



**Mount
Sinai**
Phillips School
of Nursing

Sex Discrimination Policy

EFFECTIVE OCTOBER 1, 2015
REVISED AUGUST 1, 2024
(Applicable to Alleged Events
Occurring On or After August
1, 2024)

Title IX Process Flowchart

Note: Each individual case is unique. For full details of the process, please refer to the Sexual Misconduct Policy.

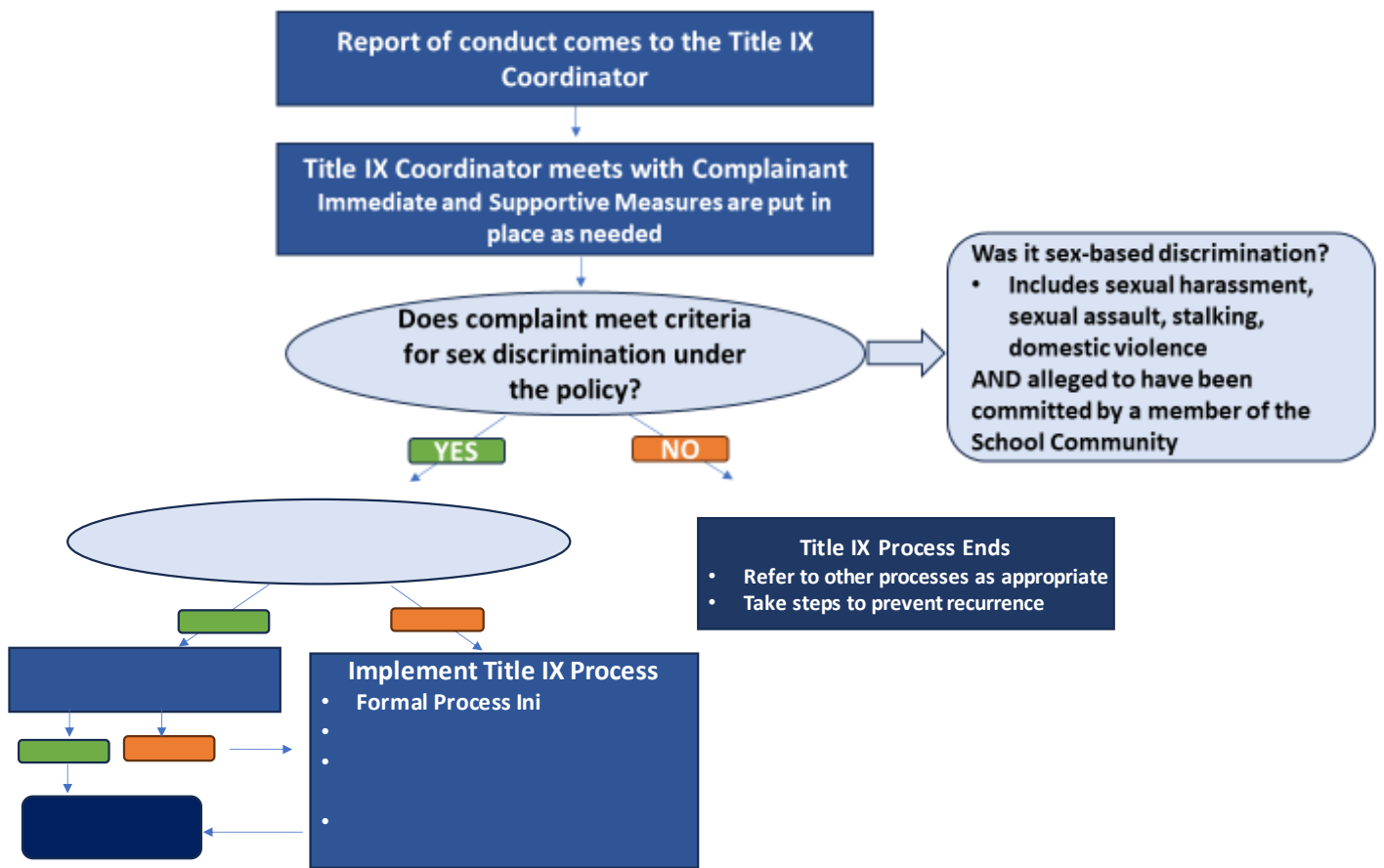


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1. INTRODUCTION

The Mount Sinai Phillips School of Nursing is committed to providing an environment free from sex discrimination, including Sexual Misconduct. Sexual assault, sexual harassment, stalking, and other forms of Sexual Misconduct can be traumatizing and detrimental to a person's learning experience and overall health, and have no place in our school community. Sexual Misconduct can be carried out by students, school employees, or third parties. The School will take any and all action needed to prevent, correct, and discipline behavior that violates this standard.

The School does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment. All decisions regarding educational and employment opportunities must be made on the basis of merit and without discrimination because of sex, gender, gender identity or expression, pregnancy, parental status, marital status, sexual orientation, or any other characteristic protected by law.

There are several laws that govern sex discrimination and Sexual Misconduct in the academic and employment context. This policy is intended to address conduct that is prohibited by Title IX, as defined by the United States Department of Education, and Sexual Misconduct as prohibited by New York Education Law § 129-b. This Policy and its appendix, which discuss rights and procedures under Title IX and under New York State Education law § 129-b, are incorporated into the School's Code of Conduct. It is a violation of School policy (and potentially a violation of the law) to commit or attempt to commit sex discrimination. The School's nondiscrimination policy related to sex discrimination and grievance procedures are included in this Policy. Conduct that does not fall within the definitions of prohibited conduct as set forth in this policy may be a violation of other School policies that govern harassment and discrimination, including The Mount Sinai Health System Human Resources Policy 13.04 regarding Harassment and Sexual Harassment and Student and Faculty Conduct policies, Student Handbook, and Faculty Handbook.

Students and employees who believe that they have been subjected to sex discrimination, including Sexual Misconduct, are encouraged to report these incidents. Upon receiving a report, the School will respond promptly, equitably and thoroughly. The School will make every effort to provide assistance and support to victims of sex discrimination, including Sexual Misconduct, in a consistent, fair, and sensitive manner. To this end, the School has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX Regulations.

Inquiries about Title IX may be referred to the School's Title IX Coordinator, the U.S. Department of Education's Office of Civil Rights, or both. The School's Title IX

Coordinator is Bernice Pass-Stern, who can be reached at Bernice.pass-stern@mountsinai.org or at 646-396-4436. To report information about conduct that may constitute sex discrimination, including Sexual Misconduct, or make a complaint of sex discrimination under Title IX, please refer to this Policy and The Mount Sinai Health System Human Resources Policy 13.04.

2. DEFINITIONS

“Affirmative Consent” is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression. The following principles are provided as guidance for the School Community regarding the concept of Affirmative Consent:

- i. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- ii. Consent is required regardless of whether the person initiating the act is under the influence of drugs or alcohol.
- iii. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by lack of consciousness or being asleep, inebriation due to drugs or alcohol, an intellectual or other disability that prevents the person from having the capacity to give consent, involuntary restraint, or if an individual otherwise cannot consent.
- iv. Consent to engage in activity with one person does not imply consent to engage in sexual activity with another;
- v. Consent may be initially given but can be withdrawn at any time;
- vi. When consent is withdrawn or can no longer be given, sexual activity must stop.
- vii. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

“Complaint” means an oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or its regulations.

“Complainant” includes: (i) a student or employee of the School who is alleged to have been subjected to conduct that could constitute sex discrimination under Title

IX; or (ii) a person other than a student or employee of the School who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the School's education program or activity.

“Dating violence” is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

“Designated Official” means School faculty and/or staff who are, pursuant to this Policy, required to forward reports of Sexual Misconduct to the School's Title IX Coordinator (unless the report was received by the Designated Officials: (1) in their capacity as a treating physician; (2) in their capacity as a professional licensed counselor and/or pastoral counselor who provides mental-health counseling to members of the School Community; or (3) through a public awareness or advocacy event (such as candlelight vigils, protests, or other public events)), and includes any employee who has responsibility for administrative leadership, teaching, or advising in the School.

“Disciplinary sanctions” means consequences imposed on a Respondent following a determination under Title IX that the Respondent violated the recipient's prohibition on sex discrimination.

“Mount Sinai Phillips School of Nursing School Community” or “School Community” means all School students, faculty, staff, and other School employees, officers and directors. For purposes of this Policy and the accompanying procedures, individuals who are not employed by the School but are employed by hospitals or other components of the Mount Sinai Health System do not fall within the definition of “School Community” members. The “School” refers to Mount Sinai Phillips School of Nursing.

“Party” means a Complainant or Respondent.

“Relevant” means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

“Remedies” means measures provided, as appropriate, to a Complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

“Respondent” means a person who is alleged to have violated the recipient's prohibition on sex discrimination.

“Retaliation” means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient’s education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

“Sexual Assault” means non-consensual sexual intercourse or non-consensual sexual contact as defined below:

Non-Consensual Sexual Intercourse is having or attempting to have sexual intercourse with another individual (i) by force, threat of force, or coercive conduct; (ii) without affirmative consent; or (iii) where that individual is incapacitated. Sexual intercourse includes anal, oral or vaginal penetration, however slight, with a body part or an object.

