



Cornell University

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To: Complainants Considering Filing a Formal Complaint; Complainants and Respondents Involved in a Formal Complaint Against a Student under Cornell Policy 6.4

From: Title IX Coordinator, The Cornell Office of Civil Rights (COCR)

Re.: Information about the *Procedures for Investigation and Adjudication of Reports against Students Under Cornell Policy 6.4*

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Cornell University is committed to providing a safe and nondiscriminatory environment for all members of our community. Policy 6.4<sup>1</sup> prohibits bias, discrimination, harassment, and sexual and related misconduct; the [Procedures for Resolution of Reports Against Students Under Cornell University Policy 6.4](https://www.dfa.cornell.edu/sites/default/files/vol6_4.pdf) (the "Procedures")<sup>2</sup> govern the university's response to and resolution of reports of sexual and related misconduct when the accused individual is a student. The Procedures were most recently updated on August 5, 2024.

We handle reports of prohibited conduct in a manner that is prompt, fair, and impartial from the initial response to final resolution of a Formal Complaint. The university response will be conducted by appropriately trained individuals who do not have a conflict of interest or bias for or against any party.

This letter provides an overview of the following topics relevant to the investigative process:

- (I) **Advisors and Support Persons;**
- (II) **Complainant's Request for Anonymity;**
- (III) **Filing a Formal Complaint;**
- (IV) **Investigation of a Formal Complaint;**
- (V) **Alternate Resolution, Hearing, and Appeal;**
- (VI) **Transcript Notations; and**
- (VII) **the Prohibition Against Retaliation.**

For answers to questions about reporting and information about supportive measures, please refer to the "Reporting Rights and Options" Policy 6.4 Letter.

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<sup>1</sup> [https://www.dfa.cornell.edu/sites/default/files/vol6\\_4.pdf](https://www.dfa.cornell.edu/sites/default/files/vol6_4.pdf)

<sup>2</sup> <https://officeofcivilrights.cornell.edu/policies-procedures/non-discrimination-policy-6-4/current-policy-6-4-procedures/>

## (I) ADVISORS & SUPPORT PERSONS

As a complainant and/or respondent, you have the right to consult with an advisor of your choice and to bring an advisor of your choice to any meeting or proceeding. The university offers law students as procedural advisors free of charge. Those advisors are:

- For Complainants, The Complainants' Codes Counselors: [complaintadvice@cornell.edu](mailto:complaintadvice@cornell.edu) (email)
- For Respondents, The Respondents' Codes Counselors: [rccoffice@cornell.edu](mailto:rccoffice@cornell.edu) (email)

As an alternative or in addition to utilizing an advisor offered by the university, complainants and respondents have the right to select and consult with an advisor and support person of their own choosing. Your advisor and support person may be anyone, including an attorney. If you would like assistance finding an attorney, you may wish to contact the New York State Bar Association Lawyer Referral and Information Service:

- NYS Bar Association Lawyer Referral & Information Service, 1.800.342.3661

By accepting the role of advisor, all advisors agree to comply with the rules and processes set forth in Policy 6.4 and the Procedures, including rules regarding privacy. Unless otherwise specified, once you notify the Cornell Office of Civil Rights of the identity of your advisor(s), the advisor(s) will be included on email and Secure File Transfer correspondence.

Both the complainant and respondent also have the right to a support person of their choice to provide emotional support to the party.

Advisors and support persons may accompany you to all meetings, such as investigative interviews and proceedings, and are not to interfere with meetings or proceedings. With limited exception for cross examination in Hearing Process A, advisors and support persons may not speak on the party's behalf at any time.

Throughout the proceedings, advisors and support persons may also help the party prepare written submissions.

## (II) COMPLAINANT'S REQUEST FOR ANONYMITY; PROCESS PRIVACY

***Complainant's Request That No Formal Complaint Be Pursued.*** The University strongly supports the complainant's decision to remain anonymous and to not to pursue a Formal Complaint. Where the complainant does not wish to pursue a Formal Complaint, the University will honor the complainant's wishes unless doing so would not adequately mitigate the risk of harm to the complainant or other members of the University community or doing so impacts the University's ability to provide a safe and non-discriminatory environment for all members of the University community.

Regardless of whether the complainant chooses to file or participate in a Formal Complaint, COCR will assist the complainant with reasonable and available supportive measures, which may include academic, housing, transportation, employment, and other accommodations. These supportive measures will vary depending on the nature of the reported prohibited conduct, whether the complainant is a student, faculty or staff member, and the wishes of the complainant regarding anonymity. COCR will maintain as

private any supportive measures provided to the complainant and may disclose to an appropriate university official only information that is necessary to provide the accommodations or protective measures in a timely manner.

