence on behalf of a Complainant or Respondent at a Hearing. The PSC Policy Coordinator retains discretion about any direct communications with Advisors, so long as the same treatment is allowed for both Complainant and Respondent, and the Parties have provided written consent for the PSC Policy Coordinator to communicate directly with the Advisor. The Parties are expected to provide timely notice to the PSC Policy Coordinator if they change Advisors at any time. It is assumed that if a Party changes Advisors, consent to share information with the previous Advisor is terminated, and written consent to communicate with the new Advisor should be provided.



If, during the Investigation or Hearing process, an Advisor interferes unreasonably, a single warning will be given. In response to any subsequent disruption, the Advisor will be asked to leave the meeting or Hearing.

#### **4. Anonymous Reports**

Any individual may make an anonymous report concerning an act of Sex/Gender Discrimination or Prohibited Sexual Conduct, with or without disclosing the name of the alleged Respondent. However, Minerva University's ability to respond to such a report is limited by lack of information about the incident(s) or the individuals involved. The PSC Policy Coordinator will determine what steps to take in response to an anonymous report, including community-wide remedies, as appropriate.

#### **5. Reports from Third-Party Sources**

Incidents may be initially reported to the PSC Policy Coordinator by Third Parties. When a Third Party is a Responsible Employee, they will be expected to provide as much detail as they know regarding an alleged incident of Sex/Gender Discrimination or Prohibited Sexual Conduct. If the Third Party is a Witness to an incident, but not a Responsible Employee, they may choose to provide information to the PSC Policy Coordinator. Generally, information that is revealed in the context of climate surveys, classroom assignments or discussions, research projects, or events such as workshops and fishbowl exercises, does not represent notice of conduct that must be reported to the PSC Policy Coordinator. However, any staff or faculty member with concerns about Sex/Gender Discrimination or Prohibited Sexual Conduct should notify the PSC Policy Coordinator. In such cases, remedial actions may be pursued without taking official actions such as a Formal Investigation.

#### **6. Amnesty Policy**

Any student who participates in an initial Report, a Formal Complaint, and/or an Investigation of Sex/Gender Discrimination or Prohibited Sexual Conduct, regardless of their role, will not be subject to disciplinary action by Minerva University for specific conduct violations related to the consumption of alcohol or other drugs in the context of the reported incident(s).

This policy is intended to encourage reporting of Sex/Gender Discrimination and Prohibited Sexual Conduct in a complete and forthright manner. However, this amnesty does not automatically apply to other forms of student conduct violations, including prohibited academic conduct or violations of the honor code, nor does it prevent Minerva University from responding to serious violations of student conduct that place the safety or health of other individuals at risk. Furthermore, being intoxicated as a result of alcohol or drugs is not a defense to any violation of these policies and does not diminish one's responsibility to obtain consent for any sexual activity with another person.

#### **7. False Reports**

It is a violation of this policy to knowingly make a false allegation or to knowingly provide false information regarding a Complaint of Sex/Gender Discrimination or Prohibited Sexual Conduct. Additionally, it is a violation of this policy to tamper with or destroy evidence, or deliberately mislead an Investigator during any stage of an Investigation. A Complainant or Third-Party Reporter may be subject to appropriate Sanctions, as defined by student or employee conduct policies, if it is determined that they made a

False Report, knowingly fabricated allegations, or gave false information with malicious intent or in bad faith; however, a good-faith Report or Complaint that results in a dismissal or in a finding of “not responsible” is not considered a False Report.

## **8. Multiple Parties**

If the PSC Policy Coordinator determines that an allegation of Sex/Gender Discrimination or Prohibited Sexual Conduct includes more than one Respondent, these allegations may be investigated together as a single matter and institute a single resolution process. Similarly, when the PSC Policy Coordinator determines that there are multiple allegations of Sex/Gender Discrimination or Prohibited Sexual Conduct involving one Respondent by more than one Complainant, the PSC Policy Coordinator may investigate the events together as a single matter and institute a single Investigation and Resolution process. In such cases, the procedures described here relating to a singular Complainant or Respondent should be understood to apply to the plural case.

## **9. Counterclaims**

Counterclaims made with retaliatory intent will not be permitted, but counterclaims determined to be made in good faith will be investigated according to procedures described below. Counterclaims may be resolved in the same investigative process as the underlying complaint, or later, at the discretion of the PSC Policy Coordinator.

# **C. INTERNAL MINERVA UNIVERSITY RESOURCES**

## **1. Minerva University PSC Policy Coordinator:**

Susan Christopher, PhD  
415-551-2512  
[psc@minerva.edu](mailto:psc@minerva.edu)  
Minerva University

## **2. Dean of Students**

If an incident involves alleged misconduct by the PSC Policy Coordinator at Minerva University, reports should be made directly to the Dean of Students:  
Kayla Krupnick Walsh  
510-671-0973  
[kaylakw@minerva.edu](mailto:kaylakw@minerva.edu)  
Minerva University

## **3. Counseling and Psychological Services**

Write to [caps@minerva.edu](mailto:caps@minerva.edu) to request a confidential meeting with a member of the CAPS team.