Non-Consensual Sexual Contact is having or attempting to have sexual contact with another individual (i) by force, threat of force, or coercive conduct; (ii) without affirmative consent; or (iii) where that individual is incapacitated. Sexual contact includes touching, fondling or other intentional contact with the breasts, buttocks, groin, or genitals (over or under an individual’s clothing) for purposes of sexual gratification or when such private body parts are otherwise touched in a sexual manner.

“Sex-based Harassment” or **“Sexual Misconduct”** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

(1) Quid pro quo harassment. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;

(2) Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant’s ability to access the recipient’s education program or activity;
- (ii) The type, frequency, and duration of the conduct;

(iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(iv) The location of the conduct and the context in which the conduct occurred;
and

(v) Other sex-based harassment in the recipient's education program or activity;
or

(3) Specific offenses.

(i) Sexual Assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation (see definition above);

(ii) Dating violence, meaning violence committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(1) The length of the relationship;

(2) The type of relationship; and

(3) The frequency of interaction between the persons involved in the relationship;

(iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:

(A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;

(B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) Shares a child in common with the victim; or

(D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

(iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for the person’s safety or the safety of others; or

(B) Suffer substantial emotional distress.

“Supportive Measures” means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to: (1) Restore or preserve that party’s access to the recipient’s education program or activity, including measures that are designed to protect the safety of the parties or the recipient’s educational environment; or (2) Provide support during the recipient’s grievance procedures or during an informal resolution process.

3. SCOPE

This Policy applies regardless of race, color, national origin, religion, creed, age, disability, sex/ gender, sexual orientation, gender identity or expression, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, criminal convictions or belonging to any other group protected by law.

This Policy applies to all prohibited sex discrimination occurring on or after the effective date of this Policy. In the case of prohibited sex discrimination occurring before the effective date of this Policy, the issue of whether there was a violation of School policy will be determined under the policies and procedures in effect at the time the complaint was made.

This Policy applies to all members of the School Community, and all appropriate third parties, including visitors and other licensees and invitees to the School, unless noted to the contrary in this Policy or its appendix.

This Policy applies to conduct that occurs under the School’s education program or activity, including conduct that occurs in a building owned or controlled by the School or a student organization officially recognized by the School, and conduct that is subject to the School’s disciplinary authority. The School will address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside its education program or activity or outside the United States.

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the School investigate and make a determination about alleged discrimination under Title IX: a Complainant; a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or the School’s Title IX Coordinator.

With respect to complaints of sex discrimination other than sex-based harassment / Sexual Misconduct, in addition to the people listed above, the following people have a right to make a complaint: Any student or employee of the School; or, any person other than a student or employee who was participating or attempting to participate in the School's education program or activity at the time of the alleged sex discrimination.

The procedures set out in this Policy may not apply to reports of sex discrimination against individuals who are not employed by the School, but are employed by hospitals or other components of the Mount Sinai Health System ("MSHS") or employed/affiliated with other entities that are not connected with the MSHS. Reports of Sexual Misconduct allegedly perpetrated by such individuals against School Community members will be addressed as described below.

4. TITLE IX COORDINATOR

Reporting sex discrimination, including Sexual Misconduct, can be difficult, and victims or witnesses to such behavior may have mixed feelings about whether or not to report it. The School encourages all members of the School Community and others who have a right to make a complaint of sex discrimination who either: (1) believe that they have been the victim of sex discrimination; or (2) become aware of incidents of sex discrimination involving other members of the School Community, to report the conduct. Reports of sex discrimination can be made to the Title IX Coordinator, or to numerous other individuals described herein.

The School's Title IX Coordinator is responsible for coordinating the School's anti-sex-discrimination efforts, including training, education, and awareness initiatives and campaigns related to the prevention of sex discrimination in the School Community. In addition, as described below, the Title IX Coordinator is responsible for assessing certain reports of sex discrimination, including Sexual Misconduct, committed by members of the School Community, and for providing Complainants and/or victims with important information following disclosure of alleged incidents of sex discrimination.

Questions and inquiries regarding Title IX, including reports of incidents or questions about sex discrimination, including Sexual Misconduct, may be referred to the Title IX Coordinator, whose contact information is as follows:

Bernice Pass-Stern
Title IX Coordinator
Bernice.pass-stern@mountsinai.org

646-396-4436

5. EMERGENCY ACCESS TO TITLE IX COORDINATOR OR OTHER APPROPRIATE TRAINED OFFICIAL

Complainants have the right to emergency access to the Title IX Coordinator, or a designated substitute in her absence, or a representative from Mount Sinai Sexual Assault and Violence Intervention Program (“SAVI”), to:

- a. provide information regarding options to proceed;
- b. provide information on the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, in situations where there has been a sexual assault, and detailing that the criminal justice process uses different standards of proof and evidence, and that any questions about whether a specific incident violated the law should be addressed to law enforcement or to the district attorney; and
- c. explain whether he or she is authorized to offer the Complainant confidentiality or privacy, and inform the Complainant of other reporting options, including those described in this policy.

At the first instance of disclosure of a complaint/report of Sexual Misconduct by a Complainant to the Title IX Coordinator, or in her absence, another appropriate School representative, the Complainant must also be advised as follows:

“You have the right to make a report to campus security, local law enforcement, and/or state police or choose not to report; to report the incident to the School; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from the School.”

6. OPTIONS FOR REPORTING SEX DISCRIMINATION

There are a number of different options for formally reporting sex discrimination, including Sexual Misconduct, each of which provides varying degrees of confidentiality. Below are explanations of the various options for officially reporting allegations of sex discrimination:

- **Reporting to Law Enforcement:** Members of the School Community have the option of reporting Sexual Misconduct to law enforcement. Formal complaints of Sexual Misconduct can be made to local law enforcement authorities by contacting the NYPD (by calling 911 or reporting the crime to a local police precinct), the District Attorney of New York Sex Crimes Unit at (212) 335-9373, or the New York State Police Sexual Assault Victims Unit.
- **Reporting to the Title IX Coordinator**
- **Reporting to the School Security Department:** All complaints and

reports of Sexual Misconduct that are made to the School Security Department will be forwarded to the Title IX Coordinator. The School Security Department can be reached by dialing 646-396-4455.

- **Reporting to Designated Officials:** Reports of sex discrimination, including Sexual Misconduct, can be made to any Designated Officials. Designated Officials are required to forward all reports of sex discrimination to the School's Title IX Coordinator, and thus, cannot generally treat reports of sex discrimination confidentially, unless the report was made to a School Designated Official: (1) in his or her capacity as a treating physician; (2) in his or her capacity as a professional licensed counselor and/or pastoral counselor who provides mental-health counseling to members of the School Community; or (3) through a public awareness or advocacy event (such as candlelight vigils, protests, or other public events). In such cases, the School Designated Official to whom the report was made is not required to forward the report to the Title IX Coordinator absent express permission from the victim, and can otherwise treat the report as confidential, and the School is not obligated to begin an investigation.

Otherwise, however, a report of sex discrimination that is made to any School Designated Official (whether directly by a victim, witness, bystander, or other Complainant or indirectly, through another faculty or staff member to whom a report has been made) is required to be forwarded to the Title IX Coordinator for assessment. For this reason, reports of sex discrimination made to Designated Officials generally cannot be treated with complete confidentiality.

While individuals who are not Designated Officials have discretion as to whether or not to forward such reports to the Title IX Coordinator (and thus can keep such reports confidential), they are nonetheless encouraged to forward such reports to the Title IX Coordinator, especially when the Complainant agrees to such disclosure.

Other than the options for officially reporting sex discrimination discussed above, a member of the School Community who believes s/he is a victim of sex discrimination can take any/all of the following steps:

- **Contact on or off-campus advocates and counselors.** Advocates and counselors can provide an immediate response in a crisis situation (e.g., help you obtain needed resources, explain reporting options, and help navigate the reporting process). There are many counseling, advocacy, and support organizations available to help victims of sex discrimination, whether or not those victims choose to make an official report or participate in the institutional disciplinary or criminal

processes. Contact information for on and off-campus counseling, advocacy, rape-crisis and sexual assault treatment programs, and support organizations is set forth at Appendix 1.

- **Get medical attention.** You can receive emergency medical care in the Emergency Departments of many of the hospitals referenced in Appendix 1. If you seek medical attention from The Mount Sinai Hospital Emergency Department, a DOH-certified Volunteer Advocate from the Mount Sinai Sexual Assault and Violence Intervention Program (“SAVI”) will be available to respond and to provide support, information and advocacy for you.

Evidence collection can be important in support of criminal charges, and accordingly, victims who may wish to pursue criminal action (or who wish to keep that option available) should be aware of the importance of immediately reporting the incident so that physical evidence can be preserved at the scene, as well as on the person assaulted.

