

COLLEGE JUDICIAL PROCESS FOR SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, AND STALKING

Scope of Process

The following process ("Process") will be followed in all cases of disciplinary proceedings based on an alleged sexual assault, or an alleged incident of dating violence, domestic violence, or stalking in violation of Student Code Section 3.D, which an enrolled student alleges were perpetrated by another student, a College employee or a third party.

Complaints of sexual misconduct or sexual exploitation, as defined in Section 3.D will be processed through the normal Judicial Process for student complaints, unless the complaining student requests the Associate Vice-President of Student Affairs to use this more formal Process.

Allegations of sexual misconduct raised by anyone other than a student of the Aquinas Community should be reported to the Director of Human Resources. Employees are referred to their handbook for more information on harassment and sexual harassment reporting requirements. The Associate Vice President for Student Affairs will act as liaison for the student in such situation.

General Provisions

No Contact

Immediately upon notification that a complaint has been filed under the Sexual Assault Judicial Process, the complainant and the accused may not have contact with each other (physical, verbal, written, electronic/digital or through third party go-betweens), except through a College official, for the duration of proceedings under the Process.

No Harassment/No Retaliation

Harassment of or retaliation against any person because of that person's initiation of a complaint or other participation in this Process is prohibited. Any party who believes he or she has been subjected to such harassment or retaliation should report it as provided in the Student Code.

Calculation of Time

For purposes of this Process, a business day is defined as Monday through Friday, exclusive of College recognized holidays. It is the intent of the College that the timelines set forth in this Process should be adhered to. However, exceptions may be made for acceptable reasons as determined by the Judicial Hearing Board or the Provost, or due to unforeseen circumstances.

Whenever possible, the College will endeavor to complete all proceedings under this Process within sixty (60) days after their initiation.

Confidentiality and Relationship to Other Proceedings

Proceedings under this Process are confidential, except that this requirement does not limit a party's ability to disclose facts divulged in proceedings under this Process in the course of criminal or civil legal proceedings. A complainant has a right to file a criminal complaint or civil proceeding in addition to or instead of a complaint under this Process. The confidentiality requirements of the Process do not limit the College's ability to disclose information consistent with its legal obligations.

Parties will have the opportunity to view the written statements of other parties or witnesses, as well as other evidence gathered in the investigation of the matter, in the presence of the Associate Vice President for Student Affairs or his/her designee as necessary to prepare permitted responsive statements, and/or to prepare for a hearing under this Process. Parties will not be permitted to obtain or retain copies of such statements without the consent of the statement's author and parties.

Support, Assistance, Representation

The complainant and the accused have the right to an Aquinas College faculty, staff or student support person, or other advisor of the party's choice to accompany and/or support him/her throughout all disciplinary proceedings including a hearing. A support person may not speak at the hearing.

If the complainant or accused needs assistance with preparing a written statement under this Process, such a support person or alternatively a counselor, campus safety official, residence life officer, campus ministry official or the Director of the Women's Study Center may transcribe their oral report.

Participation

A party's refusal to cooperate or provide information may result in termination of the Process or continuation of the Process without the party's input. Under certain circumstances when the College has knowledge of a sexual assault/exploitation and campus safety considerations require, the College may have an obligation to proceed with a complaint and initiate the Process without the consent of the potential victim. In such cases, except as otherwise provided by law, the College official with knowledge of the alleged incident will promptly notify the Associate Vice President for Student Affairs for assessment of the College's obligation in the determination of appropriate next steps.

Training

Officials involved in administering this Process will receive training, including annual training on issues related to dating violence, domestic violence, sexual assault, and stalking, and annual training regarding conducting an investigation and hearing process that protects the safety of victims and the rights of all parties, and promotes accountability.

Procedure

1. A signed written statement concerning the incident, including as much detail as possible, including the name(s) of the perpetrator(s), witnesses, location, date, time and circumstances of the alleged assault is prepared by the Complainant or on the Complainant's behalf. Assistance with the preparation of the Complaint may be sought as provided in the General Provisions. The statement may be contained in a sealed envelope, but both the envelope and the statement must be clearly marked as a "Complaint of [Sexual Assault/Dating Violence, Domestic Violence/Stalking]"
2. The complainant submits the written statement to the Director of Residence Life, an Area Coordinator, the Director of Campus Life, a counselor in the Aquinas Counseling Center, a Campus Safety officer, a staff member in the Aquinas Health Center, the Director of Human Resources, the Associate Vice President for Student Affairs or a professional member of the Aquinas community. This initiates the Process.
3. The recipient of the written statement submits it to the Associate Vice President for Student Affairs within two (2) business days after receipt.
4. Within three (3) business days after receipt of the complainant's written statement, the Associate Vice President for Student Affairs or his/her designee:
 - a. Issues written communication to both parties confirming the initiation of proceedings under the Process, identifying the specific charges that are being brought forth, and stating the prohibitions on contact, harassment, and/or retaliation as set forth in the General Provisions;
 - b. Contacts and attempts to meet with the complainant to discuss the complainant's rights, options, and obligations under the Process;
 - c. Contacts and attempts to meet with the accused to discuss the accused's rights, options, and obligations under the Process;
 - d. Considers and facilitates the implementation of interim measures requested by the parties or determined appropriate by the College on its own initiative, which may include removing or reassigning the accused and/or the complainant from common classes, restricting access to campus or campus activities, or similar measures to assure a fair investigation and resolution process and to restrict the potential for retaliation¹;
 - e. Facilitates the assignment of an investigator, who will be selected by the College in its discretion, and may be a trained College official such as a qualified Campus Safety officer or other qualified person, or may be a qualified external

¹ Such accommodations or protective measures will be kept confidential to the extent maintaining confidentiality does not impair the ability of the College to provide them.

investigator if determined appropriate by the College. The College may, if it deems appropriate, involve the investigator in the initial meetings above to expedite the Process.

