

Weill Cornell Medical College and Graduate School of Medical Sciences Procedures for Resolution of Reports Against Students Under Cornell University Policy 6.4 for the Following Acts of Prohibited Conduct:

- Aiding Prohibited Conduct;
- Attempting to Commit Prohibited Conduct;
- Dating Violence;
- Domestic Violence;
- Sexual Assault;
- Sexual Exploitation;
- Sexual Harassment and Sex/Gender-Based Harassment;
- Stalking;
- Retaliation; and
- Violating a Supportive Measure

Conduct prohibited under these procedures is also a violation of the Standards of Conduct of the degree-granting programs of Weill Cornell Medical College and Graduate School of Medical Sciences (“Weill Cornell”).

A finding of responsibility pursuant to these procedures will result in a review of whether a student demonstrates fitness or suitability to continue in his/her respective program and may result in additional sanctions based on this review.

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1. DEFINITIONS OF PROHIBITED CONDUCT

A. Aiding Prohibited Conduct

A person aids prohibited conduct if, with the intent to promote or facilitate such conduct, that person helps another person commit the prohibited conduct.

B. Attempting to Commit Prohibited Conduct

A person attempts to commit prohibited conduct if, with the intent to commit such conduct, that person engages in conduct directly tending toward completion of the prohibited conduct.

C. Dating Violence

Dating violence is any intentional act or threatened act of violence against the complainant committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.

Dating violence also may take the form of behavior that seeks to establish power and control over the complainant by causing the complainant to fear violence to themselves or another person. Such behavior may take the form of harassment, property damage, intimidation, and violence or a threat of violence to one's self (i.e., the respondent) or a third party. It may involve one act or an ongoing pattern of behavior.¹

D. Domestic Violence

Domestic violence is any intentional act or threatened act of violence against the complainant committed by (1) a current or former spouse or intimate partner; (2) a person with whom the complainant shares a child; or (3) anyone who is protected from the respondent's acts under the domestic or family violence laws of New York.

Domestic violence also includes behavior that seeks to establish power and control over the complainant by causing the complainant to fear violence to themselves or another person. Such behavior may take the form of harassment, property damage, intimidation, and violence or a threat of violence to one's self (i.e., the respondent) or a third party. It may involve one act or an

¹ Consistent with the Violence Against Women Act (VAWA), for reporting purposes under the Clery Act, Weill Cornell will evaluate the existence of an intimate relationship based upon the complainant's statement, taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.



ongoing pattern of behavior.²

E. Retaliation

Retaliation is adverse action taken against an individual with the purpose of interfering with an individual's rights under these procedures, including for making a good faith report of prohibited conduct, for participating in an investigation, proceeding, or hearing, or for refusing to participate in an investigation, proceeding, or hearing under these procedures. Retaliation may include intimidation, threats, coercion, discrimination, or adverse employment or educational actions. Retaliation may be found even when an underlying report made in good faith was not substantiated. Retaliation may be committed by the respondent, the complainant, or any other individual or group of individuals. Retaliation does not include good faith actions pursued in response to a report of prohibited conduct.

F. Sexual Assault

Sexual assault is (1) sexual intercourse or (2) sexual contact (3) without affirmative consent.

1. Sexual intercourse: Sexual intercourse means any penetration, however slight, with any object or body part, as follows: (a) penetration of the vulva by a penis, object, tongue, or finger; (b) anal penetration by a penis, object, tongue, or finger; and (c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person.
2. Sexual contact: Sexual contact means intentional sexual touching, however slight, with any object or body part, whether directly or through clothing, as follows: (a) intentional touching of the lips, breasts, buttocks, groin, genitals, inner thigh, or anus or intentionally touching another with any of these body parts; (b) making another person touch anyone or themselves with or on any of these body parts; and (c) intentional touching of another person's body part for the purpose of sexual gratification, arousal, humiliation, or degradation.
3. Affirmative consent: Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

The following are principles that apply to the above definition of affirmative consent:

- Consent to any sexual act or prior consensual sexual activity does not necessarily constitute consent to any other sexual act.

² This definition is consistent with VAWA.



- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be withdrawn at any time.
- When affirmative consent is withdrawn or can no longer be given, sexual activity must stop.
- A person is incapable of affirmative consent when they are:
 - Less than seventeen years of age;
 - Mentally disabled (a person is mentally disabled when their normal cognitive, emotional, or behavioral functioning renders them incapable of appraising their conduct); or
 - Incapacitated.
- A person is incapacitated when they lack the ability to choose knowingly to participate in sexual activity.
 - A person is incapacitated when they are unconscious, asleep, involuntarily restrained, physically helpless, or otherwise unable to provide consent.
 - Someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent depending on the level of intoxication.
 - Affirmative consent cannot be gained by taking advantage of the incapacitation of another. In evaluating affirmative consent in cases of alleged incapacitation, the fact finder asks two questions: (1) did the person initiating the sexual activity alleged to be nonconsensual know that the other party was incapacitated? If not, (2) should a sober, reasonable person in the same situation have known that the other party was incapacitated? If the answer to either of these questions is “yes,” affirmative consent was absent.
 - If the fact finder determines based on a preponderance of the evidence that both parties were incapacitated, the person who initiated the sexual activity alleged to be nonconsensual due to incapacity is at fault.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
 - Examples of coercion and intimidation include using physically or emotionally manipulative conduct against the complainant or expressly or implicitly threatening the complainant or a third party with negative actions that would compel or induce a reasonable person in the complainant’s situation to engage in the sexual activity at issue. Examples of sexual coercion include statements such as “I will ruin your reputation,” or “I will tell everyone,” or “your career (or education) at Cornell will be over” or “I will post an image of you naked.”
 - Examples of force or a threat of harm include using physical force or a threat, express or implied, that would place a reasonable person in the complainant’s situation in fear of physical harm to, or kidnapping of, themselves or another



person.

Sexual Assault can also be nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

G. Sexual Exploitation

- Sexual Exploitation is intentionally engaging in any of the following:
- Observing another person when that person is nude or engaged in sexual activity without the knowledge and consent of the person observed or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Making, sharing, posting, streaming or otherwise distributing any image, photography, video, or audio recording depicting or otherwise recording another person when that person is nude or engaged in sexual activity without the knowledge and consent of the person depicted or recorded;
- Exposing one's genitals to another person without the consent of that person;
- Exposing another person to a sexually transmitted infection without the knowledge and consent of the person exposed; and
- Causing another person to become incapacitated with the intent of making that person vulnerable to nonconsensual sexual assault or sexual exploitation.

H. Sexual and Sex/Gender-Based Harassment

Sexual Harassment and Sex/Gender-Based Harassment is unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Weill Cornell's education programs or activities.

Such conduct includes sexual advances, requests for sexual favors, or other unwanted conduct of a sexual nature, which may include acts of aggression, intimidation, or hostility, whether verbal, nonverbal, graphic, physical, or otherwise.

Sex/Gender-Based Harassment is harassment based on sex, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal, nonverbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature.

In evaluating whether a hostile environment exists, Weill Cornell will consider the totality of known circumstances, including, but not limited to:

- The frequency, nature, and severity of the conduct;
- Whether submission to or rejection of such conduct was made, either explicitly or



implicitly, a term or condition of a person's participation in any Weill Cornell program or activity (i.e., quid pro quo sexual harassment);

- Whether the conduct was physically threatening;
- The effect of the conduct on the complainant's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether there is a power differential between the parties; and
- Whether the conduct implicates concerns related to academic freedom or protected speech.

Because of protections afforded by academic freedom, speech and other expression occurring in the context of instruction or research will not be considered sexual or sex/gender-based harassment unless this speech or expression also meets one or both of the following criteria:

- it is meant to be either abusive or humiliating toward a specific person or persons, or
- it persists despite the reasonable objection of the person or persons targeted by the speech.

I. Stalking

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for their safety or the safety of others or (b) suffer substantial emotional distress.

- Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.³
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

J. Violating a Supportive Measure

A person violates a supportive measure if the measure is an order by a Weill Cornell (or University) official and the person to whom the order applies knowingly violates any of the conditions of the order. One common example of an order by a Weill Cornell (or University) official is a "no-contact" order.

³ This definition is consistent with VAWA.



2. EFFECTIVE DATE OF THESE PROCEDURES

The effective date of these procedures is August 14, 2020.

These procedures will apply in all cases where a Formal Complaint of prohibited conduct under these procedures is filed on or after August 14, 2020.

The definitions of prohibited conduct in existence at the time of the alleged conduct will be used.

These procedures, however, will be used to investigate and resolve all Formal Complaints signed on or after the effective date of these procedures, regardless of when the alleged conduct occurred.

3. DEFINITION OF FORMAL COMPLAINT AND REPORT

“Formal Complaint” of prohibited conduct is a written document signed by a complainant alleging specific prohibited conduct by a respondent and initiating the resolution process under the Procedures, or a similar written document signed by a Weill Cornell official on behalf of Weill Cornell. A “report” of prohibited conduct differs from a Formal Complaint. A report occurs when the Title IX Coordinator becomes aware of an alleged incident of prohibited conduct.

4. DESIGNATION AS COMPLAINANT AND RESPONDENT

A person who initiates a Formal Complaint of prohibited conduct under these procedures will be designated as a “complainant” or “party complainant.” A student against whom such a report or Formal Complaint has been made will be designated the “respondent.” Both the complainant and respondent are referred to as “party” or “parties” throughout these procedures.

A person who is the subject of a report and does not wish to initiate a Formal Complaint is called a “non-party complainant” when Weill Cornell initiates a Formal Complaint on the person’s behalf (See Section 9.B.4). During the investigation, adjudication, and appeal of the Formal Complaint, non-party complainants are treated as witnesses –not as parties – to the Formal Complaint, with some limited exceptions. Non-party complainants may have an advisor and support person present at all meetings with the Office of Institutional Equity and Title IX. Additionally, non-party complainants may submit impact/mitigation statements prior to the Hearing in accordance with Section 25.G.

A non-party complainant will not be permitted to review the Investigative Report or Record, make pre-Hearing submissions, observe the respondent or witnesses’ testimony at the Hearing,



pose follow-up questions or have their advisor conduct cross-examination, or appeal the determination of the Hearing Panel. The agreement of a non-party complainant is not necessary to resolve a Weill Cornell Complaint via Alternate Resolution.

Supportive measures are available to all complainants, regardless of whether they initiate a Formal Complaint, and respondents in accordance with Section 26 of these Procedures (“Supportive Measures”).

