

**Interim Policy:
Expires 1/31/17**

Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence

Volume: 6, Human Resources
Chapter: 4, Prohibited
Discrimination, Protected-Status
Harassment, Sexual Harassment,
and Sexual Assault and Violence
Responsible Executives: Provost/
Vice President and Chief Human
Resources Officer/Vice President
for Student and Campus Life
Responsible Offices: Workforce
Policy and Labor Relations/Office
of Judicial Administrator/
Department of Athletics and
Physical Education
Originally Issued: July 8, 1996
Interim Effective Date: August 1,
2016

◆ **Note:** The procedures contained in this policy do not apply where the respondent is a student who is alleged to have committed dating violence, domestic violence, sexual assault, sexual exploitation, sexual and gender-based harassment, stalking, aiding prohibited conduct, attempting to commit prohibited conduct, retaliation, and violating an interim order. For procedures applicable to student respondents go to titleix.cornell.edu/procedure/fulltext.

POLICY STATEMENT

Cornell University prohibits its faculty, administrative and academic staff members, postdocs, and undergraduate and graduate students from engaging in any form of prohibited discrimination, protected-status harassment, sexual harassment, and sexual assault/violence, and expects these individuals to refrain from committing acts of discrimination, bias, or sexual assault/violence within the university's jurisdiction. In compliance with applicable federal, state, and local legislation, and university policy, the university maintains processes to provide redress and remediation to individuals or groups who believe they have been the victims of these acts, including the identification of Title IX coordinators, who oversee all Title IX complaints and take steps to identify and address any patterns or systemic problems that arise during the review of such complaints. Colleges, departments, and programs may be required to have additional internal processes addressing these matters and are advised to consult with a Title IX coordinator to make sure their processes are consistent with university policy. Members of the university community who have relevant information must cooperate with the university's investigations into prohibited discrimination, protected-status harassment, or bias activity.

REASON FOR POLICY

The university's goal of a diverse and inclusive environment includes a commitment to maintain a university environment that is safe and free from prohibited discrimination, protected-status harassment, sexual harassment, and sexual assault/violence. The university has adopted policies in support of this goal and complies with all applicable federal, state, and local laws. Acts of discrimination, protected-status harassment, sexual harassment, and sexual assault/violence undermine the university's mission and commitment to inclusiveness by threatening the careers, educational experience, and well-being of those associated with the university. The sexual harassment or sexual

POLICY 6.4

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assault/violence of students interferes with students' rights to receive an education free from discrimination and, in the case of sexual assault/violence, is a crime. This policy provides expectations for a work and educational environment free from discrimination, harassment, and sexual assault/violence, and provides a process for addressing matters that impact those expectations.

ENTITIES AFFECTED BY THIS POLICY

-
- All units of the university. Weill Cornell Medical Center and Graduate School of Medical Sciences will administer this policy under Weill Cornell procedures.

WHO SHOULD READ THIS POLICY

-
- All members of the Cornell University community

WEB ADDRESS FOR THIS POLICY

-
- This policy: www.dfa.cornell.edu/tools-library/policies/prohibited-discrimination-protected-status-harassment-sexual-harassment-and
 - University Policy Office: www.policy.cornell.edu
 - ◆ Note: For procedures that apply when the respondent is a student who is alleged to have committed dating violence, domestic violence, sexual assault, sexual exploitation, sexual and gender-based harassment, stalking, aiding prohibited conduct, attempting to commit prohibited conduct, retaliation, and violating an interim order, see titleix.cornell.edu/procedure/fulltext.

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CONTENTS

Policy Statement	1
Reason for Policy	1
Entities Affected by this Policy	2
Who Should Read this Policy	2
Web Address for this Policy	2
Contents	3
Related Resources	5
Principles	7
Overview	7
Conduct Not Covered By this Policy	7
Prohibited Discrimination	8
Protected-Status Harassment	8
Sexual Violence	10
Bias Activity	10
Disciplinary Action	11
Duty to Cooperate with Investigations	11
Duty to Consult with an Appropriate University Official: Potential Title IX Violations	11
Confidentiality	11
Obtaining Protection from Retaliation and Bad-Faith Complaints	12
Special Provisions for Students	13
Procedures – Applying Appropriate Procedures where the Respondent is a Cornell Faculty or Staff Member, Ithaca Campus Units	15
Procedures – Prohibited Discrimination and Protected-Status (Including Sexual) Harassment, where the Respondent is a Cornell Faculty or Staff Member, Ithaca Campus Units	16
Overview: Ways to Address Concerns	16
Seeking Advice and Assistance	16
Informal Resolutions	19
Mediating a Complaint	19
Filing a Complaint: Internally Versus Externally	20
A. Initiating an Internal Formal Complaint	20
B. Time Limits for Filing a Formal Internal Complaint	21
C. Processing a Formal Internal Complaint	22
D. Interim Measures	22
E. Investigating an Internal Formal Complaint	23
F. Resolution by Agreement	24
G. Investigator’s Report of Investigation Findings	24
I. Dismissing a Complaint	25
J. Complaints Against Faculty: Additional Procedures	26
K. Investigating a Complaint Against Faculty	26
L. Investigating a Complaint Against a Graduate or Undergraduate Teaching or Research Assistant	26

POLICY 6.4

Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence

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CONTENTS, continued

Appeals and Contesting Findings and Grieving Disciplinary Action Arising From an Investigation _____	27
A. Appeals by Complainants _____	27
B. Contesting Final Determination by Reviewer of Complaint Against Faculty _____	28
C. Grievance from Disciplinary Action Resulting From an Investigation of a Complaint Against Faculty _____	30
D. Grievance From Disciplinary Action Resulting From an Investigation of a Complaint Against Staff _____	30
E. Appeals by Respondent Students _____	30
Contacts – Ithaca Campus Units _____	32
Definitions _____	36
Responsibilities – Ithaca Campus Units _____	43
Appendix A: Title IX Mediation and Complaint Resolution Procedure for Intercollegiate Athletics _____	48
Title IX Mediation and Complaint Resolution _____	48
Title IX Mediation and Complaint Resolution Procedure _____	48
Appendix B: The Investigation Process _____	50
The Investigation Process: Features and Steps _____	50
Appendix C: Adjudicating Contested Investigatory Charges and Recommended Sanctions in Discrimination or Harassment Cases _____	52
I. General Provisions _____	52
II. Informal Proceedings _____	54
III. Formal Hearings _____	54
IV. Decision and Report _____	55
Appendix D: Examples of Prohibited Discrimination and Protected-Status (Including Sexual) Harassment _____	57
Prohibited Discrimination _____	57
Appendix E: Process for a Complaint of Sexual Assault or Sexual Harassment If the Accused Is a Staff Member _____	59
Appendix F: Process for a Complaint of Sexual Assault or Sexual Harassment If the Accused Is a Faculty Member _____	60
Appendix G: Process for a Complaint of Sexual Assault or Sexual Harassment If the Accused Is a Student _____	61
Index _____	62

Cornell Policy Library
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RELATED RESOURCES

University Policies and Documents

[University Policy 4.6, Standards of Ethical Conduct](#)
[University Policy 4.7, Retention of University Records](#)
[University Policy 4.9, Legal Defense and Indemnification](#)
[University Policy 5.1, Responsible Use of Information Technology Resources](#)
[University Policy 6.2.10, Establishment of College-Level Academic Grievance](#)
[University Policy 6.11.3, Employee Discipline \(Excluding Academic and Bargaining-Unit Staff\)](#)
[University Policy 6.13, Disability Accommodation](#)
[University Policy 6.13.8, Religious Accommodation](#)
[Human Resources Policy 6.11.4, Staff Complaint and Grievance Procedure](#)
[Board of Trustees Policy on Equal Educational and Employment Opportunity](#)
[Board of Trustees Policy on Faculty Dismissal](#)
[Campus Code of Conduct](#)
[Code of Academic Integrity](#)
[Collective Bargaining Agreements for Represented Employees](#)
[Cornell University President's Statement on Affirmative Action and Equal Employment Opportunity](#)
[Executive Committee of the Board of Trustees Guidelines: March 13, 1975, amended March 13, 2002](#)
[Faculty Handbook](#)
[Graduate School Code of Legislation](#)
[Handbook for Teaching Assistants at Cornell](#)
[Hotline: Silent Witness Form](#)
[Pay Transparency Policy Statement \(PDF\)](#)
[Open Doors, Open Hearts, and Open Minds: Cornell's Statement on Diversity and Inclusiveness](#)
[Sexual Harassment and Assault Response & Education \(SHARE\)](#)
[Student Disability Grievance Procedure](#)
[Student Employment Policies of the Office of Financial Aid and Student Employment](#)
[Student Handbook](#)
[University Resolution 7-20-11-12 and President's Acceptance](#)
[University Resolution 7 Regarding Campus Code of Conduct Compliance with Title IX and President's Acceptance](#)

External Documentation

[Age Discrimination in Employment Act of 1967](#)
[Charter and Code of Tompkins County, Chapter 92](#)
[Civil Rights Act of 1991](#)
[Code of the City of Ithaca, Pt. II, Ch. 215, Human Rights Protection; Ch 90, Art VIII, Sexual Harassment](#)
[Department of Education Office of Civil Rights April 4, 2011 Dear Colleague Letter](#)

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RELATED RESOURCES, continued

Equal Employment Opportunity Commission's Guidelines on Sexual Harassment
Family Education Rights and Privacy Act (FERPA)
Genetic Information Nondiscrimination Act (GINA) of 2008 (effective November 21, 2009)
New York City Human Rights Law
New York State Human Rights Law
Title IX of the Education Amendments of 1972
Titles VI and VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991
Violence Against Women Act

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PRINCIPLES

Overview

Cornell University's commitment to diversity and inclusiveness is grounded in providing an environment that is free from all prohibited discrimination, protected-status harassment, sexual assault/violence, and bias activity, in particular when such actions are directed at a member or group of the Cornell community because of that individual's or group's actual or perceived age, color, creed, disability, ethnicity, gender, gender identity or expression, marital status, national origin, race, religion, sexual orientation, military or veteran status, or any combination of these or related factors.

Acts of prohibited discrimination and protected-status (including sexual) harassment and sexual violence constitute violations of federal law. Although bias activity may not rise to the level of a statutory violation, it may be prohibited by federal, state, and/or local law. In addition, Cornell University will not tolerate sexual abuse, rape, sexual assault, domestic violence, intimate-partner violence, stalking, sexual coercion, or other forms of sexual violence by or against students, staff members, faculty, alumni, or visitors. Cornell equally condemns such activity and aims to respond to such incidents when they occur within its authority to act. Accordingly, this policy prohibits all members of the university community from engaging in such prohibited discrimination and protected-status harassment, sexual harassment, sexual assault/violence and expects all members of the community to refrain from retaliation. The university establishes an internal university process for presenting and responding to discrimination-related complaints. Members of the university community who have relevant information must cooperate with investigations of such misconduct.

In an ongoing effort to prevent sexual assault/violence, the university provides education and prevention programs for the Cornell community; pursues all complaints of sexual violence; dispenses disciplinary action where appropriate; and provides complainants with information on pursuing criminal or other legal action.

Conduct Not Covered By this Policy

Complaints against alumni, visitors, or those not part of the Cornell community are not covered under this policy, but should be directed to the Cornell University Police Department (CUPD), the complainant's supervisor or local human resources (HR) representative, or the Office of Workforce Policy and Labor Relations (WPLR) for appropriate university response. Complaints regarding inappropriate workplace conduct that is not covered by this policy are considered general employee relations concerns and should be directed to the supervisor, local HR representative or the central Division of Human Resources. This includes, but is not limited to, display,

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PRINCIPLES, continued

download, or distribution of offensive material, such as sexually explicit or bigoted material, whether in hard copy or using university computers or networks, when such actions are not otherwise covered by this policy.

Complaints by faculty of unlawful discrimination in reappointment, promotion, and tenure are governed by appeal procedures set out in the Faculty Handbook.

Complaints alleging misconduct by students that is not covered by this policy are governed by the Campus Code of Conduct and should be directed to the CUPD or the Office of the Judicial Administrator (JA).

Prohibited Discrimination

Prohibited discrimination occurs when an employment or academic decision results in negative and/or different treatment of an individual based upon his or her Equal Education and Employment Opportunity (EEEE)-protected class status. Discriminatory conduct includes decisions in which the EEEEO-protected class status was the sole or a contributing factor. For examples of prohibited discrimination, see appendix D.

Protected-Status Harassment

Protected-status harassment, including sexual harassment, occurs when an individual is targeted with verbal, written, visual, or physical conduct based on that person's EEEEO-protected status that unreasonably interferes with the individual's work or academic performance, or creates an intimidating, hostile, or offensive working or learning environment. The conduct constitutes harassment under any of the following conditions:

1. The conduct is direct.
2. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status.
3. Submission to, or rejection of, such conduct by an individual is used as the basis for an employment or academic decision affecting that person.
4. The conduct is sufficiently severe or pervasive to alter the conditions of the victim's employment or academic pursuits, and creates a work or educational environment that a reasonable person would find abusive.

◆ **Note:** Where the respondent is a student alleged to have committed sexual harassment, go to titleix.cornell.edu/procedure/fulltext for the applicable definition and procedures.

For examples of protected-status harassment, see appendix D.

POLICY 6.4

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PRINCIPLES, continued

Sexual Harassment in the Work Environment

Sexual harassment is a form of protected-status harassment. Unwelcome sexual advances, requests for sexual favors, and other oral, written, visual, or physical conduct of a sexual nature may constitute sexual harassment under one or more of the following conditions:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Because of protections afforded by academic freedom, under item three (3) above, speech and other expression occurring in the context of instruction or research will not be considered sexual 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.
- It persists despite the reasonable objection of the person or persons targeted by the speech.

Sexual Harassment in the Educational Environment

Sexual harassment is a form of protected-status harassment. Unwelcome sexual advances, requests for sexual favors, and other oral, written, visual, or physical conduct of a sexual nature may constitute sexual harassment when one or more of the following conditions are present:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic involvement.
2. Submission to or rejection of such conduct by an individual is used as the basis for academic decisions affecting that individual.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic performance, participation in extracurricular

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PRINCIPLES, continued

activities, or of creating an intimidating, hostile, or offensive educational environment.

◆ **Note:** Where the respondent is a student alleged to have committed sexual harassment, go to titleix.cornell.edu/procedure/fulltext for the applicable definition and procedures.

Because of protections afforded by academic freedom, under item three (3) above, speech and other expression occurring in the context of instruction or research will not be considered sexual 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.
- It persists despite the reasonable objection of the person or persons targeted by the speech.

◆ **Note:** The condition described in item three (3) of both sections above concerning sexual harassment in the work and educational environments involves an objective standard. The question is whether the conduct would interfere with a reasonable person's work or academic performance or participation in extracurricular activities, or would create an intimidating, hostile, or offensive working or educational environment in the mind of a reasonable person.

Sexual Violence

Sexual violence refers to physical acts perpetrated without affirmative consent or when a person is incapable of giving affirmative consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. All such acts of sexual violence are forms of sexual harassment that are covered under Title IX and should be reported as soon as possible to the CUPD, who will take appropriate action and inform the Title IX coordinator and deputy coordinators. Reports may also be made directly to Title IX coordinator and deputy coordinators, if the victim prefers, but the university recommends contacting the CUPD in the first instance.