# **D. EXTERNAL RESOURCES**

## **1. To report criminal conduct in San Francisco:**

San Francisco Police Department  
SFPD may be contacted either by calling 911 (for emergencies only)  
For non-emergency situations: 415-553-0123  
<http://sanfranciscopolice.org/>  
Tenderloin District 24  
301 Eddy Street

415-345-7300

**2. To seek medical services for sexual assault in San Francisco:**

Zuckerberg San Francisco General Hospital

1001 Potrero Avenue

415-206-8000 (general information)

<http://zuckerbergsanfranciscogeneral.org>

San Francisco General is the only facility in San Francisco providing services for victims of sexual assault, including rape kits, medications, etc., free of charge. The hospital is required by law to report an incident of a sexual offense to the San Francisco Police Department (SFPD). A decision by the victim to press formal charges does not have to be made at the time of the visit to the hospital.

**3. To learn about other available resources in San Francisco:**

SF Women Against Rape (SFWAR)

415-647-7273 (24-hour crisis line) 415-861-2024 (business line)

<https://www.sfwar.org>

SFWAR provides peer counseling and support groups, legal and medical advocacy. SFWAR also works with SF General Hospital to provide support to sexual assault victims.

Trauma Recovery Center/Rape Treatment Center

(Affiliated with SF General Hospital and UCSF)

2727 Mariposa Street, Suite 100 (at Bryant Street)

415-821-3000

<http://traumarecoverycenter.org>

Rape treatment and recovery center. Also provides support for victims of other physical assaults and violent crimes.

Community United Against Violence (CUAV)

415-777-5500 (business line)

<http://www.cuav.org>

Provides support groups and advocacy for LGBTQ community.

Woman Inc. (Women Organized to Make Abuse Nonexistent)

415-864-4722 (24-hour support line)

877-384-3578 (En Espanol)

<http://www.womaninc.org>

Provides support for victims of domestic violence.

National Domestic Violence Hotline

800-799-7233

<http://www.thehotline.org/>

Provides 24/7 support for victims of abusive relationships, and online resources about abuse, healthy relationships, communication, and consent.

**4. To reach emergency services in other Minerva locations:**

Berlin: 112 (ambulance), 110 (police)

Buenos Aires: 107 (ambulance) 101 (police)

Hyderabad: 108 (ambulance), 100 (police)

London: 999 (ambulance & police)  
San Francisco: 911 (ambulance & police)  
Seoul: 119 (ambulance), 112 (police)  
Taipei: 119 (ambulance), 110 (police)

**5. To seek medical and available resources in other Minerva locations:**

Other local resources for students are provided on MyMinerva. Resources for Minerva University staff and faculty are available in the Employee Handbook.

**6. To learn about your rights as an employee:**

U.S. Equal Employment Opportunity Commission  
131 M Street, NE  
Washington, DC 20507  
202-921-3191  
1-800-669-6820 (TTY) / 1-844-234-5122 (ASL Video Phone)

## **Investigation Procedures**

The procedures described in this section apply to any Informal Reports or Formal Complaints of Sex/Gender Discrimination or Prohibited Sexual Conduct

In the process of investigating and resolving any report of Sex/Gender Discrimination or Prohibited Sexual Conduct, Minerva University will proceed in a fair and impartial manner, treating all Parties equitably. As circumstances require, we may take immediate steps to avoid risk of harm to all Parties and to the broader community, but we always take a position of presumed innocence regarding whether an individual is responsible for the misconduct that is alleged.

Minerva University will respond as quickly as possible to any notification of possible misconduct and will aim to bring resolution within 60 business days after receiving a Formal Complaint. This period may be extended, as necessary, for appropriate cause by the PSC Policy Coordinator with notice to both the Complainant and the Respondent, but Minerva will avoid all undue delays within its control. If the Respondent is not a member of the Minerva community, the University has no authority to conduct a grievance procedure but will take appropriate steps to end the Sex/Gender Discrimination or Prohibited Sexual Conduct, prevent its recurrence, and address its effect, as reasonably possible.

If a Respondent chooses not to cooperate with any parts of the Investigation or Resolution process, as described below, Minerva University will proceed without their participation, as possible to reach a reasonable resolution. Should a student Respondent withdraw from Minerva, the resolution process would typically cease (as Minerva would no longer have disciplinary jurisdiction over the student); similarly, should an employee Respondent resign from Minerva, the resolution process would typically cease (as Minerva would no longer have jurisdiction over the former employee). However, in all cases, the Resolution process would continue if the PSC Policy Coordinator determines that it may be necessary to address issues of individual or community safety, and/or to remedy the ongoing effects of misconduct. In all cases of unresolved allegations under this policy, Minerva will not readmit any student Respondent or rehire any employee Respondent until there is a resolution as defined in this policy.

## **A. INITIAL INTAKE**

Initial reports of potential policy violations may reach the PSC Policy Coordinator through a number of means, including but not limited to: email, phone, text, online incident report form, or in person. Information may be provided by a Complainant directly, or by a Third-Party Reporter.