5. DEFINITION OF STUDENT

The term student will be interpreted to mean any person, whether or not incidentally on the University payroll, who is currently registered with Weill Cornell as a degree or non-degree-seeking candidate in any of Weill Cornell’s programs.

The term student will be interpreted also to mean persons not officially registered, and not faculty members or other Weill Cornell employees, if they are:

- currently enrolled in or taking classes at Weill Cornell;
- currently using Weill Cornell facilities or property in connection with academic activities; or
- currently on leave of absence or under suspension from being a student of Weill Cornell.

6. JURISDICTION

These procedures will apply to alleged prohibited conduct by a Weill Cornell student on any campus of the University, on any other property or facility used by it for educational purposes, or on property owned or controlled by a Weill Cornell student organization.

All actions by a Weill Cornell student that involve the use of Weill Cornell or University computing and network resources from a remote location, including but not limited to accessing email accounts, will be deemed to have occurred on campus.

These procedures also will apply regardless of the location of the alleged prohibited conduct where the Provost for Medical Affairs/Dean or their designated representative in the person of the Weill Cornell Title IX Coordinator determines that either:

- the alleged prohibited conduct has occurred in the context of a Weill Cornell educational program or activity; or
- the alleged prohibited conduct poses a substantial threat to the Weill Cornell’s educational mission such as an allegation of serious misconduct by a Weill Cornell



student against a non-Weill Cornell community member or to the health or safety of Weill Cornell community members, including potentially contributing to or creating a hostile environment on any campus of Weill Cornell.

A jurisdictional challenge shall be deemed waived if not raised by the appeal stage under these Procedures.

7. TIME LIMIT TO FILE FORMAL COMPLAINTS

To promote timely and effective review, Weill Cornell strongly encourages complainants and other persons with knowledge of possible violations of this policy to make reports as soon as possible, ideally within one year of the alleged prohibited conduct. A delay in reporting may affect Weill Cornell's ability to gather relevant and reliable information, contact witnesses, investigate thoroughly, and respond meaningfully. It may also affect Weill Cornell's ability to take disciplinary action against a student who has engaged in prohibited conduct.

While prompt reporting is encouraged, the Weill Cornell will consider as timely any Formal Complaint that is filed under these procedures as long as the respondent is a "student," as defined by these procedures, (e.g., has not graduated or permanently left Weill Cornell).

If the respondent is no longer a student at the time of the Formal Complaint, and Weill Cornell is, thus, unable to pursue resolution, it will still seek to meet its Title IX obligations by providing support for the complainant and, as feasible, taking appropriate steps to end any prohibited conduct, prevent its recurrence, and address its effects.

8. DEADLINES

In computing any time period specified in these procedures, the day of the event, act, or default that initiates the period will be excluded.

9. WEILL CORNELL'S RESPONSE TO A REPORT OF PROHIBITED CONDUCT

When Weill Cornell has actual knowledge of alleged prohibited conduct under these procedures Weill Cornell will respond promptly and reasonably in light of the known circumstances. Weill Cornell will treat complainants and respondents equitably by offering supportive measures to a complainant and by following the grievance process set forth in these Procedures before the imposition of any disciplinary sanctions or other actions (that are not supportive measures or temporary suspension) against a respondent.



A. Initial Assessment

Upon receipt of a report of alleged prohibited conduct by a student, the Weill Cornell Title IX Coordinator⁴ will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. The steps in an initial assessment vary based on whether the identity of the complainant is known.

1. *Where the Complainant's Identity Is Known*

Where the identity of the complainant is known, the Title IX Coordinator will ensure that the complainant receives a written explanation of all available resources and options and an opportunity to meet promptly to discuss those resources and options.

In the initial assessment and meeting or correspondence with the complainant, the Weill Cornell Title IX Coordinator will:

- Assess the complainant's safety and well-being and offer Weill Cornell's support and assistance through available resources;
- Inform the complainant that the Weill Cornell Title IX Coordinator will maintain the complainant's privacy to the greatest extent possible and disclose information only as necessary pursuant to these procedures;
- Inform the complainant of their right to seek medical treatment (including a sexual assault forensic examination) and explain the importance of obtaining evidence and preserving forensic and other evidence;
- Inform the complainant of their right to contact law enforcement, be assisted by Weill Cornell officials in contacting law enforcement, or decline to contact law enforcement, and their right to seek a protective order;
- Inform the complainant that the criminal justice system uses different standards of proof and evidence than these procedures and that any questions about whether the reported prohibited conduct constitutes a penal law violation should be addressed by law enforcement;
- Inform the complainant about Weill Cornell and community resources, including counseling, health, and mental health services; victim advocacy; procedural advocacy; legal resources; visa and immigration assistance; student financial aid; and other resources both on campus and in the community, and how to request or contact such

⁴ Throughout these procedures, various Weill Cornell officials, such as the Weill Cornell Title IX Coordinator, are assigned responsibility for performing specific functions. Named officials are authorized to delegate responsibility to other appropriate Weill Cornell officials except where such delegation contravenes Weill Cornell or University policy. Additionally, named officials and their designees may consult with appropriate Weill Cornell officials, the Office of University Counsel, and subject-matter experts.



resources;

- Inform the complainant of the right to seek appropriate and available Supportive Measures and how to request such measures and consider the complainant's wishes with respect to Supportive Measures with or without the filing of a formal complaint (See Section 16: SUPPORTIVE MEASURES);
- Ensure the complainant is aware of their right to an advisor;
- Inform the complainant of the right to file a Formal Complaint and seek resolution under these procedures; provide the complainant with an overview of these procedures, including a supportive response and Alternate Resolution (where appropriate); and inform the complainant of the right to withdraw a Formal Complaint at any time and to decline or discontinue resolution under these procedures at any time, but that declining to participate in an investigation and/or the adjudicatory process under these procedures may limit Weill Cornell's ability to investigate meaningfully and respond to a report of prohibited conduct;
- As possible and appropriate, ascertain the complainant's preference for pursuing formal resolution, Alternate Resolution, or a supportive response, or none under these procedures, and discuss with the complainant any concerns or barriers to participating in any investigation and resolution process under these procedures;
- Explain that Weill Cornell prohibits retaliation, that retaliation constitutes prohibited conduct under these procedures, and that Weill Cornell will take appropriate action in response to any act of retaliation;
- Inform the complainant of their rights afforded under the *New York State Student Bill of Rights*; and
- Communicate with appropriate Weill Cornell officials to determine whether the report triggers any Clery Act obligations, including the entry of the report in the daily crime log and/or issuance of a timely warning, and take steps to meet those obligations.

2. *Where a Potential Complainant's Identity Is Unknown*

Where a report is filed but the identity of the potential complainant is unknown, the Title IX Coordinator will assess the nature and circumstances of the report, including whether it provides information that identifies the potential complainant, the potential respondent, any witnesses, and/or any other third party with knowledge of the reported incident, and take reasonable and appropriate steps to respond to the report of prohibited conduct consistent with applicable federal and state laws and these procedures.

B. Weill Cornell's Actions Following an Initial Assessment

Upon completion of the Initial Assessment, the Weill Cornell Title IX Coordinator will determine the course of action under these procedures as follows:



1. Where the Complainant Seeks Resolution Under These Procedures

In any case where the complainant reports prohibited conduct and requests resolution under these procedures, the Weill Cornell Title IX Coordinator will promptly initiate an investigation. This process begins with the complainant making a signed, written Formal Complaint.

The Title IX Coordinator will review the Formal Complaint to determine whether (1) jurisdiction exists; and (2) a claim is stated, when viewed in the light most favorable to the complainant.

If jurisdiction exists and a claim is stated, then Title IX Coordinator will determine whether the case is a Title IX case or non-Title IX case, whether separation is a potential sanction should the respondent be found responsible, and whether Alternate Resolution is available.

The Title IX Coordinator will notify the complainant in writing of the determination. If there is no jurisdiction and/or a claim is not stated, then the Title IX Coordinator will dismiss the Formal Complaint in the written determination. This determination, including any dismissal, may not be appealed.

Weill Cornell may withhold awarding a degree otherwise earned until the adjudication process set forth in these procedures is complete, including the satisfaction of any sanctions imposed.

2. Where the Complainant Requests Confidentiality and/or That No Formal Complaint Be Pursued Under These Procedures

Weill Cornell strongly supports a complainant's desire for confidentiality or decision not to pursue a Formal Complaint under these procedures. If the complainant requests confidentiality, Weill Cornell will honor the complainant's request if doing so does not impact Weill Cornell's ability to provide a safe and non-discriminatory environment for all members of the Weill Cornell community, including the complainant.

Regardless of whether the complainant chooses to file or participate in a Formal Complaint, the Weill Cornell Title IX Coordinator will assist the complainant with reasonable and available Supportive Measures, which may include academic, housing, transportation, employment, and other accommodations. (See, Section 16: SUPPORTIVE MEASURES),

These accommodations will vary depending on the nature of the reported prohibited conduct and the wishes of the complainant regarding confidentiality. If any such Supportive Measure impacts the respondent, the respondent will be provided with written notice of the report, which includes, as known, the date, time, and location of the alleged prohibited conduct and the underlying



factual allegations. Therefore, certain Supportive Measures may not be available if the complainant wishes to maintain confidentiality.

The Weill Cornell Title IX Coordinator may also take proactive steps, such as training or awareness efforts, to address sexual and interpersonal violence in a general way that does not identify the complainant.

Where the complainant does not wish to pursue a Formal Complaint under these procedures, Weill Cornell will honor the complainant's wishes unless doing so would not adequately mitigate the risk of harm to the complainant or other members of the Weill Cornell community or doing so impacts Weill Cornell's ability to provide a safe and non-discriminatory environment for all members of Weill Cornell community, including the complainant.

The Weill Cornell Title IX Coordinator will consider the following factors, among others, when determining whether to honor the complainant's wish that no resolution be pursued under these procedures:

1. Whether the respondent has a history of violent behavior or is a repeat offender;
2. Whether the incident represents escalation in unlawful conduct by the respondent from previously noted behavior;
3. The increased risk that the respondent will commit additional acts of violence;
4. Whether the respondent used a weapon or force;
5. Whether the complainant is a minor;
6. Whether Weill Cornell possesses other means to obtain evidence such as security footage; and
7. Whether available information reveals a pattern of perpetration at a given location or by a particular group.

Where a complainant declines to participate in an investigation, Weill Cornell's ability to meaningfully investigate and respond to a report may be limited.

