COLD SPRING HARBOR LABORATORY’S SEXUAL HARASSMENT AND MISCONDUCT POLICY

I. Statement of Policy—Sexual Harassment and Misconduct Policy

Cold Spring Harbor Laboratory (“CSHL” and the “Laboratory”) is proud of its work and academic environment and strives to maintain a cordial and collegial environment for employees, students, guests, and visitors, all of whom are expected to treat each other with courtesy, consideration, and professionalism. The Laboratory will not tolerate gender-based discrimination, harassment, or retaliation. The protections in this Policy apply regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. The Laboratory will make this Policy available on the Laboratory website.

The Laboratory is committed to preventing, investigating, and remedying violations of this Policy. Those members of the community inflicting such behavior on others are subject to the full range of institutional disciplinary actions, up to and including separation from the Laboratory, and/or referral to authorities for criminal prosecution, as appropriate. Nonmembers of the community, such as guests or visitors, who inflict such behavior on campus, at Laboratory events or within Laboratory programs may be referred for criminal prosecution, and/or barred from Laboratory events and property, and/or referred to institutions or employers with which they are affiliated.

II. Scope of Policy

This Policy addresses Cold Spring Harbor Laboratory’s responsibilities under Title IX. Title IX prohibits discrimination on the basis of gender in educational programs and activities that receive federal assistance. This Policy covers occurrences of sexual discrimination, sexual harassment, sexual assault, and sexual misconduct, including dating and domestic violence and stalking, (collectively “Prohibited Conduct”) involving students, regardless of whether the accused is a student, employee, or third party, or whether the prohibited conduct occurred on or off-campus.

This Policy applies to Prohibited Conduct that involves a student and anyone involved in scientific, academic, educational, and recreational programs; visitors and guests; Meetings and Courses participants; applicants in the admissions process; and recipients and/or providers of CSHL's programs or services, including participants in CSHL or DNA Learning Center-based research projects, activities, and internships regardless of locations; subcontractors and all employees and applicants for employment in all positions. The Policy also encompasses Laboratory-sponsored events that occur off-campus; all campuses and/or satellite sites; off-campus incidents that have an on-campus impact or affect members of the CSHL community regardless of whether such members are on or off campus; off-campus and/or online speech or conduct, such as social networking sites, which causes a substantial disruption to the Laboratory’s operations and/or mission, or affects students.
For the purposes of this Policy, the alleged victim shall be referred to as the “complainant” and the individual alleged to have violated this Policy shall be referred to as the “respondent.”

III. What Constitutes Prohibited Conduct Under This Policy

A. Definitions of Prohibited Conduct

1. Sexual Discrimination

Sexual discrimination prohibited by this Policy is any actions that deprive students of educational or employment access, benefits, or opportunities on the basis of the student’s actual or perceived gender.

2. Sexual Harassment

Sexual harassment prohibited by this Policy is any unwelcome conduct of a sexual nature, which includes unwelcome sexual advances, requests for sexual favors, or any other visual, verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment shall also include, but not be limited to, sexual violence, which refers to physical sexual acts that occur without consent or where a person is incapable of giving informed consent as a result of drugs or alcohol, intellectual or other disability, or age.

Sexual harassment prohibited by this Policy may also consist of derogatory visual, verbal, nonverbal, or physical conduct when:

- submission to the conduct is made either explicitly or implicitly a term or condition of the individual's academic or employment status or advancement; or
- submission to or rejection of the conduct is used as the basis for academic or employment decisions affecting the individual; or
- the conduct has the purpose or effect of unreasonably interfering with the individual's academics (including social and residential experiences) or work performance by creating a hostile environment, regardless of whether it is directed toward that or any specific individual.

Examples of Prohibited Conduct that constitute sexual harassment include, but are not limited to:

- Verbal or non-verbal repeated and unwelcome sexual advances, innuendoes, or propositions, sexual epithets, derogatory slurs, off-color jokes, threats, or suggestive or insulting actions and/or sounds;
- Unwanted physical contact including touching, interference with an individual's normal movement, or assault;
- Derogatory visual posters, cartoons, or drawings; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures;
- Threatening or causing physical harm, or other conduct that threatens or endangers the health or safety of another person;
- Intimidation, defined as implied threats or acts that cause a reasonable fear of harm in another person;
- Bullying, defined as repeated and/or aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally;
- Violence between those currently or formerly in an intimate relationship with each other (this includes domestic and/or dating violence);
- Stalking, defined as a repeated course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to feel fear.

3. Hostile Environment

A hostile environment exists when the Prohibited Conduct is sufficiently severe or pervasive as to disrupt the student’s ability to participate in or receive the benefits, services, or opportunities of the Laboratory.

