# Procedures for Addressing Reports of Sexual Misconduct in Education

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<td>10/09/2019</td>
<td>Rachel King (Title IX / 504 Compliance Coordinator)</td>
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Printed copies are for reference only. Please refer to the electronic copy for the latest version.
Purpose

The following procedures have been adopted by Cleveland Clinic to implement its Sexual Misconduct in Education Policy. These procedures are designed to provide a supportive process for individuals who report discrimination and to ensure a fair process for individuals who are accused of discriminatory conduct. Internal investigation of allegations of institutional discriminatory treatment or systemic discriminatory practices is intended to ensure that Cleveland Clinic meets its commitment to an open and inclusive educational and employment environment. These procedures also describe Cleveland Clinic’s efforts to conduct prompt, thorough, and fair investigations as required by law.

These procedures are intended to be flexible in order to allow Cleveland Clinic to promptly, fairly and impartially address reports of prohibited conduct. The Title IX Coordinator has discretion to deviate from the procedures when deemed appropriate for that purpose. The Title IX Coordinator may designate another person to fulfill their duties under these procedures. If the Title IX Coordinator has a conflict of interest with respect to a particular report, the Law Department shall designate a person to fulfill the duties of the Title IX Coordinator.

Definitions

All definitions set forth in the Policy are applicable to these procedures.

Cleveland Clinic United States locations: Includes the main campus, Avon, Euclid, Fairview, Hillcrest, Lutheran, Marymount, Medina, South Pointe, Children’s Hospital for Rehabilitation, Cleveland Clinic Florida, Cleveland Clinic Hospital (Weston), Coral Springs Ambulatory Surgery Center, and all Family Health Centers, Physician practice sites, Nevada practice sites, Emergency Departments, Express Care Centers, Urgent Care Centers and Ambulatory Surgical Centers reporting to these facilities.

Complainant means a person who may have been subject to Prohibited Conduct as defined in the Policy. The complainant(s) and respondent(s) may be referred to collectively as the parties.

Confidential Resource is a licensed, professional counselor, pastoral counselor or a health care provider serving in their capacity as a counselor or health care provider.

Educational Program or Activity: Any program or activity offered at Cleveland Clinic or by Cleveland Clinic employees in the scope of their duties that is educational in nature beyond on-the-job training, general interest, or routine continuing education programs. Factors in determining whether a program or activity is educational include whether it is structured through a particular course of study; whether participants earn academic credit toward a degree or certificate, or qualify to sit for professional exams; or whether a program provides instructors, exams or other evaluation process. Educational programs and activities include,
without limitation, degree- or certificate-granting programs offered by Cleveland Clinic and affiliated colleges and universities; clinical rotations for degree- or certificate-granting programs; medical and other residency programs; research and medical fellowships; internships; and educational programs offered to middle school, high school, college and university students.

**Participant** means any person participating in Cleveland Clinic’s educational programs and activities, as defined in the Policy. The term includes, but is not limited to, staff and faculty, preceptors, medical and other residents, research and other fellows, visiting scholars, interns and students.

**Policy** means Cleveland Clinic’s [Sexual Misconduct in Education Policy](#).

**Preponderance of the Evidence** is the standard of proof used to determine if the Policy has been violated. To meet this standard, the evidence must show that the conduct considered a violation is more likely than not to have occurred.

**Procedures** refers to these Procedures for Addressing Reports of Sexual Misconduct in Education.

**Prohibited Conduct** is conduct that violates the Policy. Prohibited conduct includes sex discrimination, sexual harassment, sexual violence and retaliation, as those terms are defined in the Policy.

**Report** means a report of prohibited conduct submitted to Cleveland Clinic.

**Respondent** means a person whose conduct is alleged to be prohibited conduct as defined in the Policy. The respondent(s) and the complainant(s) may be referred to collectively as the parties.

**Responsible Employee** means an employee who has the authority to address reports of prohibited conduct as defined in the Policy, or who a participant in an educational program or activity could reasonably believe has this authority. All directors, administrators, supervisors, program and project managers, coordinators, professionals, clinical instructors, clinical educators, fieldwork instructors, fieldwork educators, principal investigators, mentors, Research Laboratory employees, preceptors and faculty members are responsible employees, unless they are considered a confidential resource. Student employees who receive reports in their role as employees are responsible employees.

**Procedure**

**Reporting Incidents of Prohibited Conduct**

All reports of emergency situations should be made to 911 or to the appropriate [Protective](#).
Services emergency phone number.

Reporting Options
Any person may report sex discrimination, sexual harassment, sexual violence or retaliation in Cleveland Clinic’s educational programs or activities.

