



CONDUCT PROCESS FOR DISCRIMINATION, SEXUAL HARASSMENT AND MISCONDUCT COMPLAINTS INVOLVING STUDENTS

The following outlines the conduct process for sexual harassment and misconduct complaints involving students. Please see the CSHL Policy for the Prevention and Response to Sex Discrimination, Sexual Harassment and Sexual Violence Against (“Policy”) for information on what conduct is prohibited, and how to make a complaint.

CSHL employees involved in the conduct process will receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, 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 provisions of this article and CSHL’s policies and procedures, and other issues including, but not limited to domestic violence, dating violence, stalking or sexual assault.

A. Completion of Complaint Form

Once a complaint or notice is received, it will be reviewed by the Title IX Coordinator. Complainants will be asked to either complete a written or online complaint form, or meet with the Title IX Coordinator, 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 engage in the dispute resolution process (formal or informal) as described below and determine sanctions and remedies as appropriate usually within sixty calendar (60) days from the time the Laboratory receives notice. However, the length of time it takes to resolve a complaint may vary depending on the complexity of the investigation and/or the severity and 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 appropriate interim measures necessary to protect and support the complainant, respondent and CSHL community pending the final outcome and make available interim measures to the complainant and the respondent. These measures can include no contact orders; suspensions;

adjustments to extracurricular activities, employment, workplaces, academic, transportation, housing, and dining arrangements; assistance from Security in obtaining an order of protection; and other interim measures. Both parties will be informed in writing of the applicable interim measures.

Both the complainant and respondent may submit a written request to the Associate Dean¹ to be afforded prompt review, reasonable under the circumstances, of the need for and terms of any interim measure and accommodation that directly affects him or her, and shall be allowed to submit evidence in support of his or her request. The Associate Dean will issue a determination regarding the interim measures within five (5) calendar days of the receipt of such a 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.

E. Dispute Resolution Processes

Upon receipt of a complaint or other notice of possible Prohibited Conduct, the Laboratory will take immediate and appropriate steps to investigate or otherwise determine what occurred. An impartial investigator(s) will be assigned by the Title IX Coordinator to conduct an investigation to determine if the Policy may have been violated. Upon notice of the assignment of the investigator(s), the parties will have seven (7) calendar days to raise any objections to the Title IX Coordinator regarding the ability of the investigator to conduct an impartial investigation.

Complainants have the option of formal or informal dispute resolution procedures. However, informal resolution is generally not an option for complaints involving sexual assault or physical violence of any kind. Under both options, the investigator(s) will meet with the complainant and the respondent separately to discuss the complaint and the process.

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.

Both the complainant and the respondent shall be provided the procedural rights set forth in the Policy as well as:

- Written notice of the date, time, location and factual allegations concerning the policy violation(s) (as alleged by a complainant or a reporting individual), the identity of parties

¹ Any objections to the Associate Dean's participation in the complaint process (on the basis of his or her inability to participate impartially) must be raised within five (5) calendar days of the notice to the Chief Operating Officer, Dill Ayres at ayres@cshl.edu or (516) 367-5200.

involved, a reference to the specific code of conduct and/or policy provisions alleged to have been violated, and possible sanctions.

- Written or electronic notice provided in advance of any meeting the complainant or respondent is required (or eligible) to attend;
- Access to the investigation documents (including evidence in the case file or otherwise in the possession or control of CSHL and relevant to the complaint) and an opportunity to review the investigator's draft summary report and to respond in writing to the investigator at least 7 calendar days prior to the submission of the investigator's final report to the Title IX Coordinator;
- The opportunity to have an advisor of their choice, including an attorney. The advisor role is non-speaking, and advisors who are disruptive during any meeting may be required to leave. A representative or advisor may not appear in the place of either the complainant or respondent.
- Should the respondent or complainant fail to attend or participate in the investigation, the investigation will proceed and a decision will be made in his or her absence.
- Documentation relating to the complaint will be preserved for at least five years after the conclusion of the dispute resolution process or as long as necessary to provide evidence should the matter be referred to legal processes.
- During the investigation, information shared regarding any party's past sexual conduct will ordinarily not be permitted, except in those instances where there was a prior sexual relationship between the parties and the information shared may be relevant to the issue of consent.
- If the respondent is found responsible for the conduct alleged in the complaint, his or her past sexual misconduct, if any, may be considered in determining the appropriate outcome.

1. Informal Resolution Process

Certain complaints of Prohibited Conduct can be resolved through informal resolution procedures. These informal procedures may include, but are not limited to, mediation, counseling, and/or any other means of resolving a complaint other than a formal resolution process. The use of the informal resolution process is voluntary and must be agreed to in writing by the complainant, the respondent, and the investigator(s). Either the complainant or the respondent may end an informal process at any time until the conclusion of the informal resolution process and choose to pursue the formal resolution process.

The investigator(s) will explain to the complainant the nature of the informal resolution process and, if acceptable to complainant, the investigator(s), whenever possible, appropriate, and safe, will attempt to resolve the problem or complaint through the informal resolution process. The complainant will not be required to meet with the respondent face to face. The informal resolution process attempts to resolve the issue with the complainant and respondent by mutual agreement. Written notification will promptly be sent by the Title IX Coordinator (the Vice President of Human Resources) to the complainant and the respondent of the conclusion of the informal resolution process. The notification will describe the terms of the approved resolution, if any.

2. Formal Resolution Process

If the complainant or respondent chooses to proceed with the formal resolution process, the complaint is not resolved informally, and/or if the action complained of is not appropriate for resolution through the informal resolution process, then the investigator(s) will proceed with an investigation of the complaint.