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

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

***Privacy of the Policy 6.4 Process.*** To ensure the integrity of Policy 6.4 and its procedures, and to encourage parties and witnesses to participate in matters under this policy, the University recognizes that participants should be protected from unreasonable disclosure of their involvement in a process, and of any information they reveal during their participation. However, the university also recognizes that there are legal mandates that govern disclosure and afford participants certain rights to disclose information related to matters under this policy.

Accordingly, COCR seeks to balance these competing interests by encouraging parties not to reveal any information they learn in the course of their participation in processes set forth in the applicable procedures, other than for the purpose of consulting with advisors and attorneys, and incidental to seeking support and advice from family, clergy, health professionals, and others playing a similar role. Parties are also encouraged to request that any advisors, attorneys, and support persons they consult keep information related to matters under this policy private. Parties may choose whether to disclose or discuss with others the outcome of a complaint under this policy.

Parties and witnesses are ***prohibited*** from distributing documents obtained in the course of their participation, including, but not limited to, the Formal Complaint, interview transcripts, and the investigative record and report, other than for the purpose of consulting with an advisor; incidental to seeking support and advice from family, clergy, health professionals, and others playing a similar role; or as part of a civil, criminal, or administrative legal proceeding. As appropriate, in a given case, a university official, such as the Title IX Coordinator, may issue an order restricting the parties from disclosing specific information. Members of the Cornell community who fail to follow an order of a university official may be found to have violated Cornell University's Campus Code of Conduct. Additionally, sharing private information in a manner that harms another individual may constitute retaliation prohibited under this policy.

If you are eighteen (18) years or older, generally no university office will contact your parents or other family members unless you give express written permission. Friends, faculty, coaches, supervisors, co-workers, etc. will not be contacted either, unless they are necessary witnesses.

COCR may also share information about a report with other university officials with a legitimate educational need to know. Examples of such needs may include the CARE team, crisis managers, or CUPD (i.e. so that CUPD may decide whether to issue a [Timely Warning](#)).

The university will complete publicly available recordkeeping, including Clery Act reporting and disclosures, without inclusion of personally identifying information.

Additional information about students' privacy rights can be found on the [Office of the University Registrar's Website](#).

### (III) FILING A FORMAL COMPLAINT

In any case where a complainant reports Prohibited Conduct and requests resolution under Policy 6.4, the COCR will promptly initiate an investigation. This process begins with the complainant signing a written Formal Complaint, drafted by COCR with input from the complainant.

A person who initiates a Formal Complaint of prohibited conduct under the Procedures will be designated as a "party complainant" or "complainant." A student against whom such a report or Formal Complaint has been made will be designated as the "respondent." Both the complainant and respondent may be referred to as "party" or "parties."

**Definition of Prohibited Conduct and Effective Date of the Procedures.** Reports of prohibited conduct will be investigated and adjudicated using the definition(s) of prohibited conduct in effect at the time the incident(s) reportedly occurred. The August 5, 2024, Procedures will be used to investigate and resolve all Formal Complaints signed on or after August 5, 2024, regardless of when the conduct reportedly occurred.

**Notice.** The Formal Complaint sets forth the date, time, location, and factual allegations concerning the violation. The notice will also provide an initial analysis of which Hearing Process (A or B) will be used to adjudicate the Formal Complaint. The "Notice of Formal Complaint" PDF will be provided to both parties electronically, typically after the Respondent's intake meeting with COCR.

The university may hold the respondent accountable for violations of the Code of Conduct or Policy 6.4 that are not referenced in the complaint but are learned about from evidence, testimony, or admission during the investigatory and adjudication process.

**Standard of Evidence.** The standard of evidence under Policy 6.4 is a preponderance of the evidence (i.e., it is more likely than not that the conduct has occurred). During an investigation, the respondent is presumed "not responsible" until a finding of "responsible" is made pursuant to Policy 6.4.

**Time Limitations.** A Formal Complaint against a student may be filed at any time as long as the respondent is a student at the time of the complaint.

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

**Jurisdiction.** The procedures will apply to alleged prohibited conduct by a student on any campus of the University, on any other property or facility used by it for educational purposes, or on property owned or controlled by a University-related residential organization, student organization, sorority, or fraternity that is officially recognized by or registered with the University.