Although a delay in reporting could limit the amount of physical evidence available (which could impact a criminal investigation), victims can always report the incident, whether it be days, weeks, or months after the incident occurred. Additional information regarding sexual assault forensic examinations, as well as resources available through the New York State Office of Victim Services, can be found at <https://ovs.ny.gov/>.

Evidence collection is only one aspect of the sexual assault medical follow-up care a survivor is entitled to receive if he or she decides to access services. A full physical examination, certain prophylactic antibiotics and anti-viral medications, pregnancy prevention medication (Plan B), and other procedures will also be offered during the victim’s hospital visit.

7. IMMEDIATE AND SUPPORTIVE MEASURES

The School will offer and coordinate supportive measures as appropriate for the Complainant and/or Respondent to restore or preserve that person’s access to the School’s education program or activity or provide support during the School’s Title IX grievance procedures or during the informal resolution process. Such supportive measures may include the following immediate and interim protections and accommodations, as appropriate:

- a. “No Contact Orders”
 - i. To have the School issue a “no contact order” consistent with School policies and procedures, where continued intentional contact between the Complainant and Respondent would be a violation of this Policy and/or the School Code of Conduct and would be subject to additional conduct charges.

- ii. The School may, if and when practicable, establish an appropriate schedule for the Complainant and Respondent to access applicable institution buildings and property.
 - iii. The Title IX Coordinator shall, upon request, give both the Respondent and the Complainant a prompt and reasonable review of the need for and terms of a “no contact order,” including potential modification. The Respondent and the Complainant shall be allowed to submit evidence in support of his or her request.
- b. Assistance from the Title IX Coordinator in finding and contacting appropriate services to assist in obtaining an order of protection or equivalent protective or restraining order.
- c. To receive a copy of the order of protection or equivalent when received by the School and to have the opportunity to meet or speak with an institutional representative or other appropriate individual who can explain the order and answer questions about it, including information from the order about the Respondent’s responsibility to stay away from the protected person or persons.
- d. To have the consequences for violating orders of protection or equivalents (including but not limited to arrest, additional conduct charges, and interim suspension) explained.
- e. To receive assistance from the School’s Security Department in calling on and assisting local law enforcement, when and if possible, in effecting an arrest when an individual violates an order of protection.
- f. When the Respondent is a student determined to present an immediate threat to a person’s physical health or safety, to subject the Respondent to interim suspension. When the Respondent is an employee determined to present a continuing threat to the health or safety of the community, to place the employee on administrative leave. Both the Complainant and the Respondent shall, upon request, be afforded a prompt and reasonable review by the Title IX Coordinator of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of his or her request.
- g. Reasonable and available interim measures and accommodations that effect a change in academic class, work schedules, housing arrangements, employment, transportation, and other applicable arrangements in order to help ensure safety, prevent retaliation, and

avoid an ongoing hostile environment. Both the Respondent and the Complainant shall, upon request, be afforded a prompt and reasonable review, by the Title IX Coordinator, of the need for and terms of any such interim measure that directly affects him or her, and shall be allowed to submit evidence in support of the request.

- h. Other actions that the School/ Title IX Coordinator deem necessary and/or appropriate.

8. SEX DISCRIMINATION ASSESSMENT AND INVESTIGATION PROCESSES

A. Initial Assessment (Step 1)

Following receipt of a report of sex discrimination, the Title IX Coordinator will conduct an initial assessment. As part of the initial assessment, the Title IX Coordinator will take the following steps (to the extent that they have not already been taken):

1. Assess the nature and circumstances of the complaint/report.
2. Address the immediate needs and concerns of the Complainant, including physical safety and emotional well-being needs.
3. Provide a copy of or direct the Complainant to the School's Sex Discrimination Policy and accompanying procedures, and discuss the policy and procedures with the Reporting Individual.
4. Provide the Complainant with information about resources, including information about intervention, mental health counseling, medical services, and sexually transmitted infections (to the extent relevant).
5. Provide the Complainant with information regarding sexual assault forensic examinations and direct the Reporting Individual to resources that are available through the New York State Office of Victim Services (<https://ovs.ny.gov/>) (to the extent relevant).
6. Discuss the Complainant's preferences (if any) regarding the manner of resolution, requests (if any) for privacy and/or no further action (see "Protocols for Requests for Confidentiality and/or No Further Action").
7. Assess for pattern evidence or other similar conduct by the Respondent/ alleged perpetrator.
8. Assess the complaint/report for any Clery Act and other reporting obligations, including entry in the crime log or issuance of a timely warning.

9. Direct the Complainant to information regarding on-campus and off-campus resources and the range of appropriate and available supportive and protective measures (see options for officially reporting allegations of sex discrimination above and in Appendix 1).
10. Explain the School's policy prohibiting retaliation.

Upon completion of the Initial Assessment, the Title IX Coordinator will determine whether the circumstances warrant or require any of the following actions:

1. Proceeding to an investigation under the procedures set out in this Policy;
2. Proceeding to an informal resolution process (with the agreement of the Complainant and Respondent) under the procedures set out in this Policy;
3. Referring/forwarding to a School Human Resources official or outside of the School for further action under other policies and procedures; or
4. Considering the matter resolved (if, for example, the School honors a Complainant's request for no further action), in which case the matter will be closed with the School taking only such actions, as necessary, to protect, assist, and accommodate the Complainant.

If the Title IX Coordinator determines that the circumstances warrant proceeding to an investigation or require referral to officials in another MSHS component/unit for further action under other policies and procedures, the School will ask for consent from the Complainant. If the Complainant does not want to make a Complaint / requests total confidentiality (a request for "no further action") or withdraws any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator will determine whether to initiate a Complaint of sex discrimination under the School's grievance procedures. To make this determination, the Title IX Coordinator will consider:

1. The Complainant's request not to proceed with initiation of a Complaint;
2. The Complainant's reasonable safety concerns regarding initiation of a Complaint;
3. The risk that additional acts of sex discrimination would occur if a Complaint is not initiated;
4. The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a

- Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
5. The age and relationship of the parties, including whether the Respondent is an employee of the recipient;
 6. The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
 7. The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
 8. Whether the recipient could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

If the School honors the Complainant’s request for “no further action,” the Complainant must understand that the School’s ability to meaningfully respond to the report will necessarily be limited. Accordingly, in such cases, the matter will be considered resolved, with the School taking only such actions as necessary to protect, assist, and accommodate the Complainant. Where a complaint was resolved because the School agreed to the Complainant’s request to take “no further action,” the matter may later be reopened at the discretion of the Title IX Coordinator if the Complainant later changes his or her mind and asks to have the matter investigated by the School or if additional evidence or allegations come to light.

There is no time limit for submitting a report of sex discrimination. The ability to investigate and respond effectively to a Complaint may be reduced with the passage of time. Therefore, any member of the School Community who believes that he or she has been a victim of sex discrimination, including Sexual Misconduct, is encouraged to report such a Complaint immediately in order to maximize the ability to obtain evidence and conduct a thorough, impartial and reliable investigation.

The School may consolidate complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, reference to a party, Complainant, or Respondent include the plural, as applicable.

B. Protocols for Privacy

If a request for “no further action” cannot be honored, the Complainant will be informed before the start of the investigation, and the School will still try to maintain his or her privacy to the greatest extent possible by only sharing, relaying, and/or disseminating information as necessary to conduct and complete the investigation and adjudication processes (including any applicable appeals therefrom) and/or as otherwise required by law.

If a Complainant chooses to make an anonymous report concerning sex discrimination, the School will attempt to follow up on the report to the best of its ability. The School's ability to thoroughly investigate an allegation from an anonymous source may be limited based on the inability to speak with the Complainant.

Confidentiality versus Privacy: It is important to note that "confidentiality" is different than "privacy." Privacy, for purposes of this policy, means that information regarding reports of sex discrimination will, to the greatest extent possible, not be disclosed, relayed, and/ or disseminated to other individuals (including informing appropriate School officials and representatives) any more than is necessary to comply with the School's obligations under the law and School policies. Privacy may still be offered to a Complainant even when confidentiality cannot be offered, and School officials and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. This means that the information you provide to a non-confidential resource will be relayed and disseminated only as necessary for the Title IX Coordinator/investigator(s)/decision-makers to investigate and/or seek a resolution.

It should also be noted that faculty and/or staff (other than the Title IX Coordinator) should not share information provided by Complainants with law enforcement without the Complainant's consent or unless s/he has also reported the incident to law enforcement.

Because the standards for pursuing and completing criminal investigations are different from those used for the School's sex discrimination investigations, the termination of a criminal investigation without an arrest or conviction does not affect the School's obligations under Title IX, nor its obligations to investigate, adjudicate, and discipline those who perpetrate sex discrimination. In addition, Complainants have the right to file criminal complaints with local law enforcement authorities and Title IX Complaints with the School simultaneously.

Although Title IX does not require a school to report alleged incidents of sex discrimination to law enforcement or other regulatory bodies, the School may have such reporting obligations under other laws, and as such, reserves the right to report any alleged crime to law enforcement or an appropriate regulatory body. In such cases, the Complainant will be informed before the report is forwarded to law enforcement authorities, and the School will, to the extent possible, only share information regarding the report with people who are involved in the law enforcement or regulatory investigation(s).