All participants in, or applicants to, Cleveland Clinic’s educational programs and activities who believe that they have been subjected to sex discrimination, sexual harassment, sexual violence, or retaliation are strongly encouraged to make a report. Prompt reporting allows Cleveland Clinic to provide resources to the participant and facilitates an appropriate response. Reports may be made at any time, but delayed reports may limit the availability of evidence and witnesses, and make it difficult for Cleveland Clinic to respond in an effective and fair matter.

Employees of schools, colleges and universities whose students participate in Cleveland Clinic educational programs and activities are encouraged, and in some cases required by agreement, to report to Cleveland Clinic’s Title IX Coordinator any information that leads them to reasonably believe that a participant in a Cleveland Clinic educational program or activity has been subject to Prohibited Conduct under the Policy. Reports may be made to:

Cleveland Clinic Title IX Coordinator:

TitleIX@ccf.org

Cleveland Clinic Police Department (CCPD): Incidents of prohibited conduct that also constitute criminal conduct (generally, sexual violence) may be reported to the Cleveland Clinic Police Department or other law enforcement agency. A decision whether to report to law enforcement is left to the complainant except in rare circumstances in which there is an ongoing threat to the Cleveland Clinic community. When a report is made to both the Title IX Coordinator and a law enforcement agency, the Title IX Coordinator will coordinate with law enforcement, as needed, to preserve evidence and achieve other shared goals. At the request of a law enforcement agency, Cleveland Clinic may temporarily delay an investigation while the law enforcement agency gathers evidence; however Cleveland Clinic is required to pursue an administrative response to a report regardless of whether a law enforcement investigation is also pursued. Notwithstanding any temporary delay of the investigation, Cleveland Clinic will provide resources to the complainant and respondent and will implement interim measures deemed necessary to protect the parties and the Cleveland Clinic community.

CCPD Non-Emergency Phone Number: 216.444.2250

Email: ccpd@ccf.org

Confidential Resources: Cleveland Clinic employees who are licensed, professional counselors, pastoral counselors or health care providers are considered confidential resources when they are serving in their capacities as counselors or health care providers. Confidential resources are not required to make reports to the Title IX Coordinator. They are available to provide advice,
support, and guidance about how to manage an incident of prohibited conduct without initiating a response by Cleveland Clinic. A report to a confidential resource is not considered a report to Cleveland Clinic.

**Professional Staff Assistance Program/ Licensed Professional Health Program/ Employee Assistance Program:**
Ohio: 216-445-6970 or 1-800-989-8820
Florida: 1-800-899-3926
Nevada: 1-800-280-3782

**Anonymous Reporting:** Reports of prohibited conduct may be made anonymously through Cleveland Clinic’s anonymous compliance reporting hotline and email reporting system. Reports made through the anonymous reporting system will be sent directly to the Title IX Coordinator or their designee. The Title IX Coordinator will address the report to the extent possible with the information provided.

**Outside Agencies:** Complaints of Title IX violations may be made to the U.S. Department of Education Office of Civil Rights (OCR) or other state or federal agency with jurisdiction over the relevant educational program or activity. Information on how to file a complaint with OCR is available on its website: [https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt](https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt).

**Duty to Report – Responsible Employees**

While all employees are encouraged to make a report, Responsible Employees have a duty to do so. All Responsible Employees who become aware of information that leads them to reasonably believe that a participant in an educational program or activity has been subject to prohibited conduct must promptly make a report to the Title IX Coordinator. If the prohibited conduct is a form of sexual violence, the Responsible Employee must also report it to the Cleveland Clinic Police Department or other law enforcement agency. Employees with a duty to report must provide as much information as they have regarding the incident and may not report anonymously. All other Cleveland Clinic employees, except confidential resources, are strongly encouraged to make such a report.

**Confidentiality**

Cleveland Clinic will maintain the confidentiality of reports to the extent reasonably possible consistent with its responsibility to provide a safe educational and work environment, to provide a prompt, fair and impartial resolution of the report and to comply with applicable laws related to reporting. All individuals involved in the resolution of a report are expected to treat all related information as confidentially as possible. Notwithstanding the obligation of confidentiality, the parties may share information related to a report or investigation with their respective support people, advisors and others providing support or assistance to the extent necessary to enable those individuals to provide effective support, advice and assistance.

Cleveland Clinic will comply with a complainant’s request to remain anonymous, or that
an investigation not be initiated, if it is possible to do so while also protecting the health and safety of the complainant and the Cleveland Clinic community.