Bias Activity

Bias activity is defined as an act of bigotry, harassment, or intimidation that occurs on the Cornell campus or within an area that impacts the Cornell community that targets an individual or group based on EEO-protected status. Although bias is not always a violation of the law or of this policy, such behavior does impact the university's commitment to diversity and inclusion.

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PRINCIPLES, continued

Disciplinary Action

Disciplinary action for prohibited discrimination and protected-status harassment, including sexual violence/assault, may include an oral or a written warning, a written reprimand, a requirement to attend training, work restrictions, salary reduction or limitation, suspension, dismissal/termination, community work, fine, probation, educational classes, counseling, papers, directed study, letters of apology, restitution, orders to perform or to stop certain actions, or other educational sanctions.

The appropriate university official determines such action based on the recommendations in the investigation report.

Duty to Cooperate with Investigations

University faculty, staff members, and students must cooperate with investigations of prohibited discrimination and protected-status harassment occurring in the context of employment and academic appointment, and in relation to a university activity. A faculty or staff member or student who has relevant information, but refuses to cooperate after being asked to do so during an investigation, may be subject to disciplinary action. When conducting an investigation, WPLR will advise all concerned parties to maintain the confidentiality of witnesses.

◆ **Note:** If parties choose not to discuss the matter with the investigator, the matter will proceed and could result in an adverse finding or determination.

Duty to Consult with an Appropriate University Official: Potential Title IX Violations

Generally, faculty and staff members have a duty to consult with an appropriate university official when they become aware of potential violations under this policy such as sexual harassment, violence, or assault. These officials include the Title IX coordinator and deputy coordinators, the program manager for Inclusion and Compliance Initiatives, discrimination and harassment advisors, the CUPD, and local HR representatives.

Confidentiality

To ensure the integrity of University Policy 6.4 and its procedures, and to encourage parties and witnesses to participate in University Policy 6.4 matters, the university recognizes that participants should be protected from unreasonable disclosure of their involvement in University Policy 6.4 processes, and of any information they reveal during their participation.

Accordingly, all parties are prohibited from revealing any information they learn in the course of their participation, other than for the purpose of consulting with advisors and attorneys, and incidental to seeking support and advice from family, clergy, health professionals, and others playing a similar role. Parties should instruct any advisors, attorneys, and support persons to keep information confidential.

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PRINCIPLES, continued

Student parties may choose whether to disclose or discuss with others the outcome of a complaint under University Policy 6.4.

The university will provide all parties with written instructions explaining obligations and expectations for confidentiality under this policy. As appropriate, in a given case, a university official, such as the Title IX Coordinator, may issue an order restricting the parties from disclosing specific information.

Other participants, such as witnesses, advisors, attorneys, support persons, and Hearing Panel or Hearing Board members, are prohibited from revealing any information they learn in the course of their involvement in matters under University Policy 6.4. Such participants receive instructions from the university about respecting and safeguarding confidential information and by accepting their roles, agree to comply with university rules regarding confidentiality.

The university will take reasonable measures to protect the confidentiality of proceedings and records. However, the university cannot and does not guarantee that confidentiality will be maintained. Confidentiality does not mean that the university is constrained from divulging facts of proceedings in appropriate circumstances. Additionally, the university may publicly divulge details of an outcome if one of the parties discloses selective or self-serving portions of the proceedings, or when during a lawsuit, a party contests the findings or results of any proceedings.

Failure to maintain confidentiality as required under this policy may constitute a violation of university policies, including Cornell University's Campus Code of Conduct.

Obtaining Protection from Retaliation and Bad-Faith Complaints

Local, state, and federal laws and this policy prohibit any form of retaliation against a person who files or bears witness to a prohibited discrimination or protected-status harassment complaint, or has opposed discriminatory or harassing conduct. Violation of this prohibition may result in disciplinary action.

At the same time, as with any complaint brought in bad faith, an individual who is aggrieved because a complaint was malicious, knowingly false, or fundamentally frivolous, may invoke any applicable disciplinary or grievance procedure that may result in disciplinary action against the party that brings such a complaint.

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PRINCIPLES, continued

Special Provisions for Students

Student Bill of Rights

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by Cornell;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from Cornell courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few Cornell representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by Cornell, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of Cornell;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a complainant, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of Cornell.

Alcohol and Other Drug (AOD) Amnesty

The health and safety of every student at Cornell University is of utmost importance. Cornell recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including, but not limited to, domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Cornell strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to Cornell officials. A bystander

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PRINCIPLES, continued

acting in good faith or a complainant acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Cornell's officials or law enforcement will not be subject to Campus Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault. While no disciplinary action will be taken, Cornell reserves the right to take steps necessary to address health and safety concerns for the individual and the community, as well as the right to report truthfully to licensing bodies.

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PROCEDURES – APPLYING APPROPRIATE PROCEDURES WHERE THE RESPONDENT IS A CORNELL FACULTY OR STAFF MEMBER, ITHACA CAMPUS UNITS

◆ **Note:** Procedures for handling complaints by faculty of prohibited discrimination relating to reappointment, promotion, and tenure are set forth in the Faculty Handbook.

◆ **Note:** See appendices E, F, and G for flow charts of complaint procedures.

If Respondent is a Known Cornell Student Accused of Dating Violence, Domestic Violence, Sexual Assault, Sexual Exploitation, Sexual and Gender-Based Harassment, Stalking, Aiding Prohibited Conduct, Attempting to Commit Prohibited Conduct, Retaliation, and Violating an Interim Order

Apply procedures through the Title IX Office: titleix.cornell.edu/procedure/fulltext.

If Respondent is a Known Cornell Faculty or Staff Member Accused of a Violation of this Policy:

Apply procedures for prohibited discrimination and protected-status harassment under this policy.

If Respondent is a Known Cornell Student Accused of Misconduct Other Than Sexual Harassment, Including Sexual Assault/Violence Under Code of Conduct Title Three, Article II, A.1.a. and A.1.c.:

Apply the [Campus Code of Conduct](#) through the Office of the Judicial Administrator.

If Respondent is Known and Not Covered by the Two Above Categories (e.g., Alumnus/a, Visitors to Campus, Individuals Doing Business on Campus):

The person should be referred to the Cornell University Police Department (255-1111) or Office of Workforce Policy and Labor Relations (equalopportunity@cornell.edu).

POLICY 6.4

Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence

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PROCEDURES – PROHIBITED DISCRIMINATION AND PROTECTED-STATUS (INCLUDING SEXUAL) HARASSMENT, WHERE THE RESPONDENT IS A CORNELL FACULTY OR STAFF MEMBER, ITHACA CAMPUS UNITS

Overview: Ways to Address Concerns

There are four ways to address a concern of harassment or discrimination: seek advice, informal resolution, mediation, or filing a formal internal or external complaint.

Seeking Advice and Assistance

For Information About A Concern of Harassment or Discrimination

Any faculty or staff member, student, or group believing that he, she, or the group has experienced prohibited discrimination, protected-status harassment, sexual harassment, including sexual assault and violence, or retaliation, in the context of employment, academic pursuit or the living/learning environment, is strongly encouraged to seek assistance. The university has a number of resources to help.

For confidential support, seek assistance from:

- Gannett Health Services (medical and mental health providers, students only: 607-255-5155)
- The Faculty and Staff Assistance Program (FSAP) (mental health providers, faculty and staff only: 607-255-2673)
- Cornell United Religious Work Chaplains (CURW) (pastoral counseling: 607-255-6002)
- The Ithaca Advocacy Center's 24/7 hotline (607-277-5000)

Gannett, FSAP, and CURW will not convey any information disclosed in the context of providing medical and/or mental health services or pastoral counseling to the University's Title IX Coordinator or other university officials. The Advocacy Center is independent of Cornell and has no duty to consult with the University. These conversations are kept strictly confidential and, except in extreme, rare circumstances, will not be shared without explicit permission.

Confidential support is also available from:

- The Cornell Victim Advocate (607-255-1212, victimadvocate@cornell.edu)

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- The director of the Women’s Resource Center (WRC) (607-255-0015, womensresctr-mailbox@cornell.edu)
- The director of the LGBT Resource Center (607-254-4987)
- The University Ombudsman (607-255-4321)

The Victim Advocate, directors of the WRC and LGBT Resource Center, and the ombudsman will not convey any identifying information to the University Title IX Coordinator or other university officials. These conversations too are kept confidential and, except in rare circumstances, will not be shared without explicit permission. However, confidential resources will share de-identified statistical or other information regarding sexual assault, domestic violence, dating violence, or stalking with the University’s Title IX Coordinator.

All other resources, as well as most Cornell faculty, staff, and student employees other than those designated “confidential” above have a duty to consult with the Title IX coordinator or a deputy Title IX coordinator once they become aware of any potential incidents of sexual harassment, including sexual assault and violence. However even those who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information provided to a non-confidential resource will be relayed only as necessary for the Title IX coordinator to investigate and/or seek resolution, as may be appropriate given the circumstances and wishes of the complainant. .

- **Role of Title IX Coordinators:** The Title IX Coordinators will provide information on resources for assistance and options to address concerns, including assistance with academic, housing, transportation, employment, and other reasonable and available accommodations. Those options will vary depending on the nature of the complaint, whether the complainant is a student, faculty or staff member, whether the complainant wishes to proceed informally or formally, and the wishes of the complainant regarding confidentiality. The University strongly supports a complainant’s interest in confidentiality in cases involving sexual violence. If complainant wishes to maintain confidentiality or does not wish to move forward with or participate in a formal complaint the University will honor a complainant’s request for confidentiality if doing so does not impact the University’s ability to provide a safe and nondiscriminatory environment for all students,

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PROCEDURES – PROHIBITED DISCRIMINATION AND PROTECTED-STATUS (INCLUDING SEXUAL) HARASSMENT, WHERE THE RESPONDENT IS A CORNELL FACULTY OR STAFF MEMBER ITHACA CAMPUS UNITS, continued

including the complainant. The Title IX Coordinator will evaluate such requests for confidentiality.

Other resources for assistance and advice:

- CUPD (607-255-1111, 911 in the event of emergency)
- The Office of Workforce Policy and Labor Relations (WPLR) (the director of WPLR is also a deputy Title IX: Coordinator) (607-255-6866 or 607-254-7232)
- The Office of the Judicial Administrator (the Judicial Administrator is also a deputy Title IX Coordinator) (607-255-4680)
- The Title IX Coordinator (607-255-3976)
- The Program Coordinator for Diversity and Inclusion Strategies (607-255-1426)
- A discrimination and harassment advisor or local HR representative (for a list of advisors see: www.hr.cornell.edu/diversity/reporting/harassment_advisors.html; for a list of representatives see: https://www.hr.cornell.edu/about/admin_hr.pdf)
- A residential hall director (RHD) or resident advisor (RA)

Reports and inquiries concerning acts of sexual violence or other sexual misconduct also may be directed to nosexualmisconduct@cornell.edu or anonymously using the University Hotline – Silent Witness Form at hotline.cornell.edu.

Cornell has a website dedicated to getting help, reporting incidents, laws and policies, safety resources and education/engagement at: share.cornell.edu.

In addition, New York state offers two hotlines for support. To report a sexual assault on a New York State college campus to law enforcement, call the New York State Police dedicated 24-hour hotline (1-844-845-7269). For confidential support resources other than those listed above, call the New York State Domestic and Sexual Violence hotline (1-800-942-6906).

For emergency assistance, contact the CUPD at (607) 255-1111 or 911.

◆ **Note:** For allegations against a student, non-Cornell community members should contact the Office of the Judicial Administrator or the CUPD. For allegations against a staff or faculty member, non-Cornell community members should contact the CUPD.

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PROCEDURES – PROHIBITED DISCRIMINATION AND PROTECTED-STATUS (INCLUDING SEXUAL) HARASSMENT, WHERE THE RESPONDENT IS A CORNELL FACULTY OR STAFF MEMBER ITHACA CAMPUS UNITS, continued

Informal Resolutions Members of the Cornell community have an option to resolve concerns of prohibited harassment and discrimination without an investigation under this policy by acting through the offices of WPLR and the JA, who will work with the appropriate university officials to achieve a resolution under applicable student, staff employee or academic policy/protocol. If those officials resolve the matter, no complaint may be filed and no appeal may be taken.

Mediating a Complaint Although this step is not required, prior to filing a formal complaint as described below, WPLR and the JA could encourage parties to participate initially in the mediation process. The primary objective of mediation is to permit the parties to resolve the dispute on their own, quickly and confidentially. Both the complaining party or parties and alleged accused must agree to mediation. At any stage during or upon the conclusion of the mediation process, either party may decide to proceed by formal investigation.

◆ **Note:** In cases involving allegations of sexual violence, mediation is not appropriate, even on a voluntary basis, and will not be used to resolve sexual violence complaints.

The mediation process may be particularly suitable when the accused's conduct was unintentional or unknowingly offensive.

If a complaining party and the alleged accused agree to proceed by mediation, a trained individual designated by the vice presidents for Human Resources and Safety Services or Student and Campus Life, or their designee(s), will interview the complaining party to determine the factual allegations on which the charge of discrimination or harassment is based, and the terms satisfactory to the complaining party upon which the complaint may be conciliated. The mediation process must be completed within 20 working days, but is subject to extension by WPLR or the JA as necessary or upon a showing of good cause. Both parties must respect the confidentiality of the mediation process.

If the complaint is mediated successfully, WPLR or the JA will prepare a mediation agreement presenting the agreed-upon terms that comply with university policies and procedures. The two parties must sign the agreement to indicate the dispute is fully and finally resolved. If a party fails to comply with this agreement, the other

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party may seek the intervention of WPLR or the JA, and the agreement may be used as evidence in any subsequent investigations relating to charges of prohibited discrimination or protected-status harassment.

WPLR and the JA will not retain any written record of the mediation process, except the complaint and the successful mediation agreement, which will be made available to the complainant and the accused upon request.

◆ **Note:** For additional information on the mediation process as it applies to individuals participating in intercollegiate athletics, see appendix A.

Filing a Complaint: Internally Versus Externally

A complainant who files a timely, written complaint with WPLR may seek resolution through Cornell's internal process for informal intervention, mediation, or formal investigation. At any time (before or after filing a complaint with WPLR), the complainant is free to file a charge externally, that is, by instituting formal proceedings before a local, state, or federal agency, or by filing a lawsuit.

A. Initiating an Internal Formal Complaint

If the individual or group wishes to pursue the matter beyond informal resolution efforts, he, she, or the group may file a formal complaint with WPLR, which is the only office with authority to investigate and resolve such complaints under this policy:

- WPLR investigates complaints against students, faculty, and staff members.

◆ **Note:** The CUPD may investigate alleged criminal matters and assist in investigations of alleged policy violations.

The complainant may be a single person or several individuals. If there are several individuals, and they cannot agree on an approach or desired outcome, the complaint will be divided into two or more complaints. Each complainant must describe verbally or in writing the alleged act or acts, identify the person or persons purportedly responsible, and indicate the date or approximate date on which the discriminatory, harassing, or retaliatory act or acts occurred.