C. Protocols for Dismissal of Sex Discrimination Reports

The Title IX Coordinator or her designee shall investigate cases where the Respondent is a member of the School Community, and the alleged activity falls under the definition of sex discrimination using the procedures set forth below.

The Title IX Coordinator or her designee shall investigate whether the alleged conduct falls under the definition of sex discrimination, including Sexual Misconduct, under Title IX.

The School may dismiss a complaint of sex discrimination if:

- The School is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in the School's education program or activity and is not employed by the School;
- The Complainant voluntarily withdraws in writing any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the School determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- The School determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX.

Before dismissing the Complaint, the School will make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, the School will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the School will notify the parties simultaneously in writing. The School will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the School will also notify the Respondent that the dismissal may be appealed.

Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

If the dismissal is appealed, the School will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;

- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

When a Complaint is dismissed, the School will, at a minimum:

- Offer supportive measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the School's education program or activity.

If the conduct alleged does not constitute sex discrimination as set out in this policy, it may still violate other School policies, and it may be investigated consistent with applicable School policies and procedures. If the actions alleged in a complaint do not fall under the School's Sex Discrimination Policy, but they may fall under another policy, the Title IX Coordinator will inform the appropriate individual(s) of the matter for further investigation and consideration.

If actions alleged in a Complaint fall under the School's Sex Discrimination Policy, and other aspects of the Complaint fall under another School policy, the Title IX Coordinator will inform the appropriate individual(s) of the matter and the School, at its discretion, may: (i) run parallel investigations of the sex discrimination allegations (through the processes set out in this Policy) and allegations that fall under other policies (through the processes set out in those other policies or otherwise established by the School); (ii) the School may perform a single investigation of all claims; or (iii) the School may perform one investigation followed by another investigation. The School will make this determination based on the specifics of the allegations.

To the extent an individual's employment is terminated or an individual is dismissed from the School based on actions that do not fall within the purview of Title IX, the individual is entitled to whatever right to appeal s/he would otherwise have under School policy – in such cases, the School need not engage in the Title IX investigative/hearing/appeal process set forth in this Policy. For example, if a Complainant alleges both race-based harassment and sexual harassment, the School may choose to investigate the race-based harassment first. If the School terminates

the Respondent's employment because of the race-based harassment, it need not engage in the process set out in this Policy to investigate the sexual harassment claim.

In cases where the Respondent is not a member of the "School Community" but is employed, affiliated, and/or associated with other entities/components of the MSHS (such as, for example, MSHS hospital employees), the Title IX Coordinator will, upon completion of the Initial Assessment, forward the report of Sexual Misconduct to a Human Resources / Labor Relations official in the appropriate MSHS component/unit with whom the Respondent is employed, associated, and/or affiliated, for further action under the governing policies and procedures that apply under the circumstances (unless the School has agreed to honor the Complainant's request that "no further action" be taken).

In cases where the Respondent is not a member of the School Community and is not employed, affiliated, or associated with entities/components in the MSHS, the Title IX Coordinator can, upon completion of the Initial Assessment, forward the report to officials of the entity/organization (if any) with whom the Respondent is employed or associated/affiliated, for investigation/further action (unless the School has agreed to honor the Complainant's request that "no further action" be taken).

In cases where the Respondent is subject to a Collective Bargaining Agreement, the School will make every attempt to resolve conflicts between the Collective Bargaining Agreement and this Policy.

D. Investigation Procedures (Step 2)

i. Notification of Investigation Initiation

Unless otherwise indicated in this Policy (such as, for example, where a request that "no further action" be taken is honored by the School) or where the parties agree to engage the informal resolution process, the School will investigate Complaints allegedly perpetrated by members of the School Community that are made by (a) a Complainant, (b) a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant, or (c) the Title IX Coordinator, if the determination is made to go forward with a Complaint despite the Complainant requesting "no further action." For Complaints of sex discrimination other than Sexual Misconduct, the following additional people can make a Complaint subject to the grievance procedures set forth herein: (d) any student or employee; and (e) any person other than a student or employee who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

Upon initiation of the School's Title IX grievance procedures, the School will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- The School's Title IX grievance procedures and any informal resolution process;

- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The Respondent is presumed not responsible for the alleged sex discrimination until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence or an investigative report that accurately summarizes this evidence. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
- The School prohibits knowingly making false statements or knowingly submitting false information during grievance procedures; and
- For Complaints of Sexual Misconduct involving student Complainants or student Respondents, the parties may have an advisor of their choice who may be, but is not required to be, an attorney;

If, in the course of an investigation, the School decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, the School will notify the parties of the additional allegations.

The parties will be informed that they can request to inspect and review evidence, and the parties will be provided an opportunity to do so.

Notice will go out to the parties promptly after Complainant makes a Complaint or the School decides to proceed with a Complaint.

ii. **Informal Resolution Process**

In lieu of resolving a Complaint through the School's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. The School will inform the parties in writing of any informal resolution process it offers and determines is appropriate, if any. The School will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, the School will explain in writing to the parties:

- The allegations;

- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information the School will maintain and whether and how the School could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

iii. Investigation Mechanisms, Protocols, and Safeguards

The Title IX Coordinator may conduct an investigation or she may designate an appropriate investigator(s) to conduct an investigation. The protocols and safeguards set out below apply to all investigations of sex discrimination complaints, except where otherwise noted to only apply to investigations of complaints of Sexual Misconduct involving a student Complainant or Respondent.

The School will provide for an adequate, reliable, and impartial investigation of Complaints. The burden is on the School—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

For complaints of Sexual Misconduct involving student Complainants or student Respondents, the School will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

For Complaints of Sexual Misconduct involving student Complainants or student Respondents, the School will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. Each party is only allowed one advisor, though the identity of this advisor may change over time. The School will not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding. The School may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

The School will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.

The School will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The School will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The School will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- The School will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence, or the same written investigative report that accurately summarizes this evidence. The School will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
- The School will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence / investigative report;
- For complaints of Sexual Misconduct involving student Complainants or student Respondents, the School will provide this opportunity to review the evidence in advance of the live hearing. The School may decide whether to provide this opportunity to respond prior to the live hearing, during the live hearing, or both prior to and during the live hearing; and
- The School will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

The sex discrimination investigation may involve, but is not limited to:

- Conducting interviews of the Complainant, the Respondent, and any witnesses or other third- parties who may have information or evidence regarding the allegations;
- Reviewing documents and records, including law enforcement investigation documents, student and personnel files, and written statements regarding the allegations;

- Gathering and examining other relevant documents and evidence, including video, audio, photographs, e-mails, text-messages or social media posts that may be relevant to the allegations.

The investigator(s) will follow these principles in all investigations of alleged sex discrimination:

- a. All investigations of alleged sex discrimination will be undertaken in a reliable and impartial manner. All Complainants/Respondents will be notified of the time frame within which the investigation of the complaint is expected to be completed. The School will strive to complete investigations of complaints of sex discrimination in as timely a manner as possible.
- b. All investigations of alleged sex discrimination will be conducted in a manner that takes into consideration the serious and sensitive nature of such allegations, and which limits, to the extent possible, the number of individuals who are contacted, interviewed, or otherwise made aware of the investigation. To this end, the Title IX Coordinator and any designated investigator(s) will, to the extent possible, share information with the least number of people necessary to effectuate the School's response, investigation, and adjudication.
- c. The School will conduct its own investigation (and adjudication) of sex discrimination allegations, regardless of whether the alleged sex discrimination is also being pursued through the criminal justice system. The School will comply with law enforcement requests for cooperation, which at times may require that the School temporarily delay its investigation while law enforcement organization(s) gather evidence. Temporary delays should not last more than ten days, except when law enforcement specifically requests and justifies a longer delay.
- d. The investigation will be conducted independently and without regard to/without being precluded by any determinations that may have been made by other entities, including law enforcement authorities (such as the NYPD or the District Attorney of New York), the grand jury, or in connection with criminal proceedings.
- e. For complaints of Sexual Misconduct involving student Complainants or student Respondents, Complainants and Respondents will be given reasonable advance written notice of any meetings that they are required to or eligible to attend in connection with the investigation, including the date, time, location, participants and purpose of the meeting.

- f. Where the Respondent or the Complainant is a student at the School, all of the additional principles and safeguards set forth in Appendix 2 apply.

An attorney with the Mount Sinai Health System Office of General Counsel can serve as legal counsel to the Title IX Coordinator and/or the designated investigator(s) in connection with investigations of Sexual Misconduct.

iv. Basic Requirements for All Complaints Involving Sex Discrimination

The School will treat Complainants and Respondents equitably.

The School requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

The School presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The School has established reasonably prompt time frames for the major stages of the grievance procedure. (See section herein regarding Time Frames.)

The School allows for the reasonable extension of timeframes on a case-by-case basis for good cause, upon written request for an extension by a party, with notice to the parties that includes the reason for the delay.

