

## **ICAHN SCHOOL OF MEDICINE AT MOUNT SINAI ANTI-HARASSMENT POLICY**

### **I. STATEMENT OF PURPOSE**

Harassment has become an increasingly prominent national concern in the workplace and in academic institutions. ISMMS regards any behavior that is harassing, discriminatory, or abusive as a violation of the standards of conduct required of all persons associated with the academic mission of the institution. The ideal of American medical, graduate and postgraduate education is to create an environment that nurtures respect and collegiality between educator and student. In the teacher-student relationship, each party has certain legitimate expectations of the other. For example, the learner can expect that the teacher will provide instruction, guidance, inspiration, and leadership in learning. The teacher expects the learner to make an appropriate professional investment of energy and intellect to acquire the knowledge and skills necessary to become an effective physician or scientist. The social relationships required in the achievement of this academic ideal – mentor, peer, professional, staff – require the active trust of partnership, not the dependence of authoritarian dominance and submission.

ISMMS is responsible for providing a work and academic environment free of sexual and other forms of harassment. The institution may pursue any complaint of harassment known to it in order to achieve this goal. A Grievance Committee (the “Committee”) was established in 1992 to serve as an educational resource to the medical school community on issues relevant to harassment and to address complaints of sexual harassment and other forms of harassment and abuse as defined below. Complaints about implementation of school policies concerning appointment, promotion, and distribution of resources, including notification requirements associated with these policies, will not be addressed by this Committee unless they involve, in addition to those complaints, an allegation of harassment or abuse as defined below. The Committee (and an appointed Investigative and Hearing Board (the “Board”) under Paragraph IV.C.2. below, if any) may only consider complaints of harassment and abuse brought by any faculty member, medical or graduate student, house staff or postdoctoral fellow against any other such member of the School community. Complaints by and against other employees of ISMMS will be handled by other appropriate existing grievance mechanisms (e.g., those available through Human Resources). The Committee may act (at the Committee’s discretion) before or after other action(s) an individual may take to exercise his/her rights both within and outside the institution.

The Committee will attempt, whenever possible, to emphasize mediation and conciliation. It will rely on discreet inquiry and trust in dealing with complaints that are brought for its consideration. Confidentiality will be maintained to the maximum extent possible consistent with the need to investigate complaints and with the requirements of the law. Full cooperation with the Committee and an appointed Board, if any, is required of all members of the community.

To ensure an environment in which education, work, research, and discussion are not corrupted by abuse, discrimination and harassment, the following statement has been created to educate members of the academic community about what constitutes harassment and about the mechanism for the receipt, consideration, and resolution of complaints.

### **II. DEFINITIONS OF UNACCEPTABLE BEHAVIOR**

Certain behaviors are inherently destructive to the relationships that are required in a community organized to provide medical and graduate education. Behaviors such as violence, sexual and other harassment,

abuses of power and discrimination (based on race, color, religion, national origin, gender, sexual orientation, veteran status, age, disability, citizenship, marital status, genetic predisposition or any other characteristic protected by law) will not be tolerated.

**A. Sexual Harassment** is defined as unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when:

- 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic success.
- 2) submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting such an individual.
- 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive work or academic environment. Sexual harassment is a violation of institutional policy and of city, state and federal laws. Sexual harassment need not be intentional to violate this policy.

Examples of sexual harassment include, but are not limited to:

- inappropriate sexual advances, propositions or demands
- unwelcome physical contact
- inappropriate persistent public statements or displays of sexually explicit or offensive material which is not legitimately related to employment duties, course content or research
- threats or insinuations, which lead the victim to believe that acceptance or refusal of sexual favors, will affect his/her reputation, education, employment or advancement
- derogatory comments relating to gender or sexual orientation

In general, though not always, sexual harassment occurs in circumstances where the harasser has some form of power or authority over the life of the harassed. As such, sexual harassment does not fall within the range of personal private relationships. Although a variety of consensual sexual relationships are possible between medical supervisors and trainees, such relationships raise ethical concerns because of inherent inequalities in the status and power that supervisors wield in relation to trainees. Despite the consensual nature of the relationship, the potential for sexual exploitation exists. Even if no professional relationship currently exists between a supervisor and a trainee, entering into such a relationship could become problematic in light of the future possibility that the supervisor may unexpectedly assume a position of responsibility for the trainee.

