

Rights Of Students During Judicial/Conduct Proceeding

Following the reporting of sexual misconduct, the College may decide to conduct an investigation. Prior to doing so the College will seek consent from the reporting student, and they may decline. The college will honor the students request unless it is deemed that investigation is necessary to mitigate potential risk to the reporting student or harm to another member of the Bank Street community. Honoring such a request may limit the institution's ability to meaningfully investigate and pursue conduct action against an accused individual. A number factors inform whether the college honor such a request. They include, but are not limited to:

- a. Whether the accused has a history of violent behavior or is a repeat offender;
- b. Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior;
- c. The increased risk that the accused will commit additional acts of violence;
- d. Whether the accused used a weapon or force;
- e. Whether the reporting individual is a minor; and
- f. Whether the institution possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group.

In the event of a judicial/conduct proceeding all involved students are afforded the following:

- Right to request that a student conduct charge be filed
- In the course of an investigation, a student may be deemed a threat to the health and safety of the college community and may be subject to an interim suspension from campus pending the outcome of a judicial or conduct process. In the event of a suspension, they have the right to:
 - a prompt review which is reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification,
 - submit evidence in support of the review.
- Right to a process, in sexual misconduct cases, that includes at a minimum:
 - Notice describing the date, time, location and factual allegations, a reference to the specific code of conduct provisions alleged to have been violated and possible sanctions;
 - An opportunity to offer evidence during an investigation and to present evidence and testimony at a hearing and have access to a full and fair record of any such hearing;
 - Access to at least one level of appeal.

Throughout the proceeding all involved students have the right:

- To be accompanied by an advisor of choice
- To a prompt response to a complaint
- To have the complaint investigated
- To have the complaint adjudicated by an individual who has received training in conducting investigations of sexual misconduct
- To an investigation and process that is fair, impartial and provides a meaningful opportunity to be heard
- To an investigation conducted by individuals without a conflict of interest
- To have Bank Street's investigation process run concurrently with criminal justice investigation and proceedings
- To review and present available evidence in the case file
- To exclude their own prior sexual history with persons other than the party or their own mental health diagnosis and/or treatment from admittance in Bank Street's disciplinary stage
- To be provided advance notice of any meeting he/she is required or eligible to attend, of the specific rule, rules or laws alleged to have been violated and in what manner, and the sanctions that may be imposed
- To make an impact statement when the decision-maker is deliberating on appropriate sanctions
- To simultaneous written or electronic notification of the outcome of a judicial or conduct process, including sanctions
 - The hearing or investigatory officer or panel shall provide a written statement detailing the factual findings supporting the determination and the rationale for the sanctions imposed
- To be informed of the sanctions that may be imposed and the rationale for the sanctions actually imposed
- To choose whether to discuss or disclose the actual outcome of the judicial process
- To have all the information obtained during the course of the conduct process be protected from public release until the appeals panel makes a final determination (unless otherwise required by law).

Relating to the **rights and requirements of the respondent**, the following apply:

- The respondent is afforded a presumption that he/she is not responsible until a finding of responsibility is made.
- When a no contact order has been issued, the respondent must remove him/herself from the situation when the reporting student is present
- The respondent has the right to seek a review of the no contact order