The School will take reasonable steps to protect the privacy of the parties and witnesses – provided these steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

The School will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person’s status as a Complainant, Respondent, or witness. The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the School to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the School obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

**v. Report of Investigation and Hearing Before Designated Arbiters:
Sexual Harassment / Sexual Misconduct Involving a Student
Complainant or Student Respondent**

For complaints of sexual harassment / Sexual Misconduct involving a student Complainant or student Respondent, the following procedures will apply.

Upon completion of the investigation, the investigators(s) shall prepare a Report of Investigation ("ROI"), which shall include a description of the evidence discovered during the course of the investigation.

Respondent and Complainant will receive a draft of the full ROI and any evidence therein. The parties will have 10 calendar days to respond to the ROI and the evidence in writing to the Title IX Coordinator. Witnesses will also be given a copy of a summary of their witness interview in the draft ROI and be given 10 calendar days to confirm its accuracy or make any necessary corrections. The investigator(s) will consider any written response to the ROI by the parties before finalizing the ROI. The Respondent and Complainant will receive a final copy of the ROI at least 10 calendar days before the Hearing before Designated Arbiters. The final ROI shall thereafter be submitted to the appropriate Designated Arbiters. The appropriate Designated Arbiters will be determined on a case-by-case basis and will be appointed by the Dean or her designee. The number of Designated Arbiters may range from 1 to 5, and will be determined by the Dean or her designee.

Upon receipt and consideration of the ROI, the Designated Arbiters will hold a hearing. The Respondent is assumed not to have violated the Sex Discrimination Policy at the outset of the hearing.

The standard of proof requires the Designated Arbiters to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Designated Arbiters are not persuaded under the applicable standard by the evidence that sex

discrimination occurred, whatever the quantity of the evidence is, the Designated Arbiters will not determine that sex discrimination occurred.

At the hearing:

- Complainant and Respondent will both have an advisor present. If Complainant or Respondent does not have an advisor, the School will appoint an advisor.
- The Designated Arbiters will determine the order of witnesses and have the discretion to ask the witnesses questions or give the witness an opportunity to make a statement.

The School will provide a process that enables the Designated Arbiters to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

During a live hearing, the process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the Designated Arbiters to ask such questions, and allow each party's advisor to ask any party or witness such questions, subject to the procedures for evaluating and limiting questions discussed below. Such questioning will never be conducted by a party personally. If a party does not have an advisor to ask questions on their behalf, the School will provide the party with an advisor of the School's choice, without charge to the party, for the purpose of advisor-conducted questioning. In those instances, the School will not appoint a confidential employee to this role.

The Complainant's and Respondent's advisors may ask questions of all witnesses during the hearing, including questions that challenge the witness's credibility. Questions must be asked in a neutral tone. Advisors will not be permitted to be disruptive or harassing during their questioning. To the extent an advisor is disruptive or harassing during the questioning, the Designated Arbiters will stop this questioning and ask the advisor to provide all questions in a written format to the Designated Arbiters to ask relevant questions. Questions must be relevant and must not pertain to Complainant's past sexual behavior or sexual predisposition – with two exceptions: where evidence of prior sexual behavior is offered to prove someone other than the Respondent committed the alleged offense, or where prior sexual behavior evidence is specifically about the Complainant and the Respondent and is offered to prove consent.

The Designated Arbiters will determine whether or not each question is relevant before the party or witness has to answer the question. A lawyer from the School's Office of General Counsel will serve as counsel to the Designated Arbiters and may consult with the Designated Arbiters concerning such determinations.

- The School will conduct the live hearing with the parties physically present in separate locations with technology enabling the Designated Arbiters and parties to simultaneously see and hear the party or witness while that person is speaking.
- A recording or transcript will be made of any live hearing and will be made available for the Complainant and Respondent to inspect and review.

The Designated Arbiters will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The Designated Arbiters will give a party an opportunity to clarify or revise a question that the Designated Arbiters determine is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

The Designated Arbiters may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The Designated Arbiters will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

The Complainant and Respondent may submit impact statements, describing the impact of the case on them and/or requested sanctions, to the Designated Arbiters before the Designated Arbiters decide on what sanctions, if any, are appropriate.

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the School will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the Designated Arbiters to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Designated Arbiters are not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Designated Arbiters will not determine that sex discrimination occurred.
- Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
 - A description of the alleged sex discrimination;
 - Information about the policies and procedures that the School used to evaluate the allegations;

- The Designated Arbiters' evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
 - When the Designated Arbiters find that sex-based harassment occurred, any disciplinary sanctions the School will impose on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the School to the Complainant, and, to the extent appropriate, other students identified by the School to be experiencing the effects of the sex discrimination; and
 - the School's procedures and permissible bases for the Complainant and Respondent to appeal.
- The School will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the Respondent engaged in prohibited sex discrimination.
 - The School will comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a Respondent; and
 - The School will not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

The determination regarding responsibility becomes final either on the date that the School provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

If, after holding a hearing and assessing the evidence, the Designated Arbiters determine that it is more likely than not that the Policy was violated, the Designated Arbiters are empowered to impose what they believe to be the appropriate sanctions/remedial actions to be taken. A list of the sanctions/remedies that can be imposed for violations of the Policy are set forth in Appendix 3.

If the Designated Arbiters determine that it is more likely than not that the Policy was not violated, the Designated Arbiters will dismiss the Complaint. Thereafter, the matter will be referred back to the Title IX Coordinator. If there is no appeal or the appeal upholds the dismissal, the Title IX Coordinator will either: (1) close the matter; or (2) refer the matter to other appropriate designated School officials for further action as appropriate, to the extent the allegations may implicate other School policies and procedures. The School will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the

conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.

If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:

- o Coordinate the provision and implementation of remedies to Complainant and other people the School identifies as having had equal access to the School's education program or activity limited or denied by sex discrimination;
- o Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
- o Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue to recur within the School's education program or activity.

The School will comply with the grievance procedures before the imposition of any disciplinary sanctions against a Respondent.

vi. Procedures for a Complaint of Sex Discrimination that is Not Sexual Harassment / Sexual Misconduct, and Procedures for a Complaint of Sexual Harassment / Sexual Misconduct Not Involving a Student Complainant or Student Respondent

These procedures cover all Complaints of sex discrimination that is not sexual harassment / Sexual Misconduct, including claims of sex discrimination (that is not sexual harassment / Sexual Misconduct) that involve a student Complainant or student Respondent (e.g. Complainant claims Respondent did not promote them because of their gender). These procedures also cover all Complaints of sexual harassment / Sexual Misconduct that do not involve either a student Complainant or a student Respondent (e.g. employee Complainant makes a complaint of sexual harassment against an employee Respondent).

In addition, these procedures only apply to sex discrimination complaints alleging that a person violated the School's prohibition on sex discrimination.

The School will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

The Dean or her designee will appoint an appropriate decisionmaker (or group of decisionmakers) who will conduct an investigation and make a determination regarding responsibility and any sanctions. The decisionmaker will conduct a prompt and thorough investigation of the complaint, interviewing the parties and any

relevant witnesses, and examining other relevant evidence. The decisionmaker will allow both parties to view the evidence and respond to the evidence. The investigation will also follow the other applicable guidelines set forth in this Policy.

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the School will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
- Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable;
- The School will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the Respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will:
 - o Coordinate the provision and implementation of remedies to a Complainant and other people the School identifies as having had equal access to the School's education program or activity limited or denied by sex discrimination;
 - o Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
 - o Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the School's education program or activity.
- The School will comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a Respondent; and
- The School will not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

If the decisionmaker(s) determine that it is more likely than not that the Sex Discrimination Policy was not violated, the decisionmaker(s) will dismiss the Complaint. Thereafter, the matter will be referred back to the Title IX Coordinator. If there is no appeal or the appeal upholds the dismissal, the Title IX Coordinator will either: (1) close the matter; or (2) refer the matter to other appropriate designated School officials for further action as appropriate, to the extent the allegations may implicate other School policies and procedures. The School will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.

(A) Appeals

The School will offer an appeal from a dismissal or determination whether sex discrimination occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made;
- The Title IX Coordinator, investigator, or Designated Arbitrator(s) / decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome; and
- Excessiveness or insufficiency of the sanction.

To the extent other grounds for appeal are available in School policies for House Staff Officers or faculty, such individuals can appeal based on those grounds as well.

If a party appeals a dismissal or determination whether sex discrimination occurred, the School will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;

- Communicate to the parties in writing that the School will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal the School offers will be equally available to all parties.

If a Complainant or Respondent wishes to appeal from a Designated Arbiter's / decisionmaker's decision as to whether or not a violation of the School's Sex Discrimination Policy occurred, he or she must file written notice of appeal with the Title IX Coordinator within ten (10) calendar days of e-mailing of notice of the decision.

