



Icahn  
School of  
Medicine at  
**Mount  
Sinai**

# **Sexual Misconduct Policy**

Effective October 1, 2015

## 1. INTRODUCTION

The Icahn School of Medicine at Mount Sinai (“ISMMS”) regards Sexual Misconduct (as defined in Section 2 below) as contrary to the standards of conduct required of all persons associated with the academic mission of the institution. ISMMS is committed to providing an environment free of Sexual Misconduct, and hereby reaffirms its prohibition of all forms of Sexual Misconduct.

Non-consensual sexual conduct and other forms of Sexual Misconduct can be traumatizing and detrimental to a person’s learning experience and overall health and has no place in our community. ISMMS will take any and all action needed to prevent, correct, and discipline behavior that violates this standard. Due diligence will be applied to ensure proper and expeditious disciplinary review processes and the implementation of any appropriate resulting action. ISMMS will make every effort to provide assistance and support to victims of Sexual Misconduct in a consistent, fair, and sensitive manner.

This policy (hereinafter the “Policy”) and its accompanying principles and procedures ([see ISMMS Sexual Misconduct Policy Appendix](#)) are incorporated by reference into the ISMMS Code of Conduct.

## 2. DEFINITIONS

“**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 identify, or gender expression. Additional principles and guidance for the ISMMS Community regarding Affirmative Consent can be found at [Appendix 1](#).

“**Accused**” shall mean, generally, a person accused of a violation of this Policy.

“**Complainant**” is the term used in the context of the ISMMS Sexual Misconduct investigation, adjudication, and appellate processes, to refer to an individual who has allegedly been the victim of Sexual Misconduct.

“**Designated Official**” means ISMMS faculty and/or staff who are, pursuant to this Policy, expected to forward reports of Sexual Misconduct to the ISMMS Title IX Coordinator (unless the report was received by such Designated Officials: (1) in their capacity as a treating physician; (2) in their capacity as a professional licensed counselor and/or pastoral counselor who provides mental-health counseling to members of the School Community; or (3) through a public awareness or advocacy event (such as candlelight vigils, protests, or other public events)), and includes the following ISMMS faculty and staff:

Dean of the Icahn School of Medicine at Mount Sinai; Dean of Medical Education; Dean of the Graduate School of Biomedical Sciences; Senior Associate Deans; Associate Deans; Assistant Deans; Program Directors; Clinical Research Education; Program Administrator, Clinical Research Education; Director, Genetics Counseling Program; Director, Masters in Biostatistics; Faculty Director, Masters in Health Care Delivery Leadership Program; Director, Graduate Program in Public Health; Assistant Director of Graduate Program in Public Health.

**“ISMMS School Community”** or **“School Community”** shall mean all ISMMS students, postdoctoral students/fellows, faculty, staff, and other ISMMS employees, officers and directors. For purposes of this Policy and the accompanying procedures, individuals who are not employed by ISMMS but are employed by hospitals or other components of the Mount Sinai Health System (including House Staff Officers), as well as House Staff Officers employed by ISMMS, do not fall within the definition of “School Community” members.

**“Reporting Individual”** shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other individual who brings forth an official report of violations of the ISMMS Sexual Misconduct Policy.

**“Respondent”** is the term used in the context of the ISMMS Sexual Misconduct investigation, adjudication, and appellate processes, to refer to an individual who has been accused of a violation of this Policy

**“Retaliation”** means any negative or adverse action taken against an individual for raising concerns, reporting, or filing complaints regarding Sexual Misconduct that is prohibited by law or by policy. Retaliation can include, but is not limited to, hostility, intimidation, threats, and exclusion.

**“Sexual Misconduct”** shall mean sexual acts threatened or perpetrated against a person’s will or where a person is incapable of giving Affirmative Consent. It is a broad term used to encompass unwelcome conduct of a sexual nature that is prohibited by law and/or by ISMMS, including conduct such as: sexual assault, rape, sexual abuse, sexual exploitation, stalking, and relationship violence (including domestic violence, and dating violence). Definitions of these specific types of prohibited Sexual Misconduct can be found at [Appendix 2](#). For purposes of this Policy, sexual harassment and sex/gender discrimination do not fall within the definition of “Sexual Misconduct.”

### 3. STATEMENT OF POLICY

It is a violation of ISMMS policy (and potentially a violation of applicable law) to commit or attempt to commit or engage in Sexual Misconduct.

Sexual Misconduct can be carried out by students, school employees, or third parties. All acts of Sexual Misconduct are forms of sex discrimination prohibited by Title IX and by ISMMS.

See <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>

ISMMS continues to prohibit all forms of discrimination on the basis of sex/gender in employment as well as in all education programs and activities. It is the policy of the ISMMS that all decisions regarding educational and employment opportunities and performance are made on the basis of merit and without discrimination because of sex, gender, marital status, sexual orientation, or any other characteristic protected by law.

## 4. SCOPE

This Policy applies regardless of race, color, national origin, religion, creed, age, disability, sex/gender, sexual orientation, gender identity or expression, or belonging to any other group protected by law.

This Policy applies to all prohibited Sexual Misconduct occurring on or after the effective date of this Policy. In the case of prohibited Sexual Misconduct that allegedly occurred before the effective date of this Policy, the issue of whether there was a violation of ISMMS policy will be determined under the policies and procedures in effect at the time of the alleged incident(s) at issue.

This Policy applies to all members of the School Community, and all appropriate third parties, including visitors and other licensees and invitees to the ISMMS, without regard to location, program, or activity, unless noted to the contrary herein or in the Appendices hereto. Reports of violations of this Policy by and against School Community members will be dealt with as set forth herein and in the accompanying procedures set forth in the Appendices hereto.

This Policy and the accompanying procedures may not apply to reports of Sexual Misconduct by or against individuals who are not employed by ISMMS but are employed by hospitals or other components of the Mount Sinai Health System (“MSHS”), as well as House Staff Officers employed by ISMMS. Reports of Sexual Misconduct allegedly perpetrated by such individuals against School Community members will be addressed as set forth in [Appendix 6\(C\)](#).

As set forth above, sexual harassment and sex/gender discrimination do not fall within the definition of “Sexual Misconduct” for purposes of this policy. Sexual Harassment and sex/gender discrimination remain prohibited both by ISMMS and the MSHS pursuant to other policies and procedures that are set forth variously in the ISMMS Code of Conduct, the ISMMS Student Handbook, the ISMMS Faculty Handbook, and in ISMMS HR policies and procedures. For ease of reference, a table outlining the policies, procedures, and mechanisms by which all of these different types of prohibited conduct are treated is set forth below:

<b>Alleged Conduct</b>	<b>Status of Accused</b>	<b>Governing Policy</b>	<b>Initial Assessment</b>	<b>Investigation</b>	<b>Adjudication</b>	<b>Appellate Process</b>
<b>Sexual Misconduct (by a School Community member against a School Community member)</b>	Medical Student	ISMMS Sexual Misconduct Policy	Title IX Coordinator  <a href="#">(Appendix 6)</a>	Title IX Coordinator  <a href="#">(Appendix 6)</a>	Dean for Medical Education  <a href="#">(Appendix 7)</a>	ISMMS Sexual Misconduct Policy “Default” Process  <a href="#">(Appendix 9, 10)</a>
	Postdoctoral Fellow/ Student	Sexual Misconduct Policy	Title IX Coordinator  <a href="#">(Appendix 6)</a>	Title IX Coordinator  <a href="#">(Appendix 6)</a>	Dean of the Graduate School  <a href="#">(Appendix 7)</a>	ISMMS Sexual Misconduct Policy “Default” Process  <a href="#">(Appendix 9, 10)</a>
	ISMMS faculty	ISMMS Sexual Misconduct Policy	Title IX Coordinator  <a href="#">(Appendix 6)</a>	ISMMS HR Officials  <a href="#">(Appendix 6)</a>	Chair of Department where Faculty is a member  <a href="#">(Appendix 7)</a>	Applicable ISMMS Faculty Handbook provisions  <a href="#">(Appendix 9)</a>
	ISMMS staff (excluding House Staff) and third parties	ISMMS Sexual Misconduct Policy	Title IX Coordinator  <a href="#">(Appendix 6)</a>	ISMMS HR Officials  <a href="#">(Appendix 6)</a>	Appropriate manager/ supervisor  <a href="#">(Appendix 7)</a>	Applicable ISMMS HR policies (if any)  <a href="#">(Appendix 9)</a>
<b>Sexual Misconduct (by a non-School Community Member against a School Community Member)</b>	MSSH employees who are not members of the School Community (including House Staff)	applicable institutional policies and procedures	Title IX Coordinator  <a href="#">(Appendix 6)</a>	Referral to appropriate institutional HR Officials  <a href="#">(Appendix 6)</a>	See applicable institutional policies and procedures	See applicable institutional policies and procedures
<b>Sexual Discrimination/ Sex or Gender Discrimination</b>	medical students and postdoctoral fellows/ students	ISMMS Code of Conduct, Student Handbook, applicable HR Policies	n/a	various	Appropriate Dean	n/a
	ISMMS faculty	Faculty Handbook, applicable HR policies	n/a	various	Appropriate Department Chair	Applicable Faculty Handbook provisions
	ISMMS staff (excluding House Staff) and third parties	applicable HR policies	n/a	ISMMS HR officials	HR officials/ appropriate managers and supervisors	Applicable ISMMS HR policies (if any)

## 5. STATEMENT ON COMPLIANCE

This Policy is designed to comply with applicable legal requirements, including but not limited to Title IX of the Education Amendments of 1972, relevant provisions of the Violence Against Women Reauthorization Act of 2013, Title VII of the Civil Rights Act of 1964, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), New York State laws including but not limited to N.Y. Educ. Law Article 129-b (§§ 6439-6449), and New York State and City human rights laws.