During an initial intake meeting, the PSC Policy Coordinator begins the process of a Preliminary Inquiry, taking the following actions, as appropriate to the circumstances described by either a Complainant or Third-Party Reporter:

- Address the immediate safety and wellbeing of all individuals involved, including referrals to medical treatment, as needed.
- Notify the Complainant of their right to contact law enforcement (and their right to decline to do so), if appropriate, and offer support from Minerva University staff.
- Inform the Complainant of the importance of preserving evidence, as appropriate<sup>1</sup>.
- Provide referrals to both internal and external resources, including confidential counseling services from CAPS (for students), external victim advocacy services, and support from other Minerva University staff.
- Notify the Complainant of their right to an Advisor.
- Offer other supportive measures as deemed appropriate, such as referrals to healthcare, or other service providers, alternative housing accommodations, academic accommodations and/or contact restrictions between students.
- Provide an overview of the relevant policies and procedures, including the Amnesty Policy (regarding alcohol and drug use) and Retaliation Policy.
- Document any information provided by the Complainant or Third-Party Reporter regarding the identity of the Respondent, the date, time, and location of the incident(s), the nature of the incident(s), the nature of any documentary or other evidence, and the identity of any Witness(es).
- Determine the need to issue a timely warning (in response to incidents that pose a serious or continuing threat of bodily harm or danger to members of the Minerva community).
- Determine the Complainant's wishes about making a Formal Complaint, if appropriate.

## **B. PRELIMINARY INQUIRY**

As soon as possible after the initial intake, the PSC Policy Coordinator will conduct a Preliminary Inquiry to determine if there is reasonable cause to believe that there has been a violation of any aspect of this policy. This determination is at the discretion of the PSC Policy

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<sup>1</sup> In response to sexual assault: seek forensic medical assistance at appropriate hospital, ideally within 120 hours of the incident (sooner is better); avoid urinating, showering, bathing, washing hands or face, or douching, if possible (but evidence may still be collected even if you do); if oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth; if clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence). In response to stalking: make a secondary recording of any voice messages and/or save the audio files to a cloud server; take screenshots and/or a video recording of any text messages or other electronic messages; take time-stamped photographs of any physical evidence (including notes, gifts, etc.) in place when possible; save copies of any messages showing a request for no further contact; obtain copies of call logs showing the specific phone number being used rather than a saved contact name, if possible.

Coordinator and may be based solely on the initial intake meeting, or may require additional interviews with relevant parties, including Witnesses.

If the PSC Policy Coordinator determines that the Respondent must be interviewed as part of the Preliminary Inquiry, the PSC Policy Coordinator will inform the Complainant and provide the Respondent with written notice of the allegations with sufficient details and sufficient time to prepare for an initial interview. Written notice will also include a statement that the Respondent is not presumed responsible for the alleged policy violations at any stage of the Investigation or Hearing, until a final determination of responsibility is made.

In cases where the Complainant does not wish for their name or other information about an incident to be shared or does not wish for Minerva University to take any formal action in response to the information shared in the Preliminary Investigation, the PSC Policy Coordinator will evaluate the request, considering the duty to ensure the safety of the Minerva community and comply with the law. Generally, when a Complainant does not wish to pursue a Formal Complaint, Minerva University will offer interim support and remedies to the Complainant and the community, but will not otherwise pursue formal action, and the Complainant reserves the right to later file a Formal Complaint. However, the PSC Policy Coordinator may decide to sign a Formal Complaint themselves, independent of the Complainant, when there is a reasonable concern for safety or potential harm to any member(s) of the Minerva community.

### **C. OUTCOME OF PRELIMINARY INQUIRY**

As a result of this Preliminary Inquiry, the PSC Policy Coordinator will make a threshold determination whether the allegations describe conduct that, if true, constitute a violation of any part of the Prohibited Sexual Conduct Policy. If no violation is stated, the inquiry process will be stopped. (If the allegations might constitute a violation of any other Minerva policy, the PSC Policy Coordinator will inform the Complainant accordingly.) Any notice of dismissal will be sent, with an explanation for the dismissal, to both Parties promptly and simultaneously. The PSC Policy Coordinator may also dismiss a Complaint if the Respondent is no longer enrolled as a student or employed by Minerva University.

In any case, the records from all initial inquiries will be preserved by the PSC Policy Coordinator; information from these records may be considered in any future investigations, and a Complainant may seek external remedies through law enforcement or the relevant judicial system. If new evidence is provided later, the PSC Policy Coordinator may reopen the investigation process. Depending on the circumstances, the PSC Policy Coordinator may also recommend an informal, voluntary resolution process (as described below).

When the threshold determination is that the allegations describe conduct that, if true, do constitute a violation of any part of this Prohibited Sexual Conduct Policy, then the PSC Policy Coordinator may offer the Complainant the choice to pursue an informal resolution, described below. The exception to this option is when a Formal Complaint has been made by a student against an employee, in which case, the matter must be resolved through a Formal Investigation. Also, an informal resolution is generally not an option in cases alleging violent sexual assault.

