

THE WHITE BOOK

CHAPTER 7

Cadet Personnel and Administration

SECTION 1A

Cadet Discipline for Allegations of Sexual Misconduct

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- I. **Purpose:** This process describes how The Citadel will respond to allegations of sexual misconduct **that did not occur in the United States, did not occur during a Citadel education program or activity, or would not qualify as “sexual harassment” pursuant to 34 CFR 106.30 (a) (2020).**
- II. **Officials:** The Assistant Commandant for Discipline (AC-D) oversees this process. The AC-D will assign investigators and decision-makers from the Office of the Commandant or other departments at the College. The AC-D may also elect to assign officials from outside The Citadel. The AC-D will only assign investigators, decision-makers and other officials who:
 - A. Do not have a conflict of interest or bias for or against the Complainant or the Respondent, and
 - B. Receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking, and on how to conduct an investigation and hearing process, in accordance with 20 USC 1092(f) and 34 CFR 668.46.
- III. **Definitions Used in this Procedure:** The following definitions pertain to this special procedure.
 - A. **Complainant:** The **individual** alleging **he or she has suffered some form of sexual misconduct.**
 - B. **Respondent:** The cadet who is accused of being the perpetrator of some form of **sexual** misconduct.
 - C. **Preponderance of the Evidence:** The standard of evidence by which The Citadel will utilize to reach a finding. Preponderance means that the evidence must demonstrate that it is more likely than not that the alleged offense(s) occurred to issue a finding of “in violation” of policy.
 - D. **Sexual Misconduct includes** sexual harassment, sexual assault, dating violence, domestic violence, and stalking **as defined by federal law. Definitions for each can be found in Memorandum 2-024, Section 3, and at the back of the Blue Book.**
 - E. **Consent** is voluntary, informed, uncoerced agreement through words and/or actions freely given, which a reasonable person would interpret as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate.
 - F. **Formal Complaint:** A document – including an electronic submission - filed by a Complainant with a signature or other indication that the Complainant is the person filing the Formal Complaint, alleging Title IX Sexual Harassment against a Respondent about conduct within The Citadel’s education program or activity and requesting initiation of the procedures consistent with the Title IX Grievance Process to

investigate the allegation of Title IX Sexual Harassment. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in an education program or activity of the College. The Citadel will only initiate an Investigation under this policy when a Complainant or the Title IX Coordinator files a Formal Complaint.

IV. Procedures:

A. Making a Complaint

1. Any person may make a Report of sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the recipient of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. However, The Citadel's receipt of a "Report" does not require The Citadel to initiate an "Investigation," as prescribed in section IV.B. The Citadel will only initiate an investigation under this policy when a Complainant files a Formal Complaint as defined in Section III.F. above.
2. A Report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator. Electronic and anonymous reporting may also be done by using the Fraud, Waste, and Abuse Compliance Hotline found at the bottom of the www.citadel.edu homepage or at <https://secure.ethicspoint.com/domain/media/en/gui/38738/index.htm>

B. The Citadel's Initial Response:

1. Upon receipt of a report, the Title IX Coordinator will determine whether the alleged conduct
 - a. occurred in the United States, and
 - b. occurred in a Citadel education program or activity, and
 - c. If proved, would constitute "sexual harassment" as defined by 34 CFR 106.30 (a) (2020)
 If the Title IX Coordinator determines that the alleged conduct, if proven, would meet all three of these criteria, The Citadel will proceed pursuant to Memorandum 2-024. Otherwise, The Title IX Coordinator will issue a Notice of Transfer to the Complainant, and The Citadel will address the allegation(s) of sexual misconduct pursuant to this procedure.
2. The Citadel will provide information regarding reporting options, supportive measures, and available resources.
3. The Citadel will assist individuals in reporting allegations of sexual misconduct that could constitute criminal activity to law enforcement. Individuals may also report allegations of sexual misconduct directly to law enforcement, both on and off campus, regardless of whether they file a report with Citadel officials. While Citadel Public Safety Officers will notify the Title IX Coordinator of such reports, The Citadel cannot compel off campus law enforcement officers to do so.
4. The Citadel will provide non-disciplinary supportive measures to both parties. including but not limited to no-contact orders and changes to housing, academic, or campus arrangements. The Citadel may implement these measures at any time.

- C. **Protective Measures:** The AC-D may employ protective measures, including but not limited to temporary suspension, class changes, housing changes, meeting room changes, restriction of interaction, no trespass orders, and no contact orders regardless of if a Formal Complaint is filed. The college reserves the right to take interim measures as appropriate. For incidents of sexual assault, dating violence, domestic violence

and stalking, The Citadel will make changes to living, transportation, working and academic situations if reasonably available and upon request.