ISMMS is obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the Reporting Individual. Reporting Individuals shall not be identified in such timely warnings.

The Family Educational Rights and Privacy Act allows ISMMS to share information with parents when (1) there is a health or safety emergency where disclosure is necessary to protect the health or safety of a student or others or as otherwise provided by FERPA; or (2) when the student is a dependent on either parent’s prior year federal income tax return. Generally, however, ISMMS will not share information about reports of Sexual Misconduct with parents without the permission of the Reporting Individual. The ISMMS FERPA policy can be found at <http://icahn.mssm.edu/education/student-resources/resources-for-current-students/student-handbooks>

Copies of crime statistics for the ISMMS area are available in the ISMMS Security Office or through the U.S. Department of Education web site for campus crime statistics ([www.ope.ed.gov/security](http://www.ope.ed.gov/security)).

## 6. TITLE IX COORDINATOR

The ISMMS Title IX Coordinator is responsible for coordinating ISMMS’s anti-Sexual Misconduct efforts, including training, education, and awareness initiatives and campaigns related to the prevention of Sexual Misconduct in the School Community. In addition, as set forth in Section 12 below, the Title IX Coordinator is responsible for assessing and investigating certain reports of Sexual Misconduct committed by members of the School Community, and for providing reporting individuals and/or victims with important information following disclosure of alleged incidents of Sexual Misconduct.

Questions and inquiries regarding Title IX, including reports of incidents or questions about Sexual Misconduct, may be referred to the Title IX Coordinator, whose contact information is as follows:

**Sandra Masur, PhD**  
Title IX Coordinator  
Chair, Committee on Special Awards (CoSA)  
Director, Office for Women’s Careers IMSSM  
Professor, Ophthalmology  
212.241.0089  
fax: 212.289.5945  
[TitleIX@mssm.edu](mailto:TitleIX@mssm.edu)

## 7. ASSISTANCE OPTIONS FOR VICTIMS OF SEXUAL MISCONDUCT

If you believe that you or another member of the ISMMS Community has been the victim of Sexual Misconduct, you can take any/all of the following steps:

- **Contact on or off-campus advocates and counselors.** Advocates and counselors can provide an immediate response in a crisis situation (e.g., help you obtain needed resources, explain reporting options, and help navigate the reporting process). There are many counseling, advocacy, and support organizations available to help victims of Sexual Misconduct, whether or not those victims choose to make an official report or participate in the institutional disciplinary or criminal processes. Contact information for on and off-campus counseling, advocacy, rape-crisis and sexual assault treatment programs, and support organizations is set forth at [Appendix 3](#).
- **Get medical attention.** Emergency medical care can be provided to you in the Emergency Departments of many of the hospitals referenced in [Appendix 3](#). If you seek medical attention from the Mount Sinai Hospital Emergency Department, a DOH-certified Volunteer Advocate from the Mount Sinai Sexual Assault and Violence Intervention Program (“SAVI”) will be available to respond and to provide support, information and advocacy to you.

Evidence collection can be important in support of criminal charges, and accordingly, victims who may wish to pursue criminal action (or who wish to keep that option available) should be aware of the importance of immediately reporting the incident so that physical evidence can be preserved at the scene, as well as on the person assaulted. Although a delay in reporting could limit the amount of physical evidence available (which could impact a criminal investigation), victims can always report the incident, whether it be days, weeks, or months after the incident occurred. Additional information regarding sexual assault forensic examinations, as well as resources available through the New York State Office of Victim Services, can be found at <https://ovs.ny.gov/>.

Evidence collection is only one aspect of the sexual assault medical follow-up care a survivor is entitled to receive if he or she decides to access services. A full physical examination, certain prophylactic antibiotics and anti-viral medications, pregnancy prevention medication (Plan B), and other procedures will also be offered during the victim’s hospital visit.

- **Contact Law Enforcement, including the NYPD (at 911), the District Attorney of New York’s Sex Crimes Unit (at 212.335.9373), or the New York State Police Sexual Assault Victims Unit.**
- **Contact ISMMS faculty, staff, or the Title IX Coordinator.** Reports of Sexual Misconduct can be made to any ISMMS faculty, staff member, or directly to the Title IX Coordinator. As set forth in greater detail in [Appendix 4](#), with limited exception, ISMMS Designated Officials who receive reports of Sexual Misconduct are expected to forward such reports to the ISMMS Title IX Coordinator – and thus, ISMMS Designated Officials who become aware of alleged incidents of Sexual Misconduct cannot generally treat reports of Sexual Misconduct confidentially. Additional details regarding confidentiality can be found below in Section 8 in the “Note Regarding Confidentiality and Privacy,” and in [Appendix 4](#).

## 8. REPORTING POLICIES AND PROTOCOLS

Reporting Sexual Misconduct can be difficult, and victims or witnesses to such behavior may have mixed feelings about whether or not to report such behavior. ISMMS encourages all members of the ISMMS Community who either: (1) believe that they have been the victim of Sexual Misconduct; or (2) become aware of incidents of Sexual Misconduct involving other members of the ISMMS Community, to report the conduct.

There are a number of different options for formally reporting Sexual Misconduct, each of which accord varying degrees of confidentiality. Explanations of various official reporting options/ obligations and contact information can be found in [Appendix 4](#).

**Note Regarding Confidentiality and Privacy:** As noted above, with limited exception ([see Appendix 4](#)), ISMMS Designated Officials who become aware of alleged incidents of Sexual Misconduct cannot treat reports of Sexual Misconduct confidentially, and are expected to forward such reports to the ISMMS Title IX Coordinator. As set forth more fully in [Appendix 4](#), confidentiality and privacy are not the same thing. Even ISMMS offices and employees who cannot guarantee confidentiality will still seek maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

## 9. POLICY FOR ALCOHOL AND/OR DRUG USE AMNESTY

The health and safety of every student at ISMMS is of utmost importance. ISMMS recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that Sexual Misconduct or 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. ISMMS strongly encourages students to report Sexual Misconduct, including domestic violence, dating violence, stalking, or sexual assault, to ISMMS officials, including but not limited to the Title IX Coordinator. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of Sexual Misconduct, including domestic violence, dating violence, stalking, or sexual assault, to ISMMS officials or law enforcement will not be subject to action for violations of ISMMS's drug or alcohol use policies occurring at or near the time of the commission of the subject Sexual Misconduct.

Nothing in this Policy or otherwise shall be construed to limit an institution's ability to provide amnesty to students in additional circumstances not expressly set forth herein.

While this Policy provides students with amnesty for violations of ISMMS's drug and alcohol use policies under the circumstances set forth above, it does not absolve ISMMS of its obligations, in legally mandated or otherwise appropriate circumstances, to take whatever steps are necessary to ensure the safety of the School Community, patients, and the public, and to truthfully and accurately report to any governmental, administrative, regulatory, professional, or licensing authorities, boards, or bodies, and ISMMS expressly reserves its rights to do so.



## 10. RIGHTS OF REPORTING INDIVIDUALS

All Reporting Individuals have the right to:

- a. Notify ISMMS security, local law enforcement, and/or state police;
- b. Have emergency access to the Title IX Coordinator, or in his or her absence, other appropriate officials trained in interviewing victims of Sexual Misconduct, who shall be available upon the first instance of disclosure by a Reporting Individual to provide certain enumerated information regarding options for proceeding that are set forth in [Appendix 5](#).
- c. Confidentially disclose the incident to individuals and organizations that are associated or affiliated with ISMMS, including SAVI, Professional and Pastoral Counselors, Non-Professional Counselors and Advocates, and others (a more complete list of on and off campus advocates and counseling options, some of which offer confidentiality) is available in [Appendix 3](#), who can assist in obtaining services for Reporting Individuals.
- d. Confidentially disclose the incident and obtain services from the state or local government.
- e. Disclose the incident to institution representatives such as the Title IX Coordinator, who can offer privacy and may be able to offer confidentiality, if appropriate ([see Appendix 6\(B\)](#)), and can assist in obtaining resources for Reporting Individuals.
- f. File a report of Sexual Misconduct and consult with the Title IX Coordinator and other appropriate institution representatives for information and assistance. As set forth in [Appendix 6](#), reports shall be dealt with in accordance with institutional policy and will be treated with privacy to the extent possible.
- g. Disclose, if the accused is an employee of ISMMS or another entity in the MSHS the incident to the appropriate human resources or other authorities at the accused's entity of employment, or request that a confidential or private employee assist in reporting to the appropriate authorities ([see Appendix 6\(C\)](#)).
- h. Receive assistance from the Title IX Coordinator in initiating legal proceedings in family court or civil court.
- i. Withdraw a complaint or involvement from the ISMMS Sexual Misconduct investigation and/or adjudication process at any time. It must be noted here that in certain circumstances, ISMMS may have no choice but to continue with the investigation and/or adjudication processes even if a complainant has withdrawn his or her complaint or has requested that "no further action" be taken. The criteria on which ISMMS will base its decision regarding whether to proceed with the institutional process despite the complainant's withdrawal therefrom is set forth in [Appendix 6](#).