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

The procedures also will apply regardless of the location of the alleged prohibited conduct where:

- the alleged prohibited conduct has occurred in the context of a University education program or activity; or
- the alleged prohibited conduct poses a substantial threat to the University's educational mission, such as an allegation of serious misconduct by a Cornell student against a non-Cornell community member, or to the health or safety of University community members, including potentially contributing to or creating a hostile environment on any campus of the University.

***Determination of Whether Title IX Applies and Whether Case May Be Adjudicated Using Hearing Process A or B.*** Generally, a Formal Complaint may be resolved by Alternate Resolution or Hearing.<sup>3</sup>

There are two Hearing Formats: Hearing Process A and Hearing Process B. At the outset of the investigation, the Title IX Coordinator will determine which Hearing Process will apply should the Formal Complaint ultimately be resolved through Hearing. The Title IX Coordinator will notify the parties of this determination when the Notice of Formal Complaint is issued and will notify the parties in writing if the determination changes based on information obtained during the investigation.

The Title IX Coordinator will rely on the following two conditions in determining which Hearing Process will be used to conduct the Hearing:

- Whether Title IX applies to the Formal Complaint; and
- Whether, if found responsible, the respondent could face suspension or dismissal from the University as a potential sanction.

If either condition above is present, a Hearing on the Formal Complaint will be conducted in accordance with Hearing Process A. If neither of the above conditions is present, a Hearing on the Formal Complaint will be conducted in accordance with Hearing Process B.

In evaluating whether Title IX applies to the Formal Complaint, the Title IX Coordinator will determine whether the following requirements are met:

- The alleged prohibited conduct meets at least one of the definitions for sexual harassment and sex/gender-based harassment, sexual assault, dating and domestic violence, or stalking;
- The alleged prohibited conduct occurred in the University's education program or activity;
- The alleged prohibited conduct occurred against a complainant in the United States; and
- At the time of filing the Formal Complaint, the complainant is participating in or attempting to participate in the University's education program or activity.

In evaluating whether a respondent could face a potential sanction of suspension or dismissal from the University, the Title IX Coordinator will consider:

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<sup>3</sup> A Formal Complaint may also be terminated by COCR dismissing the Formal Complaint (see Procedures, Section 24.9) or by the Complainant withdrawing the Formal Complaint.

- Whether the alleged prohibited conduct involves physical acts, violence, use of a weapon or force, intimidation, threats, or a pattern of perpetration;
- Whether the alleged prohibited conduct substantially threatens the University's educational mission or the health or safety of University community members;
- Whether the complainant is a minor;
- Whether the respondent has a disciplinary history; and
- Any other relevant exacerbating or mitigating circumstances related to the alleged prohibited conduct or the parties.

The Title IX Coordinator's evaluation of a potential sanction shall not be considered by a Hearing Panel in determining an actual sanction. For anonymized historical data about sanctions in Formal Complaints, please visit: <https://officeofcivilrights.cornell.edu/data-statistics/formal-complaints/>.

<b>(IV) INVESTIGATION OF A FORMAL COMPLAINT</b>
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During the investigation, an appropriately trained investigator will gather information from the parties and other individuals who have relevant information. All investigative interviews will be audio recorded and transcribed, and copies of the transcripts of the interviews will be available to the parties at different points during the investigation. The parties will be interviewed separately and will not appear in the same room during the investigation.

Parties are encouraged to submit all relevant evidence to the investigator as soon as possible. They are also encouraged to review the forms pertaining to the investigation located at: <https://titleix.cornell.edu/policy-6-4/forms>. If a party wishes to submit requests throughout the investigation, they must do so using the designated form.

The investigator will gather relevant available evidentiary materials, including physical evidence, documents, communications between the parties, and electronic records and media as appropriate.

The parties will have the opportunity to review and comment on the information gathered by the investigator prior to the investigator submitting an investigative report and record to the Hearing Panel.

Both parties will receive a copy of the investigative record and investigative report simultaneously.

All individuals involved in the investigation will be treated with sensitivity and respect and the investigation will be completed as expeditiously as possible.

**Participation.** Neither the complainant nor respondent is required to participate in the investigation. However, if a party declines to participate in an investigation, the university's ability to investigate meaningfully and respond to a report of Prohibited Conduct may be limited. In addition, if a party declines to participate in investigative interviews deemed necessary by the investigator, the party will forfeit the opportunity at the hearing to give a written opening statement, testify, and give oral and written closing statements at the Hearing.

If another Cornell community member is asked to provide a witness interview, they are expected to participate.

All witnesses and parties who participate are expected to provide truthful information. “Furnishing false information to the University with intent to deceive” is prohibited and subject to disciplinary sanctions under Cornell University’s Campus Code of Conduct.

