

Procedures - Prohibited Sexual Misconduct, Weill Cornell Medical College

Cornell University Policy 6.4 (“University Policy 6.4”), Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence prohibits all members of the university community from engaging in sexual misconduct. https://www.dfa.cornell.edu/sites/default/files/vol6_4.pdf.

University Policy 6.4 applies to Weill Cornell Medical College (the “Medical College”). The Medical College is a community guided by our shared values, which foster trust and respect for all members. Any conduct that diminishes our values is categorically forbidden. The Medical College is committed to providing a work, educational and living environment that is free from all acts of sexual misconduct and will not tolerate sexual misconduct by or against students, staff, faculty, alumni or visitors. The Medical College will respond promptly and appropriately to all reports of sexual misconduct. These are the procedures members of the Medical College community should follow when reporting acts of prohibited sexual misconduct.

All acts of nonconsensual, unwelcome or unwanted sex or gender-based conduct by, an acquaintance or non-acquaintance, of a sexual nature is prohibited by the Medical College as well as by federal, state and local law. Sexual misconduct includes but is not limited to:

- sexual assault/violence
- sexual abuse
- sexual exploitation
- rape
- domestic violence
- dating and intimate partner violence
- sexual coercion
- stalking
- retaliation

Note: Sexual misconduct also covers sex discrimination and sexual harassment. The Medical College’s procedures applicable to complaints of sex discrimination and sexual harassment can be found at Office of Student Affairs, Olin Hall, 445 East 69th Street, Room 110.

These procedures define the ways the Medical College will respond to complaints of sexual misconduct. Section I provides information about available resources at the Medical College for anyone who is an accuser/victim, accused person, or witness(es) of sexual misconduct. Section II provides the procedures for informal and formal complaint and resolution for all complaints of sexual misconduct against a student. Procedures for reporting acts of violence and stalking not of a sexual nature are covered under the Standards of Conduct policy, Faculty Misconduct Policy or Employee Grievance Procedures.

Section I

Information and Support

The Medical College will provide support and assistance to a complainant/victim, accused person, or witness(es) of sexual misconduct. Any person or group believing that he, she, or the group has experienced sexual misconduct, or retaliation, in the context of academic pursuit, the living/learning environment, or employment should report the matter promptly to:

Dr. JoAnn Difede, Weill Cornell Title IX Coordinator For Student Sexual Violence
Concerns and Student Support
(212) 746-9915
nosexualmisconduct@med.cornell.edu
jdifede@med.cornell.edu

for guidance on appropriate action, psychological counseling, and other support services. The following constituent-specific Deputy Title IX Coordinators may also be contacted for information and advice: Angela Charter-Lent, Title IX Coordinator For Campus Employment Concerns (Staff), anc2035@med.cornell.edu, Dr. Rache Simmons, Title IX Coordinator For Campus Employment Concerns (Faculty) rms2002@med.cornell.edu.

If you are a victim of an act or specific acts of sexual misconduct you are encouraged to seek health care services through the NYPH Victim Intervention Program (212-746-9414) and/or student health, even if you chose not to file or pursue a complaint. The Medical College will ensure that these support and medical services are accessible and available to you.

For emergency assistance, you can contact

- The New York Presbyterian Hospital (525 East 68th Street)
 - NYPH ER 212-746-5026
 - NYPH VIP (Victim Intervention Program) 212-746-9414
- Emergency Medical Services: 911
- Campus Security: 212-746-0911

Anyone who seeks confidential support services for counseling and mental health are encouraged to report to the NYPH Victim Intervention Program (212-746-9414) or Student Mental Health Services, under the direction of Dr. Richard Friedman (212-746-5775). The Employee Assistance Program ("EAP") also provides confidential counseling for employees (212) 746-5890. Cornell University's Victim Advocacy Program (607-255-1212).

Anyone who wishes to report an act of sexual misconduct can choose to contact the New York City Police Department ("NYPD") directly by calling 911. The Title IX Coordinator may assist you with notifying law enforcement. If you are receiving treatment at NYPH ER and you wish to report the matter to law enforcement, hospital personnel can also assist with reporting to NYPD.

Reports and inquiries concerning acts of sexual misconduct may also be directed anonymously using the University Hotline - Silent Witness form at hotline.cornell.edu.

Interim Measures

The Medical College will provide immediate interim support measures to stop prohibited conduct or prevent such conduct from reoccurring. These interim measures are to protect the safety and well-being of members of the Medical College. These measures may include immediate removal of a person(s) from the Medical College. Other measures may include no-contact orders, stay away orders, change of housing or place of employment or schedule, change of class schedule or location, change of supervision, information about visa/immigration related issues, temporary suspension, or otherwise. Medical services, if needed, can be provided through the emergency room, at New York Presbyterian Hospital, Weill Cornell Medical Center, Student Health Services, or primary care provider based on the immediate need. Review of interim measures may be conducted by the Deciding Official(s), or the investigation panel. The interim measures may remain in place until there is a request to terminate them by the recipient.