## 11. PROHIBITION AGAINST RETALIATION

It is a violation of ISMMS policy to retaliate against an individual for: (1) raising concerns, reporting, or filing complaints or reports (whether first or third party) regarding Sexual Misconduct; (2) involvement in registering complaints or reports of Sexual Misconduct; (3) serving as representatives for Reporting Individuals, victims, or individuals accused of Sexual Misconduct; or (4) participating in the investigative or adjudicative processes in connection with allegations of Sexual Misconduct.

## 12. SEXUAL MISCONDUCT ASSESSMENTS AND INVESTIGATIONS

ISMMS has established procedures for assessing and investigating ([Appendix 6](#)) reports of Sexual Misconduct. These procedures provide that upon receipt of a report of Sexual Misconduct, the Title IX Coordinator will undertake an “Initial Assessment” of the report ([see Appendix 6](#)), and that upon completion of the Initial Assessment, the Title IX Coordinator will determine: (1) whether the matter should proceed to be investigated by ISMMS (pursuant to the protocols procedures set forth in [Appendix 6\(C\)](#) and [Appendix 6\(D\)](#)); (2) whether the matter needs to be referred outside of ISMMS for further action ([see Appendix 6\(C\)](#)); or (3) whether the matter will be considered resolved ([see Appendix 6\(B\)](#)). These procedures also set forth the mechanisms by which reports of Sexual Misconduct will be investigated by ISMMS, and for treatment of victims’ requests for confidentiality and/or that “no further action” be taken.

## 13. IMMEDIATE AND INTERIM MEASURES

ISMMS shall ensure that individuals are provided the following immediate and interim protections and accommodations:

a. “No Contact Orders”

- i. When the accused is a student, to have ISMMS issue a “no contact order” consistent with ISMMS policies and procedures, whereby continued intentional contact with the Reporting Individual/victim would be violation of this Policy and/or the ISMMS Code of Conduct and would be subject to additional conduct charges.
- ii. If the accused or respondent and a Reporting Individual/victim observe each other in a public place, it shall be the responsibility of the accused to leave the area immediately and without directly contacting the Reporting Individual/victim.
- iii. ISMMS may, if and when practicable, establish an appropriate schedule for the accused to access applicable institution buildings and property at times when such buildings and property are not being accessed by the Reporting Individual/victim.
- iv. Both the accused and the Reporting Individual/victim shall, upon request, be afforded a prompt and reasonable review, by the Title IX Coordinator, of the need for and terms of a “no contact order,” including potential modification, and shall be allowed to submit evidence in support of his or her request.

- b. Assistance from the Title IX Coordinator in finding and contacting appropriate services to assist in obtaining an order of protection or equivalent protective or restraining order.

- c. To receive a copy of the order of protection or equivalent when received by ISMMS and to have the opportunity to meet or speak with an institutional representative or other appropriate individual who can explain the order and answer questions about it, including information from the order about the accused's responsibility to stay away from the protected person or persons.
- d. To have the consequences for violating orders of protection or equivalents (including but not limited to arrest, additional conduct charges, and interim suspension) explained.
- e. To receive assistance from the ISMMS Security Department in calling on and assisting local law enforcement, when and if possible, in effecting an arrest when an individual violates an order of protection.
- f. When the accused is a student determined to present a continuing threat to the health and safety of the community, to subject the accused to interim suspension pending the outcome of the ISMMS Sexual Misconduct Investigation and Adjudication processes. Both the accused and the Reporting Individual/victim shall, upon request, be afforded a prompt and reasonable review, by the Title IX Coordinator, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of his or her request.
- g. When the accused is not a student but is a member of the ISMMS Community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable rules, policies, procedures, applicable collective bargaining agreements (if any), and employee handbooks.
- h. Reasonable and available interim measures and accommodations that effect a change in academic, class, and work schedules, housing arrangements, employment, transportation, and other applicable arrangements in order to help ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Both the accused and the Reporting Individual/victim shall, upon request, be afforded a prompt and reasonable review, by the Title IX Coordinator, of the need for and terms of any such interim measure that directly affects him or her, and shall be allowed to submit evidence in support of his or her request.
- i. Other actions that ISMMS/the Title IX Coordinator deem necessary and/or appropriate.

#### **14. COMPLAINT ADJUDICATION AND SANCTIONS/DISCIPLINE**

Once the Initial Assessment and Investigation processes have been completed, the investigator(s) shall submit a written Report of Investigation ("ROI") to the appropriate designated arbiter ("Designated Arbiter") for adjudication and, when appropriate, a determination of sanctions/discipline to be imposed ([see Appendix 6\(D\)](#)). The appropriate Designated Arbiter will be determined on a case-by-case basis based on the status of the accused, as set forth in [Appendix 7](#).

Upon receipt and consideration of the ROI, the Designated Arbiter shall weigh the evidence using a "preponderance of the evidence" standard (i.e. it is more likely than not that the Respondent violated the Policy).

If the Designated Arbiter determines that it is more likely than not that the Policy was violated, the Designated Arbiter is empowered to impose what he or she believes to be the appropriate sanctions/remedial actions to be taken. A non-exhaustive list of the sanctions/remedies that can be imposed for violations of the Policy are set forth in [Appendix 8](#).

If the Designated Arbiter determines that it is more likely than not that the Policy was not violated, the Designated Arbiter will dismiss the report. Thereafter, the matter will be referred back to the officials who investigated the report, who will either: (1) close the matter; or (2) refer the matter to other appropriate designated ISMMS officials for further action as appropriate to the extent the allegations may implicate other ISMMS policies and procedures.

The Complainant and Respondent will thereafter be notified simultaneously via email of the outcome of the process, including: (1) the Designated Arbiter's findings of fact; (2) the Designated Arbiter's decision as to whether a violation of the Policy did or did not take place (and the rationale for his or her decision); and (2) the Designated Arbiter's decision regarding sanctions (and the rationale for his or her decision regarding sanctions, if any). The Respondent will not be notified of the individual remedies offered or provided to the Complainant. ISMMS will also disclose other steps that ISMMS has or will take to prevent recurrence.

## 15. APPEALS

Where a Designated Arbiter has determined that it is more likely than not that the ISMMS Sexual Misconduct Policy *was* violated, the Respondent may have the right to appeal that determination depending on his or her status (i.e. whether he or is a student, house staff, faculty, or staff, etc.), as set forth in greater detail in [Appendix 9](#).

Where a Designated Arbiter has determined that it is more likely than not that the ISMMS Sexual Misconduct Policy *was not* violated, the Complainant may have the right to appeal that determination as set forth in [Appendix 9](#).

All appeals of Designated Arbiters' decisions regarding violations of the Policy that are not otherwise governed by applicable pre-existing policies and procedures ([see Appendix 9](#)) shall be adjudicated by a three-person appellate panel pursuant to the "Default Process For Appellate Review Of Sexual Misconduct Allegations" set forth in [Appendix 10](#).

The following principles shall be applied to the extent practicable and not inconsistent with other pre-existing procedures in connection with all appeals of Designated Arbiters' decisions regarding violations of this Policy:

- a. All parties will have the same rights to present their cases. This includes the right to have an equal opportunity to review and present: (1) available evidence in the case file or otherwise in the possession or control of ISMMS and relevant to the matter (consistent with ISMMS policies and procedures); and (2) to present witnesses (including expert or third-party witnesses), if applicable.
- b. All reasonable measures will be taken to ensure that proceedings are conducted in a manner that does not inflict additional trauma on the Complainant. When requested, arrangements will be made so that the Complainant and the Respondent do not have

to be present in the same room at the same time. This can be affected through the use of closed circuit televisions or other means where a Complainant has requested sequestration. No Sexual Misconduct adjudication hearings will require a Complainant to be present at the hearing as a prerequisite to proceed with the hearing.

- c. The parties will not be permitted to directly question or cross-examine each other, either personally or through their advisors. Instead, the parties will, at most, be permitted to submit questions to the Panel to ask the questions on their behalves. Prior to asking the questions, the Panel will screen the questions submitted by the parties and will only ask those it deems appropriate and relevant to the case.
- d. Questioning about/evidence regarding the complainant's sexual history with anyone other than the alleged perpetrator shall not be permitted and will not be admissible or considered by any decision makers.