3. Weill Cornell's Determination That Complainant's Request(s) Can Be Honored

Where the Weill Cornell Title IX Coordinator determines that Weill Cornell can honor a complainant's request that no Formal Complaint be pursued under these procedures, Weill Cornell may nevertheless take other appropriate steps designed to eliminate the reported prohibited conduct, prevent its recurrence, and address its effects on the complainant and the Weill Cornell community. Those steps may include offering the complainant reasonable and available Supportive Measures, conducting targeted prevention and awareness training, and/or providing or imposing other remedies tailored to the circumstances.



The complainant may later choose to pursue a Formal Complaint within time limits for filing a Formal Complaint under these procedures.

Upon receipt of new or additional information, the Title IX Coordinator may reconsider the complainant's request that no Formal Complaint be pursued under these procedures and initiate the resolution process, as explained directly below.

4. Weill Cornell's Determination That a Complainant's Request(s) Cannot Be Honored

Where the Title IX Coordinator determines that Weill Cornell cannot honor a complainant's request that no Formal Complaint be pursued under these procedures, the Title IX Coordinator will promptly initiate the resolution process under these procedures by making a signed, written Formal Complaint on behalf of Weill Cornell. The Title IX Coordinator will notify the complainant that Weill Cornell intends to proceed with a Formal Complaint and will take immediate action as necessary to protect and assist the complainant.

The Title IX Coordinator will make reasonable efforts to protect the privacy of the complainant. However, typically, the complainant's identity would have to be disclosed as part of Weill Cornell's investigation. The complainant is not required to participate in any proceedings that follow. However, if the complainant declines to participate in an investigation and/or the adjudicative process under these procedures, Weill Cornell's ability to investigate meaningfully and respond to a report of prohibited conduct may be limited.

10. NOTICE TO COMPLAINANT AND RESPONDENT OF WEILL CORNELL'S ACTIONS

The Weill Cornell Title IX Coordinator will promptly inform the complainant of any actions undertaken by Weill Cornell, including the filing of a Formal Complaint.

The Weill Cornell Title IX Coordinator will promptly inform the respondent of any actions that will directly impact the respondent, including the filing of a Formal Complaint or the imposition of Supportive Measures that would directly impact the respondent, and provide an opportunity for the respondent to respond to such action(s). (See Section 16, SUPPORTIVE MEASURES). Supportive Measures become effective when notice of the Supportive Measures is provided.

11. ADVISORS AND SUPPORT PERSONS

At all stages under these procedures, both the complainant and respondent will be afforded the assistance of an advisor provided by Weill Cornell to assist and advise the party.



As an alternative or in addition to utilizing an advisor offered by Weill Cornell, each party has the right to select and consult with an advisor of their own choosing. This advisor may be any person, including an attorney.

An advisor may accompany the party to all meetings, such as investigative interviews, and proceedings, and are not to interfere with meetings or proceedings. With limited exception for cross-examination in the Hearing, advisors and support persons may not speak on the party's behalf at any time. (See below in this Section and Section 25.H.1).

During hearings, an advisor may confer with the party, and on the party's behalf, at the time and in the manner prescribed by the Hearing Chair and, may help the party prepare written submissions.

Each party's advisor is permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. If a party does not have an advisor present at the live hearing, Weill Cornell will provide without fee or charge to that party, an advisor of Weill Cornell's choosing to conduct cross-examination on behalf of that party. Should a party not have an advisor who will be at the hearing to conduct cross-examination on their behalf, Weill Cornell will provide an advisor aligned with the party's interest, for such purpose. A party should request in writing as soon as possible and at least 10 business days in advance of the hearing that Weill Cornell provide an advisor for the hearing.

By accepting the role of advisor, all advisors agree to comply with the rules and processes set forth in Policy 6.4 and these procedures, including rules regarding process privacy.

Weill Cornell will not interfere with the parties' rights to have an advisor of their choice and fully expects advisors to adhere voluntarily to Policy 6.4 and these procedures. In extreme cases, where either the Weill Cornell Title IX Coordinator or Hearing Panel members determine that an advisor's conduct undermines the integrity of Policy 6.4 or these procedures, the advisor will be prohibited from continuing to serve as advisor in that case. The affected party will be permitted to obtain a substitute advisor.

Both the complainant and respondent also have the right to a support person of their choice to provide emotional support to the party. The support person may accompany the party to any meetings or proceedings, but may not be a witness at any hearing and may not speak on behalf of the party.



If a party seeks to have multiple support persons and/or advisors accompany them during an investigative interview or the hearing, the investigator during the investigation and the Hearing Chair during the hearing may request that the party limit the number of individuals accompanying them to three.

12. WRITTEN SUBMISSIONS

For all written submissions permitted by these procedures, the documents must be submitted by the parties. Written submissions from an advisor, support person, or other individual made on behalf of a party, other than the written objections and requests specifically permitted during hearings, will not be included in the investigative or hearing records.

Where required by these procedures, the party must sign the written submission.

13. PRESERVATION OF INFORMATION AND TANGIBLE MATERIAL

Preservation of information and tangible material relating to alleged prohibited conduct is essential for investigations under these procedures as well as law enforcement investigations. Therefore, all persons involved in these procedures, whether as the complainant, the respondent, or a witness, are encouraged to preserve all information and tangible material relating to the alleged prohibited conduct. Examples of evidence include electronic communications (e.g., email and text messages), photographs, recordings, clothing, and medical information.

In the case of medical information, prompt examinations can be crucial to the collection of forensic or other medical evidence. Individuals who believe they have experienced sexual assault or other forms of prohibited conduct are strongly encouraged to seek immediate medical attention.

14. OBLIGATION TO PROVIDE TRUTHFUL INFORMATION

At all stages of the process, all Weill Cornell and University community members are expected to provide truthful information. Providing false information to Weill Cornell or other University officials with intent to deceive is prohibited and subject to disciplinary sanctions under the Standards of Conduct of Weill Cornell's degree-granting programs. This provision does not apply to reports made or information provided in good faith, even if the facts alleged are not later substantiated.

15. DUTY TO COOPERATE



All members of the Weill Cornell and University community are expected to cooperate and participate in inquiries, investigations, and resolutions of reports and Formal Complaints of prohibited conduct under these procedures. However, the non-cooperation or non-participation of a party or witness cannot be the basis of adverse action or an adverse inference. A prospective witness who declines to cooperate may be referred to the Assistant Dean (Student Affairs) to explain his or her reason(s) for failing to participate.

In the Hearing, if a party or witness does not appear or declines to submit to cross-examination, the Hearing Panel may be unable to rely on their statements in reaching its determination, as explained further in Section 24.B.

16. SUPPORTIVE MEASURES

A. Overview of Supportive Measures

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent before, during or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive Measures are designed to accomplish a number of goals:

- to restore or preserve equal access to Weill Cornell's educational program or activity;
- to support and protect the safety of the complainant, the respondent, Weill Cornell's educational environment, and the Weill Cornell community;
- to promote the goals of Policy 6.4;
- to deter retaliation; and
- to preserve the integrity of the investigation and resolution process pursuant to these procedures.

Supportive Measures might be in the form of support for or restrictions upon one or both parties. Restrictions or loss of specified privileges at Weill Cornell may not be issued as Supportive Measures.

Restrictive Supportive Measures will be calibrated to address a perceived risk, but tailored to minimize to the extent possible the impact on the affected party or parties, whose underlying case of prohibited conduct has not yet been adjudicated on the merits.

Supportive Measures may be issued based upon a party's request or at Weill Cornell's own initiative. In all instances, Weill Cornell will, at its discretion, determine whether any given Supportive Measure is reasonable and appropriate.



Supportive Measures are available regardless of whether a Formal Complaint has been filed under these procedures.⁵

Supportive Measures are available regardless of whether the complainant chooses to report the prohibited conduct to law enforcement.

Supportive Measures become effective when notice of the Supportive Measures is provided. Where a Formal Complaint has been filed, typically, Supportive Measures will remain in place pending the resolution of the Formal Complaint.

Violations of Supportive Measures that are orders by a Weill Cornell official constitute prohibited conduct under these procedures.

B. Examples of Supportive Measures

Potential Supportive Measures include but are not limited to:

- assistance obtaining access to counseling, advocacy, or medical services;
- assistance obtaining access to academic support and requesting academic accommodations;
- changes in class schedules;
- assistance requesting changes in work schedules, job assignments, or other work accommodations;
- changes in campus housing;
- safety escorts;
- individualized prevention and awareness training
- facilitated agreements to delete consensually-obtained nude or sensitive images;
- restrictive orders; and
- “No-contact” orders (curtailing or prohibiting contact or communications between or among individuals)

C. Issuance of Supportive Measures

The Weill Cornell Title IX Coordinator is responsible for issuing Supportive Measures.

Supportive Measures will be designed in a fair manner and narrowly tailored to minimize to the extent possible any restrictions on those affected.

⁵ There are a number of requirements that apply to Temporary Suspensions.



In issuing Supportive Measures, the Weill Cornell Title IX Coordinator will make reasonable efforts to communicate with any impacted party to address safety and emotional and physical well-being concerns.

Where no Formal Complaint has been filed and a Supportive n Interim Measure impacts the respondent, the respondent will be provided with written notice of the report, which includes, as known, the date, time, and location of the alleged prohibited conduct and the underlying factual allegations, including the identity of the complainant. Therefore, certain Supportive Interim Measures may not be available if the complainant wishes to maintain anonymity.

Supportive Measures are not, in and of themselves, permanent resolutions under these procedures. Rather, they are actions taken by the Weill Cornell based on information known at the time that the Supportive Measures are issued. Accordingly, the Weill Cornell Title IX Coordinator has the discretion to issue, modify, or remove any Supportive Measure at any time additional information is gathered or circumstances change.

Supportive Measures do not appear on a party's transcript or disciplinary record. A record of supportive measures is maintained in the Title IX Coordinator's case file.

D. Requested Review of Weill Cornell Title IX Coordinator's Decisions Regarding Supportive Measures

Both parties may at any time request that the Weill Cornell Title IX Coordinator issue, modify, or remove Supportive Measures based upon a change in circumstance or new information that would affect the necessity of any Supportive Measures.

Both parties may petition the Dean of the Graduate School of Medical Sciences (in matters where the requesting party is in a graduate program) or Senior Associate Dean for Medical Education (in matters where the requesting party is a medical student)⁶ in writing to review the Weill Cornell Title IX Coordinator's decision whether to issue, modify, or remove Supportive Measures. A party seeks review by submitting a letter explaining the reason for their request for review and including any written evidence in support of such request. The materials should be submitted to the Weill Cornell Title IX Coordinator, who will forward all materials to the responsible Weill Cornell official.