At the request of the individual or group, the discrimination and harassment advisor, university ombudsman, or other advisor may accompany the complaining individual or group during a complaint investigation.

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◆ **Note:** Complaints will ordinarily only be investigated when the complaining party so elects. In extraordinary circumstances, however, WPLR may determine on its own to investigate particularly serious (such as, coerced sexual acts) and *prima facie*, well-founded allegations, even when the complaining party does not wish to pursue such charges. In such extraordinary circumstances, WPLR will advise the complaining party of steps being taken and, pending completion of the investigation, may also recommend to the appropriate university official interim steps, to protect the safety and well-being of members of the university community. In addition, when the complaining party does not elect to pursue any process under this policy, the appropriate university official may request an investigation under this policy; in such cases, the complaining party may be asked to serve as a witness in the investigation process but shall not be treated as a party with rights of appeal, etc.

If the complainant wants the consultation to remain confidential or "off the record," the university may still have an obligation to take appropriate action while respecting the needs and circumstances of the complainant. However, a complainant may have a privileged and confidential communication with resources on campus, including counseling at Gannett Health Services, Cornell United Religious Network (CURW), and FSAP.

B. Time Limits for Filing a Formal Internal Complaint

Complaints brought by faculty or staff members must be filed with WPLR within six months of the alleged action. Complaints brought by students must be filed with WPLR, depending on the basis of the complaint, within one year of the alleged action, with the following exception: for students bringing a complaint against faculty in the context of a subordinate-supervisory relationship between the faculty member and the student (such as in relation to teaching, advising, research, and thesis or dissertation supervision), a student may file a complaint one year after no longer under the faculty's supervision or three years from the date of the alleged behavior, even if the student is no longer affiliated with the university, whichever is earlier.

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

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C. Processing a Formal Internal Complaint

WPLR has exclusive responsibility for accepting and processing prohibited discrimination and protected-status harassment complaints, including sexual assault/violence, and will undertake to resolve these complaints impartially, promptly, and confidentially, as appropriate through informal intervention, mediation, or formal investigation.

If, after its initial review, WPLR determines that the complaint (a) describes an alleged violation of this policy, it will notify the respondent that he or she has been named in a complaint and proceed under this policy; or, (b) does not describe an alleged violation of this policy, it will notify the complainant that the complaint is dismissed, and the complainant will be informed of his or her right, if any, to appeal under this policy and/or to seek external avenues of complaint resolution.

If the complainant's concerns are unrelated to prohibited discrimination or protected-status harassment, WPLR may refer the complainant to or cooperate with another university office to investigate and/or address such unrelated concerns.

When a complainant does not pursue a complaint that he, she, or the group has filed, WPLR will maintain confidentially materials obtained during the complaint filing for at least three years, or until any external agency investigation or legal action is concluded, whichever is later. These records cannot be considered for any purpose in the mediation, investigation, or adjudication of future discrimination or harassment cases.

D. Interim Measures

Pending resolution of the matter, WPLR may recommend to the appropriate university official under applicable staff or academic policy, or the JA may impose interim measures to protect the safety and well-being of members of the university community. These measures may include no-contact orders, change of housing or place of employment or schedule, change of class schedule or location, change of supervision, temporary suspension, or otherwise. Both parties have the right to request review of interim measures by the appropriate reviewer, be afforded a prompt review, and be allowed to submit evidence in support of their request, all consistent with university policy.

POLICY 6.4

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E. Investigating an Internal Formal Complaint

The purpose of the investigation is to gather evidence relating to the alleged discrimination, harassment, sexual assault/violence, or retaliation to determine whether the accused engaged in conduct constituting discrimination, harassment, or retaliation by a preponderance of the evidence (i.e., it is more likely than not that prohibited discrimination or protected-status (including sexual) harassment or retaliation has occurred.)

The investigator conducts these formal investigations, which must be completed within 60 days, subject to extension by the investigator as may be necessary or for good cause. During investigations, the investigator must keep both parties informed on the investigation's status, as appropriate. The precise features and steps of the investigation process, which is conducted by the investigator, are described in appendix B. Adversarial hearings (including confrontation, cross-examination by the parties, and active advocacy by attorneys) are not permitted during the investigation process.

Throughout the investigative process, the complainant and accused may seek the advice of personal attorneys and advisors (including the discrimination and harassment advisor, Victim's Advocate, and judicial code counselor.) Such representatives may attend their own clients' or advisees' investigative interview, but may not respond to questions for their clients or advisees, and may not pose questions.

Throughout the investigative process, the investigator may consult the provost, vice president for human resources and safety services, vice president for student and campus life, dean of faculty, other appropriate university officials, subject-matter experts, and/or university counsel.

◆ Notes:

1. For additional procedures in relation to investigating complaints against faculty, see "Investigating a Complaint Against Faculty" of these procedures.
2. For additional information on the investigation process as it applies to individuals participating in interscholastic and intercollegiate athletics, see appendix A.

POLICY 6.4

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F. Resolution by Agreement

At any point in the investigation or the formal complaint process, the investigator or any of the parties may suggest a settlement of the matter based on the investigation up to that point. The investigator or his or her designee will serve as an impartial communicator so the parties will not have direct contact. Any information provided or discussions with the investigator or designee in attempts to settle the matter may not be considered part of the investigation. If the parties do not come to an agreement regarding settlement, the formal complaint process continues, as described herein.

G. Investigator's Report of Investigation Findings

Upon concluding an investigation, the investigator must produce a written investigation report, which must include the following:

- The scope of the investigation.
- A summary of the findings.
- Recommendations for any corrective actions and/or sanctions.
- Any non-punitive, preventative remedies for the complainant.
- If warranted, recommended action to restore the accused's reputation, such as notifying persons who participated in the investigation, and/or a public announcement of the outcome.

The reviewer will forward a summary of the investigation report in confidence to the appropriate university official.

H. Reviewer's Issuance of Final Determination

The reviewer (or the president or board of trustees, if appropriate) to whom the investigation report summary is forwarded ultimately may either accept or modify the recommendations, or return the report for further investigation.

During this review, the reviewer may consult confidentially with university counsel, appropriate university officials, and with the accused's supervisor or department head if disciplinary actions are recommended, concerning the sufficiency of the investigation and the findings or any recommendations. Before making any decision, the reviewer must first forward to the complainant and the accused, copies of the summary of the investigation report, and give both parties a reasonable opportunity (that is, within 10 business days, unless the reviewing official or president or board of trustees, if appropriate, extends such time in consultation with the investigator) to submit written comments and ask the reviewer to review the evidence, determination, and/or recommended sanctions or remedial measures contained in the

POLICY 6.4

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final investigation report. The reviewer will conduct such a review, and may accept, modify, or reject the determination or recommended sanctions and/or remedial measures because of that review.

If the complainant or respondent does not object to the final determination of the reviewer within 10 business days (unless otherwise extended) of it being sent to him or her, and reviewer agrees that the charges and sanctions and/or remedial measures presented therein are valid, the appropriate dean, vice president, or equivalent unit head will review and implement the sanctions and/or remedial measures recommended in the investigation report within 10 business days, except for good cause shown.

The reviewer shall issue a final determination in writing, simultaneously, to all complainants and respondents.

I. Dismissing a Complaint

The investigator may dismiss a complaint and close the case where the complaint:

- Is not reported or filed in a timely manner.
- Is not supported by sufficient facts, lacks merit based upon the available evidence, or does not fall within the jurisdiction of the investigator.

Similarly, the investigator may dismiss a complaint and close the case under any of the following circumstances:

- The complainant fails or refuses to appear or to be available for interviews or conferences as necessary.
- The complainant cannot be located after reasonable efforts have been made, and has not responded for at least 10 calendar days to a notice sent by the investigator to his or her last known residence, office, or email address.
- The complainant fails to provide requested, necessary information.
- The complainant fails or refuses to cooperate with the investigation to the extent that the investigator is unable to reasonably resolve the charge.

If the investigator determines that a complaint should be dismissed, the complainant will be informed of that decision, and given an opportunity to submit a written response to the reviewer within ten working days. If the dismissal is affirmed by the reviewer, the complainant shall have a right of appeal under the appeal procedures,

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herein. Furthermore, the disposition will include, if appropriate, an attempt to restore the reputation of the accused (such as deletion of records, and, unless the accused otherwise requests, notification to persons who participated in the investigation of the charge, and/or public announcement of the outcome consistent with any applicable requirements under the Family Education Rights and Privacy Act [FERPA]).

**J. Complaints
Against
Faculty:
Additional
Procedures**

In addition to procedures outlined in all previous sections of these procedures, when there is a complaint against a faculty member, the following sections also apply.

**K. Investigating a
Complaint
Against Faculty**

In consultation with the provost, when a complaint arises out of the nature of a subordinate-supervisory relationship between the faculty member and the student (such as while engaged in teaching, advising, research, and thesis or dissertation supervision), or that could have involved an issue of academic freedom, the dean of faculty will designate a faculty member to serve as a co-investigator, and state in writing to all concerned parties the reason for this selection. Pursuant to procedures established by the Faculty Senate, the faculty co-investigator must be selected from an elected pool of appropriately trained faculty members. The faculty co-investigator must collaborate fully with the WPLR investigator in all phases of the investigation.

Before making any decision following the investigation, the appropriate dean or equivalent unit head must forward to the complainant and charged parties, copies of the summary of the investigation report, and provide both parties a reasonable opportunity to submit written comments (that is within 10 business days unless extended by the dean or equivalent unit head). In addition, a copy of the report must be forwarded to the dean of faculty.

**L. Investigating a
Complaint
Against a
Graduate or**

For complaints against graduate or undergraduate teaching or research assistants arising out of the performance of academic assignments, procedures governing faculty apply.

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Undergraduate Teaching or Research Assistant

Appeals and Contesting Findings and Grieving Disciplinary Action Arising From an Investigation
The process for appealing by complainants or respondents is different for faculty, staff members, and students. Such processes are described immediately below.

A. Appeals by Complainants

Appeals by complainants from a determination that a complaint of alleged prohibited discrimination, sexual harassment, or sexual assault/violence is not meritorious, or that a discipline or remedy is inadequate, must be made within 10 business days of the determination to (a) the vice president for human resources and safety services, or a designee, if the party against whom the complaint was made is a member of academic or nonacademic staff (other than faculty), or (b) the provost, or a designee, if the party against whom the complaint was made is a member of the faculty, or (c) a panel comprising the vice president for student and campus life, or a designee, the vice president for human resources and safety services, or a designee, and the provost, or a designee, if the party against whom the complaint was made is a student.

No appeal shall be heard by a university official who is an accused, and in such cases, an appropriate university official will be designated by the president, or a designee, to hear the appeal.

Appeals may be grounded on any of the following bases:

1. The remedial actions awarded the complainant are not commensurate with the injury or is unjust.
2. The sanction is not commensurate with the violation or is unjust.
3. The investigator or reviewer violated the fair application of relevant university procedures and such violation may have had a prejudicial effect upon the outcome.
4. The investigator or reviewer committed a prejudicial error in interpreting the policy or code.

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PROCEDURES – PROHIBITED DISCRIMINATION AND PROTECTED-STATUS (INCLUDING SEXUAL) HARASSMENT, WHERE THE RESPONDENT IS A CORNELL FACULTY OR STAFF MEMBER ITHACA CAMPUS UNITS, continued

5. The investigator or reviewer rendered a decision clearly against the weight of the evidence.
6. New evidence was discovered after the decision and could not have readily been discovered before the decision, which would change the outcome.

The appeal shall be conducted in accordance with procedures to be established by the office hearing the appeal, including scheduling any meeting on the appeal, but shall commence with the requirement that the complainant submit a written statement of the basis for the appeal, setting forth the grounds for the appeal and the reasons therefore, accompanied by a copy of the determination being appealed. A written decision shall be made by the vice president for human resources and safety services, or designee, for appeals brought under (a) above, or by the provost, or designee, for appeals brought under (b) above, or the vice president for student and campus life, or designee, for appeals brought under (c) above, within 30 days after submission, or any meeting on the appeal, whichever is later, unless extended for good cause, and the decision shall be final and binding on all parties.

For additional information on the appeal and grievance process as it applies to individuals participating in intercollegiate athletics, see appendix A.

B. Contesting Final Determination by Reviewer of Complaint Against Faculty

If the respondent faculty member objects to the final determination by the reviewer, but does not contend that his or her conduct arose out of the nature of a subordinate-supervisory relationship between the faculty member and the student (such as while engaged in teaching, advising, research, and thesis or dissertation supervision), or that the conduct is protected by academic freedom, he or she may appeal, and ask the appropriate dean or equivalent unit head to review the evidence, determination, and/or recommended sanctions, or remedial measures in the investigation report. The appropriate dean or equivalent unit head will conduct such a review, and may accept, modify, or reject the determination, or recommended sanctions and/or remedial measures.

If the respondent faculty member objects to the final determination of the reviewer and contends that his or her conduct arose out of the nature of a subordinate-supervisory relationship between the student and faculty member, or was protected by academic freedom, he or she must submit, within 10 working days of receiving the

POLICY 6.4

Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence

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PROCEDURES – PROHIBITED DISCRIMINATION AND PROTECTED-STATUS (INCLUDING SEXUAL) HARASSMENT, WHERE THE RESPONDENT IS A CORNELL FACULTY OR STAFF MEMBER ITHACA CAMPUS UNITS, continued

report, a written request for a review of the complaint to the Committee on Academic Freedom and Professional Status of the Faculty (“the Committee”), with a copy to WPLR and the appropriate dean or equivalent unit head.

◆ **Note:** The Committee’s procedures for “Adjudicating Contested Investigatory Charges and Recommended Sanctions in Discrimination or Harassment Cases” are described in appendix C.

The Committee must make an initial determination within 10 working days of receiving the charged faculty member's request. If the Committee determines by majority vote that the alleged behavior did arise out of the nature of a subordinate-supervisory relationship, or that an issue of academic freedom is involved, it will make its own determination on the charges.

If the Committee determines that the alleged behavior did not arise out of the nature of a subordinate-supervisory relationship, or that no issue of academic freedom is involved, the Committee has no further role. Otherwise, it will make a written report on its findings of fact, and provide copies to the complainant and the accused, as well as to WPLR. WPLR then will forward its report of findings and recommended remedies to the appropriate dean or equivalent unit head for the final decision on appropriate sanctions.

The accused or the complainant may rebut to the appropriate dean or equivalent unit head the Committee's recommendations of any sanctions. An intention to rebut must be filed with the dean or equivalent unit head within three days of receipt of the Committee’s final report. The completed rebuttal must be filed with the dean or equivalent unit head within two weeks of receiving of the Committee’s final report. If the recommendations are appealed, the dean or equivalent unit head will refrain from considering the appropriate sanctions until the complete rebuttal has been filed.