### **D. INFORMAL RESOLUTION**

The intention of an Informal Resolution is to provide an appropriate remedy to the Complainant in which equitable access to educational programs and activities is restored. Both Parties must

voluntarily agree and provide the PSC Policy Coordinator with written consent to an Informal Resolution process.

The nature of an Informal Resolution is flexible and will vary according to the specifics of any particular allegation. Typically, the PSC Policy Coordinator will ask the Complainant to provide a written description of the Complaint and any proposed resolution, within five business days after being notified of the outcome of the Preliminary Inquiry. The Respondent will receive a copy of this description and will have five business days to respond in writing.

The PSC Policy Coordinator will meet separately with both Parties to discuss potential informal resolutions based on the Parties' statements and, if applicable, other information available. Not all Informal Resolutions are appropriate for all circumstances, and the PSC Policy Coordinator will identify appropriate and possible alternatives, which may include:

- Temporary or permanent contact restrictions between the Parties
- Change of a student's residence location
- Change of a student's work-study arrangements
- Change of an employee or contractor's work arrangements
- Change of a student's academic class assignments or other academic accommodations
- Written apology from the Respondent
- Educational remedies.

In some cases, the Parties may request, or the PSC Policy Coordinator may recommend, that an informal resolution be facilitated by a professional mediator. If both Parties and the PSC Policy Coordinator agree that use of a mediator would be appropriate and beneficial, the Conduct Policy Coordinator may employ a qualified mediator who is not a member of the Minerva community to facilitate a mediation process. At any time during the Informal Resolution process, either Party or the PSC Policy Coordinator may suspend or terminate the mediator's involvement, and the Parties may, by mutual agreement and the agreement of the PSC Policy Coordinator, continue with the Informal Resolution process.

Any Party, including the PSC Policy Coordinator, may terminate the entire Informal Resolution process at any time, in which case both the Complainant and the Respondent would be notified in writing and the PSC Policy Coordinator would describe the steps to be taken under a Formal Investigation, described below. However, if all Parties reach an agreement on an appropriate informal resolution, the PSC Policy Coordinator will issue a letter outlining the terms of the resolution and distribute it to both Parties.

## **E. FORMAL INVESTIGATION**

When it is determined that a Formal Investigation is appropriate and/or required, a Notice of Investigation will be sent to all Parties. The Notice of Investigation will include:

- a summary of the allegation(s) made, including specific policy violations implicated
- identities of all involved Parties (if known)
- documentation of any Support Measures available or in place
- explanation of the Investigation and Hearing processes
- statement of possible Sanctions that could result
- notification of the option to utilize an Advisor and opportunity to provide Witnesses (including expert witnesses) to present evidence
- prohibitions against knowingly making false statements or knowingly providing false information

- prohibitions regarding retaliation
- instruction to preserve evidence directly related to the allegations
- statement about privacy protections
- statement regarding the protections of a fair, unbiased, impartial Investigation process, in which the Respondent is not presumed to have responsibility for a policy violation.

The Respondent will be offered the chance to meet with the PSC Policy Coordinator within five business days to review all relevant policies and procedures (including retribution and alcohol/drug amnesty policies) and address any questions they might have about these policies and procedures.

The PSC Policy Coordinator will either serve as Investigator or appoint a qualified Investigator to conduct an impartial, fact-finding Investigation. Both Parties will be notified in writing of the name of the Investigator and have three business days to object in writing to the Dean of Students or Provost regarding the selection of the Investigator based on bias or conflict of interest. The Dean of Students or Provost will determine whether an objection is substantiated and will replace any Investigator deemed to have bias against either Party or to have a conflict of interest.

The Complainant and Respondent have an equal opportunity to participate in the Formal Investigation. Specifically, the Parties have the right to give statements, provide evidence, and request that the Investigator meet with relevant Witnesses, and pose specific questions to Witnesses or to the other Party. The Investigator has broad discretion in determining whether a Witness's statements or documentary evidence is relevant to a determination of responsibility for a policy violation.

The Investigator will inform both Parties of the proposed timeline of the Investigation, which will likely involve interviews with relevant Parties and possible Witnesses to obtain all relevant evidence. With permission of all Parties, interviews will be recorded (and erased as soon as transcribed); no unauthorized audio or video recordings are allowed. The Investigator will create an Interview Summary and will share this document with each interviewee, who may provide corrections and/or comments. Both the Interview Summary and any comments from the interviewee will be part of the Investigation records.

Witnesses are expected to cooperate with and participate in the Formal Investigation process. Witnesses may provide written statements in lieu of interviews during the Investigation.

The Investigator may conduct follow-up interviews as testimonial and documentary evidence is collected. It is important that Investigations be thorough, reliable, fair, and impartial. Therefore, the Investigator will continue to collect evidence until they determine that the Investigation is complete. The Investigator will create a Preliminary Investigation Report, which will be shared simultaneously with the Parties. The Preliminary Investigation Report shall include the Investigator's summary of the Investigation, the allegations at issue, all evidence related to the allegations, an assessment of the evidence regarding both relevance and credibility, and a synthesis of relevant evidence leading to a recommended finding about each allegation.