D. Investigation:

1. The AC-D will evaluate the report of alleged misconduct and determine whether an investigation is necessary. If the AC-D elects to convene an investigation, he will assign two officials as investigators.
2. The investigators will interview the Complainant, the Respondent, and relevant witnesses. They will collect available information, including documents and physical evidence.
3. The investigators will prepare a written report identifying all witnesses, documents, tangible and intangible evidence discovered during the investigation. The Citadel will provide this report, as well as any statements of any witnesses, to all parties.
4. The parties may identify additional witnesses or information for the investigators to interview or consider. The parties must identify such information or additional witnesses in writing, and they must provide such identification to the investigators no later than three (3) business days after receipt of the report described in Paragraph III.C.3. Failure to do so constitutes a waiver of the ability to present such information or witnesses at the Commandant's Board.
5. The investigators will not accept additional evidence unless the AC-D determines good cause exists. Upon such determination, the investigators may reopen the investigation, and/or receive additional information from any other party.

E. Commandant's Board: Upon completion of the investigative report, the Office of the Commandant will convene a Commandant's Board pursuant to the White Book, Chapter 7 Section 1, with the following adjustments:

1. Both parties may participate equally in the Board.
2. The parties will not directly question each other.

F. Alternative Resolution:

1. At any point after a complaint is received, the College may offer an Alternative Resolution. Both the Complainant and the Respondent must voluntarily agree, in writing, to this Alternative Resolution.
2. An Alternative Resolution is a voluntary, informal option that does not necessarily involve a full investigation or adjudication. Either party may withdraw from the Resolution at any point prior to its completion. Should either party withdraw, the matter will proceed under this procedure.
3. An Alternative Resolution may only be used if the AC-D determines the nature of the allegations is appropriate for this form of resolution, and that such resolution would not compromise campus safety or the equitable rights of either party.
4. If an Alternative Resolution is successful, the agreement will be documented, and the matter will be considered resolved. If it is not successful, the matter will proceed under this procedure.

G. Decision and Notice:

1. The Board will determine whether the Respondent is "in violation" or "not in violation" of the accusation and will make a recommendation for sanction to the Commandant and the College President as appropriate.
2. Upon a finding of "in violation," The Citadel will impose a sanction proportionate to the severity of the violation. Potential sanctions include but are not limited to mandatory education, assignment of confinements or tours, company or battalion transfers, or suspension, dismissal, or expulsion.

3. Only the President of The Citadel can impose suspension, dismissal or expulsion. The Office of the Commandant imposes all other sanctions.
4. The Citadel will notify all parties of the decision, including findings, rationale, and sanctions, as appropriate, simultaneously, in writing.

H. Appeals:

1. Either party may appeal:
 - i. the dismissal of a Formal Complaint or any allegation therein and/or
 - ii. a determination regarding responsibility.
2. To appeal, a party must submit their written appeal within five (5) business days of receiving notice of the decision, through the Commandant to the College President. The written appeal must include the grounds for the appeal. The limited grounds for appeal are as follows:
 - i. Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);
 - ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter;
 - iii. The investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against the Complainant or Respondent in general, that affected the outcome of the matter.

- I. **Final Results:** The Citadel will notify both parties simultaneously, in writing, of the results of the Board, any changes to the result, and the effective date of the final result.

- V. Sanctions:** Sanctions for cases of sexual misconduct may result in the Respondent receiving up to expulsion. Other possible sanctions include confinements, tours, suspension (one semester away), and/or dismissal (two semesters away).

- VI. Timeframes and Extensions:** The Citadel will complete all steps of this process within reasonably prompt timeframes. Specific timeframes for Commandant's Boards are described in the White Book, Chapter 7 Section 1. The Citadel will extend deadlines for good cause and will provide written notice to all parties of any extensions and the reason(s) therefor.

VII. Additional Provisions:

- A. Throughout the process prescribed in this Section 1A, The Citadel **will**:
1. Use the preponderance of the evidence standard as defined in Section III.C, above.
 2. Provide written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
 3. Provide the parties with the same opportunities to have others present during any proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice. The Citadel will not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or proceeding. However, The Citadel may establish restrictions regarding the extent to which the advisor may participate in the proceedings, but it will apply such restrictions equally to both parties.

4. Provide all parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation, including the evidence upon which The Citadel does not intend to rely in reaching a determination regarding responsibility.
 5. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- B. Throughout the process prescribed in this section, The Citadel will not:
1. Restrict the ability of either party to discuss the allegations under investigation.
 2. Limit the ability of either party to gather and present relevant evidence.
 3. Retaliate against any party for exercising his or her rights under this procedure.