4. Sexual Misconduct

Sexual misconduct of any kind, including sexual assault, constitutes Prohibited Conduct under this Policy. Federal law views sexual misconduct and sexual assault as forms of sexual harassment prohibited under Title IX.

a. Non-Consensual Sexual Interactions

Non-consensual sexual intercourse is any sexual penetration, to any degree, with any object, by any person upon another without consent. This is often referred to as “sexual assault.”

Non-consensual sexual contact is any sexual touching with any object, by any person upon another, without consent. Sexual touching is contact of a sexual nature, however slight.

Sexual exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the scope of harassment, non-consensual sexual intercourse or non-consensual sexual contact. Examples include sexual voyeurism, sexual exhibitionism, and taking pictures or video of a sexual or private nature without the consent of all involved.

5. Retaliation

Retaliation is an intentional action taken by a respondent or allied third party, absent legitimate non-discriminatory purposes, that harms an individual as reprisal for filing a complaint, supporting a complainant, or otherwise participating in a proceeding pursuant to this Policy. Under no circumstances will Cold Spring Harbor Laboratory tolerate any retaliation against an individual or group for making a complaint in good faith under this Policy or for participating in an investigation. A complainant or witness who is threatened in any way should immediately report their concerns to the Vice President of Human Resources.

B. Consent

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. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be
initially given but withdrawn at any time. 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. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop.

1. Affirmative Consent

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

2. Incapacity

Incapacity is defined as the inability to make rational, reasonable decisions due to lack of capacity to give informed consent (e.g., the person lacks the ability to understand the “who, what, when, where, why, or how” of engaging in sexual activity). Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. This Policy covers a person whose incapacity results from mental, intellectual, or other disability, involuntary physical restraint, and/or from the use of alcohol or drugs.

C. Other Elements of Prohibited Conduct

All persons, regardless of sex, gender identity, or sexual orientation, can be the subject of or perpetrator of Prohibited Conduct. The Prohibited Conduct can involve individuals or groups; can occur during one incident or over a series of incidents that, in isolation, would not necessarily constitute Prohibited Conduct (such as discrimination or harassment), but can be so by pattern or repetition over time; and can be direct or systemic.

Each member of the CSHL community should avoid conduct that may be perceived by a reasonable person as falling under the above defined Prohibited Conduct. Failure to recognize that one's behavior is harassing or discriminatory to an individual or group of individuals is not an acceptable response to an allegation of Prohibited Conduct. Differences in perception on the part of individuals who have complained of Prohibited Conduct have led to court rulings based on the “reasonable person” standard in evaluating offensive behavior. Accordingly, all members of the CSHL community should consider how others may view their behavior, not just their intent.

IV. Cooperation / Obstructing the Process

All members of the CSHL community, including students, faculty, and staff are expected to report all violations of this Policy and assist and cooperate in the application of this Policy, in particular by cooperating in any investigation under this Policy. Any person who knowingly misrepresents the truth, or whose willful action or inaction obstructs the application of these procedures, will be subject to disciplinary action.
While all members of the CSHL community are strongly encouraged to report an inappropriate situation, regardless of who is creating that situation and may be required to report criminal actions by law, all persons who are Responsible Employees (e.g., employees who act in a supervisory, managerial, or instructional role) are required to report misconduct in violation of this Policy to the Title IX Coordinator (the Vice President of Human Resources). Furthermore, any member of the CSHL community who observes or learns about the abuse of a minor is required to report it immediately to Security.

V. Alcohol and/or Drug Use Amnesty

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

VI. Confidentiality and Privacy

At the beginning of the process, the Laboratory will inform the complainant about confidentiality standards and privacy concerns. Confidentiality can be offered by an individual who is not required by law to report known incidents of Prohibited Conduct to the Title IX Coordinator or other institution officials. Even CSHL offices and employees who cannot guarantee confidentiality will maintain a complainant’s privacy to the greatest extent possible. The information provided to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. In all cases, privacy of information about complaints and investigations will be maintained to the extent required by law and to the extent possible given the Laboratory’s obligations under the law and under this Policy. The identity of the complainant, respondent, and any witnesses, as well as information about the investigation will only be shared with those involved in the complaint process to the extent possible.

The Laboratory will evaluate a request for confidentiality or no action on a complaint in the context of its obligation to provide a safe and nondiscriminatory environment for all. Therefore, while absolute confidentiality cannot be promised, the Laboratory will treat the concerns of the complainant with sensitivity and respect. A complainant should realize that a request for confidentiality may limit the Laboratory’s ability to respond.