In response to the Preliminary Report, both Parties have 10 business days to provide written comments, which may include a request for a follow-up interview with the investigator to clarify



or provide any additional information that such Party believes is relevant to the Investigation. Parties may also identify any new Witnesses who should be interviewed, provide any additional evidentiary materials that should be collected and reviewed to the extent that such items are reasonably available, and state any objections to information they believe was inappropriately included in the Preliminary Report. If these written comments suggest that additional interviews or consideration of additional material evidence is needed, the PSC Policy Coordinator may determine that the Investigation process will be extended. After additional Investigation, or if no comments are provided, the Investigator will distribute the Final Investigation Report to all Parties (including the PSC Policy Coordinator, if the Investigator is not the PSC Policy Coordinator) simultaneously and without undue delay.

Neither Party, nor any Advisors, may copy, remove, photograph, print, image, videotape, record, or in any manner duplicate or share the information provided in the Final Investigation Report.

Both Parties will also be informed about next steps, as applicable, including the scheduled date for a Hearing, to take place no sooner than 10 business days and no later than 20 business days after the Parties receive the Final Investigation Report. Additionally, both Parties will be informed about what technology will be used for the Hearing (including access to recording after the Hearing), a list of all participants in the Hearing, a reminder of their rights/obligations regarding Advisors, an invitation to submit to the Panel an impact statement to be reviewed during any Sanctions determination, an invitation to contact the PSC Policy Coordinator if any disability accommodations are requested, and an invitation to object to any participant on the basis of bias or conflict of interest.

#### **F. ADDITIONAL CONSIDERATIONS**

The role of the PSC Policy Coordinator is to remain impartial, unbiased, and fair, protecting all Parties' rights of due process and according equal dignity to all Parties involved in an Investigation. Furthermore, all Parties have the right to expect that their privacy will be protected to the degree possible, and as outlined in this policy. The Complainant and the Respondent will be regularly apprised of the status of the Investigation as it unfolds, including information about any necessary delays.

A Formal Investigation may be resolved at any time if the Respondent chooses to admit responsibility for all alleged policy violations. In this case, the PSC Policy Coordinator will issue a letter to the Parties noting that the individual has accepted responsibility for all allegations and recommend appropriate Sanctions to the Dean of Student (for Respondents who are students) or the Provost (for Respondents who are employees or contractors). If the proposed Sanctions are accepted by both Complainant and Respondent, the appropriate Sanctions Officer will implement Sanctions and the Investigation will be closed, not subject to appeal. If either Party does not accept the Informal Resolution, the Formal Investigation process will continue to completion as described above.

#### **Hearing Procedures for Complaints**

These are the procedural elements of Hearings and Appeals related to Formal Complaints.

## **A. ELEMENTS OF HEARING PROCESS**

### **1. Hearing Panel**

At the conclusion of the Formal Investigation process, a Hearing Panel will be appointed by the PSC Policy Coordinator. The PSC Policy Coordinator will usually participate as a non-voting advisor to the Chair and may serve as the Hearing Officer to provide administrative support and assure that all rules are being followed, and that all participants' rights to fair and equitable treatment are protected. The panel will be composed of three professional Minerva University staff or faculty members, one of whom will act as Chair; the Panelists will not have had any previous substantive involvement with the Parties. All panelists will have at least eight hours of training relevant to Investigations and Hearings.

Each appointed Panelist will take care during the Hearing process to follow trauma-informed guidelines in recognition of the potential stress placed on all Parties. Panelists will also be trained on any technologies used during the Hearing process. All Hearings will be conducted via videoconference and all proceedings will be recorded, except for the panel's deliberation process.

The purposes of the Hearing are to consider the Final Investigation Report (including all relevant documentary evidence and written statements by the Parties), to make determinations regarding policy violation(s), and to make recommendations for appropriate Sanctions for any finding of policy violations. The PSC Policy Coordinator will set a date and time for the Panel to meet, no sooner than 10 business days and no later than 20 business days after distribution of the Final Investigation Report. Hearings are open only to the parties, witnesses, panelists, advisors, and PSC Coordinator.

If any Panelist believes that the Final Investigation Report is incomplete or inadequate, they may require that the Investigator amend the Report to address specific questions or concerns after appropriate consideration of statements or evidence, as necessary. If either Party chooses not to participate in the Investigation, they cannot present new evidence at the Hearing and the Panel will consider only the evidence from the Investigation Report. If either the Complainant or the Respondent refuses to participate in the Hearing, the Panel may consider evidence from the Final Investigation Report as well as testimony of the other Party during the Hearing to reach a determination. However, if the Complainant refuses to participate, and the Panel finds that they are not able to make decisions with regard to any policy violation, the process may be suspended; at such a point, the PSC Policy Coordinator may make a threat assessment and decide to sign a Formal Complaint against the Respondent or may close the case.

### **2. Pre-Hearing Process**

At least five business days prior to the Hearing, the PSC Policy Coordinator will give the Panelists a list of names of all Parties, Witnesses, and Advisors. Any Panelists who cannot make an objective determination must recuse themselves from the proceedings. If a Panelist is unsure of whether a bias or conflict of interest exists, they must raise the concern to the PSC Policy Coordinator as soon as possible.