In cases where there is an appeal from the Designated Arbiters' / decisionmaker's decision concerning a complaint of Sexual Misconduct involving a student Complainant or student Respondent, the Dean or her designee will convene a panel ("Panel") to consider the appeal. (For complaints of sex discrimination that do not constitute sexual harassment / Sexual Misconduct, and for complaints of sexual harassment / Sexual Misconduct that do not involve a student Complainant or student Respondent, the Dean or her designee may designate either a single individual or a Panel to consider the appeal. To the extent a single individual hears the appeal, the following provisions apply, replacing "Panel" with "Appeals Officer".) For appeals before a Panel, the Panel will consist of three (3) School faculty and/or staff members or other employees within the Mount Sinai Health System who have been trained in the adjudication of sex discrimination claims. No students are permitted to serve on any sex discrimination adjudication panels. An attorney with the Mount Sinai Health System Office of General Counsel will serve as legal counsel to all Panels convened pursuant to these procedures.

The following procedures will be followed with respect to the appeal:

1. Following selection of the Panel and the appointment of a panel Chair, the Complainant and Respondent will be notified of the names of the members of the Panel, and will have 48 hours from receipt of such notification to challenge, in writing, any member of the Panel for cause.
2. In the event of a challenge, the Panel Chair (or if the Chair is challenged, the Dean or her designee) will decide on the merits and replace Panel members if necessary.
3. Both the Complainant and the Respondent will be permitted to provide written submissions to the Panel regarding the matter and the allegations, which will be no longer than five pages.

4. The Panel will also have access to the evidence, including, where applicable, the ROI, the recording/transcript of any Hearing before the Designated Arbiters and any evidence presented to the Designated Arbiters/decisionmaker.
5. Certain rights will be afforded and certain principles will be implemented/measures will be taken in connection with all appellate proceedings regarding reports of Sexual Misconduct allegedly perpetrated by students at the School against other School students (i.e. “Student on Student” Sexual Misconduct). Those safeguards and measures are set forth in Appendix 2.
6. The Panel will deliberate on the findings without the presence of either the Complainant or the Respondent. Upon concluding its deliberations, the Panel will vote and make its determination as to whether any grounds for appeal has been met and determine any necessary remedial action that may result based on a majority vote.
7. The Panel will provide the parties with a written decision on the appeal, including the rationale for the decision and any further steps or remedial actions deemed necessary (the “Panel Report”).
8. The Panel will strive to complete the Panel Report in as timely a manner as possible.
9. Copies of written statements from the Panel detailing the factual findings supporting any determinations of violations of the Policy and the rationale for any sanctions imposed will be provided to both the Complainant(s) and the Respondent(s) upon conclusion of the appellate processes.

If the investigation and grievance/complaint adjudication process reflects that sex discrimination created a hostile environment, the Dean and the Title IX Coordinator will work to ensure that prompt and effective steps are taken that are reasonably calculated to end the conduct, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

(B) Time Frames

To the extent possible and consistent with a full and fair process, the School will seek to resolve complaints within approximately 100 calendar days of an initial report (conducting the initial evaluation within 10 days, conducting the investigation within 50 days, making a determination within 40 days from the conclusion of the investigation), not including the time for any appeal. To the extent there is a hearing and it takes a longer period of time to schedule the hearing, it may take additional time to make a determination. The School will seek to resolve appeals within 50

calendar days. The School will seek to resolve an informal resolution process within 50 calendar days. Time frames will vary depending on the complexity of the investigation and the severity and extent of the alleged misconduct. The School will give the parties periodic status updates.

9. RIGHTS OF COMPLAINANTS

All Complainants have the right to:

- a. Notify School security, local law enforcement, and/or state police;
- b. Have emergency access to the Title IX Coordinator, or in their absence, other appropriate officials trained in interviewing victims of Sexual Misconduct, who shall be available upon the first instance of disclosure by a Complainant to provide certain information regarding options for proceeding that are set out above.
- c. Confidentially disclose the incident to individuals and organizations that are associated or affiliated with the School, including SAVI, Professional and Pastoral Counselors, Non-Professional Counselors and Advocates, and others (a more complete list of on and off campus advocates and counseling options, some of which offer confidentiality is available in Appendix 1), who can assist in obtaining services for Complainants.
- d. Confidentially disclose the incident and obtain services from the state or local government.
- e. Disclose the incident to institution representatives such as the Title IX Coordinator, who can offer privacy and may be able to offer confidentiality, if appropriate, and can assist in obtaining resources for Complainants.
- f. File a report of sex discrimination and consult with the Title IX Coordinator and other appropriate institution representatives for information and assistance. As set forth above, reports shall be dealt with in accordance with institutional policy and will be treated with privacy to the extent possible.
- g. Disclose, if the Respondent is an employee of another entity in the MSHS, the incident to the appropriate human resources or other authorities at the Respondent's entity of employment, or request that a confidential or private employee assist in reporting to the appropriate authorities.

- h. Receive assistance from the Title IX Coordinator in initiating legal proceedings in family court or civil court.
- i. Withdraw a complaint or withdraw involvement from the School Sexual Misconduct investigation and/or adjudication process at any time. It must be noted here that in certain circumstances, the School may have no choice but to continue with the investigation and/or adjudication processes even if a Complainant has withdrawn his or her complaint or has requested that “no further action” be taken. The criteria on which the School will base its decision regarding whether to proceed with the institutional process despite the complainant’s withdrawal from the process are set forth above.

10. ADDITIONAL RIGHTS IN “STUDENT ON STUDENT” SEXUAL MISCONDUCT PROCEEDINGS

The School is cognizant of the serious and sensitive nature of Sexual Misconduct claims. Accordingly, as set forth more fully in N.Y. Educ. Law § 6444(5) and to the extent feasible and lawful, the School will ensure that certain rights are afforded and that certain safeguards are taken in connection with all Sexual Misconduct investigations, adjudications, and reviews (including appellate reviews) involving reports of Sexual Misconduct allegedly perpetrated by students at the School against other students at the School. These rights and safeguards are set forth fully in Appendix 2.

11. POLICY FOR ALCOHOL AND/OR DRUG USE AMNESTY

The health and safety of every student at the School is of utmost importance. The School recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that Sexual Misconduct occurs may be hesitant to report such incidents because of fear of potential consequences for their own conduct. The School strongly encourages students to report Sexual Misconduct, including domestic violence, dating violence, stalking, or sexual assault, to School officials, including but not limited to the Title IX Coordinator. A bystander acting in good faith or a Complainant acting in good faith who discloses any incident of Sexual Misconduct, including domestic violence, dating violence, stalking, or sexual assault, to School officials or law enforcement will not be subject to action for violations of the School’s drug or alcohol use policies occurring at or near the time of the commission of the subject Sexual Misconduct.

Nothing in this Policy or otherwise shall be construed to limit an institution’s ability to provide amnesty to students in additional circumstances not expressly set forth herein.

While this Policy provides students with amnesty for violations of the School's drug and alcohol use policies under the circumstances set forth above, it does not absolve the School of its obligations, in legally mandated or otherwise appropriate circumstances, to take whatever steps are necessary to ensure the safety of the School Community, patients, and the public, and to truthfully and accurately report to any governmental, administrative, regulatory, professional, or licensing authorities, boards, or bodies, and the School expressly reserves its rights to do so.

12. PROHIBITION AGAINST RETALIATION

It is a violation of School policy to retaliate against an individual for: (1) raising concerns, reporting, or filing complaints or reports (whether first or third party) regarding Sexual Misconduct; (2) involvement in registering complaints or reports of Sexual Misconduct; (3) serving as representatives for Complainants, victims, or individuals accused of Sexual Misconduct; or (4) participating in the investigative or adjudicative processes in connection with allegations of Sexual Misconduct.

13. FALSE REPORTS

Submitting a false report or providing false or misleading information in bad faith or with a view to personal gain in connection with an alleged incident of Sexual Misconduct is prohibited and is subject to disciplinary action. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are ultimately not substantiated. The School will not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

14. EDUCATION, TRAINING, AND PREVENTION

The School has adopted a comprehensive student onboarding and ongoing education campaign to educate members of the School Community about Sexual Misconduct (including domestic violence, dating violence, stalking, and sexual assault). In connection with this campaign:

1. All new incoming and transfer students shall, during the course of their orientation, receive training on certain enumerated topics that are set forth in Appendix 4.
2. The School will use multiple methods, including written handouts as well as programs that may include on-line courses, lectures, seminars, workshops, and discussion groups, to educate students about Sexual Misconduct and violence prevention, and to promote discussion, encourage reporting, and facilitate prevention of Sexual Misconduct.
3. The School will, to the extent feasible, share information on Sexual Misconduct with parents of enrolling students.

4. Training shall, as appropriate, include groups such as international students, students who are also employees, leaders and officers of registered or recognized student organizations, and online and distance education students. The School will also provide specific training to members of groups that the School, through the Title IX Coordinator, identifies as “high-risk populations.”
5. All student leaders and officers of student organizations recognized or registered with the School, as well as those seeking recognition by the School, shall complete training on Sexual Misconduct prior to receiving recognition or registration.
6. The Title IX Coordinator will regularly assess the School’s anti-Sexual Misconduct programs and policies to determine effectiveness and relevance for students.