The dean or equivalent unit head must accept the Committee's findings of fact and conclusions. However, he or she may modify the Committee's recommended sanctions. Before reaching a final decision concerning any modifications, he or she must explain the rationale for the decision in a written communication to the Committee and will consider the Committee's response to those modifications. If the dean or equivalent unit head seeks to impose the sanction of dismissal, the matter

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PROCEDURES – PROHIBITED DISCRIMINATION AND PROTECTED-STATUS (INCLUDING SEXUAL) HARASSMENT, WHERE THE RESPONDENT IS A CORNELL FACULTY OR STAFF MEMBER ITHACA CAMPUS UNITS, continued

will be handled pursuant to the trustees' dismissal procedures. This determination is final.

C. Grievance from Disciplinary Action Resulting From an Investigation of a Complaint Against Faculty

University Policy 6.2.10, Establishment of College-Level Academic Grievance Procedures or any other applicable grievance procedure will govern any grieved or contested disciplinary action, other than contested cases involving academic freedom issues, which is the adjudicatory responsibility of the Committee on Academic Freedom and Professional Status of the Faculty.

◆**Note:** The Committee's procedures for "Adjudicating Contested Investigatory Charges and Recommended Sanctions in Discrimination or Harassment Cases" are described in appendix C.

D. Grievance From Disciplinary Action Resulting From an Investigation of a Complaint Against Staff

Human Resources Policy 6.11.4, Staff Complaint and Grievance Procedure, governs grievance or contested employment action. The grievance procedures provided in the collective bargaining process apply to unionized employees. Non-faculty academic employees, such as librarians, may seek recourse under applicable grievance procedures.

E. Appeals by Respondent Students

Respondent students have the right to appeal the reviewer's resolution of a matter within 10 business days by asking a panel comprising the vice president for student and campus life (VPSC) or a designee, the vice president for human resources and safety services, or a designee, and the provost, or a designee, to review the evidence, determination, and/or recommended sanctions or remedial measures (or lack thereof) contained in the report. The panel will conduct such a review, and may accept, modify, or reject the determination or recommended sanctions and/or remedial measures because of that review. Appeals may be grounded on any of the following bases:

1. The remedial actions awarded the complainant are not commensurate with the injury or is unjust.
2. The sanction is not commensurate with the violation or is unjust.

POLICY 6.4

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PROCEDURES – PROHIBITED DISCRIMINATION AND PROTECTED-STATUS (INCLUDING SEXUAL) HARASSMENT, WHERE THE RESPONDENT IS A CORNELL FACULTY OR STAFF MEMBER ITHACA CAMPUS UNITS, continued

3. The investigator or reviewer violated the fair application of relevant university procedures and such violation may have had a prejudicial effect upon the outcome.
4. The investigator or reviewer committed a prejudicial error in interpreting the policy.
5. The investigator or reviewer rendered a decision clearly against the evidence.
6. New evidence was discovered after the decision and could not have readily been discovered before the decision, which would change the outcome.

It is expected that sanctions will go into effect immediately after being imposed by the reviewer. The panel, however, has the authority at its sole discretion to stay the sanctions pending the appeal. If there is no appeal, or at the conclusion of the appeal, the decision becomes final and will be implemented within 10 working days, except for good cause.

POLICY 6.4

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CONTACTS – ITHACA CAMPUS UNITS

Direct any general questions about this policy to your college or unit administrative office. If you have questions about specific issues, contact the following offices.

Contacts, Ithaca Campus Units

Subject	Contact	Telephone	Email/Web Address
Policy Clarification	Workforce Policy and Labor Relations (WPLR)	(607) 254-7232	equalopportunity@cornell.edu
Accessibility to Facilities on Campus: Faculty, Staff and Visitors	ADA Coordinator for Facilities	(607) 255-5150	accessibility@cornell.edu
Campus Code of Conduct	Judicial Administrator (JA)	(607) 255-4680	judadmin@cornell.edu judicialadministrator.cornell.edu
Concerns and Reports	Cornell University Police Department (CUPD)	(607) 255-1111 TDD: (607) 255-1113	www.cupolice.cornell.edu
	Judicial Administrator (JA)	(607) 255-4680	judicialadministrator.cornell.edu
Filing Complaints:			
<ul style="list-style-type: none"> Alleged Harassment Committed by Students 	Judicial Administrator (JA)	(607) 255-4680	judadmin@cornell.edu judicialadministrator.cornell.edu
<ul style="list-style-type: none"> Alleged Prohibited Discrimination or Protected-Status Harassment Committed by Faculty or Staff Members 	Workforce Policy and Labor Relations (WPLR)	(607) 254-7232 Fax: (607) 255-0298	equalopportunity@cornell.edu www.hr.cornell.edu/diversity/reporting/bias_response.html
<ul style="list-style-type: none"> Bias Activity 	Department of Inclusion and Workforce Diversity	(607) 255-3976	owdi@cornell.edu report_bias@cornell.edu www.hr.cornell.edu/diversity/reporting/bias_response.html
Counseling and Support	Cornell United Religious Work (CURW)	(607) 255-4214	www.curw.cornell.edu
	Counseling and Psychological Services (CAPS)	Business Hours: (607) 255-5208 24 Hours: (607) 255-5155	www.gannett.cornell.edu/services/counseling/caps/
	Empathy, Assistance, and Referral Service (EARS)	(607) 255-3277 (255-EARS)	ears.dos.cornell.edu

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 Policy and Labor Relations/
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 Administrator/Department of
 Athletics and Physical Education
 Originally Issued: July 8, 1996
 Interim Effective Date: August 1,
 2016

POLICY 6.4

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CONTACTS, ITHACA CAMPUS UNITS, continued

Subject	Contact	Telephone	Email/Web Address
	Faculty and Staff Assistance Program (FSAP)	(607) 255-2673 (255-COPE)	fsap.cornell.edu
	Lesbian, Gay, Bisexual, Transgender Resource Center	(607) 254-4987	lgbtrc@cornell.edu
	Victim Advocate	(607) 255-1212	victimadvocate@cornell.edu www.gannett.cornell.edu/services/counseling/victim/advocate.cfm
Disability Accommodation Requests from Faculty or Staff	Medical Leave Administration	(607) 255-1216 (607) 255-1260	www.hr.cornell.edu/policies/all/disability_accommodation.html
Disability Accommodation Requests from Students	Student Disability Services (SDS)	(607) 254-4545	sds_cu@cornell.edu sds.cornell.edu
Disability Accommodation for Applicants for Employment	Workforce Policy and Labor Relations (WPLR)	(607) 254-7232	equalopportunity@cornell.edu
Disability Accommodation for Visitors	Infrastructure, Properties, and Planning	(607) 255-5150	
Educational Programs and Resources	Cornell Interactive Theatre Ensemble (CITE)	(607) 254-2759	www.hr.cornell.edu/life/career/cite.html
	Cornell University Police Department (CUPD)	(607) 255-1111	www.cupolice.cornell.edu
	Gannett Health Promotion	(607) 255-4782	www.gannett.cornell.edu/services/healthpromotion/
	Judicial Administrator (JA)	(607) 255-4680	judicialadministrator.cornell.edu
	Department of Inclusion and Workforce Diversity	(607) 255-3976 TDD/TTY: (607) 255-7066	owdi@cornell.edu www.hr.cornell.edu/diversity/fostering/
	Workforce Policy and Labor Relations (WPLR)	(607) 254-7232	equalopportunity@cornell.edu www.hr.cornell.edu/diversity/reporting/
General Employee Relations/Workplace Concerns	Supervisor or local human resource representative		www.hr.cornell.edu/about/hr_leaders.html
	Workforce Policy and Labor Relations (WPLR)	(607) 255-4652	equalopportunity@cornell.edu
	Recruitment and Employment	(607) 254-8370	employment_svcs@cornell.edu www.hr.cornell.edu/about/rec.html

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CONTACTS, ITHACA CAMPUS UNITS, continued

Subject	Contact	Telephone	Email/Web Address
	Center, Direct Service Units		
Harassment Advisors	Workforce Policy and Labor Relations (WPLR)	(607) 254-7232 Fax: (607) 255-0298	www.hr.cornell.edu/diversity/reporting/harassment_advisors.html
Language Assistance and Telephone Language Line	Gannett Health Services	(607) 255-5155	www.gannett.cornell.edu/for/international/
Medical Assistance	Gannett Health Services	(607) 255-5155	www.gannett.cornell.edu
Police Services	Cornell University Police Department (CUPD)	Emergencies: 911 Non-emergencies only: (607) 255-1111	www.cupolice.cornell.edu
Program Coordinator, Diversity and Inclusion Strategies	Department of Inclusion and Workforce Diversity	(607) 255-1426	owdi@cornell.edu
Psychological/Emotional Support Services, Faculty and Staff	Faculty Staff Assistance Program (FSAP)	(607) 255-COPE (255-2673)	www.fsap.cornell.edu
	University Ombudsman	(607) 255-4321	ombudsman.cornell.edu
	Cornell United Religious Work (CURW)	(607) 255-4214	www.curw.cornell.edu
Psychological or Emotional Support Services, Students	Counseling and Psychological Services	(607) 255-5208	www.gannett.cornell.edu/services/counseling/caps/
	Dean of Students	(607) 255-6839	deanof_studentscornell.edu dos.cornell.edu
	Empathy, Assistance and Referral Service (EARS)	(607) 255-3277	ears.dos.cornell.edu
	University Ombudsman	(607) 255-4321	ombudsman.cornell.edu
	Cornell United Religious Work (CURW)	(607) 255-4214	www.curw.cornell.edu
	Victim Advocate	(607) 255-1212	victimadvocate@cornell.edu www.gannett.cornell.edu/services/counseling/victim_advocate.cfm
	Department chair or supervisor		

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CONTACTS, ITHACA CAMPUS UNITS, continued

Subject	Contact	Telephone	Email/Web Address
Religious Accommodation Request: Faculty, Staff, and Student Employees	Workforce Policy and Labor Relations (WPLR)	(607) 254-7232 Fax: (607) 255-0298	equalopportunity@cornell.edu www.hr.cornell.edu/policies/all/religious_accommodation.html
Religious Accommodation Request: Students	Dean of Faculty	(607) 255-4843	theuniversityfaculty.cornell.edu
Reporting a Crime	Cornell University Police Department (CUPD)	(607) 255-1111	www.cupolice.cornell.edu/crimes/bias.cfm
Title IX Coordinator for Overall Operations and Title IX Compliance Questions	Associate Vice President, Inclusion and Workforce Diversity	(607) 255-3976 TDD/TTY: (607) 255-7066	nosexualmisconduct@cornell.edu
Title IX Deputy Coordinator			
<ul style="list-style-type: none"> For Title IX Claims Against Faculty or Staff Members or Non-Cornell Community Members (i.e., third parties) 	Director, Workforce Policy and Labor Relations	(607) 255-6866	nosexualmisconduct@cornell.edu
<ul style="list-style-type: none"> For Title IX Claims Against Students 	Judicial Administrator (JA)	(607) 255-4680	judadmin@cornell.edu judicialadministrator.cornell.edu
<ul style="list-style-type: none"> For Title IX Claims Arising in Athletics 	Associate Director of Athletics/Senior Woman Administrator	(607) 255-8283	athletics@cornell.edu
Tompkins County Community Resources	Advocacy Center	24-Hour Hotline: (607) 277-5000 Office: (607) 277-3203	info@theadvocacycenter.org www.theadvocacycenter.org
	Sexual Abuse Nurse Examiner (SANE), Cayuga Medical Center	24-Hour Hotline: (607) 277-5000 Emergency Department: (607) 274-4011 TDD: (607) 274-4513	www.cayugamed.org/content.cfm?serviceID=13
Victim Assistance	Victim Advocate	(607) 255-1212	victimadvocate@cornell.edu www.gannett.cornell.edu/services/counseling/victim/advocate.cfm

POLICY 6.4

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DEFINITIONS

These definitions apply to terms as they are used in this policy.

Affirmative Consent

A knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Affirmative 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."

◆ **Note:** Following are some guiding principles for the above definition:

- Affirmative consent to any sexual act or prior consensual sexual activity does not necessarily constitute consent to any other sexual act.
- Affirmative consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Affirmative consent may be withdrawn at any time.
- Affirmative consent cannot be given when a person is incapacitated (unable to knowingly choose to participate in sexual activity). Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent depending on level of intoxication.
- Affirmative consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When affirmative consent is withdrawn or can no longer be given, sexual activity must stop.

Bias Activity

Action taken against a person or group of individuals that one could reasonably and prudently conclude is motivated, in whole or in part, by the alleged offender's bias against an individual's actual or perceived aspect of diversity, including age, ancestry or ethnicity, color, creed, disability, gender, gender identity or expression, height, immigration or citizenship status, marital status, national origin, race, religion, religious practice, sexual orientation, socioeconomic status, or weight.

Coercion

See definition of *Sexual Coercion*.

Committee on Academic Freedom and Professional Status of the Faculty

A committee of nine members of the faculty appointed by the Faculty Senate for three-year terms to examine and make recommendations on issues relating to academic freedom and responsibility, freedom of teaching and learning, and the professional status of the faculty.

Complainant

A person or group of people who believes he or she or the group has experienced prohibited discrimination or protected-status (including sexual) harassment or sexual assault/violence.

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the

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DEFINITIONS, continued

	reporting party's statement with consideration of the length of the relationship, and the frequency of interaction between the persons involved in the relationship. ◆ Note: For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. ◆ Note: Dating violence does not include acts covered under the definition of domestic violence.
Discrimination	See definition of <i>Prohibited Discrimination</i> .
Discrimination and Harassment Advisor	A person who is part of a pool of advisors drawn from each college and major administrative unit, who has been trained specifically to provide advice and guidance to individuals who believe they have been targets of prohibited discrimination, protected-status harassment, or sexual assault/violence. These individuals are not authorized to engage in formal mediation or investigation.
Discrimination/Harassment Complaint	A formal written statement filed with the Office of Workforce Policy and Labor Relations (WPLR) alleging discriminatory and/or harassing activity prohibited under this policy that calls for official action or treatment in response.
Domestic Violence	Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the applicable jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
EEEEO-Protected Status	Identities protected under federal, state, and local equal employment laws and regulations. These include race, ethnic or national origin, color, gender (including pregnancy), age, creed, religion, actual or perceived disability (including persons associated with such a person), ex-offender status, military, or veteran status, sexual orientation, and gender expression and identity, and an individual's genetic information.
Equal Education and Employment Opportunity (EEEEO)	Federal, state, and local law prohibiting job discrimination based on an EEEEE-protected status.
Faculty Co-Investigator	Selected by the dean of faculty, after consulting with the provost or his or her designee, from an elected pool of appropriately trained faculty members to collaborate with WPLR in investigating cases in which a faculty member is accused of prohibited discrimination, protected-status harassment, or sexual assault/violence as described in this policy.
Faculty Member	A person who holds appointment to an academic title (as specified in the Bylaws of Cornell University, Article XVI).
Forcible Compulsion	Use of physical force or a threat, express or implied, that places a person in fear of physical harm to, or kidnapping of, himself, herself, or another person.
Genetic Information	As defined by the Equal Employment Opportunity Commission, Information about (a) an individual's genetic tests, (b) the genetic

POLICY 6.4

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DEFINITIONS, continued

	tests of family members of the individual, or (c) the occurrence of a disease or disorder in family members of the individual. The term does not encompass information about the sex or age of an individual.
Harassment	See definition of <i>Protected-Status Harassment</i> .
Hate Crime	Specified offenses as defined by the New York State Penal Law that are committed in which (a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct; or (b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.
Incapable of Affirmative Consent	A person who is (1) less than seventeen years of age, (2) mentally disabled, (3) mentally incapacitated, (4) physically helpless, or (5) physically unable to give affirmative consent.
Investigation	A systematic inquiry into allegations of prohibited discrimination, protected-status (including sexual) harassment, sexual assault/violence, or retaliation for opposing a discriminatory or harassing practice or for participating in an investigation, brought by complainants through the process described in this policy.
Investigation Report	A written account of findings from a formal investigation, conducted by an investigator, into an allegation of prohibited discrimination, and/or protected-status (including sexual) harassment, sexual assault/violence, or retaliation for opposing a discriminatory or harassing practice or for participating in an investigation.
Investigator	A representative from WPLR that has been trained and charged to review complaints of prohibited discrimination, protected-status (including sexual) harassment, sexual assault/violence, or prohibited retaliation with an outcome of developing recommendations for addressing the complaint.
Judicial Codes Counselor	An individual who provides free assistance and representation within the judicial system to those being investigated or charged with violations of the Campus Code of Conduct and to students charged with violations of the Code of Academic Integrity.
Mediation	An intervention between conflicting parties to promote reconciliation, settlement, or compromise for prohibited discrimination or protected-status harassment, including sexual harassment, but not sexual assault/violence matters.
Mentally Disabled	A person whose normal cognitive, emotional, or behavioral functioning renders him or her incapable of appraising the nature of his or her conduct.
Mentally Incapacitated	Lack of the cognitive ability to make important life decisions. The incapacitation may be permanent or temporary, and includes situations when the individual has lost cognitive ability due to ingesting alcohol or other drugs, either voluntarily or involuntarily.