Also at least five business days prior to the Hearing, the Chair may convene a pre-hearing meeting(s) with the Parties (including Advisors, if requested) and invite them to submit the questions or topics they wish to ask or discuss at the hearing. The Chair may then rule on their relevance ahead of time to avoid any improper

evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

### **3. Procedural Guidelines**

At the Hearing, the Panelists will pose questions to the Parties and the Witnesses, as they deem necessary to reach fair and equitable decisions. The Parties themselves do not directly pose questions to the other Party.

Both Parties and Witnesses will be asked to be available during the scheduled time of the Hearing but will be present at the Hearing only when being asked questions by the Panel. All Parties and Witnesses must confirm that they are in a space that affords them privacy, where no one (other than an identified Advisor) can see or hear the proceedings. Additionally, all Parties must agree not to record the proceedings by any means themselves. Parties do have the right to later access the official recording of the Hearing.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

The Chair will determine appropriate ordering of the questioning process, and may reserve the right to ask questions of the Investigator throughout the Hearing process, but will generally follow this sequence:

- The Hearing Officer opens the Hearing, makes introductions, and reviews the guidelines for the Hearing process.
- The Chair may pose questions to the Investigator, then other Panelists may pose questions to the Investigator.
- The Chair may question the Complainant, then other Panelists may question the Complainant.
- The Chair may question the Respondent, then other Panelists may question the Respondent.
- The Chair may question Witnesses, if any, then other Panelists may question Witnesses, if any.
- The Chair concludes the Hearing, suspends the recording, and the Panel determines a meeting time for their deliberations.

Parties may pose new questions with the approval of the Panel Chair and may make closing statements.

### **4. Advisors**

Both the Complainant and Respondent have the right to an Advisor, who may be a friend, mentor, family member or any other person who is not also an official participant in the Investigation process.

An Advisor may provide advice as well as emotional support to a Complainant or Respondent both prior to and during the Hearing, but they may not represent a Complainant or Respondent, nor may they speak during the Hearing. The Parties may

request time to privately confer with their Advisor, as needed and within reason, throughout the Hearing. However, if an Advisor interferes or acts in any way that creates a distraction during the Hearing process, the Chair of the Panel may ask an Advisor to turn off their video camera, and a single warning will be given. In response to any subsequent disruption, the Advisor will be asked to leave the Hearing.

#### **5. Refusal to Participate**

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. Panelists can only rely on whatever relevant evidence is available through the Investigation and Hearing in making the ultimate determination of responsibility. Panelists may not draw any inference solely from a Party's or Witness's absence from the hearing or refusal to answer other questions.

#### **6. Determining Responsibility for Policy Violations**

Panelists will deliberate in a closed session after the Hearing, which will not be recorded. In their deliberations, the Panelists will use a Preponderance of Evidence standard to determine whether it is more likely than not that the Respondent violated the policies summarized in the Investigation Report. Panelists may consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it relates to a pattern of conduct.

The Panel must reach a majority decision with respect to each alleged policy violation, as well as recommended Sanctions, if any. The rationale for each decision will be provided in a written document called the Panel Report. This report will be sent to the PSC Policy Coordinator who will review the Report for accuracy, privacy, and fairness.

If the Respondent is not found responsible for any policy violation, the PSC Policy Coordinator will send the Panel Report only to the Complainant and the Respondent. Either Party will have 5 business days to file an appeal, as described below.

If the Respondent is found to be responsible for one or more policy violations, the PSC Policy Coordinator will send the Panel Report to the Dean of Students (or designee) for decisions made about students or to the Provost (or designee) for decisions made about employees and contractors, and to the Complainant and the Respondent. The Panel Report must include a description of the allegations and relevant policy definitions, a description of the procedural steps taken from receipt of the Formal Complaint through the Investigation process, the Hearing Panel's determination of findings, specific findings of fact that supports the Panel's determination, conclusions regarding the application of this policy to the facts, the rationale for recommended Sanctions and any remedies designed to restore or preserve to the Complainant equal access to Minerva University's educational programs and activities.

Both Parties will also be provided with an explanation of their right to appeal these decisions within five business days, as delineated below.

### **Sanctions**

The Decision-makers for Sanctions are the Dean of Students (or designee) for students and the Provost (or designee) for employees. If a Respondent is found responsible for one or more

policy violations, the Decision-maker for Sanctions will consider factors such as:

- The nature, severity of, and circumstances surrounding the policy violation(s)
- The Respondent's disciplinary history
- The need for sanctions to bring an end to the prohibited conduct, prevent future recurrence of the prohibited conduct, and/or remedy the effects of the prohibited conduct
- The impact on the Parties
- Any other information deemed relevant by the decision-maker for Sanctions

The Decision-maker will issue a Sanction Letter, no later than 5 business days after the Panel Report is distributed. In addition to the Sanctions listed below, other appropriate remedial actions may be taken, such as, but not limited to sexual harassment awareness programming, employee training, or a campus culture survey.