A. Confidential Resources

A complainant who wishes to keep details of an incident confidential but wishes to speak with someone who may assist them may contact on or off-campus mental health counselors and health
service providers, members of the clergy, or off-campus rape crisis centers who can maintain the confidentiality of what is shared with them. These individuals will keep what is discussed confidential unless there is an imminent danger to the complainant or others.

VII. What To Do If You Experience Prohibited Conduct

A. Available Resources

It is important for individuals who have been the victim of Prohibited Conduct (especially sexual assault, dating violence, domestic violence, and stalking that involves physical contact) to seek immediate and appropriate medical treatment. Such treatment is also important to preserve evidence that may be necessary for proving the Prohibited Conduct or obtaining an order of protection. The Center for Health and Wellness is an on-site center for benefits-eligible CSHL students and employees, open Monday-Friday from 9am-1pm and 2pm-5pm, which is equipped to provide free, confidential, and professional medical care. The Center for Health and Wellness is located in Dolan Hall, East Wing, and can be reached at 516-422-4222 or CSHLWellness@NSHS.edu. While Center staff are unable to perform procedures related to the collection of evidence for the purposes of pursuing criminal prosecution, they can provide assistance and support when an individual requests or requires transportation to the hospital. North Shore University Hospital and University Hospital at Stony Brook are both NYS-designated Sexual Assault Forensic Examiner Hospital Programs and provide specialized care to victims of sexual assault.

The Center for Health and Wellness also offers free on-site counseling services for benefits eligible students and employees. Sessions are available Tuesdays 8-9 am, Wednesdays 5-7pm, and Thursdays 5-6pm. Further, the Safe Center LI (formerly the Nassau County Coalition Against Domestic Violence (CADV) and the Coalition Against Child Abuse & Neglect (CCAN)), provides a broad spectrum of free services from counseling and housing assistance to advocacy and referrals. Lastly, the NYS Department of Health maintains a list of additional resources available to victims of Prohibited Conduct. Additional resources can be found at the New York State Office of Victim Services.

B. Options for Pursuing a Complaint

A complainant may pursue a criminal complaint with the appropriate law enforcement agency (if applicable), pursue a complaint through the Laboratory procedures outlined in this Policy, or pursue both processes consecutively or concurrently. If requested, the Laboratory will provide assistance with making contact with law enforcement.

If a complainant wishes to pursue a criminal complaint exclusively, the complainant may submit a request to temporarily defer the investigation and/or resolution process by making a formal written request to the Vice President of Human Resources, which may delay the investigation and the Laboratory’s ability to respond. The Laboratory will maintain documentation of the date of deferral. The Laboratory may continue its investigation where it has reason to believe that the respondent may be an imminent threat to the safety of the complainant and/or other individuals. At any time, the complainant may choose to rescind the deferral by making a formal written request to the Vice President of Human Resources, electing to resume the investigation and/or resolution process. The Laboratory will provide written notice to the complainant and respondent when it resumes its investigation and resolution process as appropriate.
If a complainant elects to pursue a criminal complaint exclusively, CSHL’s Director of Security will request that the Prosecutor’s Office immediately inform the Laboratory of its decision on whether to prosecute the complaint. The Laboratory will maintain documentation of the date of the request to the Prosecutor’s Office. In cases where the Prosecutor’s Office declines prosecution, the Director of Security will provide written notice to the complainant of the Prosecutor’s decision.

Any student who reports possible Prohibited Conduct will be provided written notice of their options to pursue a criminal complaint, to pursue a complaint through the Laboratory procedures, or to pursue both processes consecutively or concurrently, and the potential consequences of pursuing both options (i.e., possible deferral of the Laboratory’s investigation and disciplinary process, short delays in the Laboratory’s investigation to allow law enforcement to complete their fact finding, etc.). The Laboratory, through the Vice President of Human Resources or his/her designee, will obtain written acknowledgment from the complainant of his/her decision regarding which options, if any, the complainant wishes to pursue.

The Laboratory will comply with all federal, state, and local mandates regarding the reporting of crimes to appropriate authorities.

1. Making a Complaint at CSHL

Any student who believes that he or she is or may have been subjected to Prohibited Conduct is strongly encouraged to report it in accordance with the procedures set forth in this Policy:

- For emergency or immediate assistance (twenty-four hours a day, seven days a week), contact Security at (516) 367-8870. All emergency contact numbers are listed on the reverse side of the CSHL identification card.
- Complainants, or students with questions pertaining to this Policy, contact Katherine Raftery (Vice President of Human Resources and Title IX Coordinator) at raftery@cshl.edu or (516) 367-8499.
  - To file a complaint involving the individual listed above, contact the Chief Operating Officer, Dill Ayres at ayres@cshl.edu or (516) 367-5200.
- Once the site is completed, complainants will also be able to fill out an online complaint form. This form may be filed anonymously; it will be received and reviewed by the Vice President of Human Resources.