- In such circumstances, Cleveland Clinic may nonetheless take appropriate steps to eliminate the reported conduct, prevent its recurrence and remedy its effects on the complainant and the Cleveland Clinic community.

- Cleveland Clinic will initiate an investigation if, in its sole discretion, it determines that doing so is necessary to protect the health and safety of the complainant or the Cleveland Clinic community based on the seriousness of the alleged conduct, whether the respondent has been involved in other incidents of misconduct, whether the complainant is a minor, and other relevant information.

The Office of Professional Staff Affairs will be notified if a report involves a member of the professional staff.

**Rights of Parties**

Complainants and respondents have the right to be treated with dignity and respect, consistent with Cleveland Clinic’s obligation to respond adequately to a report and to hold community members accountable for their conduct. To that end, complainants and respondents have the following specific procedural rights:

- To request and receive interim measures and other support as appropriate.
- To have a support person or advisor of their choice present during any meeting or process related to a report of prohibited conduct. The support person or advisor may not be a party or witness to the report. The support person or advisor may attend and advise the party, but shall not actively participate or stand in place of the party.
- To participate fully in the informal and formal resolution processes set forth in these procedures as applicable.
- To decline to participate in any process related to a report. If a party declines to participate, Cleveland Clinic will still respond to a report based on the information available to it.
- To have any investigation into a report be prompt, thorough and impartial.
- To receive updates on the progress of an investigation or other process and to be informed of the outcome of any process in a timely manner.
- To not have information considered about past sexual conduct or history with anyone other than a party to a report unless such information is related to a pattern of prior conduct by the respondent that was substantially similar to the report.

**Interim Measures**

Upon receipt of a report of prohibited conduct, the Title IX Coordinator may impose appropriate and reasonable measures to ensure equal access to its educational programs and activities and to protect the parties and the Cleveland Clinic community. Interim measures are available regardless of whether a complainant pursues an informal or formal resolution of the report.
Unless a complainant has requested anonymity, the Title IX Coordinator will attempt to meet with each party before imposing interim measures. Interim measures may be imposed or changed at any point during the resolution of a report in order to protect the interests of the parties and Cleveland Clinic. Interim measures will be determined on a case-by-case basis considering all relevant circumstances, including, but not limited to, specific requests by the parties, the severity of the allegations, and whether the parties are in the same educational program or share a job location.

Interim measures may include, but are not limited to, separating individuals (“no contact” orders), counseling or support services, making alternative class placement or workplace arrangements, or escort services. In some cases, such as those involving ongoing or repeated policy violations or identifiable safety risks, an interim suspension may be appropriate. When a suspension is considered, or changes to educational or working conditions are required, the Title IX Coordinator will work with the relevant institute or program to ensure that interim measures are feasible and appropriate under the circumstances and consistent with any related policies or procedures within the institute or program.

Failure to comply with interim measures may constitute a separate violation of the Policy.

**Resolution of Reports**

**Initial Assessment**

Following receipt of a report of prohibited conduct, the Title IX Coordinator will conduct an initial assessment of the allegations in the report to determine whether the conduct alleged could constitute a violation of the Policy. An initial assessment will generally include meeting with the complainant and respondent and reviewing any initial information provided by the parties.

If it is determined through the initial assessment that a Policy violation may have occurred, the Title IX Coordinator will initiate either an informal or formal resolution process. If it is determined through the initial assessment that the allegations, even if true, would not constitute a Policy violation, the resolution process under these procedures will conclude. If the allegations in the report may constitute a violation of another Cleveland Clinic policy, the report will be referred to the appropriate office for resolution.

**Informal Resolution**

Cleveland Clinic encourages informal resolution of reports when the parties wish to resolve a report cooperatively, whether or not the conduct in question rises to the level of a Policy violation. Informal resolution may include an inquiry into the facts, but typically does not involve an investigation and will not result in a determination whether the Policy has been violated. Informal resolution is generally not appropriate to resolve reports of sexual violence.

Participation in an informal resolution process is voluntary and any party may end the informal resolution process at any time before it concludes. Informal resolution may include joint or separate mediation discussions, separation of the parties, referral to counseling programs,
targeted education and training programs, or any other steps agreed by the parties. An informal resolution process is expected to take no more than 30 days.

If the parties agree to informally resolve the report, the matter will be considered closed. The Title IX Coordinator will maintain a record of the resolution, will inform relevant offices or institutes of the outcome, and will monitor implementation of the resolution as appropriate.

**Formal Resolution**

If the initial assessment indicates that a Policy violation may have occurred and an informal resolution is not appropriate, not agreed to, or fails, the Title IX Coordinator will initiate an investigation. The parties will be given notice of the investigation which will include a description of the allegations to be investigated.