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DEFINITIONS, continued

Physically Helpless	When a person is unconscious or for any other reason is physically unable to communicate willingness to act or is physically unable to give affirmative consent.
Preponderance of Evidence	The greater weight of the credible evidence required to establish a meritorious claim under this policy, including claims of sexual harassment, assault, or violence (e.g., it is more likely than not that the sexual harassment, assault, or violence has occurred). This preponderance is based on the more convincing evidence and its probable truth and accuracy, and not on the amount of evidence.
Prima Facie	A legal term meaning on initial examination or consideration.
Prohibited Discrimination	A legal term referring to an employment or academic decision that results in negative and/or different treatment of an individual based upon his or her membership in an EEO-protected class. Discriminatory conduct includes decisions in which protected-class membership was the sole factor or a contributing factor.
Protected-Status Harassment (See also, "Sexual Harassment")	A legal term describing when an individual is targeted with verbal, written, visual, or physical conduct based on that person's EEO-protected class status that unreasonably interferes with the individual's work or academic performance, or creates an intimidating, hostile, or offensive working or learning environment.
Public Lewdness	Intentional exposure of the private or intimate parts of the body in a sexually suggestive manner in public or in private premises when the perpetrator of the exposure may be readily observed. Public lewdness is a type of sexual assault.
Rape	When, without affirmative consent, there is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or use of a person's mouth on another person's genitalia. Rape is a type of sexual assault.
Respondent	A person against whom a complaint or charge of prohibited discrimination, protected-status harassment or sexual assault/violence has been made.
Retaliation	To seek revenge, reprisal, or injury to an individual or group who has exercised the right to file a written complaint or make an oral or written report of prohibited discrimination, and/or protected-status (including sexual) harassment, sexual assault or violence, or has participated in an investigation into allegations of such activity, or has opposed discriminatory or sexual harassing conduct, including sexual violence or assault.
Reviewer	A university official who reviews investigation reports and makes a final determination under this policy of (1) whether a complaint is meritorious, and (2) if so, what sanctions shall be imposed. Review of complaints and dismissals of complaints of sexual assault, domestic violence, dating violence, and stalking against students shall be heard and a final determination shall be made by a panel of three members by majority vote and shall be drawn from a pool of faculty members including, for example, former chairs of either the hearing or review board, appointed by the dean of faculty and approved by the president; review of complaints against faculty and staff under this policy shall be by a dean, vice president, or equivalent unit head with authority over the respondent(s). The reviewer shall have access to

POLICY 6.4

Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence

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DEFINITIONS, continued

	<p>the entire record on which the investigation report is based and shall receive appropriate training for this function.</p> <p>When a dean, vice president, or vice provost is the accused, the summary will be forwarded to the provost or his or her designee. If the provost is the accused, the investigation report is forwarded to the university president or his or her designee. If the university president is the accused, the investigation report is forwarded to the board of trustees through university counsel and secretary of the corporation.</p>
Sanction	A disciplinary action imposed on an individual after a claim has been found to be meritorious, which may include corrective actions, educational sanctions, termination of employment, suspension, or dismissal from the university.
Sexual Abuse	Touching of the sexual or other private parts of another person by forcible compulsion or without the latter's affirmative consent or with someone who is incapable of affirmative consent. Sexual abuse is a type of sexual assault.
Sexual Assault	A broad category that includes, but is not limited to, public lewdness, rape, sexual battery, and sexual abuse.
Sexual Battery	Touching of a sexual nature of a person by another person by forcible compulsion or without the latter's affirmative consent or with someone who is incapable of affirmative consent. Sexual battery is a type of sexual assault.
Sexual Coercion	To obtain compliance with sexual acts by using physically or emotionally manipulative actions or statements or expressly or implicitly threatening the person or another person with negative actions. 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."
Sexual Harassment	<p>A form of protected-status harassment that constitutes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that unreasonably interferes with the individual's work or academic performance, or creates an intimidating, hostile, or offensive working or learning environment under any of the following conditions:</p> <ol style="list-style-type: none"> 1. Submission to, or rejection of, such conduct either explicitly or implicitly is (1) made a term or condition of an individual's employment or academic status, or (2) used as a basis for an employment or academic decision affecting that person; or 2. The conduct is sufficiently (1) persistent, severe, or pervasive, and (2) has the purpose or effect of altering the conditions of an individual's employment or academic pursuits in a way that a reasonable person would find abusive, hostile, or offensive.
Sexual Misconduct	A range of behavior that is offensive behavior of a sexual nature that is unwelcome. Such behavior will be reviewed under this policy. Some of the behaviors will constitute a violation of the policy. For example, if it constitutes sexual assault, sexual harassment, sexual abuse, or sexual violence, it will violate the policy.
Sexual Violence	A broad term that refers to physical acts perpetrated without affirmative consent or when a person is incapable of giving affirmative consent. This includes rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

POLICY 6.4

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DEFINITIONS, continued

Staff	An individual employed by Cornell to provide support, administrative, or executive services.
Stalking	<p>Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others or (B) suffer substantial emotional distress.</p> <p>◆Note: For the purposes of this definition: “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, surveys, threatens, or communicates to or about a person, or interferes with a person’s property.</p> <p>◆Note: For the purposes of this definition, “reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.</p> <p>◆Note: For the purposes of this definition, “substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment of counseling.</p>
Student	<ol style="list-style-type: none"> The term student shall be interpreted to mean any person, whether or not incidentally on the university payroll, who is currently registered with the university as any of the following: <ol style="list-style-type: none"> A degree candidate in any of Cornell’s undergraduate or graduate divisions. A special student in the undergraduate divisions. A non-degree-candidate in the graduate school. The term student shall be interpreted to mean also persons not officially registered, and not faculty members or other University employees, if they are any of the following: <ol style="list-style-type: none"> Currently enrolled in or taking classes at the university. Currently using university facilities or property, or the property of a university related residential organization, in connection with academic activities. Currently on leave of absence or under suspension from being a student of the university. <p>◆Note: For purposes of being a complainant, secondary school students participating in a Cornell program are included as students.</p>
Title IX Coordinator	A university official designated by the university to coordinate the university’s compliance with Title IX, to oversee the Title IX complaint program, and identify and address any patterns or systemic problems that arise during the review of such complaints. The Title IX coordinator or a designee is available to meet with students, faculty, and staff members regarding the university’s Title IX program, as needed, and work with campus and other law enforcement officials, as necessary. See the Contacts section of this policy.
Title IX Deputy Coordinator	A university official designated by the university to support the Title IX coordinator, including handling complaints of Title IX sexual harassment and sexual violence against (a) faculty or staff members and non-Cornell community members (i.e., third parties, visitors, alumni) (handled by the Director of WPLR), and (b) students (handled by the JA, Office of the JA). Deputy coordinators also handle reports of discrimination under Title IX in athletics (handled by the associate

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Responsible Executives:
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Human Resources Officer /Vice
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POLICY 6.4

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DEFINITIONS, continued

athletics director/senior women administrator, Department of Athletics and Physical Education). See the Contacts section of this policy.

POLICY 6.4

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RESPONSIBILITIES – ITHACA CAMPUS UNITS

The major responsibilities each party has in connection with this policy are as follows:

Committee on Academic Freedom and Professional Status of the Faculty	<p>Obtain training, as required, from Workforce Policy and Labor Relations (WPLR) on how to recognize prohibited discrimination and protected-status harassment.</p> <p>Adjudicate cases in which an accused faculty member contests an investigation report on the grounds that the alleged behavior arose out of the nature of a subordinate-supervisory relationship with a student, or is protected by academic freedom. Examples of such a relationship include teaching, advising, research, and thesis or dissertation supervision.</p>
Complainant	<p>File a timely, written complaint of the harassing behavior or discrimination WPLR.</p> <p>May confer with a discrimination and harassment advisor, victim's advocate, local human resource (HR) representative, WPLR, or the ombudsman about concerns related to prohibited discrimination, protected-status harassment, sexual harassment, or sexual assault/violence.</p> <p>Serve as a witness in an investigation process initiated by the JA or WPLR or an appropriate university official, if asked to do so.</p>
Dean of Faculty	<p>When a faculty member is charged with discriminatory or harassing behavior allegedly rising out of a subordinate-supervisory relationship with a student, or involving an issue of academic freedom, the dean of faculty or designee:</p> <ul style="list-style-type: none"> • Consult with the provost or his or her designee, and designate a faculty member to serve as a co-investigator, if appropriate. • Explain in writing to all of the parties the rationale for appointing a faculty co-investigator.
Deans, Vice Provosts, Vice Presidents (or Equivalent Unit Heads)	<p>Obtain training from Workforce Policy and Labor Relations (WPLR) or the JA on how to recognize prohibited discrimination and protected-status harassment, including sexual assault/violence.</p> <p>Inform faculty, staff members, and student employees under their direction or supervision of this policy, and require training of all supervisors on what is prohibited discrimination, protected-status harassment, and how to respond to related complaints.</p> <p>The appropriate dean or equivalent unit head or reviewer to which an investigation report is forwarded may either accept or modify the findings and recommendations, or return the report for further investigation. This individual may consult confidentially with university counsel concerning the sufficiency of the investigation, the factual findings, and the related recommendations, if any.</p> <p>Determine and implement any corrective action resulting from WPLR's findings and recommendations in the investigation report.</p>
Discrimination and Harassment Advisor	<p>Refer complaint of prohibited discrimination and protected-status/sexual harassment to the program coordinator for diversity and inclusion strategies for documentation and/or to be handled through formal mediation or investigation, as appropriate.</p>

POLICY 6.4

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RESPONSIBILITIES, ITHACA CAMPUS UNITS, continued

	<p>Obtain training from WPLR and the JA on how to recognize prohibited discrimination, protected-status harassment, sexual assault/violence, and bias activity.</p> <p>Provide advice, suggestions, guidance, or act as a resource for individuals on handling issues of discrimination, harassment, or bias, including explaining the definition of prohibited discrimination, protected-status harassment, or bias activity, offering guidance on the appropriate recourse, and providing information about psychological counseling and support services available to faculty, staff members, and students.</p> <p>Refer the complainant to the program manager for Inclusion and Compliance Initiatives if that individual wishes to pursue the complaint beyond informal consultation. These individuals are not authorized to engage in formal mediation, to conduct investigations, or to maintain formal or detailed records of confidential consultations.</p> <p>If a complainant prefers not to pursue the complaint with WPLR, but wishes the consultation to be confidential, report the nature of the incident and the outcome to the coordinator for diversity and inclusion strategies without any personally identifiable information, unless there is a concern of institutional imperative, in which case the discrimination and harassment advisor must consult with the Title IX coordinator.</p> <p>Accompany and assist the complainant during the investigation process, if requested by the complainant.</p>
Faculty Co-Investigator	<p>When the harassing or discriminatory behavior is alleged to have arisen out of the nature of a subordinate-supervisory relationship between a faculty member and a student, or to have potentially involved an issue of academic freedom, collaborate with the WPLR investigator in conducting the investigation and preparing the investigation report.</p>
Faculty, Academic Staff, Administrative Staff, Undergraduate and Graduate Students	<p>May confer with a harassment advisor, local HR representative, WPLR, the JA, the Department of Inclusion and Workforce Diversity, or the university ombudsman if one believes one has experienced prohibited discrimination, protected-status harassment, sexual harassment, sexual assault/violence, or retaliation.</p> <p>Maintain the confidentiality of witnesses.</p> <p>Cooperate with investigations of prohibited discrimination, protected-status harassment, sexual assault/violence, and retaliation occurring in the context of employment, education, or living/learning environment, and/or otherwise within the university's jurisdiction.</p> <p>May be subject to university action if one refuses to cooperate during an investigation.</p>
Investigator	<p>Perform functions assigned to WPLR related to complaints filed under this policy. See the <i>Office of Workforce Policy and Labor Relations</i> responsibilities.</p>
Judicial Codes Counselor	<p>Provide free assistance and representation within the judicial system to those charged with violations of the Campus Code of Conduct and to students charged with violations of the Code of Academic Integrity.</p>
Local Human Resource Representative	<p>Refer complaint of prohibited discrimination and protected-status harassment to the program coordinator for diversity and inclusion strategies for documentation and/or to be handled through formal mediation or investigation, as appropriate.</p>

POLICY 6.4

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RESPONSIBILITIES, ITHACA CAMPUS UNITS, continued

Obtain training from WPLR and the JA on how to recognize prohibited discrimination, protected-status harassment, sexual assault, sexual violence, and bias activity.

Provide advice, suggestions, guidance, or act as a resource for individuals on handling issues of discrimination, harassment, or bias, including explaining the definition of prohibited discrimination, protected-status harassment, or bias activity, offering guidance on the appropriate recourse, and providing information about psychological counseling and support services available to faculty, staff members, and students.

Refer the complainant to the program manager for Inclusion and Compliance Initiatives, if that individual wishes to pursue the complaint beyond informal consultation. These individuals are not authorized to engage in formal mediation, to conduct investigations, or to maintain formal or detailed records of confidential consultations.

If a complainant prefers not to pursue the complaint with WPLR, but wishes the consultation to be confidential, report the nature of the incident and the outcome to the program coordinator for diversity and inclusion strategies without any personally identifiable information, unless there is a concern of institutional imperative, in which case the discrimination and harassment advisor must consult with the Title IX coordinator.

Accompany and assist the complainant during the investigation process, if requested by the complainant.