## 16. ADDITIONAL RIGHTS IN “STUDENT ON STUDENT” SEXUAL MISCONDUCT PROCEEDINGS

ISMMS is cognizant of the serious and sensitive nature of Sexual Misconduct claims. Accordingly, as set forth more fully in N.Y. Educ. Law § 6444(5) and to the extent feasible and lawful, ISMMS will ensure that certain rights are afforded and that certain safeguards are taken in connection with all Sexual Misconduct investigations, adjudications, and reviews (including appellate reviews) involving reports of Sexual Misconduct allegedly perpetrated by ISMMS students or postdoctoral fellows/students against other by ISMMS students or postdoctoral fellows/students. These rights and safeguards are set forth fully in [Appendix 11](#).

## 17. FALSE REPORTS

Submitting a false report or providing false or misleading information in bad faith or with a view to personal gain in connection with an alleged incident of Sexual Misconduct is prohibited and is subject to disciplinary action. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are ultimately not substantiated.

## 18. EDUCATION, TRAINING, AND PREVENTION

ISMMS has adopted a comprehensive student onboarding and ongoing education campaign to educate members of the School Community about Sexual Misconduct (including domestic violence, dating violence, stalking, and sexual assault), in compliance with applicable laws including the Clery Act, as amended by the Violence Against Women Act (“VAWA”) reauthorization of 2013, 20 U.S.C. § 1092(f). In connection with this campaign:

1. All new incoming and transfer students shall, during the course of their orientation, receive training on certain enumerated topics that are set forth in [Appendix 12](#). Trainings will be conducted by Mount Sinai Sexual Assault and Misconduct Intervention (“SAVI”) Program.
2. ISMMS will use multiple methods, including written handouts as well as programs which may include lectures, seminars, workshops, and discussion groups, to educate students about Sexual Misconduct and violence prevention, and to promote discussion, encourage reporting, and facilitate prevention of Sexual Misconduct.

3. ISMMS will, to the extent feasible, share information on Sexual Misconduct with parents of enrolling students.
4. Training pursuant to ISMMS's campaign pursuant to VAWA and N.Y. Educ. Law § 6447 shall, as appropriate, include groups such as international students, students that are also employees, leaders and officers of registered or recognized student organizations, and online and distance education students. ISMMS will also provide specific training to members of groups that ISMMS, through the Title IX Coordinator, identifies as "high-risk populations."
5. All student leaders and officers of student organizations recognized or registered with ISMMS, as well as those seeking recognition by ISMMS, shall complete training on Sexual Misconduct prior to receiving recognition or registration.
6. The Title IX Coordinator will regularly assess ISMMS's anti-Sexual Misconduct programs and policies to determine effectiveness and relevance for students.

ISMMS trains its Designated Officials to report to the Title IX Coordinator any incidents of Sexual Misconduct that may violate ISMMS's Code of Conduct. Designated Officials are trained to understand that they do not need to determine whether the alleged Sexual Misconduct actually occurred before reporting an alleged incident to the Title IX Coordinator. ISMMS's Title IX Coordinator and HR officials who investigate claims of Sexual Misconduct are trained to have in-depth knowledge of Sexual Misconduct investigations and this policy.

ISMMS also ensures that a pool of faculty and staff are trained in the adjudication of Sexual Misconduct claims so that they can serve on panels that adjudicate claims of Sexual Violence.

## **19. BI-ANNUAL "CAMPUS CLIMATE ASSESSMENTS"**

Pursuant to N.Y. Educ. Law § 6445, ISMMS will conduct bi-annual "campus climate assessments" to ascertain general awareness and knowledge of the provisions of N.Y. Educ. Law Article 129-b, including student experience with and knowledge of reporting and adjudication processes, which shall be developed using standard and commonly recognized research methods. Principles and procedures for development, implementation, and administrative of the "campus climate survey" is set forth in [Appendix 13](#).

ISMMS shall take steps to ensure that answers to "campus climate assessments" remain anonymous and that no individual is identified. ISMMS shall publish the results of "campus climate surveys" online, provided that no personally identifiable information or information can reasonably lead a reader to identify an individual shall be shared.

## **20. DISSEMINATION OF POLICIES AND PROCEDURES AND "STUDENT BILL OF RIGHTS"**

Upon adoption, copies of and/or links to this Policy shall be disseminated to all students electronically. Thereafter, copies of and/or links to this Policy shall be disseminated electronically to all new and incoming students during orientation. In addition, this Policy will also be permanently available on the ISMMS learning management system <https://learn.mssm.edu/webapps/login/> and on the internet <http://icahn.mssm.edu/education/student-resources/resources-for-current-students/student-handbooks>

Pursuant to New York State law, ISMMS has adopted a “Student Bill of Rights” as part of its Code of Conduct. Copies of the “Student Bill of Rights” shall be distributed annually to students, posted in campus residence halls and residence centers, and will be posted on the ISMMS learning management system <https://learn.mssm.edu/webapps/login> and on the internet <http://icahn.mssm.edu/education/student-resources/resources-for-current-students/student-handbooks>

# ISMMS SEXUAL MISCONDUCT POLICY APPENDIX

## APPENDIX 1

The following principles are provided as guidance for the ISMMS Community regarding the concept of Affirmative Consent:

- i. 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.
- ii. Consent is required regardless of whether the person initiating the act is under the influence of drugs or alcohol.
- iii. 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. Incapacitation may be caused by lack of consciousness or being asleep, inebriation due to drugs or alcohol, an intellectual or other disability that prevents the person from having the capacity to give Consent, involuntary restraint, or if an individual otherwise cannot consent.
- iv. Consent to engage in activity with one person does not imply Consent to engage in sexual activity with another;
- v. Consent may be initially given but can be withdrawn at any time;
- vi. When consent is withdrawn or can no longer be given, sexual activity must stop.
- vii. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.



## **APPENDIX 2**

Below is a non-exhaustive description of various types of Sexual Misconduct:

### **SEXUAL ASSAULT**

Sexual assault generally refers to acts of unwanted physical contact of a sexual nature. Such contact is unwanted when it occurs without the Consent of one or both individuals, when one of the individuals is incapacitated or incapable of giving Consent, or occurs with the use of force. Sexual assault can include both non-consensual sexual contact (intentional sexual touching, however slight, with any object, by a person upon another person, without Consent or upon a person unable to Consent), and non-consensual sexual intercourse (rape).

### **RELATIONSHIP, DATING VIOLENCE, AND DOMESTIC VIOLENCE**

Relationship violence, including dating violence and domestic violence, is intentionally violent or controlling behavior by a person who is currently or was previously in a relationship with the victim. Relationship violence can include actual or threatened physical injury, sexual assault, psychological abuse, and/or social isolation. Relationship violence occurs in all types of relationships.

### **SEXUAL EXPLOITATION**

Sexual exploitation is when a person takes non-consensual, improper, or abusive sexual advantage of another, where the behavior does not otherwise constitute non-consensual sexual contact/activity, non-consensual sexual intercourse, or sexual harassment. For purposes of this Sexual Misconduct Policy, sexual exploitation includes, but is not limited to: non-consensual photographing or video/audio taping of sexual contact/activity, non-consensual voyeurism (observing someone involved in sexual contact/activity, sexual intercourse, or in a state of undress, without their knowledge or consent), and inducing intoxication/incapacitation for the purposes of sexual activity.

### **SEXUAL ABUSE**

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

### **STALKING**

Stalking is an intentional course of repeated conduct or behavior over a period of time, directed at a specific person, which causes a person to feel alarm, annoyance, emotional distress, and/or fear. Stalking and cyber-stalking are behaviors can also constitute a violation of this Sexual Misconduct Policy when the conduct involves members of the School Community and are sex/gender based.

### APPENDIX 3 ON CAMPUS ADVOCATES/COUNSELING OPTIONS

**SAVI:** SAVI provides confidential and free of charge support services for survivors and victims of sexual assault and intimate partner violence. SAVI's contact information is as follows:

One Gustave L. Levy Place, Box 1670  
New York, NY 10029  
212. 423-2140 (Manhattan and Queens)

Additional information regarding SAVI can be found at their website, at:

<http://www.mountsinai.org/patient-care/service-areas/community-medicine/areas-of-care/sexual-assault-and-violence-intervention-program-savi>

**Professional and Pastoral Counselors:** Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the School Community (including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without a victim's permission. Contact information for such individuals is set forth below:

**Jeffrey Newcorn, MD**  
Director of Student/Trainee Mental Health:  
212.659.8705  
[jeffrey.newcorn@mssm.edu](mailto:jeffrey.newcorn@mssm.edu)

**Sarah Hodulik, MD**  
212.659.8851  
[sarah.hodulik@mssm.edu](mailto:sarah.hodulik@mssm.edu)

**Evan Leibu, MD**  
212.659.8726  
[evan.leibu@mssm.edu](mailto:evan.leibu@mssm.edu)

**Maria Edman, PsyD**  
212-241-5420  
[maria.edman@mssm.edu](mailto:maria.edman@mssm.edu)

**Spiritual Care**  
212.241.7262  
[infopastoralcare@mountsinai.org](mailto:infopastoralcare@mountsinai.org)

**Lynn M. Frederick Hawley, MA**  
Executive Director  
Mount Sinai SAVI Program- Dep't of OBGYN  
212.423.2140  
[lynn.frederick-hawley@mssm.edu](mailto:lynn.frederick-hawley@mssm.edu)

## **NON-PROFESSIONAL COUNSELORS AND ADVOCATES**

Individuals who work or volunteer as part of the SAVI program can generally talk to a victim without revealing any personally identifying information about an incident to ISMMS. Victims can seek assistance and support from such individuals without triggering a formal investigation that could reveal the victim's identity or that the victim has disclosed the event.