If, based upon the request, the responsible Weill Cornell official is considering issuing, modifying, or removing a Supportive Measure, the responsible Weill Cornell official will invite the non-petitioning party and the Weill Cornell Title IX Coordinator to submit responses. The

⁶ In matters that involve both medical and graduate students, the Deans of Student Affairs shall confer and determine who will be the responsible official for purposes of review of a decision regarding Supportive measures.



Title IX Coordinator will then inform the non-petitioning party that a request has been filed and provide a copy of the request to that party. The responsible Weill Cornell official will establish a reasonable timeline for handling the matter, including deadlines for submissions.

If the responsible Weill Cornell official determines that the Weill Cornell Title IX Coordinator's decision should be set aside, the responsible Weill Cornell official will instruct the Weill Cornell Title IX Coordinator to vacate the prior decision on Supportive Measures immediately. At that time, the Weill Cornell Title IX Coordinator may impose alternate reasonable and appropriate Supportive Measures. The responsible Weill Cornell official, may, but is not required to, provide the Weill Cornell Title IX Coordinator with guidance regarding appropriate alternate Supportive Measures.

The responsible Weill Cornell official will provide a written decision to the parties and the Weill Cornell Title IX Coordinator.

The decision of the responsible Weill Cornell official is final; there is no right to appeal.

E. Temporary Suspensions Pending Resolution

Once a Formal Complaint has been filed, in extraordinary circumstances, where immediate action is necessary to protect the complainant or any other individual, the Provost for Medical Affairs/Dean or their designated representative in the form of the Weill Cornell Title IX Coordinator or other appropriate Weill Cornell official will have discretionary power to suspend the respondent pending resolution of the underlying case.

Suspension may include the withdrawal of any or all Weill Cornell privileges and services, including class attendance, participation in examinations, and utilization of Weill Cornell premises and facilities, as determined by the Provost for Medical Affairs/Dean or designee.

Understanding that the underlying allegation of prohibited conduct has not been adjudicated on the merits, Temporary Suspension may be imposed only when Supportive Measures are deemed insufficient to protect the complainant or Weill Cornell community.

In determining whether a Temporary Suspension is appropriate the Provost for Medical Affairs/Dean or their designated representative in the form of the Weill Cornell Title IX Coordinator or other appropriate Weill Cornell official must determine that an immediate threat to the physical health or safety of the complainant or any other individual arising from the allegations underlying the Formal Complaint justifies such Temporary Suspension of the respondent. The following factors, among others, should be considered:



- whether the respondent has a history of violent behavior or is a repeat offender;
- whether the incident represents escalation in unlawful conduct by the respondent from previously noted behavior;
- whether there are facts indicating a risk that the respondent will commit additional acts of violence; and
- whether the respondent used a weapon or force.

Both parties may at any time request that the Weill Cornell Title IX Coordinator or other Weill Cornell official acting as the Provost for Medical Affairs’/Dean’s designee impose, modify, or lift a Temporary Suspension based upon a change in circumstance or new information that would affect the necessity of a Temporary Suspension.

F. Review of Temporary Suspensions

The Appeal Panel will conduct the review of a decision to impose a Temporary Suspension. The decision not to impose or to lift a Temporary Suspension is reviewed in accordance with the procedures set forth above.

The Respondent may petition the Appeal Panel in writing for a review of the decision to impose a Temporary Suspension.

The petitioning party commences the review by submitting a petition explaining the reason for their request and including any written evidence in support of such request. The materials should be submitted to the Weill Cornell Title IX Coordinator, who will forward all materials to the Appeal Panel. The Weill Cornell Title IX Coordinator will also inform the non-petitioning party that a petition has been filed and provide a copy of the petition to that party.

The non-petitioning party may submit a written response but is not required to do so. The response should be submitted to the Weill Cornell Title IX Coordinator. Any written response must be submitted within three (3) business days of receipt of the petition. The Weill Cornell Title IX Coordinator will offer a written response to such petition within four (4) business days of receipt of the petition. For good cause, the Appeal Panel may grant requests for extensions.

The Appeal Panel will consider the petition no later than five (5) business days after it receives the petition, with exceptions for good cause. However, given the gravity of a Temporary Suspension, it is expected that an Appeal Panel will seek to meet this deadline.

If the Appeal Panel determines that good cause was not shown for the Temporary Suspension or that circumstances have changed so that the suspension is no longer necessary, it will instruct the Weill Cornell Title IX Coordinator to lift the Temporary Suspension immediately. At that time,



the Weill Cornell Title IX Coordinator may impose alternate reasonable and appropriate Supportive measures. The Appeal Panel may, but is not required to, provide the Weill Cornell Title IX Coordinator with guidance regarding appropriate alternate Supportive measures.

The Appeal Panel will provide a written decision to the parties and the Weill Title IX Coordinator as soon as practicable.

The Appeal Panel's decision is final; there is no right to appeal.

Where the Appeal Panel has already entertained a petition and issued a decision regarding a Temporary Suspension, it may decline a party's request to review a determination regarding a change of circumstance or new information.

G. Assistance with Orders of Protection

Orders of Protection are court orders and thus Weill Cornell is not able to issue them. However, the Dean of Student Affairs in consultation with NYP Security (212-746-1068) will assist both the respondent and the complainant (or any member of the Weill Cornell community impacted by an Order of Protection), by helping the parties understand the availability of an order, the potential content and parameters of an order, and the consequences for violating an order.

Weill Cornell offers confidential resources through the following providers:

Employee Assistance Program Consortium
409 East 60th Street, Room 3-305
New York, NY 10022
T 212.746.5890
E-mail: EAPC@med.cornell.edu

New York Presbyterian Hospital
Weill Cornell Medicine
Victim Intervention Program
525 East 68th Street
New York, NY 10065
T 212 746.9414

17. PENDING CRIMINAL INVESTIGATIONS

In cases where there is a criminal investigation, the Weill Cornell process will run concurrently with such investigation. Weill Cornell may grant temporary delays of the process when



reasonably requested by law enforcement for evidence gathering.

18. NOTICE TO PARTIES UPON THE ISSUANCE OF A FORMAL COMPLAINT

At the issuance of a Formal Complaint, the Weill Cornell Title IX Coordinator will notify the complainant and the respondent, in writing, of the commencement of an investigation and provide both parties with a copy of the Formal Complaint and these procedures. Such notice will:

- identify the complainant and the respondent;
- specify the alleged prohibited conduct and its date, time, and location, to the extent known;
- specify the basis for jurisdiction over the formal complaint;
- specify the factual allegations pertaining to the prohibited conduct;
- specify any sanctions that may be imposed, including Weill Cornell's transcript notation policy;
- specify whether Title IX applies and if the Formal Complaint is to be resolved with a Hearing;
- identify the investigator;
- include information about the parties' respective rights and obligations under these procedures;
- inform the parties of their right to seek the assistance of an advisor provided by Weill Cornell, a second advisor (including an attorney), and a support person for emotional support, all of whom may accompany the respective parties to meetings and proceedings;
- inform the parties of the range of available resources, including mental health and academic support resources;
- explain the prohibition against retaliation; and
- instruct the parties to preserve any potentially relevant evidence, whatever its form.

19. TIMEFRAMES

Any time the general timeframes for resolution outlined in these procedures will be delayed, Weill Cornell will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

20. DISMISSAL OF FORMAL COMPLAINT AND/OR DETERMINATION WHETHER TITLE IX APPLIES

The Weill Cornell Title IX Coordinator will make an initial determination as to whether Title IX



applies to the Formal Complaint based on the alleged facts.

The Weill Cornell Title IX Coordinator may dismiss⁷ a Formal Complaint and close a case where:

- there is no jurisdiction under these procedures; or
- the facts set forth in the Formal Complaint do not constitute prohibited conduct under these procedures; or
- the complainant fails or refuses to cooperate with the investigation such that the investigator is unable to investigate despite reasonable measures, including where the complainant cannot be located, the complainant fails or refuses to be available for interviews or meetings, or the complainant fails to provide necessary information.
- the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; or
- the Respondent is no longer enrolled in a Weill Cornell program ; or
- specific circumstances prevent Weill Cornell from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the Title IX Coordinator will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

The complainant will be given an opportunity to seek review by a Hearing Panel. The complainant must commence the review within ten (10) business days by submitting a letter explaining why they think the dismissal is erroneous and including any written evidence in support of their position. The materials should be submitted to the Weill Cornell Title IX Coordinator, who will forward them to the Hearing Panel and Hearing Chair (who provides guidance to the Hearing Panel but does not have a vote in a decision).

The Weill Cornell Title IX Coordinator will also inform the respondent that a request for review has been filed and provide a copy of the complainant's letter and any supporting materials to the respondent.

The Hearing Chair, in consultation with the Hearing Panel, will establish a reasonable process and timeline for handling the matter. The respondent will be given an opportunity to respond to the complainant's request for review.

The Hearing Panel will conduct its review based upon a standard of clearly erroneous, meaning that the Hearing Panel will not disturb the Weill Cornell Title IX Coordinator's or investigator's decision by substituting its own judgment for the judgment of the Weill Cornell Title IX

⁷ Where appropriate, the Title IX Coordinator may dismiss a Formal Complaint prior to the Notice of Formal Complaint to both parties.



Coordinator or investigator unless the Hearing Panel determines that the dismissal was clearly in error.

If the Hearing Panel determines that the dismissal was clearly erroneous, the Formal Complaint will be reinstated and resolved according to these procedures.

If the Hearing Panel determines that the dismissal was not clearly erroneous, it will affirm the dismissal. The Hearing Panel will provide a written decision to the parties and the Weill Cornell Title IX Coordinator.

The decision of the Hearing Panel is final; there is no right to appeal.

In accordance with the procedures set forth below in “Section 23.H. Threshold Determination by Investigator and Review by the Hearing Panel,” after completing an investigation, the investigator may dismiss a Formal Complaint upon a threshold determination that there is not sufficient evidence to advance the Formal Complaint to a hearing.

21. ALTERNATE RESOLUTION OF A FORMAL COMPLAINT

At any time after a Formal Complaint has been filed and before a hearing commences, the parties may seek to resolve a report of prohibited conduct through Alternate Resolution, an administrative process.