The School trains its Designated Officials to report to the Title IX Coordinator any incidents of Sexual Misconduct that may violate the School’s Code of Conduct. Designated Officials are trained to understand that they do not need to determine whether the alleged Sexual Misconduct actually occurred before reporting an alleged incident to the Title IX Coordinator. The School’s Title IX Coordinator and Human Resources officials who investigate claims of Sexual Misconduct are trained to have in-depth knowledge of Sexual Misconduct investigations and this policy.

The School also ensures that a pool of faculty and staff are trained in the adjudication of Sexual Misconduct claims so that they can investigate claims and hear claims of Sexual Misconduct as a Designated Arbiter or on a panel assessing an appeal. Training will include the definition of sexual harassment, how to conduct an investigation and the hearing process for such claims, how to serve impartially, avoiding prejudice, conflict of interest, and bias, evidence at a hearing/relevance/questioning, and technology used at a live hearing. Training material for adjudicators and investigators is available on the School’s website.

15. BI-ANNUAL “CAMPUS CLIMATE ASSESSMENTS”

The School will conduct bi-annual “campus climate assessments” to ascertain general awareness and knowledge of the provisions of N.Y. Educ. Law Article 129-b, including student experience with and knowledge of reporting and adjudication processes, which shall be developed using standard and commonly recognized research methods. Principles and procedures for development, implementation, and administration of the “campus climate survey” are set forth in Appendix 5.

The School shall take steps to ensure that answers to “campus climate assessments” remain anonymous and that no individual is identified. The School shall publish the results of “campus climate surveys” online, provided that no personally identifiable information or information that can reasonably lead a reader to identify an individual shall be shared.

16. DISSEMINATION OF POLICIES AND PROCEDURES AND “STUDENT BILL OF RIGHTS”

This Policy shall be provided to all students through electronic posting on the School’s website (www.pson.edu). This Policy will be permanently available on Moodle, the School learning management system.

The School has adopted a “Student Bill of Rights” as part of its Code of Conduct. It is included as part of Appendix 2, Student Rights, within this document. Copies of the “Student Bill of Rights” shall also be posted on the School’s website and distributed annually to students.

17. STATEMENT ON COMPLIANCE

This Policy is designed to comply with applicable legal requirements, including but not limited to Title IX of the Education Amendments of 1972, relevant provisions of the Violence Against Women Reauthorization Act of 2013, Title VII of the Civil Rights Act of 1964, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), New York State laws including but not limited to N.Y. Educ. Law Article 129-b (§§ 6439-6449), and New York State and City human rights laws.

The School is obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the Complainant. Complainants shall not be identified in such timely warnings.

The Family Educational Rights and Privacy Act (“FERPA”) allows the School to share information with parents when (1) there is a health or safety emergency where disclosure is necessary to protect the health or safety of a student or others or as otherwise provided by FERPA; or (2) when the student is a dependent on either parent’s prior year federal income tax return. Generally, however, the School will not share information about reports of Sexual Misconduct with parents without the permission of the Complainant. The School’s FERPA policy can be found in the Student Handbook posted on the School’s website.

Crime statistics from the U.S. Department of Education’s Campus Safety Report for the School are posted on the School’s website under “Student Resources” and are available through the U.S. Department of Education website for campus crime statistics at <https://ope.ed.gov/campussafety>.

APPENDIX 1 CAMPUS ADVOCATES/COUNSELING OPTIONS

A. RESOURCES

Professional Counselors: Professional, licensed counselors (and pastoral counselors) will provide mental-health counseling to members of the School Community (including those who act in that role under the supervision of a licensed counselor) and are not required to report any information about an incident to the Title IX coordinator without a victim's permission. For appointments, contact the coordinator at Employee Health Services by calling 212-420-3410.

Evaluation, treatment and crisis intervention is available for students through the **Student and Trainee Mental Health Program**; call 212-659-8805 or email stmh@mssm.edu. A 24/7 Support and Crisis Hotline "WellConnect" will connect students to trained behavioral health counselors any time of the day or night; call 212-241-2400 or 1-866-640-4770 (school code ICAHN).

In addition, the **Center for Stress, Resilience and Personal Growth** offers individual support and treatment; call 212-65-5564.

To speak with a **chaplain**, call 212-420-2759 during regular business hours or the on-call line 212-241-7262 on nights and weekends.

SAVI: SAVI provides confidential and free of charge support services for survivors and victims of sexual assault and intimate partner violence. SAVI's contact information is as follows:

One Gustave L. Levy Place, Box 1670 New York,
NY 10029

212-423-2140 (Manhattan and Queens)

[SAVI - Sexual Assault and Violence Intervention Program - The Mount Sinai Hospital | Mount Sinai - New York](#)

Non-Professional Counselors and Advocates: Individuals who work or volunteer as part of the SAVI program can generally talk to a victim without revealing any personally identifying information about an incident to ISMMS.

Victims can seek assistance and support from such individuals without triggering a formal investigation that could reveal the victim’s identity or that the victim has disclosed the event.

While still maintaining a victim’s confidentiality, these individuals or their office may be required to report the nature, date, time, and general location of an incident to the Title IX Coordinator and/or other responsible employees. Such limited reports – which include no information that would directly or indirectly identify the victim – help keep the Title IX Coordinator informed of the general extent and nature of Sexual Misconduct on and off campus so the Coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the victim to ensure that no personally identifying details are shared with the Title IX Coordinator.

B. OFF CAMPUS OPTIONS AND OTHER COMMUNITY RESOURCES

Outside of the School of Nursing, there are many local organizations that provide support services, educational programs, and other resources for victims/survivors, often for little or no fee. While these groups are not affiliated with the School, they are included here as they can provide valuable support for members of our community. Contact information for such organizations is set forth below:

i. CRISIS CENTERS (AFFILIATED WITH HOSPITALS)

Bronx	<i>North Central Bronx Hospital</i> Sexual Assault Treatment Program 3424 Kossuth Avenue Bronx, NY 10467 Phone: 718-519-5722 or 718-519-3100
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Brooklyn

Coney Island Hospital
Rape Crisis Program
2601 Ocean Parkway
Brooklyn, NY 11235
718-616-4209
Hotline: 800-TEL-RAPE or 800-835-7273

New York Methodist Hospital
506 Sixth Avenue
Brooklyn, NY 11215
(Not an official rape crisis center but can collect evidence
and provide other emergency medical services)
718-780-3000

Manhattan

Bellevue Hospital Center
Sexual Assault Response Team SAFE Center
462 First Avenue
CD Building, Ground Fl. #GA74
New York, NY 10016
212.562.3435 or 212.562.3755

Beth Israel Medical Center
Rape Crisis & Domestic Misconduct Intervention Program
Department of Social Work
317 East 17th Street
New York, NY 10037
212-420-5632

Harlem Hospital, R. 6111 MLK
Center for Victim Support SAFE Center
506 Lenox Avenue
New York, NY 10037
212-939-4600

Manhattan	<i>New York-Presbyterian Hospital/Weill Cornell Medical Center</i> Department of Social Work 525 East 69th Street, Box 143 New York, NY 10021 <i>(VIP) Victim Intervention Program</i> 212.746.9414	
	<i>SAFE Horizon Hotline</i> Rape and Sexual Assault Victims 212-227-3000	
	<i>NYU Langone Medical Center</i> 550 First Avenue New York, NY 10016 212-263-7300	(Not an official rape crisis center but can collect evidence and provide other emergency services)
	<i>St. Luke's-Roosevelt</i> Crime Victims Treatment Center 411 West 114th Street, Suite 2C New York, NY 10025 212-523-4728	
Queens	<i>Elmhurst Hospital</i> (SAVI) Sexual Assault and Violence Intervention Program 79-01 Broadway Elmhurst, NY 11373 212-423-2140	
Staten Island	<i>Staten Island University Hospital</i> 475 Seaview Avenue Staten Island, NY 10305 Safe Horizon Domestic Misconduct Hotline Phone: 1-800-621-HOPE (4673)	
Resources with access to confidential counseling	<i>NYC Gay and Lesbian Anti-Misconduct Project</i>	212-714-1141*
	<i>Safe Horizon: Rape and Sexual Assault Hotline</i>	212-227-3000*
	<i>Safe Horizon: NYC Domestic Misconduct Hotline</i>	800-621-4673*

Non-confidential resources	NYC Alliance Against Sexual Assault contact-us@svfreenyc.org	
	NYS Crime Victim's Board	800-247-8035
	NYS Victim Information and Notification Everyday	888-VINE-4NY or 888-846-3469

APPENDIX 2

STUDENT RIGHTS

Given the serious and sensitive nature of Sexual Misconduct claims, the School's students and postdoctoral students/fellows shall be afforded the following rights and safeguards in connection with Sexual Misconduct investigations, adjudications, and appellate reviews (collectively "Proceedings") of reports/complaints of Sexual Misconduct allegedly perpetrated by the School's students against the School's students :

- a. The right to request that student conduct charges be filed against a Respondent in Proceedings governed by this Policy and in accordance with N.Y. Education Law Article 129.
- b. The right to a process in connection with all alleged Policy violations that includes:
 - i. Notice to the Respondent describing the date, the time, location and factual allegations concerning the violation, a reference to the specific code of conduct/ School Sexual Misconduct Policy provisions alleged to have been violated, and possible sanctions.
 - ii. An opportunity to offer evidence during an investigation, to present evidence and testimony at a hearing (where appropriate and if there is a hearing), and to have access to a full and fair record of any such hearing, which record shall be preserved and maintained for at least ten (10) years from such a hearing and may include a transcript, recording or other appropriate record.
 - iii. Access to at least one level of appeal of a determination by Designated Arbiters before a panel that is fair and impartial and does not include individuals with a conflict

of interest.