The Title IX Coordinator may serve as the investigator or may appoint an investigator, who may be a Cleveland Clinic employee or an external investigator. When appropriate, more than one person may conduct the investigation. All investigators shall have sufficient training and experience to conduct a prompt, thorough and impartial investigation. It is the intention of Cleveland Clinic to complete investigations within sixty (60) days if possible.

All parties shall have the opportunity to present statements, provide witness names and submit physical, documentary or other evidence to the investigator. Each party may submit questions to the investigator to be asked of another party. The investigator shall also gather and consider any additional evidence the investigator deems relevant.

When the investigator has finished gathering evidence, the investigator will prepare a summary of evidence. The parties shall have the opportunity to review the summary of evidence and respond to it with comments, additional information or a request that additional investigation be conducted. If the investigator receives significant additional information after the summary of evidence has been provided to the parties, that information will also be shared with the parties for their review and response.

Once the summary of evidence has been reviewed by the parties and their feedback has been incorporated, the investigator shall prepare a final investigative report that includes the revised summary of evidence and a determination whether there has been a violation of the Policy. All determinations shall be made on the basis of a preponderance of the evidence standard. The basis for any determinations shall be set forth in the final investigative report.

If, in the course of the investigation, the investigator determines that a complainant submitted a report that the complainant knew was false, the investigator shall so determine and the report shall be referred to the appropriate conduct process. Good faith reports, even if they are ultimately unsubstantiated, are not considered false reports.

The respondent may, at any time prior to the issuance of the final investigative report, accept responsibility for the conduct being investigated. If the respondent does so, the Title IX Coordinator will refer the report to the appropriate disciplinary official for imposition of any
appropriate sanction.

Sanctions and Appeal

If the investigator determines that the Policy has been violated, the final investigative report shall be forwarded to the appropriate disciplinary official based on the status of the respondent. The disciplinary official shall implement appropriate sanctions in consultation with the Title IX Coordinator and in accordance with any applicable procedure. To the extent that a respondent is provided additional process prior to the implementation of sanctions, or as an appeal, the complainant must be provided the opportunity to participate in that process and be informed of the final outcome.

Sanctions that may be implemented for violations of the Policy include expulsion, dismissal or termination of appointment; suspension; disciplinary probation; reprimand; restitution; restrictions on contact with other parties; restrictions on access to facilities, services or programs; community service; specified training or education; or alternative sanctions, such as completing anger management or batterer intervention courses, performing volunteer work, writing essays, completing a 12-step or other addiction program, completing a sex offender rehabilitation program, issuing a sincere apology, and any other remedy appropriate for the circumstances.

If the investigator determines that a Policy violation cannot be substantiated, the complainant may appeal to the Chief Academic Officer or designee. If the investigator determines that a Policy violation has occurred and the respondent has no appeal available during the sanctioning process, the respondent may also appeal to the Chief Academic Officer or designee. The only basis for an appeal is that these Procedures were not followed and the failure to follow the Procedures materially adversely affected the outcome of the investigation.

An appeal must be filed with the Title IX Coordinator within five (5) business days of receipt of the final investigative report. The Title IX Coordinator will provide the other party with a copy of the appeal. The other party may submit a response to the appeal within five (5) business days of receipt. The Chief Academic Officer will conduct a review of the investigative record, the appeal and the response, if any, and issue a final decision. The Chief Academic Officer may uphold the investigator’s determination, may reverse the determination, or may require additional investigation.

Regulatory Requirement/References

Title IX of the Education Amendments of 1972 (as amended by the 1988 Civil Rights Restoration Act)

Violence Against Women Reauthorization Act of 2013

34 CFR, Part 106

34 CFR, §668.46
Oversight and Responsibility

The Chief of Academic Office and Title IX Coordinator are responsible to review, revise, update, and operationalize this procedure to maintain compliance with regulatory or other requirements.

Other Background Information

Reviewed by:

- Institute Chairs, GME Program Managers, and Allied Health Internal Program Managers.

Title IX/ Section 504 Advisory Team Members

Roy Anderson  Education Institute
Angela Cain  Community Outreach
Diane DeCamillo  Chief Academic Office
Cheryl Goliath  Cleveland Clinic Akron General
Susan Hastings  Law Department
Mari Knettle  Center for Health Sciences Education
Julie Marth  Protective Services
Kathleen Mau  Nursing Education
Christine Moravec  Lerner Research Institute
Lori Smith  Graduate Medical Education
Christine Warren  Cleveland Clinic Lerner College of Medicine
Stephen Webster  Human Resources