While still maintaining a victim's confidentiality, these individuals or their office may be required to report the nature, date, time, and general location of an incident to the Title IX Coordinator and/or other responsible employees. Such limited reports – which include no information that would directly or indirectly identify the victim – help keep the Title IX Coordinator informed of the general extent and nature of Sexual Misconduct on and off campus so the Coordinator can track patterns evaluate the scope of the problem, and formulate appropriate responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the victim to ensure that no personally identifying details are shared with the Title IX Coordinator.

## **OFFICE OF STUDENT OMBUDSPERSON:**

This Office is a confidential resource for students except in cases where legal action is needed (e.g., unlawful discrimination or harassment, certain types of Sexual Misconduct including sexual assault/violence, etc.). This Office will also serve as the student's advocate in situations where the student will need to file a formal report with the Grievance Committee or the Police. Information about the Ombudsperson Office and ways to access resources can be found at: <http://icahn.mssm.edu/about-us/ombuds-office>

## **THE STUDENT MISTREATMENT RESOURCE PANEL**

The Student Mistreatment Panel serves as a partially confidential means of reporting mistreatment. The processes and procedures governing the Student Mistreatment Panel can be found in the Medical Student Handbook. All Student Mistreatment Resource Panel records will remain anonymous and only de-identified data will be presented at review meetings. At any time during the process, if the panel becomes concerned about an immediate threat to the safety or well-being of the complainant, alleged aggressor, or anyone else in the School Community, the Panel will notify the Associate Deans for Medical Education and/or Dean of the Graduate School.

## **OFF CAMPUS OPTIONS AND OTHER COMMUNITY RESOURCES**

Outside of ISMMS, there are many local organizations that provide support services, educational programs, and other resources for victims/survivors, often for little or no fee. While these groups are not affiliated with ISMMS, they are included here as they can provide valuable support for members of our community. Contact information for such organizations is set forth below:

## **RAPE CRISIS CENTERS (AFFILIATED WITH HOSPITALS)**

### **BRONX**

**North Central Bronx Hospital**  
Sexual Assault Treatment Program  
3424 Kossuth Avenue  
Bronx, NY 10467  
718.519.5722 or 718.519.3100

## **BROOKLYN**

### **Coney Island Hospital**

Rape Crisis Program

2601 Ocean Parkway

Brooklyn, NY 11235

718.616.4209

Hotline: 800.TEL.RAPE or 800.835.7273

### **New York Methodist Hospital**

506 Sixth Avenue

Brooklyn, NY 11215

(Not an official rape crisis center

but can collect evidence and

provide other emergency medical services)

718.780.3000

## **MANHATTAN**

### **Bellevue Hospital Center**

Sexual Assault Response Team SAFE Center

462 First Avenue

CD Building, Ground Fl. #GA74

New York, NY 10016

212.562.3435 or 212.562.3755

### **Mount Sinai Beth Israel**

Rape Crisis & Domestic Misconduct Intervention Program

Department of Social Work

317 East 17th Street

New York, NY 10037

212.420.4516

### **Harlem Hospital, R. 6111 MLK**

Center for Victim Support SAFE Center

506 Lenox Avenue

New York, NY 10037

212.939.4609

### **New York-Presbyterian Hospital/Weill Cornell Medical Center**

Department of Social Work

525 East 69th Street, Box 143

New York, NY 10021

**(VIP) Victim Intervention Program: 212.746.9414**

**SAFE Horizon Hotline: 212.577.7777**

### **NYU Langone Medical Center**

550 First Avenue

New York, NY 10016

(Not an official rape crisis center

but can collect evidence and provide other emergency services)

212.263.7300  
**Mount Sinai St. Luke's**  
Crime Victims Treatment Center  
411 West 114th Street, Suite 2C  
New York, NY 10025  
212.523.4728

### **QUEENS**

**Elmhurst Hospital**  
(SAVI) Sexual Assault and Violence Intervention Program  
79-01 Broadway  
Elmhurst, NY 11373  
718.736.1288  
Hotline: 718.334.1418

### **STATEN ISLAND**

**Staten Island University Hospital**  
475 Seaview Avenue  
Staten Island, NY 10305  
Safe Horizon Domestic Misconduct Hotline  
1.800.621.HOPE (4673)

**Rape Advocacy Agency, Staten Island**  
718.720.2591  
Safe Horizon (borough-wide) 212.227.3000 (available 24 hours)

### **RESOURCES WITH ACCESS TO CONFIDENTIAL COUNSELING**

<b>NYC Gay and Lesbian Anti-Misconduct Project</b>	212.714.1141*
<b>Safe Horizon: Rape and Sexual Assault Hotline</b>	212.227.3000*
<b>Safe Horizon: NYC Domestic Misconduct Hotline</b>	800.621.4673*

### **NON-CONFIDENTIAL RESOURCES**

<b>NYC Alliance Against Sexual Assault</b>	212.229.0345
<b>NYS Crime Victim's Board</b>	718.923.4325
<b>NYS Victim Information and Notification Everyday</b>	888.VINE.4NY or 888.846.3469

\*Indicates 24-hour number

## APPENDIX 4

Below are explanations of the various options for officially reporting allegations of Sexual Violence:

1. **Reporting to Law Enforcement:** Members of the ISMMS Community have the option of reporting Sexual Misconduct to law enforcement. Formal complaints of Sexual Misconduct can be made to local law enforcement authorities by contacting the NYPD (by calling 911 or reporting the crime to a local police precinct), the District Attorney of New York (“DANY”) Sex Crimes Unit at 212.335.9373, or the New York State Police Sexual Assault Victims Unit.
2. **Reporting to the ISMMS Security Department:** All complaints and reports of Sexual Misconduct that are made to the ISMMS Security Department will be forwarded to the Title IX Coordinator.
3. **Reporting to ISMMS faculty and staff:** Reports of Sexual Misconduct can be made to any ISMMS faculty or staff member. It should be noted, however, that ISMMS [Designated Officials](#) are expected to forward all reports of Sexual Misconduct to the ISMMS Title IX Coordinator, unless: (1) the report was made to an ISMMS Designated Official: (1) in his or her capacity as a treating physician; (2) in his or her capacity as a professional licensed counselor and/or pastoral counselor who provides mental-health counseling to members of the School Community; or (3) through a public awareness or advocacy event (such as candlelight vigils, protests, or other public events). In such cases, the ISMMS Designated Official to whom the report was made is not expected to forward the report to the Title IX Coordinator absent express permission from the victim, and can otherwise treat the report as confidential, and ISMMS is not obligated to begin an investigation.

Otherwise, however, a report of Sexual Misconduct that is made to any ISMMS Designated Official (whether directly by a victim, witness, bystander, or other Reporting Individuals or indirectly, through another faculty or staff member to whom a report has been made) is expected to be forwarded to the Title IX Coordinator for assessment. For this reason, reports of Sexual Misconduct made to Designated Officials generally cannot be treated with complete confidentiality.

It should also be noted here that while ISMMS faculty and staff who are not “Designated Officials” have discretion as to whether or not to forward such reports to the Title IX Coordinator (and thus can keep such reports confidential), they are nonetheless encouraged to forward such reports to the Title IX Coordinator, especially when the alleged victim consents to such disclosure.

**Confidentiality versus Privacy:** It is important to note that “confidentiality” is different than “privacy.” Privacy, for purposes of this policy, means that information regarding reports of Sexual Misconduct will, to the greatest extent possible, not be disclosed, relayed, and/or disseminated to other individuals (including informing appropriate ISMMS officials and representatives) any more than is necessary to comply with ISMMS obligations under applicable laws and ISMMS policies. Privacy may still be offered to a Reporting Individual even when confidentiality cannot be offered, and ISMMS offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. This means that the information you provide to a non-confidential resource will be relayed and disseminated only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

It should also be noted that faculty and/or staff (other than the Title IX Coordinator) should not share information provided by victims with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement.

Because the standards for pursuing and completing criminal investigations are different from those used for Sexual Misconduct investigations, the termination of a criminal investigation without an arrest or conviction does not affect ISMMS's obligations under Title IX, nor its obligations to investigate, adjudicate, and punish those who perpetrate Sexual Violence. In addition, victims have the right to file criminal complaints with local law enforcement authorities and Title IX Complaints with ISMMS simultaneously.

