

Tool B:

Supporting Someone Around Administrative Judicial Processes



Tool G is a guide to supporting folks who are trying to decide whether or not to pursue an administrative judicial process, or who are pursuing an administrative judicial process. This tool may also be useful for students who are either making the decision to or are pursuing a judicial process.

Why This Tool?

While this toolkit is largely about supporting students to find and build modes of support and intervention alternative to administrative judicial processes, we recognize that for some students these processes are their best or only option.

However, administrative judicial processes can be overwhelming, re-traumatizing, not transparent, and/or are not designed to support the best interests of the person who has been harmed. This is not to say that judicial processes cannot be helpful to some students who have been harmed.

This tool is designed to support students who have been harmed by other members of their college community to be as informed as possible when making the decision to pursue an administrative process, or during the judicial process itself.

What is an administrative judicial process?

Colleges and universities are required by law to have an established set of rules for how to deal with various forms of sexual harm including sexual harassment, sexual assault, domestic violence, and stalking. Just as the university can punish students for cheating, plagiarizing, stealing, or destroying property, they can also punish students for committing sexual harm.

If a member of the college community is harmed by another member of that community (which could include students, faculty, administrators, staff, and other employees), they can file a complaint with the administration and enter a judicial process. Often this means that the college will conduct an investigation in which they collect all of the “evidence” in the case, then have a hearing in which they question the person who was harmed and the person who harmed them in order to determine whether or not the latter is “guilty.” If the college finds that person to be “guilty,” they can sanction them in a variety of ways, including taking away privileges such as team membership, restricting their access to certain parts of campus (ie. dining halls, dorms, etc.), suspension, or expulsion.

However, colleges and universities across the United States overwhelming records of working to discourage students from filing complaints of sexual misconduct, neglecting to find students “guilty” of harm they have committed, and issuing laughably mild sanctions to students who have committed sexual harm. [This is in great part because it is in the best interest of these institutions to hide the sexual harm that goes on on their campuses.](#) More sexual harm means fewer applicants, and fewer alumni donations.

What are the potential benefits of pursuing an administrative judicial process?

- Going through the administration is often the only foreseeable way of forcing the person who has harmed you to leave campus (either by suspension or expulsion). This is often what students are seeking when they decide to file a complaint with the administration.
- An administrative judicial process may also result in sanctions for the person who has harmed you such as “no contact orders” (NCO’s) which ideally restrict the movement of the person who has harmed you, although they sometimes end up restricting the movements of the person who has been harmed as well.
- You may be concerned that the person who has harmed you is going to or has already harmed other people. You may hope that by going through a judicial process you might be able to deter them from harming other people or that the process will result in that person having to leave the college/university, which would make other people in the community safer (although it may mean that that person continues to harm people outside of the college community).

What’s wrong with administrative judicial processes?

- **Administrative judicial processes often are not set up in ways that center the needs of the person who has been harmed.** They aim to figure out whether or not a violation of the sexual misconduct policy “actually happened.” This means, among other things, that folks who have been harmed are often not believed until that harm is “proven.”
- **Administrations will often work to hide the fact that sexual harm happens on their campuses because it’s bad for business.** This means that they often discourage students from reporting or from pursuing adjudication, that they often refuse to find those who have done harm “guilty,” and that they often give out appallingly mild

sanctions for sexual harm.

- **Administrative judicial processes are about justice and punishment, and do not work to hold the person who has done harm accountable for their actions or engage them in a process that ends the cycle of harm.** At their best, these processes are about punishing people for the harm they commit, rather than figuring out ways to end the harmful behavior. Even in a “best-case scenario” situation in which someone is found guilty of sexual assault, for example, and expelled, that person may continue to do sexual harm to people outside of the college community.
- **Administrative judicial processes can often be (re)traumatizing for those who have been harmed.** For the person who has been harmed, these processes often involved being interrogated or questioned about the details of their trauma, being put on trial with the person who harmed you and forced to listen to their story/sometimes to answer their questions, and having your experience of trauma be doubted and/or denied, among other things.
- **In an administrative judicial process, all of the decision-making power is often concentrated in a *tiny* number of people (usually administrators).** This means that the power to adjudicate might lie solely in as few as *one to three* people, often with little or no way to hold those people accountable to make a fair and honest judgment or declare “appropriate” sanctions.

Know your administration's judicial process!

As a person supporting someone going through/deciding whether to go through an administrative judicial process, one way to be supportive to that person is to read through that college's procedures.

As a person deciding whether or not to go through a judicial process yourself, it can also be very important to read through your college's procedures.

Colleges and universities are required by federal law to have established procedures for dealing with sexual harm, and to make those procedures publicly available. You should be able to find your college's sexual misconduct procedures on your college website. If you have trouble finding it, look up your school's Title IX Coordinator (your school is required to have one), and ask them to link you to the information.

THINGS TO LOOK OUT FOR WHEN RESEARCHING YOUR COLLEGE'S SEXUAL MISCONDUCT PROCEDURES:

- Is there a trial or hearing component?

Many institutions adjudicate cases of sexual misconduct through a trial or hearing panel in which both the person who has been harmed and the person who harmed them are present. This can be difficult and/or traumatizing for the person who was harmed because they have to be in the same room as the person who harmed them, listen to the story of the person who harmed them, and be questioned in front of (and in some cases *by*) the person who harmed them, among other reasons.

- **How many people ultimately decide whether or not there was a breach of the sexual misconduct policy?**

At some colleges, such as Swarthmore College and Middlebury College, the power of adjudication lies in the hands of a single administrator. At other schools, it might be a panel of 3 or so administrators that make the final decision. It might be helpful to know ahead of time who the adjudicator/s (people who decide whether or not someone is “guilty”) and who the sanctioner/s (people who decide what the punishment of those found “guilty” should be) are.

- **What’s the timeline of the investigation?**

Your college is required to adjudicate cases of sexual misconduct relatively quickly, which usually means somewhere between 1-2 months. Your college may have a rule that says that after a certain period of time (ie. 30 days), the investigation is officially closed and cannot be reopened even if new evidence appears. It might be helpful to consider whether you are relying on a time-sensitive piece of evidence such as a toxicology report, which may take more time to process than the investigation allows.

GETTING CLEAR ON WHETHER AN ADMINISTRATIVE JUDICIAL PROCESS IS THE RIGHT CHOICE FOR YOU

It may be helpful for someone deciding whether or not to pursue a judicial process to ask themselves/have others ask them some questions in order to get clear on whether or not a judicial process is the right option for them. It might be helpful to gather a few trusted people and talk things through - and even write things down.

Some questions to ask yourself/have others ask you:

What am I hoping to get out of a judicial process?

Are there any other ways of getting what I need? If so, what are those ways?

How might it feel if I go through the process and it does not turn out in my favor?

What information do I still need? How can I get that information?

What might be hard for me about this process?

What types of support will I need throughout this process?

How can I get the support that I need throughout this process?

WORKSHEET B-1

	What am I hoping to get out of this judicial process?	Are there other ways of getting this thing that I need? If so, what are those ways?	How will I feel if I go through the judicial process and still do not get what I need?
#1			
#2			
#3			
#4			
#5			

WORKSHEET B-2

	What is something that might be hard about going through a judicial process?	What type of support might I need to deal with this hard thing?	How can I ask for/get this support?	Who can provide this support?
#1				
#2				
#3				
#4				
#5				