**B. Discrimination** is defined as actions on the part of an individual, group or institution that treat another individual or group differently because of race, color, national origin, gender, sexual orientation, religion, veteran status, age, disability, citizenship, marital status, genetic predisposition or any other characteristic protected by law. Discrimination or harassment on the basis of these characteristics violates federal, state, and city laws and is prohibited and covered by this policy.

**C. Abuse** is defined, for purposes of this policy, as behavior that is viewed by society and by the academic community as exploitative or punishing without appropriate cause. It is particularly objectionable when it involves the abuse of authority.

Examples of behavior which may be abusive include, but are not limited to:

- habitual conduct or speech that creates an intimidating, demeaning, degrading, hostile, or otherwise seriously offensive working or educational environment
- physical punishment
- repeated episodes of verbal punishment (e.g. public humiliation, threats and intimidation)
- removal of privileges without appropriate cause
- grading or evaluations used to punish rather than to evaluate objective performance
- assigning tasks solely for punishment rather than educational purposes
- repeated demands to perform *personal* services outside job description
- intentional neglect or intentional lack of communication
- requirements of individuals to perform unpleasant tasks that are entirely irrelevant to their education and employment that others are not also asked to perform

Constructive criticism, as part of the learning process, does not constitute harassment. To be most effective, negative feedback should be delivered in a private setting that fosters free discussion and behavioral change.

### **III. GRIEVANCE COMMITTEE**

#### **A. Purview**

The Committee is charged with addressing any complaint of harassment or abuse brought by any member of the faculty, medical or graduate student, house staff officer or postdoctoral research fellow against any other such member of the school community. Although harassment can be broadly defined to include the types of behavior described in Section II above, complaints that fall under the ISMMS Sexual Misconduct Policy (*i.e.*, those that allege Sexual Misconduct as that term is defined in that policy) will be handled in accordance with the ISMMS Sexual Misconduct Policy’s requirements. “Sexual Misconduct” includes conduct such as: Sexual assault, rape, sexual abuse, sexual exploitation, stalking, and relationship violence. A copy of the ISMMS Sexual Misconduct Policy can be found here:

[http://icahn.mssm.edu/static\\_files/MSSM/Files/Education/Student%20Resources/20015%20Student%20Handbooks%20Policies/SexualMisconductPolicy1.pdf](http://icahn.mssm.edu/static_files/MSSM/Files/Education/Student%20Resources/20015%20Student%20Handbooks%20Policies/SexualMisconductPolicy1.pdf).

#### **B. Composition of the Committee**

Full-time and voluntary faculty (both clinical and basic science), medical students, graduate students, house staff, and post-doctoral fellows are eligible to become members of the Committee. Every effort will be made to have the Committee reflect the full diversity of the medical school population and to include members who have counseling experience. The Chairperson of the Committee (the “Chairperson”) shall be a faculty member with experience in counseling and who does not have an administrative appointment. All members of the Committee, including the Chairperson, will be appointed by and will serve at the discretion of the Dean.

### **IV. GRIEVANCE PROCEDURES**

**A.** Any member of the faculty, any medical or graduate student, house officer or postdoctoral research fellow who believes that he or she has been harassed or abused by any other such member of the School community may contact any member of the Committee or the Chairperson to seek advice, or may submit a written

complaint to the Committee. The Committee member contacted can discuss the matter with the complainant, advise the complainant of his/her alternatives in pursuing the complaint, including, if the complainant agrees, (and where permitted by law), helping the complainant to resolve the complaint informally, and, to the extent requested by the complainant and feasible (and, again, where permitted by law), without revealing the complainant's name. Such help may include, but is not limited to, assisting the complainant in drafting a letter to the alleged offender asking that he/she stop the behavior, or coaching the complainant in preparation for a conversation with the alleged offender. The complainant may ask the Committee member to meet directly with the person accused to seek a resolution.

If the complaint includes an alleged violation of law, the Committee member initially contacted *must* bring the complaint to the full Committee, and, if the allegations are found by the Committee to warrant further examination by the Committee, the complaint must be fully documented and investigated, and a report made to the Dean.

**B.** Upon request of the complainant to the Committee member originally contacted, or upon receipt of written complaints to the Committee, or when required by law, the complaint, with the names of the complainant, respondent and, to the extent possible, department withheld, will be discussed by the Committee at its next regular meeting.

**C.** Following discussion of the complaint, the Committee has 2 options:

1. It can decide that even if the allegation is true, it does not constitute harassment or abuse. The complainant will be notified of the finding and can be offered guidance and/or assistance in resolving the matter, or be referred to another, more appropriate venue or process, such as Human Resources, the appropriate School Ombudsperson, the Faculty Council, the Professionalism Committee or the appropriate process delineated in ISMMS' Sexual Misconduct Policy (as applicable) to pursue the complaint.