Although Title IX does not require a school to report alleged incidents of Sexual Misconduct to law enforcement, ISMMS may have such reporting obligations under other laws, and may otherwise determine that a report of Sexual Misconduct should be brought to the attention of law enforcement authorities regardless of the wishes of the victim. In such cases, the victim will be informed prior to the report being forwarded to law enforcement authorities, and ISMMS will, to the extent possible, only share information regarding the report with people who are involved in the law enforcement investigation(s).

## APPENDIX 5

### Emergency Access To Title IX Coordinator or Other Appropriate Trained Official

As required by New York state law (N.Y. Educ. Law § 6444(b)) and as set forth in the ISMMS Sexual Misconduct Policy (§ 10(b)), Reporting Individuals have the right to emergency access to the Title IX Coordinator, or in his or her absence, the Ombudsperson, to:

- a. provide information regarding options to proceed;
- b. provide information regarding, 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.
- c. 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, including those set forth in this policy.

At the first instance of disclosure of a complaint/report of Sexual Misconduct by a Reporting Individual to the Title IX Coordinator, or in his or her absence, another appropriate ISMMS representative, the Reporting Individual must also be advised as follows:

“You have the right to make a report to university police or campus security, local law enforcement, and/or state police or choose not to report; to report the incident to ISMMS; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from ISMMS.”

N.Y. Educ. Law § 6444(2)



## APPENDIX 6 SEXUAL MISCONDUCT ASSESSMENT AND INVESTIGATION PROCESSES

### A. INITIAL ASSESSMENT

Following receipt of a report of Sexual Misconduct, the Title IX Coordinator will conduct an initial assessment. As part of the initial assessment, the Title IX Coordinator will take the following steps (to the extent that they have not already been taken by the Title IX Coordinator):

1. Assess the nature and circumstances of the complaint/report.
2. Address the immediate needs and concerns of the Reporting Individual/victim, including physical safety and emotional well-being needs.
3. Provide copies of or direct the Reporting Individual/victim to the ISMMS Sexual Misconduct Policy and accompanying procedures, and discuss the policy and procedures with the Reporting Individual/victim.
4. Provide the Reporting Individual with information about resources, including intervention, mental health counseling, medical services, and sexually transmitted infections.
  5. Provide the Reporting Individual with information regarding sexual assault forensic examinations and direct the Reporting Individual to resources that are available through the New York State Office of Victim Services (<https://ovs.ny.gov/>.)
6. Discuss the Reporting Individual/victim preferences (if any) regarding the manner of resolution, requests (if any) for privacy and/or no further action (see Section B below entitled “Protocols for Requests for Confidentiality and/or No Further Action”
7. Assess for pattern evidence or other similar conduct by the respondent/alleged perpetrator.
8. Assess the complaint/report for any Clery Act and other reporting obligations, including entry in the crime log or issuance of a timely warning.
9. Direct the Reporting Individual/victim to information regarding on-campus and off-campus resources and the range of appropriate and available protective measures ([see Appendix 3](#) and [Appendix 4](#))
10. Explain ISMMS’s policy prohibiting retaliation.
11. Notify the Mount Sinai Health System Office of General Counsel and Risk Management Department of the allegations (NOTE: this step is mandatory).

Upon completion of the Initial Assessment, the Title IX Coordinator will determine whether the circumstances warrant or require any of the following actions:

1. Proceeding to an investigation pursuant to the protocols and procedures set forth herein (see [Appendix 6\(C\)](#) and [6\(D\)](#));

2. Whether the matter needs to be referred/forwarded to ISMMS HR officials or outside of ISMMS for further action pursuant to other policies and procedures ([see Appendix 6\(C\)](#)); or
3. Whether the matter will be considered resolved (if, for example, ISMMS honors a victim's request for confidentiality ([see Appendix 6\(B\)](#)) – in which case the matter will be closed with ISMMS taking only such actions, as necessary, to protect, assist, and accommodate the victim.

If the Title IX Coordinator determines that the circumstances warrant or require proceeding to an investigation or require referral to officials in another MSHS component/unit for further action under other policies and procedures, ISMMS shall seek consent from Reporting Individuals/victims prior to doing so. If a Reporting Individual/victim declines to consent, such request for “no further action” shall be honored unless ISMMS, through the Title IX Coordinator, determines in good faith that the failure to proceed does not adequately mitigate a potential risk of harm to the Reporting Individual or other members of the School Community. Factors used to determine whether to honor such a “no further action” request include but are not limited to:

- Whether the Accused has a history of violent behavior or is a repeat offender.
- Whether the incident represents escalation in unlawful conduct on behalf of the Accused from previously noted behavior.
- The increased risk that the Accused will commit additional acts of violence.
- Whether the Accused used a weapon or force.
- Whether the reporting individual is a minor.
- Whether ISMMS possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group.

**If ISMMS honors the victim's request for “no further action,” the victim must understand that ISMMS's ability to meaningfully respond to the report will necessarily be limited.** Accordingly, in such cases, the matter will be considered resolved with ISMMS taking only such actions, as necessary, to protect, assist, and accommodate the victim. Where a complaint was resolved because ISMMS agreed to the victim's request to take “no further action,” the matter may later be reopened at the discretion of the Title IX Coordinator if the complainant/victim later changes his or her mind and seeks to have the matter investigated by ISMMS.

## B. PROTOCOLS FOR REQUESTS FOR CONFIDENTIALITY

Where a victim of Sexual Misconduct wishes to maintain confidentiality, ISMMS must weigh the request(s) against its legal obligations and its obligation to provide a safe, non-discriminatory environment for all members of the School Community, including the victim. The Title IX Coordinator will evaluate requests for confidentiality once the Title IX Coordinator is on notice of alleged Sexual Misconduct, using a range of factors, including but not limited to the following factors:

- The risk that the respondent/alleged perpetrator may commit additional acts of prohibited conduct or other violence;
- Whether the act of prohibited conduct was perpetrated with a weapon, was otherwise unusually violent, or whether other aggravating circumstances exist;
- Whether the complaint/report reveals or reflects a pattern of prohibited conduct;
- Whether the complainant/victim is or at the time was a minor; and
- Whether, as a practical matter, ISMMS is able to pursue the investigation without the cooperation/participation of the complainant

If possible based on the facts and circumstances, ISMMS will take action consistent with the Reporting Individual/victim's request to maintain confidentiality. There may be times when ISMMS is not able to honor a Reporting Individual/victim's confidentiality request. If the confidentiality request cannot be honored, the Reporting Individual/Victim will be informed prior to commencement of the investigation, and ISMMS will still seek to maintain his or her privacy to the greatest extent possible by only sharing, relaying, and/or disseminating information as necessary to conduct and complete the investigation and adjudication processes (including any applicable appeals therefrom) and/or as otherwise required by law.

ISMMS will assist with academic, housing, transportation, employment, and other reasonable and available accommodations regarding of reporting choices.

**If ISMMS honors the victim's request for confidentiality, the victim must understand that ISMMS's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator will necessarily be limited.** Accordingly, in such cases, the matter will be considered resolved with ISMMS taking only such actions, as necessary, to protect, assist, and accommodate the victim. Where a complaint was resolved because ISMMS agreed to the victim's request to maintain confidentiality the matter may later be reopened at the discretion of the Title IX Coordinator if the complainant/victim later changes his or her mind and seeks to have the matter investigated by ISMMS.

### C. PROTOCOLS FOR INVESTIGATION OF SEXUAL MISCONDUCT REPORTS

In cases where the Accused is an ISMMS student or postdoctoral fellow/student, the report shall be investigated by the Title IX Coordinator pursuant to the procedures set forth in [Appendix 6\(D\)](#).

In cases where the Accused is a member of the “School Community” but is not a student or postdoctoral fellow/student (for example, when the Accused is an ISMMS faculty or staff member), the Title IX Coordinator will, upon completion of the Initial Assessment, forward the report to ISMMS Human Resources (“HR”) Officials for investigation pursuant to the procedures set forth in [Appendix 6\(D\)](#).

In cases where the Accused is not a member of the “School Community” but is employed, affiliated, and/or associated with other entities/components of the MSHS (such as, for example, House Staff and MSHS hospital employees), the Title IX Coordinator will, upon completion of the Initial Assessment, forward the report of Sexual Misconduct to Human Resources officials in the appropriate MSHS component/unit with whom the Accused is employed, associated, and/or affiliated, for further action pursuant to whatever governing policies and procedures are applicable under the circumstances (unless ISMMS has agreed to honor the victim’s request for confidentiality or that “no further action” be taken). See [Appendix 6\(A\)](#), [6\(B\)](#).

In cases where the Accused is not a member of the School Community and is not employed, affiliated, or associated with entities/components in the MSHS, the Title IX Coordinator can, upon completion of the Initial Assessment, forward the report to officials of the entity/organization (if any) with whom the Accused is employed or associated/affiliated, for investigation/further action (unless ISMMS has agreed to honor the victim’s request for confidentiality or that “no further action” be taken).