## **A. SANCTIONS FOR STUDENTS**

The possible Sanctions for students, imposed singly or in combination, are as follows:

- Warning
- Contact Restriction
- Required Training or Education
- Removal from Minerva Housing
- Exclusion from Specific Minerva Student Activities
- Probation
- Suspension\* (lifted only when compliance is achieved to satisfaction of PSC Policy Coordinator)
- Expulsion\*
- Withholding Diploma\*
- Revocation of Degree\*

\* These outcomes will be noted on the student's permanent record or transcript.

Failure by a student to abide by any sanction imposed by the date specified, whether by refusal or neglect, may result in additional sanctions, including suspension or expulsion.

## **B. SANCTIONS FOR EMPLOYEES**

The possible Sanctions for employees, imposed singly or in combination, are as follows:

- Verbal or Written Warning
- Performance Improvement Plan
- Required Training or Education
- Loss of Supervisory Responsibility
- Demotion
- Transfer or Reassignment
- Suspension without Pay
- Termination
- Other actions as appropriate

Failure by an employee to abide by any sanction imposed by the date specified, whether by refusal or neglect, may result in additional sanctions, including termination.

## **Appeal Procedures**

Both Complainant and Respondent have the right to appeal a final determination of a Hearing Panel, or a dismissal of a Formal Complaint. An appeal must be made, in writing, within five

business days of receiving the Panel Report and submitted to the PSC Policy Coordinator. When an appeal is filed by one Party, the other Party will be notified.

If the appeal is timely and meets the appropriate grounds for appeal (without regard to the merits of the appeal), the PSC Policy Coordinator will forward the appeal to the Appeal Officer. The Appeal Officer for all appeals is the University President, or designee. The Appeal Officer may not have been previously involved in the Resolution process for the Complaint.

## **A. GROUNDS FOR APPEAL**

An Appeal is not intended to be a full reconsideration of the original allegations and evidence and is not an opportunity for the Appeal Officer to substitute their judgment for that of the Hearing Panel merely because they disagree with the outcome. An appeal may be made only on the basis of:

- clear procedural irregularity that significantly affected the outcome of the Investigation or Hearing process, or
- new evidence that was not reasonably available at the time of the Investigation or Hearing that could affect the outcome of the Hearing, or
- a conflict of interest or bias on the part of the PSC Policy Coordinator, Investigator, or a Hearing Panelist.

## **B. REVIEW PROCESS**

In most cases, appeals are confined to a review of documentation related to the Investigation, Hearing, and Sanction processes and any documentation specific to the grounds for appeal. Decisions on appeal are to be deferential to the original determination, making changes only in the case of clear error, or compelling justification. The Appeal Officer may consult with the PSC Policy Coordinator, as needed, and this consultation would be documented.

Within five business days of receipt of an appeal, the Appeal Officer will determine whether the grounds in the appeal meet the grounds described above. If not, the appeal will be denied and all relevant Parties will be notified, in writing, of the denial and the rationale for denying the appeal. If the Appeal Officer determines that the appeal does meet any of the grounds described above, the appeal will be approved and all relevant Parties will be notified, in writing, of the approval and the rationale for approving the appeal.

In the case of an approved appeal, all Parties will have five business days after being notified to respond, in writing, to the portion of the appeal that was approved and involves them. The non-appealing Party may also choose to appeal at this time, and their appeal would be reviewed in the same manner. After the decision about that appeal, no further appeals will be considered.

If an appeal is approved appeal, the Appeal Officer may order further investigation or reconsideration by the same Investigator and Hearing Panel, unless it is determined that a new Investigator or Hearing Panel is required to prevent bias. The outcome of a reconvened Investigation or Hearing is final and cannot be appealed.

Any Sanctions already imposed will be suspended during the appeal process and will be modified or reinstated by order of the Appeal Officer. If the original Sanctions involved notation on a student's permanent record or transcript, Minerva may place a hold on course registration, official transcripts, diploma, and any other records, pending the final outcome of the appeal process. Supportive measures may be implemented or continued. Both Complainant and

Respondent will be notified of the outcome of an appeal, simultaneously and without undue delay. In cases that result in the reinstatement of a student Respondent, all reasonable efforts will be made to restore their prior status.

## Recordkeeping

All documentation of Complaints, Reports, Investigations, Hearings, Resolutions, Sanctions, and Appeals will be maintained by the PSC Policy Coordinator in a secure manner for at least five years. Only those documents pertaining to affirmative findings of responsibility are part of students' education records. The PSC Policy Coordinator will also keep records of all materials used in the training of the PSC Policy Coordinator, Investigators, Hearing Panelists, Decision-makers for Sanctions, Appeal Office, as well as any facilitators of Informal Resolutions.