Rights of Individuals throughout A Sexual Misconduct Proceeding

- The right to equal opportunity to have an advisor of your choosing (who can be an attorney) to accompany the accuser or the accused individual or group during a complaint investigation.
- The right to a prompt and fair investigation and adjudication/disciplinary process that adheres to legal and policy requirements of due process in which officials are appropriately trained and do not have a conflict of interest or bias.
- The right to be informed in writing of the outcome of any institutional adjudication/disciplinary proceeding arising from an allegation of sexual misconduct and notice of available appeal procedures.
- The right to be informed of any sanctions imposed as a result of any institutional adjudication/disciplinary proceeding
- The right to be informed of the Medical College's policy on sexual misconduct.
- The right to participate or decline to participate in any Medical College's adjudication process.
- The right to review all the available evidence on file in the case.
- The right to be given timely notice of meetings at which the accused or the accuser are present.
- The right to not reveal past sexual history or past mental history unless that information is deemed relevant to the case.

Section II

Reporting Sexual Misconduct By A Student

Anyone who believes that he, she, or group (the "Complainant") has been affected by the sexual misconduct of a student (the "Respondent") may file a complaint of the alleged sexual misconduct with the Title IX Coordinator to initiate an investigation and adjudication of the complaint. There is no time limit to filing a complaint, but the sooner a complaint is filed the

more likely all the information and evidence about the facts and circumstances around the alleged occurrences can be obtained through the investigation. A Complainant may also seek resolution of allegations of sexual misconduct through the Medical College's informal resolution process, which may include mediation (if possible). The Complainant is also free to file a complaint externally, by instituting formal proceedings before a local, state, or federal agency, (before or after filing a complaint with the Title IX Coordinator), or by filing a lawsuit. The Medical College may still be obligated to investigate a complaint of sexual misconduct, even if the Complainant elects not to pursue the matter.

◆Note: Complainants are reminded that the more time lapses, the more difficult it is to obtain information, contact witnesses, or the alleged Respondent may no longer be affiliated with the Medical College.

External Complaints: The Complainant has the option at any time to report an incident to external government agencies, including local law enforcement such as the New York City Police Department (NYPD) and the Manhattan District Attorney's Office. The choice of whether or not to file a complaint with the Medical College under our policy and/or report it to external government agencies and law enforcement is entirely yours. If someone needs assistance with filing a criminal complaint or obtaining a restraining or other protective orders they should contact the Title IX Coordinator for an available list of resources.

Informal Resolution: The Complainant has an option to resolve concerns of prohibited sexual misconduct without undertaking the formal investigation process under this procedure by acting through the Title IX Coordinator who will work with the appropriate Medical College official(s) to achieve a resolution under applicable policy. The Title IX Coordinator will investigate the complaint to determine if informal resolution is appropriate under University Policy 6.4. Informal resolution requires consent of both the Complainant and the Respondent. Any time before a resolution is reached, the Complainant may withdraw and file a formal complaint under the University Policy 6.4 or with government agencies and law enforcement. If the matter is resolved, no complaint may be filed and no appeal may be taken. Informal resolution is not available for complaints related to sexual assault or sexual violence.

Initiating an Internal Formal Complaint: If the Complainant wishes to pursue the matter under our policy, he, she, or the group may file a formal complaint with the Title IX Coordinator in the Office of Student Affairs or with another constituent-specific Title IX Coordinator. These individuals are designated by the Medical College with the authority to investigate and resolve such complaints under this procedure. The Complainant should submit a written complaint to the Title IX Coordinator. In the complaint, the Complainant must describe the alleged act or acts, identify the person or persons purportedly responsible, and indicate the date or approximate date on which the alleged sexual misconduct occurred. The Complainant should provide as much detail of the alleged sexual misconduct as is available to them at the time of making the complaint. A list of the various sources of information should also be attached to the complaint. Other sources of information may include witnesses, records, recordings, etc. If the Complainant does not submit a written complaint, the Title IX Coordinator may assist the Complainant write the complaint, but the Complainant must review it for accuracy and sign it once satisfied it reports the facts and circumstances of the alleged misconduct.

◆ Note: Complaints from the Complainant to Title IX Coordinators are generally the trigger for investigating sexual misconduct claims. However, there may be circumstances where the Complainant reports a complaint he, she or the group do not want investigated. In such circumstances, however, the Medical College may determine on its own to investigate well-founded allegations, even when the Complainant does not wish to pursue such charges. The Title IX Coordinator will advise the Complainant of steps being taken and, pending completion of the investigation, may also recommend to the appropriate Medical College official interim measures, to protect the safety and well-being of members of the College community.