## **D. INVESTIGATION PROCEDURES**

### **1. NOTIFICATION OF INVESTIGATION INITIATION**

Unless otherwise indicated herein (such as, for example, where a request for confidentiality or that “no further action” be taken is honored by ISMMS or when a report of Sexual Misconduct needs to be referred to another component/unit in the MSHS for further action), complaints/reports of Sexual Misconduct allegedly perpetrated by members of the School Community that are made to either: (1) ISMMS faculty or staff; (2) the Title IX Coordinator, or (3) of which ISMMS has otherwise received notice (from sources such as members of the local community, social networking sites, or the media) will be investigated by ISMMS.

Prior to initiation of an investigation of Sexual Misconduct, the victim (who will thereafter be referred to as the “Complainant”) will be notified in writing that the investigation will be commencing and of the specific rules and/or code of conduct/ISMMS Sexual Misconduct Policy provisions alleged to have been violated, and possible sanctions. The Accused (who will thereafter be referred to as the “Respondent”) will also be provided with written notice describing the date, the time, location and factual allegations concerning the violation, a reference to the specific rules and/or code of conduct/ISMMS Sexual Misconduct Policy provisions alleged to have been violated, and possible sanctions.

### **2. INVESTIGATION MECHANISMS, PROTOCOLS, AND SAFEGUARDS**

The mechanisms to be utilized in Sexual Misconduct investigations include, but are not limited to:

- Conducting interviews of the complainant, the respondent, and any witnesses or other third-parties who may have information or evidence regarding the subject allegations;
- Reviewing documents and records, including law enforcement investigation documents, student and personnel files, and written statements regarding the subject allegations;
- Gathering and examining other relevant documents and evidence, including video, audio, or photographs that may be relevant to the subject allegations.

The investigator(s) will adhere to the following principles in all investigations of alleged Sexual Misconduct:

1. All investigations of alleged Sexual Misconduct shall be undertaken in a reliable and impartial manner. All complainants shall be notified of the time frame within which the investigation of the report(s) is expected to be completed. ISMMS will strive to complete investigations of reports of Sexual Misconduct in as timely a manner as possible.
2. All investigations of alleged Sexual Misconduct shall be conducted in a manner that takes into consideration the serious and sensitive nature of such allegations, and which limits, to the extent possible, the number of individuals who are contacted, interviewed, or otherwise made aware of the pendency of the investigation. To this end, the Title IX Coordinator will, to the extent possible, only share information with the least number of people necessary in order to effectuate ISMMS’s response, investigation, and adjudication of the report.
3. ISMMS will conduct its own investigation (and adjudication) of Sexual Misconduct allegations, regardless of whether the alleged Sexual Misconduct is also being pursued

through the criminal justice system. ISMMS will comply with law enforcement requests for cooperation, which at times may require that ISMMS temporarily delay its investigation while law enforcement organization(s) gather evidence. Temporary delays should not last more than ten days except when law enforcement specifically requests and justifies a longer delay.

4. The investigation shall be conducted independently and without regard to/without being precluded by any determinations that may have been made by, inter alia, law enforcement authorities (such as the NYPD or the DANY), the grand jury, or in connection with criminal proceedings.

5. Complainants and Respondents will be given reasonable advance notice of any meetings that they are required to or eligible to attend in connection with the investigation.

6. Where the Respondent or the Complainant and the Respondent are ISMMS students and/or postdoctoral fellows/students, all of the additional principles and safeguards set forth in [Appendix 11](#).

An attorney with the Mount Sinai Health System Office of General Counsel can serve as legal counsel to the Title IX Coordinator in connection with investigations of Sexual Misconduct.

### **3. REPORT OF INVESTIGATION**

Upon completion of the investigation, the investigators(s) shall prepare a Report of Investigation (“ROI”), which shall include a description of the evidence discovered during the course of the investigation, and the investigator’s findings. The final ROI shall thereafter be submitted to the appropriate designated arbiter ([see Appendix 7](#)) for adjudication and, where appropriate, imposition of sanctions/discipline.

## APPENDIX 7 DETERMINING THE APPROPRIATE “DESIGNATED ARBITER”

Upon completion of the investigation, the Title IX Coordinator shall submit a “Report of Investigation” (ROI) to an appropriate designated arbiter (“Designated Arbiter”) for adjudication and, where appropriate, imposition of sanctions/discipline. The Designated Arbiter will be determined on a “case-by-case” basis based on the status of the Respondent, as follows:

1. Where the Respondent is a medical student, the appropriate Designated Arbiter will be the Dean for Medical Education.
2. Where the Respondent is a postdoctoral fellow/student, the appropriate Designated Arbiter will be the Dean of the Graduate School.
3. Where the Respondent is an employed ISMMS faculty member, the appropriate Designated Arbiter will be the Chair of the Department in which the faculty member is employed.
4. Where the Respondent is a voluntary ISMMS faculty member, the appropriate Designated Arbiter will be the Chair of the Department in which the voluntary faculty is a member.
5. Where the Respondent is an ISMMS staff member, the appropriate Designated Arbiter will be the employee’s manager.
6. Where the Respondent is a third party, the appropriate Designated Arbiter will be the appropriate managerial/supervisory stakeholder.
7. Where the Respondent does not fall into any of the above listed categories, the appropriate Designated Arbiter will be the determined on an ad hoc basis, as appropriate, as determined by the Dean of the Medical School.

*NOTE: If the appropriate Designated Arbiter in a given situation is the Respondent, that individual of course cannot serve as the Designated Arbiter in that case. In such situations, the Dean of the Medical School, with the advice and assistance of the Title IX Coordinator, is empowered to appoint an alternative Designated Arbiter.*

## APPENDIX 8 SANCTIONS AND REMEDIAL ACTIONS

Designated Arbiters are empowered to impose what they believe to be the appropriate sanctions and/or remedial actions following a determination that the ISMMS Sexual Misconduct Policy was violated. Such sanctions and remedies include, but are not limited to:

- a. Disciplinary of the Respondent, up to and including expulsion and discharge/termination;
- b. Providing counseling for Complainants, Respondents, and other parties as appropriate;
- c. Issuing “No Contact” orders;
- d. Providing effective escorts to ensure that the Complainant can move safely between classes and activities;
- e. Ensuring that the Complainant and the Respondent do not share classes, work spaces, or extracurricular activities; and
- f. Moving the Complainant (if the Complainant requests to be moved) or Respondent to a different residence hall or housing assignment.
- g. Placing notations on the Respondent’s transcript regarding the subject violations.

### NOTES REGARDING TRANSCRIPT NOTATIONS

It should be noted here that New York State law requires that, for crimes of violence, including but not limited to sexual violence (defined as crimes that meet the reporting requirements pursuant to the federal Clery Act, 20 U.S.C. § 1092(f)(1)(I)-(VIII)), institutions such as ISMMS 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 Respondents who withdraw from ISMMS while conduct charges are pending and decline to complete the disciplinary process, ISMMS shall make a notation on their transcript stating that they “withdrew with conduct charges pending.”

Respondents’ can seek removal of transcript notations for suspensions by filing a written request with the Designated Arbiter who made the initial determination regarding responsibility and sanctions (or if that person is no longer available, his or her replacement or designee), who shall have complete discretion to decide whether the request for the notation removal should be granted, provided that such notations shall not be removed prior to one year after the conclusion of the suspension. Respondents cannot seek removal of transcript notations for expulsions, which shall not be removed unless otherwise provided for herein.

If a finding of responsibility is vacated for any reason, all related transcript notations shall be removed.



## APPENDIX 9 APPEAL RIGHTS

Parties (Complainants and Respondents) may have certain limited rights to appeal from determinations that the Policy was or was not violated, depending on their status, as follows:

- Appeal rights of Respondents Deemed To Have Violated the Policy:
  - If the Respondent is a student or post-doctoral fellow/student, he or she can appeal a decision that he or she violated the ISMMS Sexual Misconduct Policy pursuant to the “Default” appellate processes for appellate review set forth in [Appendix 10](#).
  - If the Respondent is an ISMMS faculty member, he or she can appeal a decision that he or she violated the ISMMS Sexual Misconduct Policy pursuant to the processes set forth in the Faculty Handbook, if any:  
(see <http://icahn.mssm.edu/about-us/services-and-resources/faculty-resources/handbooks-and-policies/faculty-handbook> ).
  - If the Respondent is an ISMMS staff member, he or she may be able to appeal a decision that he or she violated the ISMMS Sexual Misconduct Policy pursuant to the processes set forth in the Human Resource Policy Manual, if any  
(see <http://policies.mountsinai.org/web/human-resources/policies>)
- Appeal rights of Complainants (Students and Postdoctoral Fellows/Students Only):
  - Where Complainant is a student or post-doctoral fellow/student, the Complainant can appeal a decision that the Respondent did not violate the ISMMS Sexual Misconduct Policy pursuant to the “Default” appellate processes for appellate review set forth in [Appendix 10](#).