Office of Judicial Administrator

Enforce the Campus Code of Conduct with responsibility of accepting and processing reports under this policy of sexual harassment, sexual assault, and violence against students, including informal intervention for either complainant and/or respondent and facilitating accommodations where appropriate.

Provide education and training programs to members of the university community related to the university's policy, protected-status harassment, sexual assault and violence, and the university's processes for addressing such issues.

Pending resolution of the matter, may also recommend or impose interim steps to protect the safety and well-being of members of the university community.

Process reports or complaints regarding violations that are covered by the Campus Code of Conduct.

Office of Workforce Policy and Labor Relations (WPLR)

Enforce the university's non-discrimination obligations with the exclusive responsibility of accepting and processing complaints of prohibited discrimination and protected-status harassment, against students, faculty, and staff members and resolving these complaints impartially, promptly, and confidentially through informal intervention, mediation, or formal investigation, and when necessary, in conjunction with other offices.

May investigate particularly serious (for example, coerced sexual acts) and *prima facie*, well-founded allegations, even when the complaining party does not wish to pursue such charges.

Pending resolution of the matter, may also recommend interim steps to protect the safety and well-being of members of the university community.

POLICY 6.4

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RESPONSIBILITIES, ITHACA CAMPUS UNITS, continued

	<p>Provide education and training programs to members of the university community related to the university's policy on prohibited discrimination, protected-status harassment, and bias activity, and the university's processes for addressing such issues.</p> <p>Train members of the Committee on Academic Freedom and Professional Status of the Faculty, as necessary, to recognize prohibited discrimination and protected-status harassment.</p> <p>Provide this policy to the appropriate deans or equivalent unit heads for redistribution to their directors, department heads, and chairs.</p>
President, University	<p>Receive the investigation report in instances where a provost is the accused in an investigation related to prohibited discrimination, sexual harassment or protected-status harassment.</p>
Program Coordinator, Diversity and Inclusion Strategies	<p>Provide education and training programs to members of the university community related to the university's policy on prohibited discrimination, protected-status harassment, and bias activity, and the university's processes for addressing such issues</p> <p>Receive complaints from discrimination and harassment advisors, local HR representative, and the general community and direct them to the appropriate university official.</p>
Provost, University	<p>Consult with the dean of faculty or a designee concerning the designation of a faculty co-investigator in instances where a faculty member is charged with prohibited discrimination or protected-status harassment that is alleged to have arisen out of the nature of a subordinate-supervisory relationship with a student, or to have potentially involved an issue of academic freedom.</p> <p>Receive the investigation report in instances where a dean, vice president, or a vice provost is the accused in an investigation related to prohibited discrimination or protected-status harassment.</p>
Respondent	<p>Cooperate with investigators under this policy, and perform any corrective actions or sanctions indicated from findings of discrimination or harassment.</p>
Reviewer	<p>Evaluate reports from investigators and make final determination under this policy; authorize sending a summary reports to parties for comments; review comments from parties, and communicate final determinations to parties. Review, when requested, issuances of interim actions.</p> <p>May accept or modify the recommendations of the report, or return the report for further investigation.</p>
Supervisor	<p>Inform faculty, staff members, and students under his or her direction or supervision of this policy.</p> <p>Notify the local HR representative or, if not available, WPLR or the program coordinator for diversity and inclusion strategies when he or she observes or receives a report or complaint of an act of prohibited discrimination, protected-status harassment, bias, or retaliation.</p> <p>Implement any corrective actions that are imposed because of findings of prohibited discrimination, protected-status harassment, sexual assault or violence, or retaliation.</p>
Title IX Coordinator	Associate Vice President, Department of Inclusion and Workforce Diversity

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RESPONSIBILITIES, ITHACA CAMPUS UNITS, continued

	<p>Oversee Title IX program and make recommendations for improvement based on identification of patterns or systemic problems that arise during the review of complaints.</p> <p>Be available to work with appropriate university officials, students, faculty, and campus partners, to improve compliance with Title IX.</p> <p>Work with campus partners to develop programs and advance information to raise awareness of Title IX.</p>
Title IX Deputy Coordinator	<p>Director, Office of Workforce Policy and Labor Relations Handle complaints initiated under Title IX against faculty and staff members and non-Cornell community members (e.g., third parties).</p> <p>Judicial Administrator, Office of the Judicial Administrator Handle complaints initiated under Title IX against students.</p> <p>Associate Athletics Director/Senior Women Advisor, Department of Athletics and Physical Education Handle complaints of discrimination under Title IX in athletics.</p>
University Counsel	<p>Provide counsel, as necessary, to the investigators and decision-makers during the investigation or resolution process.</p>
University Ombudsman	<p><i>The following responsibilities are taken in part from the Guidelines to the Office of the University Ombudsman.</i></p> <p>Offer a safe place where community members may discuss problems or issues. This includes informal inquiries related to prohibited discrimination or protected-status harassment, sexual harassment, sexual assault, and violence.</p> <p>Offer guidance on appropriate recourse, including explaining the definition of discrimination or harassment, and providing information about psychological counseling and support services available to faculty, staff members, and students.</p> <p>Refer individuals to the proper authority, including WPLR or the JA, to resolve the situation.</p> <p>Alert the appropriate administrator (or other person in authority) when a systemic issue or trend occurs to improve existing processes.</p> <p>Hold the identity and all communications with those seeking assistance in strict confidence, and do not disclose confidential communications unless given permission to do so, except as required by law, or where, in the judgment of the ombudsman, there appears to be imminent risk of serious harm.</p> <p>◆Notes:</p> <ul style="list-style-type: none"> • The ombudsman is not authorized to engage in formal mediation or to conduct investigations. • As an informal resource, the ombudsman is not authorized to accept notice (formal complaints) for Cornell. • The ombudsman shall not keep records for itself or for the university.
Vice President of Human Resources and Safety Services and Vice President of Student and Campus Life	<p>Decide appeals in accordance with this policy.</p>

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APPENDIX A: TITLE IX MEDIATION AND COMPLAINT RESOLUTION PROCEDURE FOR INTERCOLLEGIATE ATHLETICS

Title IX Mediation and Complaint Resolution

Complaints alleging discrimination in participation in intercollegiate athletics based on Title IX of the Education Amendments of 1972 must be directed to the Title IX Deputy Coordinator/Associate Athletics Director/Senior Woman Administrator, Teagle Hall, Ithaca, NY 14853 or via email to athletics@cornell.edu or TitleIX@cornell.edu. Complaints alleging any other sexual discrimination or harassment by a student against another student will be directed to the Judicial Administrator, 120 Day Hall, Ithaca, NY 14853 or via email to judadmin@cornell.edu. Complaints alleging any other sexual discrimination or harassment in educational opportunities will continue to be administered by Workforce Policy and Labor Relations (WPLR) under University Policy 6.4, Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence, which establishes an internal university procedure to address sexual and protected-status harassment and complaints of discrimination and bias activity.

Title IX Mediation and Complaint Resolution Procedure

In the event, a complaint is not resolved by the Title IX deputy coordinator, the following process applies:

Mediation Process

WPLR will offer to arrange a mediation of any dispute under Title IX upon request of any person involved or alleged to be involved in the dispute. Attempts at mediation may occur without filing a written complaint or at any time after a written complaint has been filed.

Complaint Resolution Process

Upon receipt of a written complaint, WPLR will conduct an informal investigation in accordance with the investigation process (appendix B), except as indicated below. To initiate, and during the course of an investigation, the following standards are observed:

1. An informal investigation will be conducted by WPLR upon receiving a discrimination complaint. This procedure affords the complainant and the person(s) against whom the allegation(s) of discrimination have been made an opportunity to submit information and documentation regarding the complaint allegations.

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APPENDIX A: TITLE IX MEDIATION AND COMPLAINT RESOLUTION PROCEDURE FOR INTERCOLLEGIATE ATHLETICS, continued

2. The investigation will be completed with a written determination issued and forwarded by WPLR to the appropriate university official within 45 working days of the receiving the complaint. The determination will contain the following information:
 - a. A statement of the issues under review.
 - b. The position of the parties.
 - c. A finding of facts resulting from the investigation.
 - d. A recommendation of action(s), if any, to be taken by the appropriate campus official. The factual findings contained in the determination will be binding upon the appropriate university official for the purposes of this determination.
3. The appropriate campus official will make the determination about the action to be taken, if any, and will discuss the decision with WPLR before taking action if the action is to be different from that recommended.
4. After the decision is made, the appropriate campus official will notify the parties promptly, in writing, of the disposition of the complaint. In the event that discipline of an employee is to be undertaken or the decision involves other elements personal to the accused or the complainant, information provided to the complainant and the accused will be in accordance with university policies governing the disclosure of such information.
5. A party may appeal the decision by submitting a written document to the vice president for student and campus life, 311 Day Hall, Ithaca, NY 14853. An appeal will be considered only if the party specifies with particularity the errors in the investigator's determination, such as inaccurate findings of facts or incorrect conclusions of law, the correction of which likely would change the outcome of the investigation determination. The appeal must be either postmarked by or received within 14 calendar days of the date of the determination. The decision by the vice president on the appeal will be final and not subject to further review. A written decision on the appeal will be forwarded to the parties within 30 working days of the vice president's receipt of the appeal.
6. Although the university will make every effort to comply with these timelines, circumstances such as school breaks, or other matters, may require an extension of time.

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APPENDIX B: THE INVESTIGATION PROCESS

The Investigation Process: Features and Steps

The process for investigating complaints of prohibited discrimination and protected-status (including sexual) harassment, sexual assault/violence will be distinct from the mediation process. The same person may not perform the functions of mediator and investigator in a single case. Investigations conducted by Office of Workforce Policy and Labor Relations (WPLR) or by the WPLR along with a faculty co-investigator, will be guided by the following process:

1. Identify the individual alleged to have discriminated against or harassed the complainant (the accused).
2. Thoroughly ascertain all facts in connection with the alleged incident, beginning by initially and separately interviewing the complainant and the accused.
3. Ask how the complainant responded to the alleged discrimination or harassment and determine what efforts were made, if any, at informal resolution of the matter.
4. During the first interview with the accused, inform the accused of all of the charges being made, and remind the respondent of the university's policy against retaliation for making a complaint of discrimination or harassment.
5. Determine the frequency and type of the alleged discrimination or harassment and, if possible, the dates and locations where the alleged discrimination or harassment occurred.
6. Develop a thorough understanding of the professional or personal relationship, degree of control, and amount of interaction between the two parties.
7. Determine whether the complainant knows of or suspects that the accused has discriminated against, or harassed or been violent to other individuals.
8. Present to the accused all of the charges under investigation along with the evidence supporting them (and, if requested, a summary of the charges); ask for the accused's explanation of the alleged behavior; as appropriate, interview witnesses proposed by the accused; receive any other evidence that the accused wishes to present; and thoroughly examine and evaluate the rebuttals made by the accused.
9. Present to the complainant additional information learned in the course of the investigation that will be germane to the outcome of the investigation.
10. Determine whether the complainant informed other parties or supervisors of the situation and what response, if any, the complainant received from these individuals.

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APPENDIX B: THE INVESTIGATION PROCESS, continued

11. Interview, as appropriate, witnesses who observed, or were told about, the alleged discrimination or harassment.
12. Remind all parties and witnesses of the need for confidentiality, consistent with the requirements of Title IX when allegations under Title IX are in issue.
13. Review, as appropriate, personnel files maintained by departments and/or administrative units; records maintained by Office of Judicial Administrator, Residential and New Student Programs or West Campus Housing; previously concluded mediation agreements; previous records of findings for the charge of discrimination or harassment; other records obtained pursuant to university policy and procedure; and, after giving notice to the individual(s) to whom the files or records pertain and an opportunity for that individual(s) to raise objections, other relevant files and records not in WPLR's possession. The vice president for human resources and safety services will rule upon any objections.

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Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence

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APPENDIX C: ADJUDICATING CONTESTED INVESTIGATORY CHARGES AND RECOMMENDED SANCTIONS IN DISCRIMINATION OR HARASSMENT CASES

Committee on Academic Freedom and Professional Status of the Faculty Procedures for Adjudicating Contested Investigatory Charges and Recommended Sanctions in Discrimination or Harassment Cases

◆ **Note:** Each year, the Office of Workforce Policy and Labor Relations (WPLR) must train members of the Committee on Academic Freedom and Professional Status of the Faculty (the "Committee") to recognize prohibited discrimination and protected-status harassment.

- I. General Provisions**
1. Any member of the Committee whose personal or professional relationships might interfere with providing a fair and unbiased hearing will recuse himself or herself from the proceedings. A member of the Committee who is in the same department as the accused will recuse himself or herself.¹ The charged and complainant or parties may challenge any member of the Committee who does not recuse him or herself. Following such a challenge, if a majority of the other members of the Committee present and voting, not including recused members and student members, votes in favor of recusal, then the challenged member will recuse himself or herself.
 2. The remaining members of the Committee, not including recused members and student members, will participate in the proceedings. If there are fewer than five such remaining members of the Committee, the Committee will decline to hear the grievance until the Nominations and Elections Committee of the Faculty Senate adds members to the Committee to make a complement of five participating members. The participating members will be referred to hereinafter as the "members of the Committee."
 3. A majority of the members of the Committee will constitute a quorum for any hearing. Decisions of the Committee will be rendered by a majority vote of the members present and voting. The Chair (paragraph five) will not vote on any matter except in the case of a tie.

¹ For purposes of this sentence The Hotel School, the Johnson Graduate School of Management, the Law School, and the School of Industrial and Labor Relations will be treated as departments.