The investigation shall be conducted in a manner that is prompt, adequate, reliable, thorough, fair, impartial and equitable for both the complainant and respondent. The investigation may include any of the following:

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

CSHL will provide adequate notice and a meaningful opportunity to be heard to both parties. The complainant and respondent will each be afforded opportunities to provide information and evidence and present his or her own report during the investigation. The complainant and respondent will be asked to provide a list of possible witnesses to the incident, 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. "Witness to the incident" is defined as individuals who had direct contact with at least one of the individuals involved in the incident(s) before, during, or after the incident(s) occurred. Character witnesses are not permitted.

The investigator(s) will keep the complainant and respondent timely informed of the status of the investigation and inform the parties of any extensions of time to complete the process and the reason(s) for the extensions.

3. Outcome of Investigation

Following review and consideration of any responses from the parties, the investigator(s) will complete a summary report and provide it to the Title IX Coordinator. The report will include, but not be limited to, the following information:

1. Date of report, names of parties, investigator
2. Procedural history
3. Allegation(s)
4. Applicable policies and procedures
5. Description of investigation
6. Information considered during investigation (witnesses questioned, documents and other evidence)
7. Interim Measures requested/provided
8. Findings of fact
9. Conclusion as to whether the preponderance of the evidence supports that there was a violation of the Policy

10. Responses from either the complainant or respondent to the investigator's draft report

If following the conclusion of the investigation or other steps taken by CSHL, the Title IX Coordinator, or his or her designee, determines that the facts alleged by the complainant do not constitute a violation of the Policy for the Prevention of and Response to Sex Discrimination, Sexual Harassment and Sexual Violence, the case will be closed with no further action.

If it is determined by the investigator(s) by a preponderance of the evidence that a violation of the Policy for the Prevention of and Response to Sex Discrimination, Sexual Harassment and Sexual Violence has occurred, then a recommendation for sanctions and/or other appropriate measures and remedies will be prepared by the Title IX Coordinator and submitted to the Associate Dean for review, and will either be approved or modified. The complainant and the respondent will be provided an opportunity to submit an impact statement prior to the final decision on sanctions. Potential sanctions can include, but are not limited to: workshops, meetings with administrators, restitution, verbal or written warnings, psychological assessment, alcohol or drug counseling, no contact orders, loss of opportunity to live in Laboratory housing and/or to participate in other Laboratory programs and/or activities, banning from an area of campus, disciplinary probation, temporary suspension, with or without pay, temporary dismissal, or permanent dismissal/termination/expulsion.

For crimes of violence, including, but not limited to sexual violence, the Laboratory shall 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 the respondent who withdraws from the Laboratory while such conduct charges are pending, and declines to complete the disciplinary process, the Laboratory shall make a notation on the transcript of such students that they "withdrew with conduct charges pending." A respondent may file an appeal seeking removal of a transcript notation for a suspension, but the notation shall not be removed prior to one year after conclusion of the suspension, and notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

The Title IX Coordinator will send notice of the final outcome and sanction simultaneously, and in writing, to the complainant and respondent. While the outcome of the complaint will be provided in writing to both the complainant and the respondent, certain disciplinary action taken against the respondent as a result of the investigation that is not directly related to the complainant may be kept confidential from the complainant as required by law. CSHL does not limit the ability of either party to disclose or discuss the outcome of the process.

4. Appeal Process

Either the complainant or the respondent may request an appeal of the findings of the formal resolution process. A request for an appeal must be submitted in writing to the Associate Dean for consideration by a three-person panel of CSHL employees within seven (7) calendar days of the Laboratory's provision of notice of the original outcome. The panel will be fair and impartial

and not include individuals with a conflict of interest. Upon notice of the assignment of the panel members, the parties will have seven (7) calendar days to raise any objections to the Associate Dean regarding the ability of the panel to conduct an impartial appeal. If no appeal request is made, then the decision is rendered final and the parties will be simultaneously so informed in writing by the Associate Dean. An appeal of the decision may be considered if one of the following grounds is present:

1. A procedural error has occurred that significantly impacted the outcome (e.g., substantiated bias, material deviation from established procedures, etc.). This error must be described in the letter requesting an appeal. Minor or harmless deviations from the process will not invalidate the proceedings.
2. The discovery of significant and relevant new information that was unknown or unavailable and the party reasonably could not have known about during the original process, which has become available and could significantly impact the outcome. A summary of this new evidence, why it was previously unavailable or unknown, and its potential impact must be included in the request for an appeal.
3. The sanction imposed is substantially disproportionate to the violation.

Once a request for an appeal, as defined above, is received, a decision will be rendered on eligibility for appeal usually within ten (10) calendar days. If the process is extended beyond ten days, the Associate Dean will inform the complainant and respondent of the extension of time to complete the appeal and the reason(s) for the extension. If grounds are not met, the request for an appeal will be denied and the parties will be simultaneously so informed in writing. If appropriate grounds are present, the complaint will be returned to the investigator for reconsideration. Regardless of whether all parties request an appeal, the complainant and respondent will be informed in writing, and permitted to participate in the appeal and to respond to the information provided by the other party. This appeal will be the only appeal conducted and its conclusion will be final. Where the complainant and respondent each request to appeal on different grounds, those grounds will be consolidated into one appeal process.

If an appeal is heard, then the final outcome of the appeal will be communicated simultaneously in writing to the parties usually within fourteen (14) calendar days following deliberations.