In addition, when the Complainant does not elect to pursue any process under our procedure, the appropriate Medical College official may request an investigation under University Policy 6.4 or other appropriate policy; in such cases, the Complainant may be asked to serve as a witness in the investigation process but shall not be treated as a party with rights of appeal, etc. The Medical College's investigation in such circumstances may run concurrently with external law enforcement or government agency investigation, if the Complainant filed a complaint with them.

Confidentiality: All information and materials obtained and related to a sexual misconduct complaint filed under these procedures will be treated as confidential. Complainants, Respondents, witnesses, and Medical College employees are prohibited from disclosing information and materials learned in the process of investigating and adjudicating a sexual misconduct complaint. The Medical College however, maintains the discretion to share confidential information internally to meet its obligations under federal and state law. If the Complainant wants the consultation to remain confidential or "off the record," the Medical College may still have an obligation to take appropriate action based on its legal and policy obligations, while respecting the needs and circumstances of the Complainant.

Processing the Complaint: The Title IX Coordinator in the Office of Student Affairs has exclusive responsibility for processing prohibited sexual misconduct complaints made against students and will undertake to resolve these complaints impartially, promptly, and confidentially through informal intervention, mediation (where allowed), or formal investigation. If, after initial review, the Title IX Coordinator determines that the complaint describes an alleged violation of the University Policy 6.4, it will notify the Respondent student that he or she has been named in a complaint and proceed under this procedure. The Title IX Coordinator will refer the complaint to the Title IX investigator.

Investigating the Complaint: The Title IX Investigator's responsibilities are to investigate and gather evidence related to the alleged sexual misconduct to determine whether the alleged conduct complained of is prohibited sexual misconduct by a preponderance of the evidence. Within 10 days of notice of a complaint from the Title IX Investigator, the Respondent must meet with the Title IX investigator to provide a response. The Respondent will be advised of his rights in the proceeding and provided with a copy of the University Policy 6.4.

If the Respondent accepts responsibility for the conduct alleged, the investigation will terminate and the matter will be referred to the Reviewing Panel to issue a decision and determine the appropriate sanction. The Respondent will provide a signed written statement that he or she has accepts responsibility for the conduct alleged. The complaint and the Respondent signed

statement will be forwarded to the Reviewing Panel. The Reviewing Panel will consider the Respondent's acceptance of responsibility as a factor in determining the appropriate sanction. The Reviewing Panel's determination will become a part of the student's records and will be provided to the Complainant.

◆ Note: The Respondent may also accept responsibility any time prior to the Standing Panel's Decision. The acceptance will normally end the adjudication process, but the Standing Panel will still be required to make a determination on the appropriate sanction.

If the Respondent denies any of the allegations in the complaint, within ten (10) days of the meeting with the Title IX Investigator, the Respondent must provide a signed written statement responding to the allegations of sexual misconduct in the complaint. The Respondent must describe in as much detail as possible, their recollection of the events. The Respondent should provide all sources of information, which may include, witnesses, records, recordings, etc. The written statement may not be amended once submitted.

Fact-finding: The Title IX Investigator will determine the scope of the investigation and gather the evidence relevant to the allegations and counterstatements. The Title IX Investigator will conduct a fair and impartial investigation into the allegations of the complaint. All witnesses and parties are to cooperate with the Title IX Investigator and refusing to cooperate may lead to separate disciplinary action.

The precise features and steps of the investigation process may vary depending on the nature of the allegations, but the following categories of evidence will be reviewed, if relevant: documents, physical and electronic evidence, witness interviews and interviews with the Complainant and the Respondent. There will be a thorough review of the all ascertained facts in connection with the alleged incident. Expert witnesses may be interviewed when deemed necessary for the determination of the facts of the case. All persons interviewed will be reminded of the need for confidentiality and non-retaliation, consistent with the requirements of Title IX when allegations under Title IX are an issue.

Adversarial hearings (including confrontation, cross-examination by the parties, and active advocacy by attorneys) are not permitted during the investigation process. Throughout the investigative process, the Respondent and Complainant may seek the advice of personal attorneys and advisors. Such representatives may attend their own clients' or advisees' investigative interview, but may not respond to questions for their clients or advisees, and may not pose questions.

Throughout the investigative process, the Title IX Investigator may consult with subject- matter experts, and/or university counsel.