POLICY 6.4

Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence

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APPENDIX C: ADJUDICATING CONTESTED INVESTIGATORY CHARGES AND RECOMMENDED SANCTIONS IN DISCRIMINATION OR HARASSMENT CASES, *continued*

4. Each person who appears before the Committee will be advised that he or she is obligated to treat everything that he or she learns in the proceedings as confidential, and may not disclose this information to any other person, unless compelled by law to do so.
5. The members of the Committee will elect a chair from among themselves. Subject to paragraph six, the chair will control the conduct of all proceedings and will make such procedural rulings as may be necessary to assure fairness and to avoid unnecessary delay, including rulings on the relevance of suggested witnesses or lines of questioning. The Committee may overrule any such decision by a majority vote of the members present and voting.
6. The Committee may appoint a faculty member who is a member of a state bar to serve as an independent legal advisor to advise the Committee on all matters relating to the performance of its responsibilities hereunder. The legal advisor will not be a Committee member and will not have a vote in the Committee's decisions. At the invitation of the Committee, the legal advisor may be present at any time during the proceedings and during the Committee's deliberations. The chair may authorize the legal advisor to control the conduct of the proceedings and to make procedural rulings. The Committee, by a majority vote of the members present and voting, may withdraw this authority at any time and may overrule any procedural ruling made by the legal advisor.
7. The Committee will recommend that the Faculty Senate maintain a list of individuals who have agreed to serve as volunteer advisors or attorneys for the parties in the Committee's proceedings. Nothing in these procedures will be interpreted, however, to obligate the Faculty Senate or the Committee to guarantee that the accused and the complainant or parties will be able to obtain the services of an advisor or attorney.
8. The Committee has a responsibility to conduct fair and even-handed proceedings, and to see that all parties and witnesses are treated in a polite, respectful manner.
9. The Committee will conduct formal hearings as provided in Section III, unless the accused waives his or her right to such hearings, in which case the

POLICY 6.4

Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence

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APPENDIX C: ADJUDICATING CONTESTED INVESTIGATORY CHARGES AND RECOMMENDED SANCTIONS IN DISCRIMINATION OR HARASSMENT CASES, continued

- Committee will conduct informal proceedings as provided in Section II. Any waiver of the right to formal hearings will be irrevocable.
- II. Informal Proceedings**
10. This section will apply only if the accused waives his or her right to formal hearings. Section III will not apply in such a case.
11. The Committee will invite the accused to explain why he or she feels that the charges and/or recommended sanction of the investigation report are unjustified. The accused may be accompanied by an advisor or attorney of his or her own choice, who may advise the accused but may not participate in the proceedings in any other way.
12. The Committee may also call the complainant or parties and any witnesses. A complainant or witness who is called may be accompanied by an advisor or attorney of his or her own choice, who may advise the complainant or witness but may not participate in the proceedings in any other way.
- III. Formal Hearings**
13. The university will provide an attorney whose sole responsibility in these proceedings will be to support the charges and recommended sanctions of the investigation report. This attorney will be entitled to present witnesses and cross-examine witnesses (including the complainant or parties and the accused) who appear before the Committee.
14. The accused will be entitled to be accompanied and represented by an advisor or attorney of his or her own choice.
15. The accused will be entitled to be present throughout the hearings and, either personally or through his or her advisor or attorney, will be entitled to give evidence and to present witnesses on his or her own behalf, to hear the evidence against him or her, and to confront and cross-examine adverse witnesses (including the complainant or parties) who appear before the Committee.
16. The Committee will encourage WPLR to turn over to the accused all exculpatory evidence in their investigatory files.
17. Each complainant will be entitled to be accompanied and represented by an advisor or attorney of his or her own choice.
18. Each complainant, either personally or, if accompanied and represented by an advisor or attorney, through that advisor or attorney, will be entitled to

POLICY 6.4

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APPENDIX C: ADJUDICATING CONTESTED INVESTIGATORY CHARGES AND RECOMMENDED SANCTIONS IN DISCRIMINATION OR HARASSMENT CASES, *continued*

give evidence and to present witnesses on his or her behalf and to confront and cross-examine adverse witnesses (including the accused) who appear before the Committee.

19. Witnesses may raise objections to any question posed to them, either personally or, if represented by an advisor or attorney, through that person. The Committee will rule on such objections in accordance with paragraphs five and six.
20. The members of the Committee may question all those who appear in the hearings. The members of the Committee may adjourn temporarily to consult concerning the questions to be asked.
21. The Committee will endeavor to evaluate all of the relevant facts of a given case. The university, the complainant, and the accused, may offer evidence. The Committee will not convict the accused unless the Committee, after evaluating all of the evidence, is satisfied that the charge has been proven by clear and convincing evidence.
22. Prior convictions of prohibited discrimination or protected-status harassment and prior mediation agreements in such cases will be admissible. Records of prior accusations not leading to convictions and records concerning similar behavior not subject to the complaint(s) in the case will not be admissible. Testimony about prior accusations or similar behavior will be admissible.
23. The Committee will base its findings of fact and conclusions solely on the evidence presented at the hearings.
24. All hearings will be tape-recorded. The Committee will permit the accused and the complainant or parties to listen to the tape recordings upon request. However, the parties may not take any written notes of the recordings.
25. The Committee will decide by a majority vote of the members present and voting whether there is clear and convincing evidence to find that the accused is guilty of each of the charges specified in the investigation report. Only those members who attended all of the hearings may vote. The Chair will not vote except in the case of a tie.
26. The Committee will make a written report setting forth the Committee's findings of fact, conclusions, and recommendations. The Committee will transmit this report to the appropriate dean or equivalent unit head, the

IV. Decision and Report

POLICY 6.4

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APPENDIX C: ADJUDICATING CONTESTED INVESTIGATORY CHARGES AND RECOMMENDED SANCTIONS IN DISCRIMINATION OR HARASSMENT CASES, *continued*

- accused, each complainant, and WPLR. Before being given a copy of the Committee's report, the accused and each complainant will be required to sign a statement of confidentiality affirming that he or she will not divulge the contents of the report to any other person, unless compelled to do so by law. The Committee's report will include a discussion of the rationale for its findings of fact, conclusions, and recommendations.
27. The accused, a complainant, or WPLR may appeal the Committee's findings of fact and conclusions to the University Faculty Committee, as provided for in Cornell University Policy 6.4. Following the conclusion of an appeal, the accused, a complainant, or WPLR may rebut the Committee's recommendations concerning sanctions to the appropriate dean or equivalent unit head, as provided in Cornell University Policy 6.4.
 28. The Committee will have discretion to release a public statement of its findings of fact, conclusions, and recommendations. In exercising its discretion, the Committee will take into account concerns about confidentiality.
 29. These procedures and any subsequent amendments will become effective upon ratification by the Faculty Senate.

POLICY 6.4

Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence

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APPENDIX D: EXAMPLES OF PROHIBITED DISCRIMINATION AND PROTECTED-STATUS (INCLUDING SEXUAL) HARASSMENT

Prohibited Discrimination

Discriminatory conduct may take many forms. Claims of discrimination may arise from conduct that includes, but is not limited to, the following when the conduct is based upon a person's EEEEO-protected status:

- Denying an opportunity for which an individual is qualified
- Not considering a person for an opportunity that is open to others
- Paying disparate wages for equal work in positions that require equal skill, effort, and responsibility and that are performed under similar working conditions (except in cases of a seniority system; a merit system; a system that measures earnings by quantity or quality of production; or a differential based on anything other than an Equal Education and Employment Opportunity (EEEEO)-protected class status);
- Singling out or targeting a person for different or adverse treatment because of his or her EEEEO-protected class status, or for opposing prohibited discrimination, protected-status harassment, and bias activity, or for participating in an investigation regarding a claim of prohibited harassment or discrimination
- Failure to provide reasonable accommodation for a disability or religious belief or practice (unless the employer can establish that providing such reasonable accommodation will create an undue hardship on the operation of the business or academic program, or will violate another university policy);
- Reinforcing the use of stereotypes that unreasonably impact a person's environment or opportunities
- Failing, or refusing to hire, or discharging an employee, or discriminating against an individual in admission to, or employment in, any program established to provide apprenticeships or other training or retraining, because of genetic information with respect to the employee that, for example, reveals the potential manifestation of a disease or disorder
- Failing, or refusing to hire or promote, or discharging an employee because of known or suspected caregiver responsibilities. For example, denial of promotion based on sex-based stereotypes that mothers with young children neglect their work duties or are unwilling to travel, denying male workers',

POLICY 6.4

Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence

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APPENDIX D: EXAMPLES OF PROHIBITED DISCRIMINATION AND PROTECTED-STATUS (INCLUDING SEXUAL) HARASSMENT, continued

but not female workers', requests for leave related to care giving responsibilities; or providing reasonable accommodations for temporary medical conditions, but not for pregnancy

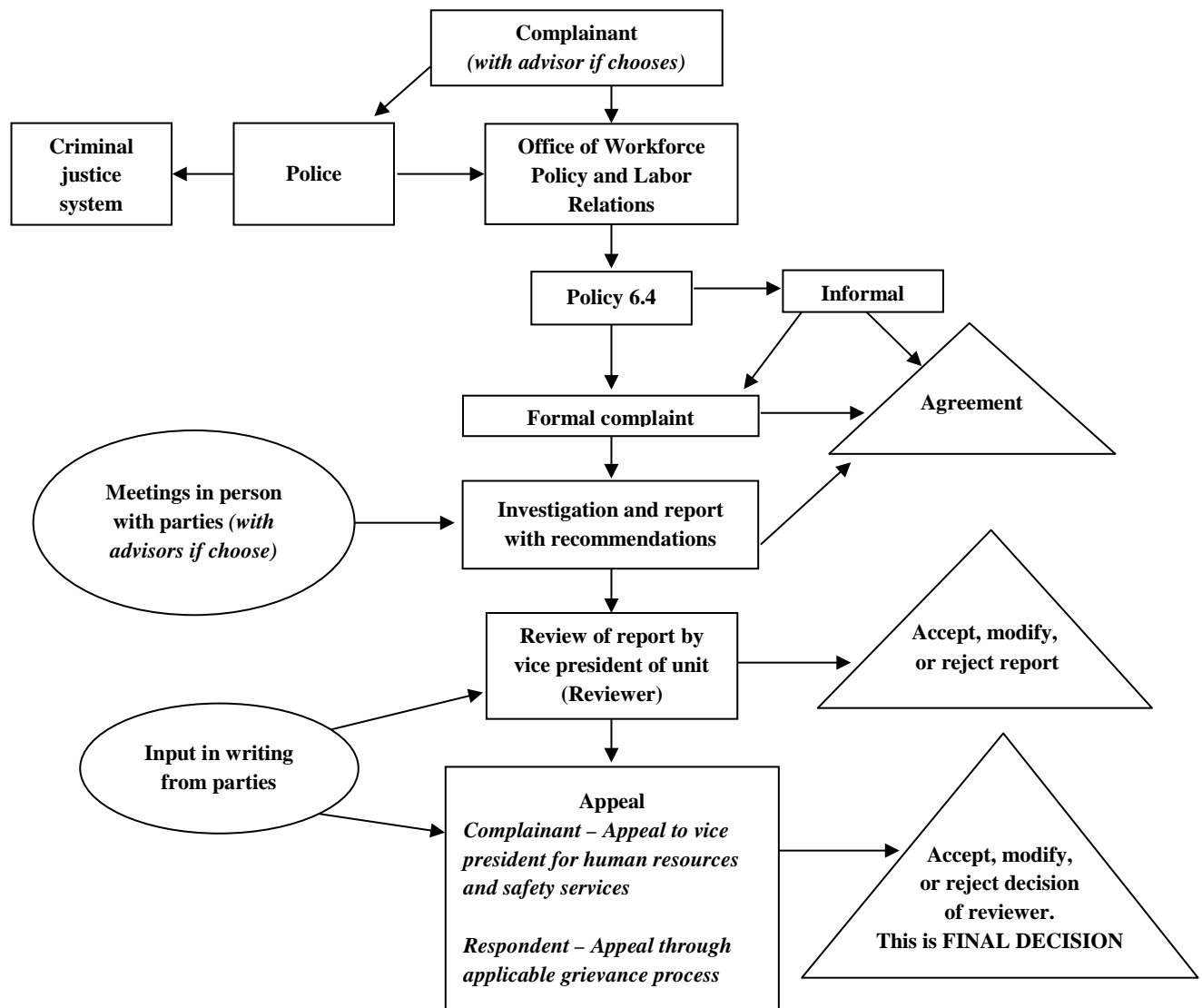
◆ **Note:** In the employment context, excluding student employment, the university has a/an selection/employment program that must comply with federal affirmative-action regulations. These regulations permit the establishment and use of numerical goals to ensure that the university meets its affirmative-action obligation. These regulations prohibit the use of goals to discriminate against any applicant or employee because of his or her EEO-protected class status.

POLICY 6.4

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APPENDIX E: PROCESS FOR A COMPLAINT OF SEXUAL ASSAULT OR SEXUAL HARASSMENT IF THE ACCUSED IS A STAFF MEMBER

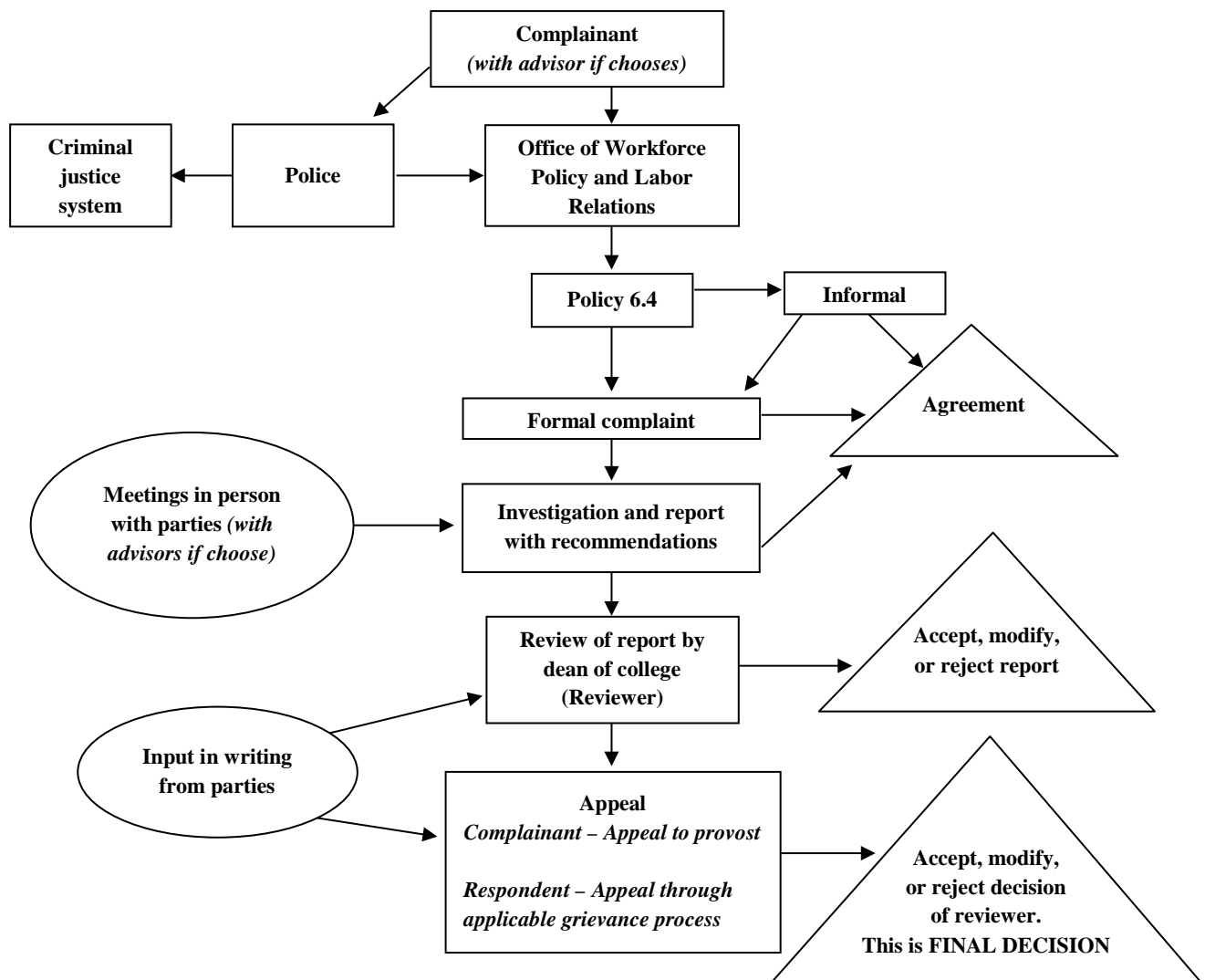


POLICY 6.4

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APPENDIX F: PROCESS FOR A COMPLAINT OF SEXUAL ASSAULT OR SEXUAL HARASSMENT IF THE ACCUSED IS A FACULTY MEMBER