5. The accused responds to the complainant's statement in writing and submits it to the Associate Vice President for Student Affairs within three (3) business days after being notified of the initiation of proceedings under the Process. Review of the complainant's statement and assistance may be sought as provided in the General Provisions.
6. Not later than two (2) business days after receipt of the written statement of the accused or expiration of the time period for submission of such statement, the Associate Vice President for Student Affairs forwards the complainant's and accused's written statements to the investigator.
7. The investigator completes an investigation of the matter, which may include witness interviews, and gathering of documents and/or other relevant evidence identified by the parties or witnesses, or otherwise determined appropriate by the investigator. The investigator prepares a written summary of the evidence. The summary is limited to facts and does not contain conclusions or credibility determinations. Investigations will ordinarily be completed within five (5) business days after receipt of the parties' statements. However, a shorter or longer period may be required depending on the nature of the case, the availability of witnesses, and coordination with any separate law enforcement proceedings. The investigator submits the written investigative report and supporting evidence to the Associate Vice President for Student Affairs upon completion.
8. The Associate Vice President for Student Affairs forwards the investigative report and the written statements of the complainant and the accused, to the Judicial Hearing Board within two (2) business days after receipt of the investigative report and supporting evidence. Underlying documentary and other evidence will ordinarily be retained by the Associate Vice President for Student Affairs pending a determination of whether the allegations are sufficient to proceed to hearing.
9. The Judicial Hearing Board reviews the written statements of the parties and the investigative report, and determines whether the allegations, if true, would be sufficient to establish a violation or whether a hearing is necessary to determine any appropriate sanctions. If the Judicial Hearing Board decides this question in the affirmative, the matter will be scheduled for hearing. The Judicial Hearing Board notifies the Associate Vice President for Student Affairs of its determination within three (3) business days. If the Judicial Hearing Board decides this question in the negative, the Judicial Hearing Board will proceed to a written decision as described in Section 19.
10. In cases the Judicial Hearing Board has determined should go to hearing, the Associate Vice President for Student Affairs issues, within three (3) business days after receipt of the determination from the Judicial Hearing Board, a written notice to the complainant, the accused, and all members of the Judicial Hearing Board scheduling a hearing date.

The hearing will normally be scheduled to occur within five (5) business days following the notice.

11. In the event a matter is scheduled for hearing, the parties will be provided reasonable opportunity to review statements and evidence as provided in the General Provisions in preparation for the hearing.
12. The Associate Vice President for Student Affairs will request the parties to identify in writing, by no later than three (3) business days prior to the date of the hearing, any fact witnesses they wish to call at the hearing. The Judicial Hearing Board may, but is not required, to identify witnesses to appear at the hearing as well, and will notify the Associate Vice President for Student Affairs of any such witnesses by no later than three (3) business days prior to the hearing. The Judicial Hearing Board has the authority to determine whether any requested witness's testimony will or will not be permitted, based on its assessment of whether such witness's testimony is necessary to a determination of the case.
13. At the hearing, the Judicial Hearing Board may contact and question any witnesses. Witnesses must sign a confidentiality agreement that they will not disclose the content of the hearing except as required or authorized by law, and subject to the limitations set forth in the General Provisions.
14. The complainant has the right to be visibly shielded from the view of the accused during the hearing.
15. The complainant and the accused have the right to not have irrelevant past conduct, including sexual history and alcohol or other drug use, discussed during the hearing. The Judicial Hearing Board will be responsible for determining whether any offered evidence is relevant to the claim or defense being asserted.
16. The complainant and accused may only ask questions to each other through a member of the Judicial Hearing Board, unless they consent to direct questioning by each other. The Judicial Hearing Board shall have control of the hearing, and may make such procedural rulings as it deems necessary to assure the fairness and efficiency of the proceedings. This may include extending the hearing to allow other identified witnesses to testify.
17. A transcript will not be made of the hearing testimony.
18. The College's standard of proof is based on a "preponderance of evidence" (more likely than not) which is different than criminal charges which must create belief "beyond a reasonable doubt" in order to convict.
19. The Judicial Hearing Board shall issue a written decision simultaneously to the complainant and the accused, within five (5) business days after the close of the hearing. Where a violation has been established, sanctions will be issued and specified in the decision. These sanctions will be designed with the express purpose of remedying

any discriminatory effect on the complainant and preventing further occurrences of such violations by the accused, and may include expulsion or any combination of the sanctions listed in the Student Conduct Code.

20. The complainant or the accused student may appeal a decision or sanction of the Judicial Hearing Board within five (5) business days of receipt of the written decision of the Judicial Hearing Board by filing an appeal with the Provost in accordance with the procedures outlined in the Student Conduct Code Judicial Process. If no appeal is made within this time frame, the decision of the Judicial Hearing Board will become final. In the event of an appeal, the matter will be processed as outlined in the Student Conduct Code Judicial Process appeal procedure, and a final decision will be issued simultaneously to the complainant and the accused. Pending the issuance of a final decision, any interim measures instituted at the outset of the Process will remain in place.

*As of July 1, 2015, The Dean of Students position will be vacant. Until this position is hired and designated as the Title IX Coordinator the Associate Vice President for Student Affairs will function in the role of Dean of Students. The appeals Role of the Associate Vice President will be filled by the Provost for Aquinas College.