Participation in Alternate Resolution is entirely voluntary; the Weill Cornell Title IX Coordinator will neither pressure nor compel either party to participate in the process nor to agree to any specific terms.

In every case, the Weill Cornell Title IX Coordinator has discretion to determine whether the matter is appropriate for Alternate Resolution and to determine the appropriate terms.

Before the Weill Cornell Title IX Coordinator approves the Alternate Resolution process or the terms of any Alternate Resolution, the Weill Cornell Title IX Coordinator will determine that it has sufficient information about the matter to make these decisions.

The parties are strongly encouraged, although not required, to consult with their advisors and any support persons during the entire Alternate Resolution process.

If the process is terminated for any reason, the matter will be re-evaluated for resolution pursuant to the Formal Complaint resolution process under these procedures. For this reason, the investigator will not participate in Alternate Resolution.



The Weill Cornell Title IX Coordinator will oversee the Alternate Resolution process and have access to all Weill Cornell records in the matter, including any records or reports prepared during an investigation.

The Weill Cornell Title IX Coordinator will consult separately with both parties and recommend to the parties the terms of a potential Alternative Resolution agreement. Such terms may include, but are not limited to, any sanctions or remedies that could be imposed by a Hearing Panel after a hearing under these proceedings. Both parties must agree to the terms before an Alternate Resolution agreement becomes effective. At any time before a written agreement is effective (see below), the complainant or the respondent may withdraw from the Alternate Resolution process, and the Weill Cornell Title IX Coordinator may also, at their discretion, terminate the process.

If the respondent agrees to an Alternate Resolution that provides for a sanction, suspension, withdrawal, or dismissal (i.e. expulsion) from Weill Cornell, there will be a transcript notation consistent with Weill Cornell's transcript notation policy.

See http://weill.cornell.edu/education/student/pdf/Transcript_Notation_Policy.pdf.

If both parties are satisfied with the Weill Cornell Title IX Coordinator's recommendation, the matter will be resolved with a written agreement.

The Weill Cornell Title IX Coordinator will provide each party, separately, with a copy of the proposed agreement for the party to review, sign, and return.

Once a party has returned the signed agreement to the Weill Cornell Title IX Coordinator, the party has two (2) business days to reconsider and withdraw from the agreement by notifying the Weill Cornell Title IX Coordinator in person or in writing.

Within the two (2) business days, if either party withdraws from the agreement, the matter would be returned for resolution of the Formal Complaint.

After the two (2) business days, if neither party withdraws, the terms of the agreement will become effective and the Weill Cornell Title IX Coordinator will promptly notify both parties in writing that the agreement is final.

Once the agreement is effective, the parties may not appeal the agreement and the complainant may not seek to refile the Formal Complaint absent new allegations of misconduct. The parties are expected to honor and comply with the terms of the Alternate Resolution. Noncompliance may be subject to proceedings under the Standards of Conduct for the degree-granting programs at Weill Cornell.



If the process is terminated and the matter resolved pursuant to the Formal Complaint resolution process, neither the Weill Cornell Title IX Coordinator nor the parties will disclose to the Hearing Chair, Hearing Panel, or Appeal Panel either the fact that the parties had participated in the Alternate Resolution process or any information learned during the process. While the parties are exploring Alternate Resolution, the investigation will pause, and the time spent pursuing resolution in this way will not count toward the investigation time limit.

There are two available forms of Alternate Resolution: (1) Restorative (“Informal”) Resolution, and (2) Negotiated (“Formal”) Resolution.

(1) Restorative (“Informal”) Resolution

The purpose of a Restorative Resolution is for the parties to agree on a set of remedies. Upon successful completion of those remedies, a finding of “not-responsible” will be entered. Such remedies may include:

- Impact Letter;
- Apology Letter;
- Directed Study;
- Reflection Paper; and
- Other forms of Restorative/Transformative Justice.

(2) Negotiated (“Formal”) Resolution

As a necessary precondition of a Negotiated Resolution, the Respondent must accept responsibility for all or part of the alleged prohibited conduct. The parties will then have an opportunity to negotiate with Title IX Coordinator what they believe the appropriate sanction should be. In support of their position, parties are encouraged to submit impact/mitigation information they believe the Title IX Coordinator should consider in evaluating any sanction.

The Title IX Coordinator has the discretion to propose other terms for the resolution that may be appropriate to address the prohibited conduct for which the respondent has accepted responsibility.

22. CONSOLIDATION OF REPORTS, FORMAL COMPLAINTS, AND HEARINGS UNDER THESE PROCEDURES

Generally, at the discretion of the Weill Cornell Title IX Coordinator, multiple reports or Formal



Complaints under these procedures that are factually related will be joined in one investigation.

At the discretion of the Hearing Chair, multiple Formal Complaints, whether or not joined in one investigation, may be joined in one hearing if doing so is likely to result in more efficient and reliable outcomes without causing prejudice to a party or parties or confusion for the fact finders. Investigations may be so joined where they involve either multiple complainants or multiple respondents. In determining whether to consolidate, the Hearing Chair will provide the parties with an opportunity to explain their preferences for consolidated or severed hearings.

Multiple Formal Complaints and investigations may be so joined whether they involve single or multiple complainants or respondents. In all hearings involving multiple parties, the Hearing Panel will consider singly the sanctions and remedies appropriate for each respondent.

23. INVESTIGATIONS OF A FORMAL COMPLAINT

A. Overview

The investigation is designed to be timely, thorough, and impartial and provide for a fair and reliable gathering of the facts.

The investigation will generally include individual interviews of the complainant, the respondent, and relevant witnesses. It culminates in a final investigative record and an investigative report, both prepared by the investigator and utilized at the hearing, if there is one. The investigative record is a compilation of statements by the parties and witnesses as well as other evidence gathered by the investigator. In the report, the investigator explains the scope of the investigation and summarizes and synthesizes statements by the parties and witnesses and any other evidence. The investigator does not make any findings or recommendations as to responsibility, other than to make an assessment as to whether there is sufficient evidence for the case to proceed to a hearing to determine responsibility.

As part of the investigative process, the complainant and the respondent have an opportunity to review and comment upon a draft investigative record before the investigator finalizes it and issues an investigative report. In the event of a hearing, the final investigative record and report become part of the hearing record.

At the hearing, the Hearing Panel will rely upon the final investigative record and report as well as any additional statements and information provided to the Hearing Panel pursuant to the procedures set forth below.



B. Time Frame of and Time Limitations During the Investigation

The investigation will be completed as expeditiously as possible. Any time the general timeframes for resolution outlined in these procedures will be delayed, Weill Cornell will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

Throughout the investigation, both parties will receive reasonable written notice of any meetings at which their attendance is requested, and the parties will be updated at regular intervals on the status of the investigation.

The investigator will establish and apply equitably to the parties reasonable time limits for the various stages of the investigation, including meetings and deadlines for any submissions or responses, and the parties must adhere to these time limits.

The parties may request reasonable extensions or temporary delays that will be granted, for good cause, at the discretion of the investigator. Extensions granted to one party will be granted to the other party. Delays simply to prolong the process will not be permitted, and failure to meet deadlines will result in forfeiture of a party's ability to participate in that aspect of the investigation. Written notice of the delay or extension and the reasons for the action will be provided to the parties.

If a party declines or fails to participate in a meeting or interview, provide evidence, or suggest witnesses, the party will have waived their right to do so upon the issuance of the final investigative record and report.

C. Investigative Process

All individuals involved in the investigation, including the complainant, the respondent, and any third-party witnesses, will be treated with sensitivity and respect.

The investigator will gather information from the complainant, the respondent, and other individuals who have relevant information. The investigator will also gather relevant available evidentiary materials, including physical evidence, documents, communications between the parties, and other electronic records and media as appropriate.

The complainant and the respondent will have an equal opportunity to meet and communicate with the investigator, submit evidence, and suggest witnesses who may have relevant information. Specifically, during the investigation, each party will have the opportunity to:



- be interviewed by the investigator;
- review their own interview statements prior to the statements being distributed to the other party and included in a draft investigative record;
- provide evidence to the investigator;
- suggest witnesses to be interviewed by the investigator;
- propose questions to be asked of witness and the other party; and
- review a draft investigative record and comment on it, in writing, before the investigator finalizes the record and prepares an investigative report.

The investigator has the discretion to determine the relevance of any proffered witnesses, and, accordingly, the investigator will determine which witnesses to interview. In general, the investigator will not consider relevant any witnesses who are offered solely for the purpose of providing evidence of a party's character.

Investigative interviews with the parties and any witnesses will be audio recorded.

At the start of an interview session, the investigator will inform an interviewee that the session is being audio recorded.

Parties and witnesses will receive copies of audio recordings of their own interviews.

The parties will be provided with transcripts, but not audio recordings, of all witness and other party interviews. The parties may listen to audio recordings of interviews of the other party and any witnesses during business hours at a secure and private campus location, with access facilitated by the Weill Cornell Title IX Coordinator.

All persons being interviewed, including the parties, are prohibited from recording interviews. In the event of a failure rendering an audio recording of an interview inaudible in whole or in part, the investigator will either reconstruct the interview with input from the interviewee or re-conduct the interview, as the investigator deems necessary. The reconstructed interview statement will become part of the investigative record. The failure will not constitute grounds for appeal.

D. Expert Testimony and Materials

The investigator may consult medical, forensics, technological, or other experts or expert materials (such as writings and recordings) when the investigator determines that expertise on a topic is needed to achieve a full understanding of the issues under investigation.



The investigator has the discretion to determine the relevance and reliability of any expert testimony and materials, and, accordingly, the investigator will determine what, if any, expert testimony and materials will be included in the investigative record.

Requested expert testimony or materials not included in the investigative record will not be considered by the Hearing Panel.

The results of polygraph tests and other “lie-detection” techniques are inadmissible in the proceedings.

E. Evidence to be Excluded or Redacted from the Investigative Record

At the request of a party or witness, the investigator during the investigation or the Hearing Chair during the hearing process will exclude and, as necessary, redact content falling into one of the four categories enumerated below.

1. **Prior Sexual History**: Generally, during both the investigation and any hearing to determine responsibility, participants in this process may exclude evidence of their own prior sexual history with anyone other than the other party.
2. **Past Findings**: During both the investigation and any hearing to determine responsibility, both parties may exclude evidence of their own past school disciplinary findings. Such findings are admissible at the stage of the hearing for determining sanctions.
3. **Mental Health History**: Generally, during both the investigation and any hearing to determine responsibility, participants in this process may exclude evidence of their own mental health diagnosis and/or treatment, including counselling and/or therapy.
4. **Sensitive Personal Identifying Information and Medical Records**: Throughout these proceedings, sensitive personal identifying information such as Social Security numbers and irrelevant information contained in medical records will be excluded. Upon the request of a party or witness, investigators may also redact or exclude other sensitive or private information, including, but not limited to: contact information, sensitive images (including images where an individual is nude or partially clothed).