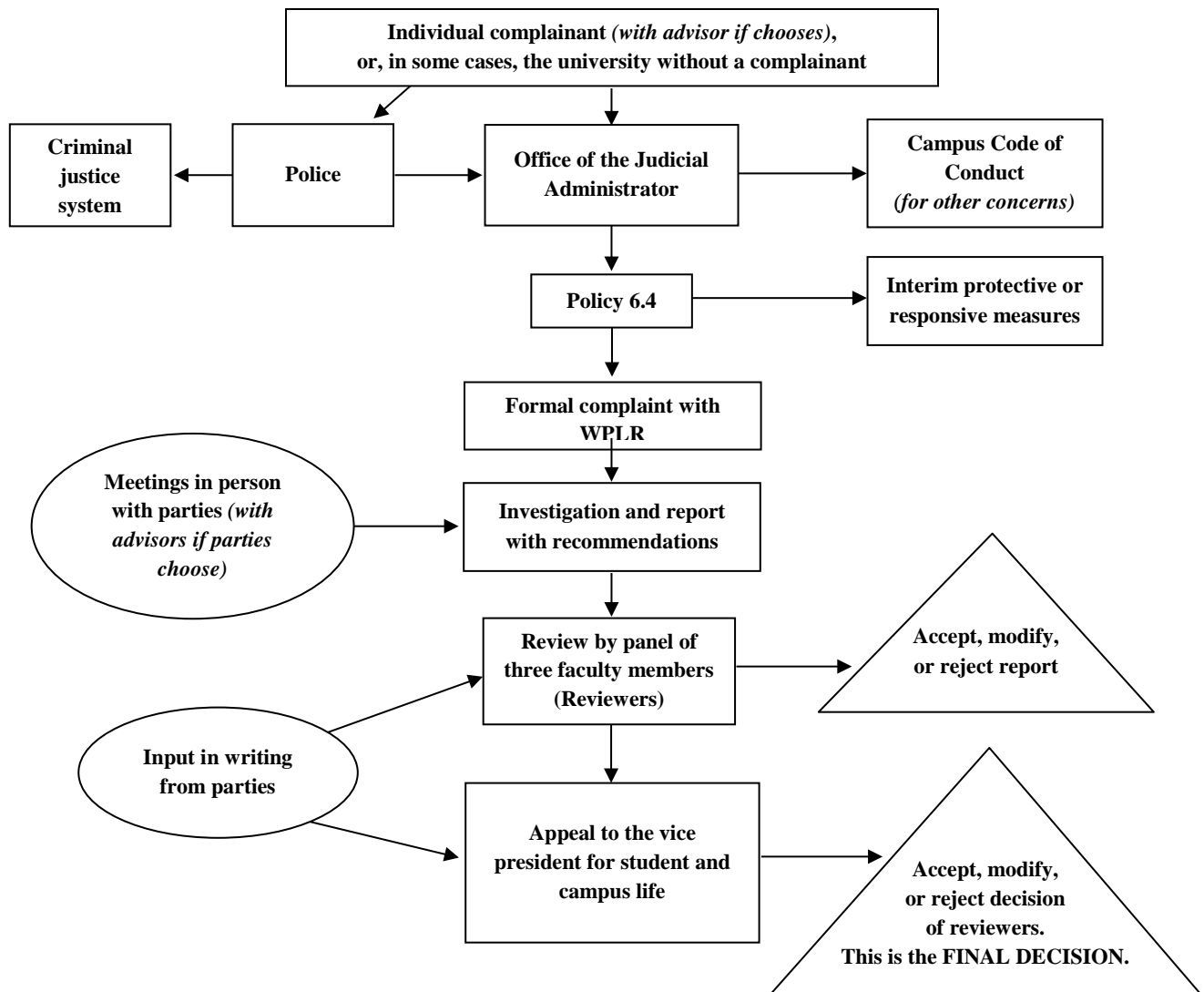


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APPENDIX G: PROCESS FOR A COMPLAINT OF SEXUAL ASSAULT OR SEXUAL HARASSMENT IF THE ACCUSED IS A STUDENT



POLICY 6.4

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INDEX

Abusive	8-10, 40	prohibited discrimination	46
Academic appointment	11	resolution procedure	48
Academic decisions	9	resolution process	48
Academic freedom	9, 10, 26, 28-30, 36, 43, 44, 46	Conclusions	29, 49, 55, 56
Academic title	37	Confidential	16-18, 21, 44, 45, 47, 53
Accommodation	33, 57	Confidentiality	11, 19, 51, 56
Accused	13, 15, 19, 20, 23, 24, 26, 27, 29, 37, 40, 43, 46, 49, 50, 52-56, 59-61	Confrontation	23
Activity		Consent	10, 36, 38, 39, 40
bias	1, 7, 44, 45, 46, 48, 57	Consultation	
university	11	confidential	44, 45
Adversarial hearing	23	informal	44, 45
Advisor	20, 53, 54, 55	Contested	29, 30, 52
Advocacy	23	Contesting	27, 28
Affirmative consent	10, 36	Conviction	55
Alcohol	13	Cooperate	1, 7, 11, 22, 25, 44
Allegations	19, 21, 38, 39, 45, 48, 51	Duty to	11
Appeal	8, 19, 21, 22, 25, 27, 28, 30, 31, 49, 56	Cornell Interactive Theatre Ensemble	33
Athletics	20, 23, 28, 35, 41, 47, 48	Cornell United Religious Work Chaplains (CURW)	16
Attorney	23, 53, 54, 55	Cornell University Police Department	7, 8, 10, 11, 15, 18, 20, 32, 33, 34, 35
Bias	1, 7, 10, 32, 36, 44, 45, 46, 48, 57	Corrective action	24, 40, 43, 46
activity	10, 32, 36	Counseling	13, 32, 34
Bigotry	10	Cross-examination	23
Board of Trustees	5	Dating	13, 14, 17, 36, 37, 39
Bylaws of Cornell University	37	Dean	23, 25, 26, 28, 29, 34, 37, 39, 40, 43, 46, 55, 56
Campus Code of Conduct	5, 8, 15, 32, 38, 44, 45	Dean of Faculty	23, 26, 35, 37, 39, 43, 46
Chair	52, 55	Designee	19, 24, 27, 28, 30, 37, 40, 41, 43, 46
Civil Rights Act of 1964	6	Determination	11, 24, 25, 27, 28, 29, 30, 39, 46, 49
Coercion	36, 40	Director	35, 41, 47, 48
Committee on Academic Freedom and Professional Status of the Faculty	29, 30, 36, 43, 46, 52	Disability	7, 33, 36, 37, 38, 57
Complainant	7, 13, 20-30, 36, 38, 41, 43-45, 48-50, 52-56	Disability accommodation	5, 33
Complaint	1, 5, 7, 8, 12, 15, 16, 19-30, 37-39, 41, 43-50, 55, 59, 60, 61	Disciplinary action	7, 11, 12, 24, 30, 40
against faculty	26	contested	30
dismissing	25	grieving	27
formal	19, 20, 24, 47	Discrimination	1, 5, 7, 8, 11, 16, 19, 20, 22, 23, 29, 30, 37, 41, 43-48, 50, 51, 52, 57
investigation	20	Discrimination and harassment advisor	11, 20, 23, 37, 43, 44, 45, 46
mediating	19	Dismissal	11, 25, 29, 40

POLICY 6.4

Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence

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INDEX, continued

Dismissing a complaint	25	Grieving disciplinary action	27
Diversity	7, 10, 32, 33, 34, 36	Harassment 1, 7-12, 15, 16, 19, 20, 22, 23, 29, 30, 32, 34, 37-40, 43, 44-48, 50-52, 55, 57	
Diversity and inclusiveness	7	Harassment advisor	18, 44
Domestic violence	7, 37	Hate crime	38
Drinking	13	Hearing	28, 52, 53, 54, 55
Drug	13	adversarial	23
Education Amendments of 1972		Hostile	8-10, 39, 40
Title IX	6, 48	Human resource representative	18, 46
Educational environment	2, 8, 10	Human Resource representative	7, 11, 33, 44, 46
Educational program	33	Human Resources	7, 11, 43, 44, 46
EEEEO-protected status	8, 39, 57, 58	Human Resources, Office of	1, 5, 7, 19, 30, 47
Employee Relations	33	Inappropriate workplace conduct	7
Equal Education and Employment Opportunity (EEEEO)	8, 10, 37, 39, 57, 58	Inclusion and Workforce Diversity	32-35, 44, 46
Equal work	57	Informal intervention	20, 22, 45
Establishment of College-Level Academic Grievance		Inquiries	
Procedures, University Policy 6.2.10	30	informal	47
Evidence	20, 22-25, 28, 30, 31, 39, 50, 54, 55	Intervention	
exculpatory	54	informal	20, 22, 45
Explicit	8	Intimidating	8-10, 39, 40
extension	19, 23, 49	Intimidation	10
Faculty 1, 5, 7, 8, 11, 15, 20, 21, 23, 26-30, 32-37, 39, 41, 43-47, 50, 52, 53, 56, 60		Investigation	1, 7, 11, 19-28, 30, 37-40, 43-50, 54, 55, 57
complaints against	26	files	54
Faculty and Staff Assistance Program (FSAP)	16, 33	formal	19, 20, 22, 23, 38, 45
Faculty Co-investigator	26, 37, 43, 44, 46, 50	informal	48
Faculty member	21, 26, 28, 29, 37, 41, 43, 44, 46, 53, 60	process	21, 23, 43-45, 48, 50
Faculty Senate	26, 36, 52, 53, 56	report	11, 24-26, 28, 38, 39, 40, 43, 44, 46, 54, 55
Findings	24, 29, 38, 43, 46, 51, 55, 56	Investigator	11, 23-28, 31, 38, 43, 44, 49, 50
contesting	27	Ithaca Advocacy Center	16
factual	43, 49	Judicial Administrator, Office of the	1, 8, 15, 18, 32, 33, 35, 45, 47, 48, 51
inaccurate	49	Judicial codes counselor	38, 44
Forcible compulsion	37, 40	Jurisdiction	1, 25, 37, 44
Freedom		Lawsuit	20
academic	9, 10, 26, 28, 29, 30, 36, 43, 44, 46	LGBT Resource Center	17
of teaching and learning	36	Librarians	30
Frequency	37, 50	Majority vote	29, 52, 53, 55
Gannett Health Services	16, 21, 34	Mediating	
General employee relations concerns	7	complaint	19
Genetic information	6, 37, 57	Mediation	16, 19, 20, 22, 38, 45, 48, 50, 51, 55
Good cause	19, 23, 25, 28, 31	agreement	19, 20, 51, 55
Grievance procedure	30	agreements	55

POLICY 6.4

Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence

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INDEX, continued

formal	37, 43, 44, 45, 47	Retaliation	7, 12, 23, 38, 39, 44, 46, 50
process	19, 20, 48, 50	protection from	12
resolution procedure	48	Reviewer	22, 24, 25, 27, 28, 30, 31, 39, 43, 46
Medical Leave Administration	33	Salary	
Merit system	57	reduction	11
Misconduct	7, 8, 15, 40	Sanction	11, 24, 25, 27-31, 39, 40, 46, 52, 54, 56
New York State Domestic and Sexual Violence Hotline	18	Seniority	57
New York State Police	18	Sexual	
Objection	51, 55	abuse	7, 10, 35, 40
Offensive	8-10, 19, 39, 40	acts	21, 40, 45
Personnel files	51	advances	9, 40
Prima facie	21, 39, 45	assault	1, 2, 7, 10, 13, 14, 16-18, 22, 23, 27, 36-40, 43-47, 50
Professional status of the faculty	36	battery	10, 40
Program manager, Inclusion and Compliance Initiatives	11, 44, 45	favors	9, 40
Prohibited discrimination	1, 7, 8, 11, 12, 15, 16, 20, 22, 23, 27, 32, 36-39, 43-48, 50, 52, 55, 57	harassment	1, 5-11, 15, 23, 27, 36, 38, 39-41, 43-48, 50, 59-61
Promotion	8, 15, 57	violence	7, 10, 11, 17-19, 39-41, 45
Protected class	8, 57	Sexual Harassment and Assault Response & Education (SHARE)	5
Protection from Retaliation	12	Silent Witness Form	5, 18
Provost	1, 23, 26-28, 37, 40, 43, 46	Staff	1, 5, 7, 11, 15, 19-22, 27, 30, 32-35, 39, 41, 43-47, 59
Psychological counseling	34, 44, 45, 47	Stalking	7, 13, 14, 17, 39, 41
Rape	7, 10, 39, 40	Student	1, 2, 5, 7, 8, 11, 13, 15, 19, 21, 26-28, 30, 32-35, 38, 41, 43-48, 52, 58, 61
Ratification	56	Student and Campus Life	1, 19, 23, 28, 30, 47, 49
Reasonable person	8, 10, 40	Student Disability Services	33
Rebut	29, 56	Student employee	34, 43
Rebuttal	29	Subordinate-supervisory relationship	21, 26, 28, 29, 43, 44, 46
Recording	55	Supervisor	7, 24, 33, 34, 43, 46, 50
Recruitment and Employment Center	33	Suspension	11, 22, 40, 41
Recuse	52	Termination	11, 40
Religious	36, 38, 57	Title IX	
belief	57	coordinator	1, 10, 11, 16-18, 35, 41, 44-46
Religious accommodation	5, 34, 35	deputy coordinator	35, 41, 47, 48
Remedies	24, 29	Title IX coordinator	18
Report	24-26, 29, 30, 39, 40, 43-46, 55	Title IX Mediation and Complaint Resolution Procedure	48
Reporting a crime	35	Undue hardship	57
Reputation	24, 26, 40	Unionized employees	30
Resident advisor	18	Unit head	25, 26, 28, 29, 43, 46, 55, 56
Residential and New Student Programs	51		
Residential hall director	18		
Resolution	16, 19, 20, 22, 30, 45, 47, 50		
Respondent	15, 25, 28, 30, 39, 46, 50		

Cornell Policy Library
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INDEX, continued

University Activity	11	Victim	1, 8, 10, 23, 33, 37, 43
University Counsel	23, 24, 40, 43, 47	Victim advocate	16, 17
University Ombudsman	17, 20, 34, 43, 44, 47	Victim Advocate	33-35
University President	5	Warning	
Unjustified	54	written	11
Vice president	1, 19, 23, 25, 27, 28, 30, 39, 40, 43, 46, 47, 49, 51	Witness	11, 12, 21, 43, 44, 50, 51, 53-55
Vice President	1, 19, 23, 25, 27, 28, 30, 35, 40, 43, 46, 47	Women's Resource Center (WRC)	17
Vice President for Human Resources and Safety Services	1, 23, 27, 28, 51	Work restrictions	11
Vice provost	40, 43, 46	Workforce Policy and Labor Relations	1, 7, 15, 18, 32-35, 37, 43, 45, 47, 48, 50, 52
		Workplace concerns	33