Student records are generally protected from disclosure. However, Minerva University observes the following legal exceptions:

- Parties to any Investigation of Prohibited Sexual Conduct have an absolute right to be informed of the outcome, essential findings/rationale, and any Sanctions that may result, in writing, without condition or limitation, and without substantial delay between notifications to each Party, as described in this policy.
- Minerva University may release publicly the name, nature of the violation, and the Sanction for any student who is found in violation of a policy that is a crime of violence, including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property, intimate partner violence, stalking and kidnapping/abduction. In doing so, Minerva University will inform the Respondent in advance and will not release any information that could lead to the identification of the Complainant.

## Glossary

This Glossary is intended to define and clarify concepts and terminology used in this policy document. It is not exhaustive, however, so any questions regarding any elements of this document should be directed to the PSC Policy Coordinator at [tix@minerva.edu](mailto:tix@minerva.edu).

*Advisor* means a person chosen by the Complainant or Respondent to accompany that Party to meetings related to the Investigation and/or Resolution Processes, to advise that Party during these processes, and to provide support to that Party, as requested. Neither Party is required to have an Advisor.

*Affirmative Consent* refers to consent for any form of sexual contact or conduct that is: freely and actively given, mutually understandable, not indefinite, and not unlimited. (Find an elaboration of this concept on [MyMinerva pages].)

*Appeal Officer* means the person who approves or denies a request for appeal after the outcome of a Hearing is determined. If the Appeal Officer determines that an error occurred that substantially affected the investigation or original determination, the Appeal Officer will take corrective action, accordingly. For all cases that person is the University President, or designee.

*Complainant* refers to an individual who is alleged to be the victim of conduct that could constitute a violation of the Prohibited Sexual Conduct Policy.

*Confidential Resource* means an employee who is not a Responsible Employee of notice of sex/gender discrimination, and/or Prohibited Sexual Conduct. At Minerva University, this privilege is restricted to licensed staff members in CAPS.

*Decision-maker for Sanctions* refers to the person who decides of appropriate Sanctions after a Finding of responsibility for a policy violation.

*Education Program or Activity* refers to the locations, events, or circumstances where Minerva University exercises substantial control over both the Respondent and the context in which the discrimination, misconduct, and/or retaliation occurs and also includes any building owned or controlled by Minerva University.

*Final Resolution* is a Decision-maker's conclusion, by a preponderance of evidence, that the alleged conduct did or did not violate the PSC policy.

*Resolution* means the result of an Informal Resolution or Formal Investigation and Hearing Process.

*Finding (or Finding of Fact)* is an Investigator's or Decision-maker's conclusion by a preponderance of evidence that specific conduct did or did not occur as alleged.

*Formal Complaint* refers to a document submitted and signed by a Complainant, or signed by the PSC Policy Coordinator, alleging that a Respondent engaged in conduct that is a violation of the PSC policy and requesting that Minerva University investigate the allegation(s). Formal Complaints may be submitted via [this form](#).

*Informal Report* is any information shared with the PSC Policy Coordinator that is not a Formal Complaint, but may lead to a Formal Complaint, depending on the specific circumstances of the allegations. Informal Complaints may be submitted via [this form](#).

*Informal Resolution* is an agreement made by both Parties and approved by the PSC Policy Coordinator that occurs after a Formal Complaint is made but prior to a formal Final Resolution being reached after an Investigation and Hearing; an Informal Resolution may also be reached in lieu of a formal Investigation and Hearing, under appropriate circumstances.

*Investigator* means the person(s) authorized by Minerva University to gather facts about an alleged violation of this Policy, to assess relevance and credibility, to synthesize the evidence, and to compile this information in an Investigation Report.

*Responsible Employee* means any Minerva University employee who is obligated to share knowledge, notice, and/or reports of any potential violations of this PSC policy with the PSC Policy Coordinator.

*Parties* refers to the Complainant(s) and Respondent(s), collectively.

*Relevant Evidence* is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in a Formal Complaint.



*Remedies* are actions taken by Minerva University as a means of addressing individual or community safety, preventing recurrence of misconduct, and/or restoring access to Minerva University's education programs and activities.

*Respondent* refers to an individual who has been reported to be the perpetrator of conduct that could constitute a violation of the Prohibited Sexual Conduct Policy.

*Sanction* means a consequence imposed on a Respondent who is found to have violated this PSC Policy.

*Sex/Gender Discrimination* refers to any form of discrimination based on the sex, gender, sexual orientation, gender identity, or gender expression.

*Sexual Harassment* is an umbrella category used in this Policy to include the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence.

*Student* means any individual who has accepted an offer of admission, or who is enrolled at Minerva University.

*Supportive Measures* are non-disciplinary, non-punitive services offered as individually appropriate and as reasonably available, usually to a Complainant after they have reported a potential violation of this policy. Supportive measures are offered to restore or preserve access to Minerva's education program or activities, including measures designed to protect the safety of all parties and/or to deter policy violations within the Minerva University community.

*Threat Assessment* is a term used to assess any potential violence or danger to individuals or to the Minerva community at large, considering the potential for predatory conduct, grooming, and/or a pattern of misconduct.

*PSC Policy Coordinator* is the official designated by Minerva University to ensure compliance with the PSC policy. References to the PSC Policy Coordinator throughout this policy may also encompass a designee of the PSC Policy Coordinator for specific tasks.