The investigator during the investigation and the Hearing Chair during the hearing process will exclude and, as necessary, redact any content that is impermissible under these procedures or applicable law. Exclusions and redactions will be noted and thereby become part of the investigative record. Excluded or redacted content not included in the investigative record will not be considered by the Hearing Panel. The parties should make all requests for exclusions and redactions to the investigator during the investigation prior to the issuance of the final investigative record and report.



F. Draft Investigative Record and the Parties' Review

Upon completion of the investigation, the investigator will prepare and provide to the parties an electronic or hard copy of a draft investigative record that will include:

- transcripts (but not audio files) of all interviews by the investigator with the parties and any witnesses; and
- copies of any documents, electronic records, and media and photographs or descriptions of physical materials collected during the course of the investigation.

The parties will have ten (10) business days to review the draft investigative record and submit in writing:

- comments about content;
- requests for redaction;
- requests for inclusion of content deemed irrelevant or duplicative by investigator;
- requests for additional meetings with the investigator; and
- requests for the investigator to conduct further investigation or questioning.

The parties' written comments and requests will become part of the final investigative record. The investigator has discretion whether to conduct any additional requested meetings, interviews, or questioning.

The parties may request extensions that will be granted, if reasonable, at the discretion of the investigator. Any extension granted to one party will be granted to the other party.

Delays simply to prolong the process will not be permitted and failure to make submissions within ten (10) business days or any approved extensions will result in a forfeiture of the right to do so later.

G. Final Investigative Record and Report

The investigator will issue a final investigative record and an investigative report at least ten (10) days prior to any Hearing Panel.

In the report, the investigator will explain the scope of the investigation and summarize the information gathered during the investigation. The investigator, at his or her discretion, may identify contested and uncontested facts, highlight inconsistencies, and address relevancy of evidence.



The investigator will not render an opinion on responsibility, other than to make a threshold determination as to whether there is sufficient evidence to proceed to a hearing (see below).

The investigative report is not evidence.

H. Threshold Determination by Investigator and Review by Hearing Panel

As part of the investigative report, the investigator will make a threshold determination as to whether there is sufficient evidence to advance the Formal Complaint to a hearing.

If the investigator concludes that when viewing the evidence in the light most favorable to the complainant, there is no reasonable basis to find that the respondent committed the alleged prohibited conduct, the investigator will make the threshold determination that there is not sufficient evidence to advance the Formal Complaint to a hearing. The proceedings will be terminated, the Formal Complaint dismissed, and the parties so notified.

If the investigator makes a threshold determination that there is not sufficient evidence to advance the Formal Complaint to a hearing, the investigator will provide the parties with a written decision explaining the threshold determination.

The complainant will be given an opportunity to seek review by a Hearing Panel. The complainant must commence the review within ten (10) business days by submitting a letter explaining why they think the threshold determination is erroneous and including any written evidence in support of their position. The materials should be submitted to the Weill Cornell Title IX Coordinator, who will forward them to the Hearing Panel and Hearing Chair (who provides guidance to the Hearing Panel but does not have a vote in a decision). The respondent will be informed that a request for review has been filed and provided a copy of the complainant's letter and any supporting materials.

The Hearing Chair in consultation with the Hearing Panel will establish a reasonable process and timeline for handling the matter. The respondent will be given an opportunity to respond to the complainant's request for review.

The Hearing Panel will conduct its review based upon a standard of clearly erroneous, meaning that the Hearing Panel will not disturb the threshold determination by substituting its own judgment for the judgment of the investigator unless the Hearing Panel determines that the threshold determination was clearly in error.

If the Hearing Panel determines that the threshold determination was clearly erroneous, the



Formal Complaint will be reinstated and resolved according to these procedures.

If the Hearing Panel determines that the threshold determination was not clearly erroneous, it will affirm the threshold determination.

The Hearing Panel will provide a written decision to the parties and the Weill Cornell Title IX Coordinator. The decision of the Hearing Panel is final; there is no right to appeal.

24. THE PARTIES' PARTICIPATION IN THE INVESTIGATION AND HEARING

Both the complainant and the respondent may decline to participate in the investigation and/or hearing. However, Weill Cornell may continue without a party's participation, reaching findings and issuing sanctions. Additionally, a party's decision not to participate in the investigation will limit the party's ability to participate in the hearing, as explained below.

A. Declining to Participate in the Investigation

If a party declines to participate in investigative interviews deemed necessary by the investigator, the party will forfeit the opportunity at the hearing to give a written opening statement, testify, and give oral and written closing statements.

Nonetheless, if a party who has so declined to participate in investigative interviews later seeks to participate in a hearing, the Hearing Chair, in his/her discretion may permit the party to participate upon a finding that there was a compelling reason for the nonparticipation. If the Hearing Chair permits the party to participate in the hearing, the Hearing Chair will first reschedule or adjourn the hearing for the investigator to interview the party, conduct any follow-up investigation, and supplement and revise the investigative record and report. The Hearing Chair will also re-open the pre-hearing submission process so that the parties may respond to the new information.

B. Declining to Attend or Participate in the Hearing

Neither party is required to attend a hearing for the hearing to proceed. If, despite being notified of the date, time, and location of the hearing, either party is not in attendance, the hearing may proceed and applicable sanctions may be imposed.

The parties are not required to testify at a hearing and the Hearing Panel will not draw a negative inference from a party's silence. However, where a party declines to testify, the Hearing Panel's ability to hear information necessary to make an informed decision in that party's favor may be



limited.

In the Hearing, if a party or witness does not submit to cross-examination at the hearing, the Hearing Panel must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

25. HEARING, GENERALLY

A. Overview

Findings of responsibility and determinations regarding sanctions and remedies are made through a hearing process conducted by a three (3) member Hearing Panel and a non-voting Hearing Chair.

The hearing is intended to provide the parties with a fair opportunity to present relevant information to the Hearing Panel that has not been included in the investigator's report and enable the Hearing Panel to make informed decisions regarding responsibility and sanctions/remedies.

The parties are entitled to provide brief written opening and closing statements and oral and written closing statements and to testify.

The parties are also entitled to propose questions/topics for those testifying through a pre-hearing submission process explained below.

The parties will also be asked to submit a written or recorded Impact/Mitigation Statement, which may be submitted up to the start of the hearing.

Throughout the hearing, the parties with their advisor(s) and support person, if applicable, will be in separate rooms.

The parties may never directly address each other.

B. Presumption of Non-Responsibility and Standard of Proof

The respondent will be presumed "not responsible" unless and until a Hearing Panel determines the respondent is responsible. Weill Cornell bears the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility.



The Hearing Panel will determine whether the respondent is responsible by a majority vote using a preponderance of the evidence standard. This means that to find the respondent responsible for any prohibited conduct, a majority of the Hearing Panel must be satisfied, based upon the hearing record, that it is more likely than not that the respondent committed all of the elements of the alleged prohibited conduct. If the Hearing Panel does not find the respondent responsible for any prohibited conduct under Policy 6.4, it will dismiss the case. If the Hearing Panel finds that the respondent is responsible under Policy 6.4, it will consider appropriate sanctions and remedies.

C. Positions of Hearing Panel and Hearing Chair

The Hearing Panel will include faculty and/or senior administrative members selected by Weill Cornell.

The position of Hearing Chair will be filled through an appropriate process established by Weill Cornell. The Hearing Chair and Hearing Panel members will be selected from a group of trained faculty and senior administrative personnel. The Hearing Chair and Hearing Panel members will receive annual training as required by law.

The Hearing Chair will draft the Hearing Panel decision, reflecting the Hearing Panel's findings of fact and rationales for their determination regarding both responsibility and sanctions and remedies. The Hearing Chair will obtain the Hearing Panel's approval before issuing a written decision. Given this significant role, the Hearing Chair will be non-voting.

1. Where the responding party is a medical student: The Hearing Panel will consist of three (3) members, including at least two (2) of whom are members of the faculty of the Medical College holding MD degrees.
2. Where the responding party is a graduate student: The Hearing Panel will consist of three (3) members, including at least two (2) of whom are members of the faculty of the Graduate School of Medical Sciences.

D. Hearing Notice

At the completion of an investigation, if a case is referred to a Hearing Panel for a hearing, a Notice of Hearing will be sent to the parties as soon as practical. The notice will include the charges at issue; a brief summary of the alleged prohibited conduct; and, if determined, the date, time, and place of the hearing; the names of the Hearing Chair; and the Hearing Panel members. If the notice does not include the name of the Hearing Chair, Hearing Panel members, or date, time, and location of the Hearing, the parties will be so notified, in writing, at a later time, prior to the hearing.



All efforts will be made to provide the hearing notice no later than seven (7) business days prior to the hearing and to schedule the hearing as soon as practicable.

Upon receipt of written notice of the Hearing Panel members, if a party believes that they have a potential conflict of interest with either a Hearing Panel member or Hearing Chair, the party should notify the Weill Cornell Title IX Coordinator, who will forward the notification to the Hearing Chair. The notification must be in writing, made within two (2) business days of the notice, and include facts substantiating the claim of conflict. The Hearing Chair has discretion whether to remove a member of the Hearing Panel or to recuse themselves.

E. Request to Reschedule Hearing

Either party may request to have a hearing rescheduled. Absent extenuating circumstances, requests to reschedule must be submitted to the Weill Cornell Title IX Coordinator at least five (5) business days prior to the hearing. A request to reschedule a hearing must be supported by a compelling reason for the delay. Given the number of individuals involved in a hearing, and the attendant difficulty of scheduling and rescheduling them in a timely manner, it may not be possible to accommodate all scheduling requests. The Hearing Chair may also reschedule the hearing, without a request by the parties, when there is reasonable cause to do so.

F. Pre-Hearing Submissions by the Parties

Prior to a hearing, the parties will be asked in writing by the Weill Cornell Title IX Coordinator to make certain decisions and requests regarding the conduct of the hearing. This process is designed to ensure that the hearing is conducted in as equitable, respectful, and efficient a manner as possible.

There are two stages at which the parties may be asked to make Pre-Hearing Submissions.

