



## **POLICY FOR THE PREVENTION OF AND RESPONSE TO SEX DISCRIMINATION, SEXUAL HARASSMENT AND SEXUAL VIOLENCE AGAINST STUDENTS**

*To the extent that this Policy overlaps with the Laboratory EEO/Non-Discrimination/Anti-Harassment Policy and Complaint Procedure, this Policy will control in cases involving sex discrimination (to the extent described below), sexual harassment, and/or sexual violence against a student.*

### **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.<sup>1</sup> The protections in this Policy and accompanying Conduct Process apply regardless of race, color, national origin, sex, gender, gender identity or expression, sexual orientation, marital status, disability, age, religion, creed, veteran status, citizenship status, familial status, pregnancy, predisposing genetic characteristics or other genetic information, military status, domestic violence victim status, or criminal conviction. The Laboratory will make this Policy and the accompanying Conduct Process available on the Laboratory website.

The Laboratory is committed to preventing, investigating, and remedying violations of this Policy. Those members of the community, including students, faculty and staff, 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.

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<sup>1</sup> For purposes of this Policy, “gender” includes gender and sex. Consistent with its nondiscrimination policy, Cold Spring Harbor Laboratory (including the Watson School of Biological Sciences) does not discriminate in its education programs and activities, including in employment and admission, on the basis of race color, national origin, sex, gender, gender identity or expression, sexual orientation, marital status, disability, age, religion, creed, veteran status, genetic information or citizenship status or any other factors prohibited by law. <http://intranet.cshl.edu/images/stories/Administration/HR/Policies/EEONondiscriminationAnti-HarassmentPolicy.pdf>

## **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 education programs and activities that receive federal assistance. This Policy covers occurrences of gender-based 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, or while studying abroad.

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 Course 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. Gender-Based Discrimination**

Gender-based discrimination prohibited by this Policy is any actions that deprive or limit students of educational or employment access, benefits, or opportunities, or treat students differently, 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, non-verbal, 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 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 serious (severe, persistent 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 adverse action taken by the Laboratory, a respondent and/or the complainant, another student, and/or friends, family and acquaintances against an individual as reprisal for filing a complaint, supporting a complainant, and/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 Title IX Coordinator (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 occurs when an individual lacks the ability to knowingly choose to participate in sexual activity (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.

#### **IV. Cooperation / Obstructing the Process**

All members of the CSHL community, including students, faculty, and staff are expected to promptly 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.

All members of the CSHL community are strongly encouraged to promptly report all violations of this Policy. All persons who are Responsible Employees are required to report violations of this Policy that they know about, or in the exercise of reasonable care, should know about, to the Title IX Coordinator. Responsible employees include the CSHL President, Title IX Coordinator, Chief Operating Officer, all administrative staff in the Watson School, and the Director of Research. 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 and respondent about confidentiality standards and privacy concerns. The Laboratory will provide the complainant and respondent with the *Students' Bill of Rights*. Confidentiality can only be offered by medical providers and counselors with the CSHL Center for Health and Wellness. These individuals are not required by law to report incidents of Prohibited Conduct to the Title IX Coordinator or other institution officials, except for purposes of reporting certain information in an anonymized manner that does not identify the specifics of the crime or the identity of the reporting individual. 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's Title IX Coordinator, or his or her designee, 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 will be informed 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](mailto:CSHLWellness@NSHS.edu). While Center staff members 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 [North Shore University Hospital](#) and [University Hospital at Stony Brook](#). [Both facilities are 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 and Conduct Process, or pursue both processes consecutively or concurrently. If requested, the Laboratory will provide assistance with making contact with law enforcement, including in obtaining protective orders, and in initiating legal proceedings in family court or civil court. A complainant may withdraw a complaint or involvement from the Laboratory process at any time.

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.

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 (generally, no longer than 10 days) to allow law enforcement to complete their fact finding, etc.). The Laboratory, through the Title IX Coordinator 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.
- Upon the first instance of disclosure by a reporting individual to the Laboratory, the individual receiving the report will provide information to the reporting individual regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. Such official shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the reporting individual of other reporting options, of the right to be protected by CSHL from retaliation for reporting an incident; and the right to receive assistance and resources from CSHL.
- Complainants, or students with questions pertaining to this Policy, should contact Katherine Raftery, Vice President of Human Resources and Title IX Coordinator in the Luke Building on the Main Campus, at [raftery@cshl.edu](mailto: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](mailto:ayres@cshl.edu) or (516) 367-5200.
- Complainants may complete an online Incident Report Form located at <http://intranet.cshl.edu/IncidentReport/index.php/IncidentReport>. This form may be filed anonymously; it will be received and reviewed by the Title IX Coordinator.

The Laboratory will then follow the *Conduct Process for Discrimination, Sexual Harassment and Misconduct Complaints Involving Students*.