***Alcohol and/or Drug Use Amnesty.*** A complainant or bystander acting in good faith when disclosing an incident of sexual assault, dating violence, domestic violence, or stalking to the university’s officials or law enforcement will not be subject to Campus Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the sexual assault, dating violence, domestic violence, or stalking.

<b>(V) RESOLUTION OF A FORMAL COMPLAINT: ALTERNATE RESOLUTION, HEARING, AND/OR APPEAL</b>
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***Alternate Resolution.*** At any time after a Formal Complaint has been filed and before a hearing commences, the parties may seek to resolve a report of prohibited conduct through Alternate Resolution, an administrative process. Participation in Alternate Resolution is entirely voluntary; the Title IX Coordinator will neither pressure nor compel either party to participate in the process or agree to any specific terms.

Alternate Resolution can be either an informal or formal resolution.

- Informal resolution: the Respondent is not required to accept responsibility for the prohibited conduct and the parties will work with the Title IX Coordinator to reach a mutual agreement on appropriate remedial measures. Remedial Measures may include impact statements, educational programs, reflection papers, and referrals to mediation or restorative justice practitioners.
- Formal resolution: the Respondent must accept responsibility for some or all of the prohibited conduct, and the parties will work with the Title IX Coordinator to reach a mutual agreement on appropriate sanctions and remedies. Sanctions may include oral warnings, written reprimands, disciplinary probation, suspension, or dismissal from the University.

While the parties are exploring Alternate Resolution, the investigation will pause.

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

All efforts will be made to schedule the hearing as soon as practicable after the parties and Panel receive the final investigative report and record.

The parties may submit written opening statements and requests for witnesses within five days of receiving the investigative record and report. The parties may request questions to be asked of witnesses by the Hearing Panel and may make an oral closing argument.

During the Hearing, the parties will not appear in the same room and may never directly address each other. In Hearing Process B, the Hearing Panel and Hearing Chair conducts all questioning. In Hearing Process A, the Hearing Panel and Hearing Chair conduct the initial questioning, followed by direct and

then cross examination by the advisor(s). The Hearing Panel will issue a written decision as expeditiously as possible upon completion of deliberations.

**Participation.** Neither the complainant nor respondent is required to attend a hearing for the hearing proceed. The party's advisor may question any witnesses and object to testimony. If, despite being notified of the date, time, and location of the hearing, either party is not in attendance, the hearing may proceed, and applicable sanctions may be imposed.

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

The decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

**Sanctions.** The Hearing Panel may impose sanctions and remedies in situations where a respondent is found responsible, including:

- Measures similar in kind to the Interim Measures specified under the Procedures;
- Appropriate educational steps (such as alcohol or drug education, reflection papers, counseling, or directed study);
- Restrictions or loss of specified privileges at the university for a specified period of time;
- Oral warnings;
- Written reprimands;
- Disciplinary probation for a stated period;
- Suspension from the university for a stated period not to exceed three (3) years; and/or
- Dismissal (*i.e.*, expulsion) from the university.

**Appeal.** A party-complainant and the respondent have equal rights to appeal the Hearing Panel's findings on responsibility and determinations regarding sanctions and remedies. Appeals must be submitted in writing within ten business days of receipt of the Hearing Panel decision.

All appeals will be heard by a three-member Appeal Panel that includes the Provost and the Vice President for Student and Campus Life as two permanent ex officio members and a member of the Hearing Panel pool as the third member. The Appeal Panel will establish a reasonable schedule for issuing a written decision, typically no later than thirty business days. This decision is final and not subject to further appeal.



<b>(VI) TRANSCRIPT NOTATIONS</b>
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**Transcript Notations.** Pursuant to the Office of the University Registrar transcript notation policy for student conduct matters, the following actions will result in a permanent transcript notation:

- dismissal (i.e., expulsion) after a finding of responsibility;
- suspension after a finding of responsibility; and
- withdrawal from the University while a Formal Complaint is pending.

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

As set forth in the Office of the University Registrar policy, students may apply to have a suspension notation removed. Suspension notations will remain in place for at least one year following the completion of a suspension.

Transcript notations after dismissal or withdrawal are not eligible for removal.

<b>(VII) PROHIBITION AGAINST RETALIATION</b>
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You have a right to be protected by the university from retaliation for reporting an incident or participating in any investigation or proceeding. Retaliation is Prohibited Conduct.

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

If you feel you have experienced retaliation, please notify the Title IX Coordinator at [titleix@cornell.edu](mailto:titleix@cornell.edu) or (607) 255-2242.