- First, the parties will be asked to submit in writing (1) opening statements and (2) names of any proposed witnesses.
- Second, once witnesses are approved, the parties will be asked to submit in writing any proposed questions or topics for individuals who might testify, as explained below.

All submissions are optional but waived if not completed by the stated deadlines, including any approved extensions.

Prior to the hearing, the Title IX Coordinator will distribute each party's Pre-Hearing submissions to the other party for review.



1. First Pre-Hearing Submission – Written Opening Statements and Witness Requests

First, the Weill Cornell Title IX Coordinator or designee will provide the parties and Hearing Panel with copies of the final investigative record and report. At the same time, the Weill Cornell Title IX Coordinator or designee will instruct the parties, in writing, that they have the opportunity to prepare a written opening statement and submit a written list of proposed witnesses.

The parties will be given five (5) business days for such submissions.

Within the five (5) business days, the parties may request extensions that will be granted, if reasonable, at the discretion of the Hearing Chair. Any extension granted to one party will be granted to the other party.

Delays simply to prolong the process will not be permitted.

i. Written Opening Statements

The parties may prepare a written opening statement, not to exceed 2500 words.

These statements are the parties' opportunity to tell the Hearing Panel why it should find in the party's favor. These statements must be signed by the parties.

The parties may not add or address information not contained in the investigative record, as new information will not be considered. Nor may the parties address issues that pertain to sanctions and remedies. The Hearing Panel does not consider these issues when determining responsibility. The parties may appropriately raise such issues in the Impact/Mitigation Statements. The parties should include specific page citations to the final investigative record.

ii. Witness Requests

All interview statements contained in the final investigative record become part of the hearing record and are before the Hearing Panel. If a party wants the Hearing Panel to hear directly from a witness, the party must submit a written request.

Such a request should include:

1. The names of proposed witnesses, including the investigator, if the party requests that the investigator testify.



2. For each proposed witness, an explanation of why the individual's presence is relevant and helpful to the Hearing Panel in determining responsibility. Put another way, the party should explain why the witness's interview statement contained in the final investigative report is not sufficient for the Hearing Panel to make its finding.
3. The parties are encouraged to include proposed questions for or general topics to be addressed by each witness. The parties will have an opportunity to supplement and revise their requests for questions and topics once they learn who will testify at the hearing. However, by indicating proposed questions and topics at this juncture, the parties will help the Hearing Chair and Hearing Panel understand why the parties would like to hear from specific individuals. The parties may request only witnesses who were interviewed by the investigator during the investigative process.

2. Second Pre-Hearing Submission – Questions and Topics

The Hearing Chair and Hearing Panel will review the parties' witness requests. After consultation with the Hearing Panel, the Hearing Chair will rule on the parties' requests. The Hearing Chair, in consultation with the Hearing Panel, may call witnesses not requested by the parties.

The parties will be provided with a witness list and informed in writing that they have an opportunity to propose, also in writing:

1. Questions and topics for the witnesses. The parties may:
 - a. revise and supplement any questions and topics they already submitted and
 - b. propose new questions and topics.
2. Questions and topics for themselves and the other party. The parties are not required to commit to testifying at this juncture, but are encouraged to prepare for the eventuality that they and the other party would testify by submitting proposed questions and topics.

The Hearing Panel will establish a reasonable deadline for the submissions, typically no longer than five (5) business days.

Within the deadline established by the Hearing Chair, the parties may request extensions that will be granted, if reasonable, at the discretion of the Hearing Chair. Any extension granted to one party will be granted to the other party. Delays simply to prolong the process will not be permitted. In exceptional circumstances, the Hearing Panel, may permit late requests only where the necessity for such could not have been reasonably anticipated in advance.

The Hearing Chair, in consultation with the Hearing Panel, will determine which of the parties' requested questions will be asked or topics covered. The Hearing Chair will approve in substance



all questions or topics are relevant and non-cumulative and not prohibited by these procedures or applicable laws, unduly prejudicial, or cumulative of other evidence. At the hearing, the parties will have an opportunity to propose reasonable additional questions and topics.

The Hearing Panel and Hearing Chair will be permitted to ask their own questions.

G. Impact/Mitigation Statement

The parties will be permitted, but not required, to prepare a written or recorded Impact/Mitigation Statement relevant to any sanctions. The parties may submit the statement up until the start of a hearing. The statement would be distributed to the Hearing Panel only if the Hearing Panel finds the respondent responsible. The statements would be distributed to both parties only upon a finding of responsibility, and, in that instance, when the Weill Cornell Title IX Coordinator distributed the Hearing Panel's written decision to the parties.

H. Hearing Process and Format

All hearings will be private. The only persons present will be the parties, their advisor(s) and support person, witnesses (when testifying), the Hearing Panel and Hearing Chair, the investigator, and any staff or Weill Cornell administrative employee necessary for the conduct of the hearing.

The parties with any advisors and support persons will be in separate, private rooms, except during cross-examination, as explained in greater detail in Section 25.H.1 ("Testimony and Cross-Examination").

The parties will participate remotely via a secure audio-visual connection, with the exception that when a party testifies and gives their oral closing statement, generally, they should do so in the presence of the Hearing Panel and Hearing Chair; and may be accompanied by their advisor(s) and support person(s).

Witnesses may be present only for their own testimony.

The Hearing Chair, in consultation with the Hearing Panel, may establish reasonable time limits, rules, and format, providing the parties with equal opportunities to participate. The Hearing Chair may adjourn the hearing, once commenced, and later reconvene the hearing in consideration of factors including, but not limited to, the unavailability of a witness, party, Hearing Chair, Hearing Panel member, or needed personnel; inclement weather; or in other to make an evidentiary or procedural ruling.



Formal rules of evidence will not apply.

Evidence that was excluded or redacted from the investigative record as impermissible under these procedures or applicable law will not be admissible at the hearing.

Typically, the format of the hearing will be as follows:

- Introduction of the Hearing Chair, Hearing Panel Members and identification of all Weill Cornell personnel present. The Hearing Chair will explain the hearing process, address any necessary procedural issues, and answer questions.
- Testimony by the complainant.
- Testimony by the respondent.
- Testimony by witnesses, if any.
- Closing statements by the complainant followed by the respondent.

1. Testimony and Cross-Examination

Testimony is conducted through a question-and-answer format.

Questioning will primarily be conducted by the Hearing Panel, but the Hearing Chair may supplement the Hearing Panel's questioning. The Hearing Chair will ask persons being questioned to affirm that they will testify truthfully.

Both the complainant and the respondent may testify or decline to testify and to make their election when their turn to testify arises.

If an individual testifies, they are expected to answer all questions asked.

At the conclusion of testimony by any individual, there will be a brief adjournment so that the parties may propose supplemental and follow-up questions, which may be approved at the discretion of the Hearing Chair, in consultation with the Hearing Panel. A party who testifies will be given full opportunity to propose supplemental questions that they wish to answer. The Hearing Chair, in consultation with the Hearing Panel, reserves the right to call a witness not on the witness list but previously interviewed by the investigator. In such case, the parties will be given time to propose questions for the witness.

If a party proposes a witness not requested prior to the hearing, but interviewed by the investigator, the Hearing Chair, in consultation with the Hearing Panel, may grant the request where the necessity for such could not have been reasonably anticipated in advance.

There is a right to cross-examination in the Hearing.



In the Hearing:

- Each party's advisor is permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice.
- Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other questions, the Hearing Chair must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's sexual predisposition or prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- If a party or witness does not submit to cross-examination at the live hearing, the Hearing Panel must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Hearing Panel cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

2. Closing Statements

The parties may provide both oral and written closing statements.

This is the opportunity for the parties to marshal the evidence in the hearing record and suggest inferences and conclusions. The parties may comment only upon information already in the hearing record, as new information will not be considered. Nor may the parties address issues that pertain to sanctions and remedies. The Hearing Panel does not consider these issues when determining responsibility. The parties may appropriately raise such issues in their Impact/Mitigation Statements.

The Hearing Chair will establish a time limit for brief oral closing statements, typically around five (5) minutes.

The Hearing Chair will also set the schedule for submission of written closing statements. The parties should assume that deliberations will commence immediately following the hearing, in



which case the parties will be expected to submit written closing statements shortly after the oral closing statements. If there is an adjournment for deliberations, the Hearing Chair may provide the parties with limited additional time to submit their statements.

Each party's written statement will be limited to 2000 words and to the evidence contained in the investigative record and hearing. The written statements will be distributed to the other party, Hearing Chair, and Hearing Panel for their review.

These statements must be signed by the parties.

I. Deliberations on Findings of Responsibility

After closing arguments, the Hearing Panel may begin its deliberations. Deliberations will be in private and they will not be audio-recorded. The Hearing Chair may participate in deliberations but may not vote. The Hearing Panel may consult with appropriate Medical College officials, including but not limited to the Office of University Counsel. The Hearing Panel will make its decision based upon a majority vote. Deliberations will be completed as expeditiously as reasonably possible.

J. Deliberations on Sanctions and Remedies

A Hearing Panel that finds a respondent responsible will continue its deliberations to consider sanctions and remedies.

It will issue its findings on responsibility and sanctions/remedies simultaneously.

Prior to deliberating on sanctions and remedies, the Hearing Chair will distribute to the Hearing Panel any written or recorded Impact/Mitigation Statement previously submitted by the parties, subject to any redactions required by law.

If the respondent has a prior disciplinary record from Weill Cornell or another institution, or a known arrest record, criminal conviction, order of protection or similar conduct, prior to deliberating on sanctions and remedies, the Hearing Chair will also distribute to the Hearing Panel a copy of such records. (Where an educational record, including a Weill Cornell disciplinary record, is being considered solely for sanctions, it will not be shared with the complainant.)

Deliberations will be in private and they will not be audio-recorded.

Deliberations will be completed as expeditiously as possible.



The Hearing Chair may participate in deliberations but may not vote.

The Hearing Panel will determine sanctions and remedies by a majority vote.

In determining sanctions and remedies, the Hearing Panel will consider:

- the severity of the prohibited conduct;
- the circumstances of the prohibited conduct;
- the impact of the prohibited conduct and sanctions and remedies on the complainant;
- the impact of the prohibited conduct and sanctions and remedies on the community;
- the impact of the prohibited conduct and sanctions and remedies on the respondent;
- prior misconduct by the respondent, whether at Weill Cornell or elsewhere, and any criminal convictions;
- the goals of Policy 6.4 and these procedures; and
- any other mitigating, aggravating, or compelling factors.