Investigator's Report: Upon concluding an investigation, the Title IX Investigator must produce a written investigation report. The report will outline the scope of the investigation and summarize the relevant factual findings, noting any supporting documentation and or statements. The report will analyze the facts and make recommendations for any corrective actions and/or sanctions. If warranted, recommended action to restore the Respondent's reputation, such as notifying persons who participated in the investigation, and/or making a public announcement of the outcome. The Title IX Investigator will apply a preponderance of the evidence standard to

determine the factual findings and whether there has been a violation of the University Policy 6.4.

The Investigator will forward a summary of the investigation report to the Title IX Coordinator, who will submit it to the Reviewing Panel to act as the final decision-maker.

Issuance of Determination: The Reviewing Panel will have the ultimate responsibility to determine whether there has been a violation of University Policy 6.4. The Reviewing Panel will consist of a combination of three (3) administrator(s) and faculty member(s) at the Medical College. The panelists will all be trained in the adjudication of sexual misconduct claims. Objections to Reviewing Panel members must be raised with the Title IX Coordinator.

The panel to which the investigation report summary is forwarded ultimately may either accept or modify the recommendations, or return the report for further investigation. During this review, the panel may consult confidentially with university counsel, appropriate Medical College officials, if disciplinary actions are recommended, concerning the sufficiency of the investigation and the findings or any recommendations. Before making any decision, the panel must first forward to the Complainant and the Respondent, copies of the summary of the investigation report, and give both parties a reasonable opportunity (that is, within 10 business days, unless the Reviewing Panel extends such time in consultation with the Title IX Investigator) to submit written comments and ask the panel to review the evidence, determination, and/or recommended sanctions or remedial measures contained in the final investigation report. The Reviewing Panel will conduct such a review, and may accept, modify, or reject the determination or recommended sanctions and/or remedial measures because of that review. The Reviewing Panel will apply a preponderance of the evidence standard in making their determinations. The Reviewing Panel may issue a determination that University Policy 6.4 has been violated or not violated. If there is a finding that University Policy 6.4 has been violated, the Reviewing Panel will impose the appropriate disciplinary action.

If the Complainant or the Respondent does not object to the final determination of the panel within 10 business days (unless otherwise extended) of it being sent to him or her, and the Reviewing Panel agrees that the charges and sanctions and/or remedial measures presented therein are valid, the Senior Associate Dean (Education) or the Dean of the Graduate School will review and implement the sanctions and/or remedial measures recommended in the Panel Decision within 10 business days, except for good cause shown. The Reviewing Panel shall issue a final determination in writing, simultaneously, to the Complainant and Respondent.

List of Sanctions: The Medical College may impose a number of sanctions on a student if it has been determined that a violation of University Policy 6.4 has occurred, including but not limited to:

- Warning/reprimand
- Disciplinary probation or suspension
- Dismissal
- Removal from student housing
- Change of Respondent's academic schedule
- Restricting access to Medical College facilities

Appealing the Decision: Both the Complainant and the Respondent may appeal the Standing Panel's determination or recommended sanctions or remedial measures (or lack thereof) from a complaint of alleged sexual misconduct within 10 business days of the determination. Appeals are decided by a panel including the Senior Associate Dean (Education) or designee, the Dean of the Graduate School or designee, and the Managing Director of Human Resources or designee.

No appeal shall be heard by a Medical College official who is a Respondent, and in such cases, an appropriate college official will be designated by the Dean.

The appeal shall be conducted in accordance with procedures to be established by the Senior Associate Dean (Education) or designee, the Dean of the Graduate School or designee, and the Managing Director of Human Resources or designee, hearing the appeal, including scheduling any meetings on the appeal, but shall commence with the requirement that the Complainant or Respondent submit a written statement of the basis for the appeal, setting forth the grounds for the appeal and the reasons therefore, accompanied by a copy of the determination being appealed. The non-moving party is allowed to submit an appeal statement for consideration.

Appeals may be grounded on any of the following bases:

1. The sanction is not commensurate with the violation or is unjust.
2. Relevant university procedures were violated which may have had a prejudicial effect upon the outcome.
3. New evidence was discovered after the decision and could not have readily been discovered before the decision, which would change the outcome.
4. The remedial actions awarded the Complainant are not commensurate with the injury or is unjust.
5. The investigator or reviewer rendered a decision clearly against the evidence.

It is expected that sanctions will go into effect immediately after being imposed by the panel. The Senior Associate Dean (Education) or designee, the Dean of the Graduate School or designee, and the Managing Director or designee, however, have the authority in their sole discretion to stay the sanctions pending the appeal. The appeal process will be completed within thirty (30) days from the filing of the appeal. The appeal is not a new fact-finding process. If there is no appeal, or at the conclusion of the appeal, the decision becomes final and will be implemented within ten (10) working days, except for good cause.