2. It can decide that the allegation is sufficiently serious to warrant further investigation. Unless previously submitted, the complainant will be requested to submit a full written account of the complaint. Upon receipt of the written complaint, the Chairperson will appoint a five-member Board and two alternates.

The Chairperson will serve as chair of the Board (or, in case of conflict of interest or other inability to serve, appoint another Committee member) and will appoint at least 4 additional individuals and at least 2 alternates to consider the complaint. Students, postdoctoral fellows, and house staff members are to be excluded from the Board in cases involving a faculty member alleging harassment by another faculty member. In cases involving a student, postdoctoral fellow or house staff (either as an accuser or accused), at least one of the members of the Board will be from the same group. Each Board will have at least one member with experience in counseling, and at least 3 faculty. In the event the Chairperson is unable to compose a Board entirely from the existing members of the Committee, he/she may appoint, on an *ad hoc* basis, other members of the School community who otherwise satisfy the eligibility criteria for membership on the Committee (see Section III.B. above).

**D.** Upon selection of the Board, the complainant will be notified of the names of Board members, and will have 48 hours from receipt of such notification to challenge, in writing, any member for cause. The respondent will be notified that a complaint has been brought against him/her, the name of the complainant, the nature of the complaint and the names of the members of the Board. The respondent shall also have 48 hours from receipt of notification to challenge, in writing, any member of the Board for cause. In the event of a challenge, the Chairperson will decide on the merits and replace Board members if necessary. In the event that

the Chairperson is unable to appoint a sufficient number of members not disqualified for cause, the Dean will appoint additional members.

#### **E. Investigative and Hearing Board Procedures.**

The preliminary stages of the investigation may consist of meetings of one or more members of the Board with the complainant, respondent and other members of the community who might have relevant information. In the event that preliminary meetings have been held, all information obtained in these meetings will be shared with the entire Board. In all meetings, confidentiality will be stressed.

The respondent will receive the full written complaint with the supporting documentation provided by the complainant to the Board and will be afforded two weeks to provide a written response. This response will be distributed to the Board and provided to the complainant.

The Board will then hold one or more hearings, which the complainant and respondent will attend, either individually or together, along with any other witnesses the Board deems relevant to the complaint. At the hearing, each of the parties may be accompanied by an advisor, who is a member of the Mount Sinai community, but who is *not a lawyer*, and who will not function as an advocate during the hearing.

At the close of the hearing(s), the Board will deliberate the findings without the presence of either the complainant or the respondent.

Upon concluding its deliberations, the Board will vote on whether or not there has been a violation of this policy based on a majority vote. Recommendations for remedial actions will be discussed. A full report will be drafted, including the findings, vote and recommendations of the majority. It will then be submitted to the Dean.

The Board's written report will include:

- a) a determination that a violation of this policy did or did not take place
- b) a listing of its findings of fact
- c) a summary of the written submissions of the parties
- d) a summary of testimony at the hearing
- e) a summary of evidence gathered during the investigation
- f) the conclusions it has drawn from this material
- g) its recommendations for action to be taken by the Dean.

The Board may recommend sanctions based on the severity of the offense.

Sanctions may include, but are not limited to, verbal reprimand, written reprimand, change in job responsibilities, suspension, discharge, and expulsion.

The Board and/or the Committee may, at their discretion, modify the Grievance Procedures depending on the nature of a particular complaint.

#### **F. Dean's Review**

The Dean may accept or reject conclusions and/or recommendations of the Board. However, in the event the Dean does not accept either the Board's conclusions or its recommendations, he/she will meet with the Board to discuss the reasons for the rejection before recording a final decision on the matter.

The Dean will convey his/her decision in writing to the complainant, respondent and the Board.

## **V. PROTECTION FROM RETALIATION**

All individuals involved in registering a complaint, serving as representatives for the complainant or respondent, as witnesses, or on the Committee will be free from any and all retaliation or reprisal or threats thereof. This principle applies with equal force after a complaint has been adjudicated. Upon submission of a complaint or threat of retaliation, the Committee will review the facts and recommend appropriate action.

## **VI. AMENDMENTS TO THIS POLICY**

Changes to this policy must be approved by a majority of the Committee members and must be reviewed and approved by the Office of the General Counsel before being implemented.