The Hearing Panel may impose one or more of the following sanctions and remedies:

- Measures designed to restore or preserve equal access to Weill Cornell's educational program or activity, similar in kind to the Supportive Measures specified under these procedures.
- Appropriate educational steps (such as alcohol or drug education, reflection papers, counseling, or directed study).
- Restrictions or loss of specified privileges at the Weill Cornell for a specified period of time.
- Oral warnings.
- Written reprimands.
- Probation for a stated period.
- Suspension from Weill Cornell for a stated period, or indefinitely with the right to petition the Hearing Panel in writing at any time for readmission after the academic term following the academic term in which the suspension occurred.
 - Such petition will be submitted to the Weill Cornell Title IX Coordinator or designee no later than four (4) months before the proposed date of readmission.
 - If the Weill Cornell Title IX Coordinator agrees with the respondent's petition, after consulting with appropriate professional colleagues and receiving approval of the Senior Associate Dean for Education (for return to the Medical College) or Dean of the GSMS (for return to GSMS), the Weill Cornell Title IX Coordinator may permit the readmission without the petition being considered by the Hearing Panel.



- If the petition is denied, the respondent may not petition for six (6) months.
- While on such suspension, the student may not obtain academic credit at Cornell or elsewhere toward the completion of a Cornell degree.
- Dismissal (i.e., expulsion) from Weill Cornell.

The Hearing Panel may also recommend to the Weill Cornell Title IX Coordinator or designee that Weill Cornell take measures on campus to remedy the effect or prevent the reoccurrence of such prohibited conduct.

Sanctions and remedies will be effective immediately unless otherwise specified by the Hearing Panel.

K. Hearing Panel Decision

The Hearing Panel will issue a written decision as expeditiously as possible upon completion of deliberations. The Weill Cornell Title IX Coordinator will provide the written decision to the parties simultaneously and as soon as practicable.

The decision will include:

- the procedural steps taken during the investigation,
- the specific prohibited conduct for which the respondent was found responsible and not responsible with identification of the allegations potentially constituting Title IX sexual harassment,
- the findings of fact and the rationale for the Hearing Panel’s determinations regarding both responsibility and sanctions,
- whether remedies designed to restore or preserve equal access to Weill Cornell’s education program or activity will be provided by Weill Cornell to the complainant, and
- any dissenting opinion.

The decision may incorporate and reference any portions of the proceedings, including the investigative record and report, as the Hearing Panel deems appropriate.

The decision will include instructions and time limits for appeals.

Both the complainant and the respondent will be informed simultaneously of any sanctions and remedies, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements.

The imposition of sanctions will take effect immediately.



L. Hearing Record

An audio recording will be made of all hearings, but not of deliberations. The parties may listen to the audio recording of the hearing during business hours at a secure and private campus location with access facilitated by the Title IX Coordinator. As determined necessary in the discretion of the Title IX Coordinator (e.g., while in remote learning and work environments) and subject to restrictions, the audio recording may be provided to the parties to listen to at a secure and private non-campus location.

In the event of any failure rendering the audio recording of the hearing inaudible in whole or in part, the record will be recreated as necessary, whether in its entirety or for any inaudible portions, with input from the parties, any witnesses whose testimony is at issue, the Hearing Panel, and Hearing Chair. Such failure will not constitute grounds for appeal.

Individuals appearing before the Hearing Panel, whether as a party or witness, are prohibited from recording any portion of the hearing.

Hearing Panel members are also prohibited from recording any portion of the hearing. Immediately following the conclusions of deliberations and issuance of the Hearing Panel's determination on responsibility, and, if any, sanctions, Hearing Panel members and the Hearing Chair will destroy any notes they took during the hearing.

The hearing record will include: the audio recording of the hearing, the Hearing Panel's decision, the final investigative record and report, the parties' pre-hearing submissions, the written witness list, written opening and closing statements, written submissions permitted by these procedures made to the Hearing Chair or during the hearing, and the parties' Impact/Mitigation Statements. The hearing record may also include a transcript of the hearing.

26. APPEAL OF A HEARING PANEL DECISION

Both the party-complainant and the respondent may appeal a decision of the Hearing Panel. A non-party complainant may not appeal the decision of the Hearing Panel.

All appeals will be heard by a three (3) member Appeal Panel that includes a Senior Associate Dean or designee, Dean of GSMS or designee and a trained faculty member or another Senior Associate Dean as the third member.

No person who served on the Hearing Panel will sit on the Appeal Panel in the same case.



All appeals will be based solely upon the case record, which includes the hearing record and any supplemental materials. When relevant to a stated ground for appeal, the Appeal Panel may supplement the record on appeal with evidentiary materials excluded or redacted from the investigative record or newly discovered evidence. If the Appeal Panel reverses a finding of not responsible, the record on appeal will be supplemented with the parties' Impact/Mitigation Statements.

The parties may listen to the audio recording of the hearing during business hours at a secure and private campus location, with access facilitated by the Weill Cornell Title IX Coordinator.

Appeals may be brought only upon one or more of the following grounds:

1. The sanctions or remedies are not commensurate with the injury/violation or are unjust.
2. A Weill Cornell official or officials, including the Hearing Panel, assigned responsibility for performing specific functions by these procedures violated the fair application of relevant Weill Cornell or University procedures and such violation may have had a prejudicial effect upon the outcome. This includes conflict of interest or bias.
3. A Weill Cornell official or officials, including the Hearing Panel, assigned responsibility for performing specific functions by these procedures committed a prejudicial error in interpreting Policy 6.4 or these procedures.
4. The Hearing Panel rendered a decision that is clearly erroneous.
5. New evidence was discovered after the decision that could not have readily been discovered before the decision, which would probably change the outcome.

The appealing party commences an appeal by submitting a written statement to the Weill Cornell Title IX Coordinator within ten (10) business days of service of the Hearing Panel's decision.

The appeal statement must set forth:

- the determination(s) being appealed,
- the specific ground(s) for the appeal, and
- the facts supporting the grounds.

The appeal statement will be limited to 3500 words.

Failure to submit an appeal within the ten (10) business days or any approved extension constitutes waiver of the right to appeal.

Within the ten (10) business days, the appealing party may request an extension of time by



submitting a request to the Weill Cornell Title IX Coordinator explaining the reason(s) for the request. The Appeal Panel will have discretion to grant such a request upon a finding of good cause for the delay.

A copy of the appeal statement will be provided to the other party, who, within ten (10) business days may submit a written response to the Weill Cornell Title IX Coordinator. The response should address both the specific ground(s) for appeal set forth in the appealing party's statement and the specific facts asserted by the appealing party. The response will be limited to 2500 words.

The Appeal Panel will establish a reasonable schedule for issuing a written decision, typically no later than thirty (30) business days after receipt of the non-appealing party's submission or the time for submission has expired.

The decision will be final and binding on all parties.

Any decision will be based solely upon the hearing record and, in appropriate cases, upon a showing of new evidence relevant to the ground for appeal.

The decision must be by a majority vote of the Appeal Panel and will include the rationale for the Appeal Panel's decision and any dissenting opinion.

Findings of fact will not be set aside unless clearly erroneous.

Harmless error will be ignored.

The Appeal Panel may affirm the decision of the Hearing Panel or sustain any of the above-specified grounds for appeal, in which case the Appeal Panel may:

- reverse a finding;
- change a sanction or remedy;
- remand a case to the original Hearing Panel for clarification or reconsideration consistent with the Appeal Panel's decision, if doing so would assist with a timely, practicable, and efficient resolution of the case;
- remand a case to the original Hearing Panel if possible for a new hearing or remand a case to a newly composed Hearing Panel; or
- remand a case to the original investigator if possible for a new investigation or remand a case to a new investigator if there were procedural violations in the investigation.

If the Appeal Panel calls for new evidence, if possible, it will remand the case to the Hearing



Panel from which it originated for a new hearing.

Upon remand from the Appeal Panel, as necessary and possible, a Hearing Panel may remand a case to the investigator from which it originated for further investigation.

27. REQUEST FOR A STAY PENDING APPEAL

The Appeal Panel has discretion to stay any sanctions pending a final decision on the appeal. The Appeal Panel may, but is not required, to stay a sanction where the appealing party demonstrates the need for a stay by a clear showing.

An application for a stay must be submitted to the Weill Cornell Title IX Coordinator. The Weill Cornell Title IX Coordinator will provide a copy of the stay application to the Appeal Panel and the other party, who is entitled to respond to the stay application by submitting to the Weill Cornell Title IX Coordinator a written response.

The Appeal Panel will set a reasonable timeline for handling the stay application, including a deadline for the other party to respond to the stay application.

The Appeal Panel has discretion to reconsider its decision on a stay at any time during the appeal. The stay expires at the conclusion of the appeal.

28. ACADEMIC TRANSCRIPT NOTATIONS AND WITHHOLDING OF DEGREES

Pursuant to Weill Cornell policy for all student disciplinary matters, the following actions shall result in a transcript notation for a student:

- dismissal (i.e., expulsion),
- suspension,
- withdrawal after a finding of responsibility, and
- withdrawal while a matter is pending.

In the event that there is a finding of responsibility, but a sanction other than dismissal, suspension or withdrawal, the Hearing Panel, in its discretion, may recommend including a transcription notation for a student. See Weill Cornell's Transcript Notation Policy, https://medicaleducation.weill.cornell.edu/sites/default/files/transcript_notation_policy.pdf

A finding of responsibility includes a finding made by a Hearing Panel, a formal admission of responsibility by the respondent to prohibited conduct, and an acknowledgement by the



respondent, pursuant to an Alternate Resolution agreement, of sufficient evidence to support a finding of responsibility.

If the underlying finding of responsibility is vacated for any reason, the transcript notation will be removed.

Weill Cornell may withhold awarding a degree otherwise earned until the adjudication process set forth in these procedures is complete, including the satisfaction of any sanctions imposed.

29. RESTORING RESPONDENT’S REPUTATION UPON A DISMISSAL OF A FORMAL COMPLAINT

Upon completion of all proceedings, including any appeals, if a Formal Complaint has been dismissed, where appropriate, the Weill Cornell Title IX Coordinator or designee will attempt to restore the reputation of the respondent. To the extent permissible by law and Weill Cornell policy, the Weill Cornell Title IX Coordinator or designee may take such steps as deleting records and, unless the respondent prefers otherwise, notifying persons who participated in the proceedings of the dismissal of the outcome.