- c. Throughout Proceedings, the right:
- i. For all Complainants and Respondents to be accompanied by an advisor of his/ her choice who may assist and advise throughout the process, including during all proceedings (including meetings and hearings) attended by his or her advisee that are related to such process. All such advisors of choice, including attorneys, are permitted only to communicate with their respective advisees during all such proceedings, and shall be prohibited from speaking on the record, presenting evidence, making objections, or otherwise directly participating in any way in the proceedings, with the exception of at the Hearing (as applicable), as described in the Policy. These limitations apply equally to advisors for Complainants and Respondents.
 - ii. To a prompt response to any complaint and to have the complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive training in conducting investigations of Sexual Misconduct, the effects of trauma, impartiality, and the rights of the Respondent (including the right to a presumption that the Respondent is “not responsible” until a finding of responsibility is made pursuant to the Policy).
 - iii. To an investigation and process that is fair, impartial, and provides a meaningful opportunity to be heard, that is not conducted by individuals with a conflict of interest.
 - iv. To have the School’s investigation and adjudication processes run concurrently with a criminal justice investigation or proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten days, except when law enforcement specifically requests and justifies a longer delay.
 - v. To review and present available evidence in the case file, or otherwise in the possession or control of the School, and relevant to the conduct case, consistent with School policies and procedures.
 - vi. To exclude from consideration by any decision makers,

including but not limited to the appropriate “designated arbiter” or an appellate hearing panel:

1. Their own prior sexual history with persons other than the other party in the process (except in the limited circumstances discussed in the Policy).
 2. Their own mental health diagnosis and/or treatment.
 3. Past findings of domestic violence, dating violence, stalking, or sexual assault, except that such past findings can be considered in connection with determinations of discipline and sanctions after decisions regarding responsibility have already been reached.
- vii. To have the following types of evidence, and questions seeking that evidence, excluded, as they are impermissible (i.e. will not be accessed or considered, except by the School to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
1. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 2. A party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the School obtains that party’s or witness’s voluntary, written consent for use in its grievance procedures; and
 3. Evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless evidence about the complainant’s prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the

complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

- viii. To receive written or electronic notice:
 1. A reasonable time in advance of any meeting they are required to or eligible to attend.
 2. Of the specific rule, rules, or laws alleged to have been violated, and in what manner.
 3. Of the sanction or sanctions that may be imposed based on the outcome of the process.
 4. Of any written statements detailing the factual findings supporting any determinations of violations of the Policy and the rationale for any sanctions imposed.
- ix. To submit an "impact statement" during the point of the Proceedings where the Designated Arbiters are deliberating on appropriate sanctions (whether the "impact statement" will be submitted orally or in writing is left to the discretion of the Designated Arbiters).
- x. To simultaneous (among the parties) notification (via e-mail) of the outcome of the processes, including the sanction or sanctions imposed on the Respondent (if any) based upon the outcome of the processes, and the rationale for the actual sanction imposed.
- xi. To choose whether to disclose the outcome of the Proceedings or judicial process.
- xii. To have all information obtained during the course of the Proceedings be protected from public release until all levels of review are completed and exhausted, unless otherwise required by law.

STUDENT BILL OF RIGHTS

For complaints of Sexual Misconduct, 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 the institution.
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 receive from the institution 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 institution representatives as practicable and not be required to unnecessarily repeat a description of the incident.
8. Be protected from retaliation by the institution, any student, the accused and/ or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution.
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 reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process.
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

APPENDIX 3

SANCTIONS AND REMEDIAL ACTIONS

Following a determination that sex-based harassment occurred, the School may impose disciplinary sanctions, which may include the sanctions listed below. The School may also provide remedies, which may include remedies listed below.

Designated Arbiters are empowered to impose what they believe to be the appropriate sanctions and/or remedial actions following a determination that the School Sexual Misconduct Policy was violated. Such sanctions and remedies include, but are not limited to:

- a. Disciplining the Respondent, up to and including expulsion and discharge/termination (also including suspension and probation);
- b. Providing counseling for Complainants, Respondents, and other parties as appropriate;
- c. Issuing “No Contact” orders;
- d. Providing effective escorts to ensure that the Complainant can move safely between classes and activities;
- e. Ensuring that the Complainant and the Respondent do not share classes, work spaces, or extracurricular activities;
- f. Placing notations on the Respondent’s transcript regarding the subject violations;
- g. Requiring an assessment of a Respondent in connection with drug or alcohol use, or some other applicable assessment / treatment protocol;
- h. Moving the Respondent to a different position or assignment;
- i. Revocation of honors or awards;
- j. Restriction of access to School facilities or activities;
- k. Removal from and/or restricted participation in academic or extracurricular activities and/or School organizations, or restriction from School services;
- l. Admission revocation;
- m. Withholding or deferral of issuance of degree;
- n. Revocation of degree;
- o. Revocation of alumni privileges.

NOTES REGARDING TRANSCRIPT NOTATIONS

It should be noted here that New York State law requires that, for crimes of violence, including but not limited to sexual violence (defined as crimes that meet the reporting requirements pursuant to the federal Clery Act, 20 U.S.C. § 1092(f)(1)(I)-(VIII)), institutions such as the School make a notation on the transcript of students found responsible after a conduct process that they were “suspended after a finding of responsibility for a code of conduct violation” or “expelled after a finding of responsibility for a code of conduct violation.” For Respondents who withdraw from the School while conduct charges are pending and decline to complete the disciplinary process, the School shall make a notation on their transcript stating that they “withdrew with conduct charges pending.”

Respondents can seek removal of transcript notations for suspensions by filing a written request with Dean or her designee, who shall have discretion to decide whether the request for the notation removal should be granted, provided that such notations shall not be removed before one year after the conclusion of the suspension. Respondents cannot seek removal of transcript notations for expulsions, which shall not be removed unless otherwise provided for herein.

If a finding of responsibility is vacated for any reason, all related transcript notations shall be removed.

APPENDIX 4

TRAINING AND EDUCATION

During orientation and at the beginning of the academic year, all new incoming and transfer students shall receive training on the following topics:

- a. The School’s prohibition of sex discrimination, including Sexual Misconduct and sexual and interpersonal violence, and its offering of resources to any victims and survivors of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of the School.
- b. Relevant definitions, including but not limited to the definitions of Sexual Misconduct, sexual assault, domestic violence, dating violence, stalking, confidentiality, privacy, and Affirmative Consent.
- c. The equal application of the School’s policies regardless of sexual orientation, gender identity, or gender expression.
- d. The role of the Title IX Coordinator, School security, and other relevant offices that address Sexual Misconduct, including domestic violence, dating violence, stalking, and sexual assault prevention and response.
- e. Awareness of violence and the importance of taking action to prevent violence when one can safely do so.

- f. Risk assessment and reduction, including, but not limited to, steps that potential victims, perpetrators, and bystanders can take to lower the incidence of violations, which may contain information about the dangers of drug and alcohol use, including underage drinking and binge drinking, involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol, the importance of communication with trusted friends and family whether on campus or off campus, and the availability of institutional officials who can answer general or specific questions about risk reduction.
- g. Consequences and sanctions for individuals who commit these crimes and Code of Conduct violations.

APPENDIX 5

CAMPUS CLIMATE SURVEYS

Under N.Y. Educ. Law § 6445, the School is required to conduct bi-annual “campus climate assessments” to ascertain general awareness and knowledge of the provisions of N.Y. Educ. Law Article 129-b. Responsibility for development of the School’s “campus climate assessment” will be vested in the office of the Title IX Coordinator, who is empowered to utilize all reasonable and necessary resources to do so. The “campus climate assessment” shall be developed using standard and commonly recognized research methods, and shall include questions covering, but not limited to, the following topics:

- a. The Title IX Coordinator’s role;
- b. Campus policies and procedures addressing Sexual Misconduct;
- c. How and where to report Sexual Misconduct as a victim, survivor, or witness;
- d. The availability of resources on and off campus, such as counseling, health and academic assistance;
- e. The prevalence of victimization and perpetration of Sexual Misconduct on and off campus during a set time period;
- f. Bystander attitudes and behavior;
- g. Whether Complainants disclosed to the School and/or law enforcement, experiences with reporting and School processes, and reasons why they did or did not report;
- h. The general awareness of the difference, if any, between the School’s policies and the penal law; and
- i. General awareness of the definition of Affirmative Consent