VIII. Initiation of Compliant Process

A. Completion of Complaint Form

Once a complaint or notice is received, it will be reviewed by the Vice President of Human Resources. Complainants will be asked to either complete a written or online complaint form, or meet with the Vice President of Human Resources, or his or her designee, who will complete a written complaint form and who will ask the complainant to read and sign a verification of the complaint allegations. The complaint should clearly and concisely describe the alleged incident(s), when and where it (they) occurred, details/witnesses, and the desired remedy or remedies sought.
B. Time Frame

The Laboratory will conduct an investigation, engage in the resolution process, and determine sanctions and remedies as appropriate usually within sixty (60) days from the time the Laboratory receives notice. However, how long it takes to resolve a complaint may vary depending on the complexity of the investigation and/or extent of the alleged harassment or discrimination. This typical 60 day timeframe does not include appeals.

C. Interim Measures

While an investigation or resolution procedure is ongoing, the Laboratory will take all interim measures necessary to protect complainants and witnesses pending the final outcome. These measures can include no contact orders; suspensions; adjustments to extracurricular activities, work schedules, workplaces, transportation, housing, and dining arrangements; assistance from Security in obtaining an order of protection; and other interim measures. Both the complainant and respondent shall, upon request and consistent with the Laboratory’s policies and procedures, be afforded prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects him or her, and shall be allowed to submit evidence in support of his or her request.

D. Standard of Proof

The standard of proof for all findings shall be a preponderance of the evidence. A preponderance of the evidence means such evidence that, when considered and compared with that opposed to it, is more convincing, creating the belief that what is sought to be shown is more likely than not to have occurred.

IX. Investigations

Upon receipt of a complaint of Prohibited Conduct, impartial investigator(s) will be assigned to conduct an immediate preliminary investigation to determine if this Policy may have been violated. The investigation shall be conducted in a manner that is adequate, reliable, and impartial and may include any of the following:

- interviews of the complainant and the respondent;
- interviews of any witnesses; and
- gathering of any other relevant information.

The complainant and respondent will be afforded opportunities to provide information and present his or her own report during the investigation. The complainant and respondent will be asked to provide a list of possible witnesses, as well as any supporting documents (e.g., text messages, emails, social media, photographs, telephone records, etc.) that they wish to be considered during the investigation. The investigator(s) will keep the complainant timely informed of the status of the investigation.

Each party may be accompanied by an advisor. The advisor role is non-speaking, and advisors who are disruptive during the proceedings will be required to leave. A representative may not appear in the place of either the complainant or respondent. No party may be accompanied by an attorney unless criminal charges arising from the same incident have been filed.
Regardless of whether a complainant files a complaint or requests action, if the Laboratory has knowledge about possible Prohibited Conduct, the Laboratory will conduct a prompt, thorough, and impartial investigation. The Laboratory will also prepare a written record of the complaint if the complainant refuses to file or verify a written complaint form to memorialize the details of the complaint.

A. Outcome of Investigation

If the Title IX Coordinator, or his or her designee, determines that the facts alleged by the complainant do not constitute a violation of the Sexual Harassment and Misconduct Policy, the case will be closed with no further action.

If the Title IX Coordinator, or his or her designee, determines that the facts alleged by the complainant may constitute a violation of this Policy, the complainant may elect to have the matter addressed through the Dispute Resolution Process. If the complainant does not elect to have the matter referred to the Dispute Resolution Process, the Title IX Coordinator will make a determination about whether the case should be referred to the Dispute Resolution Process, with or without the cooperation of the complainant.

X. Dispute Resolution Processes

Complainants generally have the option of formal or informal dispute resolution procedures. However, informal resolution is not an option for complaints involving sexual assault or physical violence of any kind.

In either process, documents collected through the investigation and a summary report from the investigator(s) will be used in the process. The evidence to be considered may include: complainant and respondent interviews, witness statements, information from the informal resolution process if one was conducted, other relevant information, and consideration of known patterns and previous history evidence.

The procedures for the dispute resolution process can be found in the Student Code of Conduct.

XI. False Complaints

A complainant who knowingly makes untrue allegations against another member of the CSHL community or third party may be subject to disciplinary action. An inquiry into a false complaint is considered to be a separate complaint and is resolved through a separate investigation.

The Laboratory reserves the right to revise, supplement, or rescind policies as it deems appropriate.