## APPENDIX 10 DEFAULT PROCESSES FOR APPELLATE REVIEW

If either: (1) a student/postdoctoral fellow/student victim of alleged Sexual Misconduct (a/k/a Complainant); (2) an ISMMS student/postdoctoral student/fellow who has been determined to have violated the ISMMS Sexual Misconduct Policy (a/k/a Respondent); or (3) an ISMMS faculty or staff member who has been determined to have violated the ISMMS Sexual Misconduct Policy and whose appellate rights are not governed by other applicable provisions (such as those contained in applicable handbooks) wishes to appeal from a Designated Arbiter's decision as to whether or not a violation of the ISMMS Sexual Misconduct Policy occurred, he or she must file written notice of appeal with the Title IX Coordinator within thirty (30) days of mailing of notice of the Designated Arbiter's decision.

Thereafter, the Dean of the Medical School will convene an appellate adjudication panel ("Panel") to hold a hearing/hearings to for an appellate adjudication of the matter. The Panel will consist of three (3) ISMMS faculty and/or staff members who have been trained in the adjudication of Sexual Misconduct claims. No students, residents, or house staff members are permitted to serve on any Sexual Misconduct adjudication panels. An attorney with the Mount Sinai Health System Office of General Counsel will serve as legal counsel to all Panels convened pursuant to these procedures.

The following procedures will be followed with respect to appellate hearings to adjudicate allegations of Sexual Violence:

1. Following selection of the Panel, the Complainant will be notified of the names of the members of the Panel, and will have 48 hours from receipt of such notification to challenge, in writing, any member of the Panel for cause.
2. Following selection of the Panel, the Respondent will be notified of the names of the members of the Panel, and shall 48 hours from receipt of written notification to challenge, in writing, any member of the Panel for cause.
3. In the event of a challenge, the Dean of the Medical School will decide on the merits and replace Panel members if necessary. In the event that the Dean is unable to appoint a sufficient number of members not disqualified for cause, the Dean will appoint additional members.
4. Both the Complainant and the Respondent will be permitted to proffer written submissions to the Panel regarding the matter and the subject allegations. The written submission must be submitted to the Panel at least two (2) weeks prior to the first scheduled hearing date.
5. The Panel will not be made privy to the Title IX's ROI.
6. The Panel may hold one or more hearings, which the Complainant and Respondent may attend, either individually or together, along with any other witnesses the Panel deems relevant to the report. Mediation is never appropriate (even on a voluntary basis) in connection with complaints/reports of Sexual Violence.
7. Certain rights will be afforded and certain principles will be implemented/measures

will be taken in connection with all appellate proceedings regarding reports of Sexual Misconduct allegedly perpetrated by ISMMS students or postdoctoral fellows/ students against other by ISMMS students or postdoctoral fellows/students (i.e. “Student on Student” Sexual Misconduct). Those safeguards and measures are set forth in [Appendix 11](#).

8. At the close of the hearing(s), the Panel will deliberate the findings without the presence of either the Complainant or the Respondent. Upon concluding its deliberations, the Panel will vote on whether or not there has been a violation of the ISMMS Sexual Misconduct Policy based on a majority vote.
9. The Panel will draft a full report (the “Panel Report”), to include the findings, vote, and recommended remedial actions agreed upon by majority, that will specifically include:
  - a. A determination as to whether violation of the ISMMS Sexual Misconduct Policy did or did not take place;
  - b. A listing of the findings of fact;
  - c. A summary of the written submissions of the parties;
  - d. A summary of hearing testimony and other evidence submitted;
  - e. The conclusions the Panel has drawn from this material; and
  - f. A recommendation as to the sanctions/remedial action recommended to be imposed.
10. The Panel will strive to complete all hearings and the Panel Report in as timely a manner as possible.
11. The Panel Report will be forwarded to the Dean of the Medical School. The Panel’s findings and determination regarding liability (whether or not ISMMS policy was violated) must be accepted by/cannot be rejected by the Dean. However, the Dean may accept or reject the Panel’s recommendations regarding sanctions/remedial action to be imposed in making his or her determination as to what sanctions/remedial action will be imposed for the violation (a non-exhaustive list of the sanctions/remedies that can be imposed following determinations that this Sexual Misconduct Policy has been violated are set forth in [Appendix 8](#)).
12. Complainants and Respondents can submit “impact statements” to the Dean of the Medical School while he or she is deliberating appropriate sanctions. Whether this “impact statement” will be submitted orally or in writing is left to the discretion of the Dean of the Medical School. [Policy Section 14](#), [Appendix 11c \(viii\)](#).
13. Copies of written statements from the Panel and/or the Dean of the Medical School detailing the factual findings supporting any determinations of violations of the Policy and the rationale for any sanctions imposed will be provided to both the Complainant(s) and the Respondent(s) upon conclusion of the appellate processes.
14. If the investigation and grievance/complaint adjudication process reflects that Sexual Misconduct created a hostile environment, the Dean of the Medical School and the Title IX Coordinator will work to ensure that prompt and effective steps reasonably calculated to end the conduct are taken, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

## APPENDIX 11

### SAFEGUARDS FOR ALLEGATIONS OF STUDENT ON STUDENT SEXUAL MISCONDUCT

Given the serious and sensitive nature of Sexual Misconduct claims, ISMMS students and postdoctoral students/fellows shall be afforded the following rights and safeguards in connection with Sexual Misconduct investigations, adjudications, and appellate reviews (collectively “Proceedings”) of reports/complaints of Sexual Misconduct allegedly perpetrated by ISMMS students or postdoctoral fellows/students against other by ISMMS students or postdoctoral fellows/students:

- a. The right to request that student conduct charges be filed against an Accused in Proceedings governed by this Policy and in accordance with N.Y. Educ. Law Article 129-b.
- b. The right to a process in connection with all alleged Policy violations that includes:
  - i. Notice to the Respondent describing the date, the time, location and factual allegations concerning the violation, a reference to the specific code of conduct/ISMMS Sexual Misconduct Policy provisions alleged to have been violated, and possible sanctions.
  - ii. An opportunity to offer evidence during an investigation, to present evidence and testimony at a hearing (where appropriate and if there is a hearing), and to have access to a full and fair record of any such hearing, which record shall be preserved and maintained for at least ten (10) years from such a hearing and may include a transcript, recording or other appropriate record.
  - iii. Access to at least one level of appeal of a determination before a panel ([see Policy Section 16](#)) and [Appendix 9](#) and [Appendix 10](#)) that is fair and impartial and does not include individuals with a conflict of interest.
- c. Throughout Proceedings, the right:
  - i. For all Complainants, Respondents, and Reporting Individuals to be accompanied by an advisor of choice who may assist and advise throughout the process, including during all proceedings (including meetings and hearings) attended by his or her advisee that are related to such process. All such advisors of choice, including attorneys, are permitted only to communicate with their respective advisees during all such proceedings, and shall be prohibited from speaking on the record, present evidence, making objections, or otherwise directly participating in any way in the proceedings. These limitations apply equally to advisors for Complainants, Respondents, and Reporting Individuals.
  - ii. To a prompt response to any complaint and to have the complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive training in conducting investigations of Sexual Misconduct, 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 Policy).
  - iii. To an investigation and process that is fair, impartial, and provides a meaningful opportunity to be heard, that is not conducted by individuals with a conflict of interest.

iv. To have the ISMMS investigation and adjudication processes run concurrently with a criminal justice investigation or proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten days except when law enforcement specifically requests and justifies a longer delay.

v. To review and present available evidence in the case file, or otherwise in the possession or control of ISMMS, and relevant to the conduct case, consistent with ISMMS policies and procedures. See [Appendix 11, item \(b\)](#).

vi. To exclude from consideration by any decision makers, including but not limited to the appropriate “designated arbiter” or an appellate hearing panel:

1. Their own prior sexual history with persons other than the other party in the process.
2. Their own mental health diagnosis and/or treatment.
3. Past findings of domestic violence, dating violence, stalking, or sexual assault, except that such past findings can be considered in connection with determinations of discipline and sanctions after decisions regarding responsibility have already been reached.

vii. To receive written or electronic notice:

1. In reasonable time in advance of any meeting they are required to or eligible to attend.
2. Of the specific rule, rules, or laws alleged to have been violated, and in what manner.
3. Of the sanction or sanctions that may be imposed based on the outcome of the process.
4. Of any written statements detailing the factual findings supporting any determinations of violations of the Policy and the rationale for any sanctions imposed

viii. To submit an “impact statement” during the point of the Proceedings where decision makers are deliberating on appropriate sanctions (whether the “impact statement” will be submitted orally or in writing is left to the discretion of the decision maker).

ix. To simultaneous (among the parties) notification (via e-mail) of the outcome of the processes, including the sanction or sanctions imposed on the Respondent (if any) based upon the outcome of the processes, and the rationale for the actual sanction imposed.

x. To choose whether to disclose the outcome of the Proceedings or judicial process.

xi. To have all information obtained during the course of the Proceedings be protected from public release until all levels of review are completed and exhausted, unless otherwise required by law.

## APPENDIX 12 TRAINING AND EDUCATION

During orientation, all new incoming and transfer students shall receive training on the following topics:

1. ISMMS's prohibition of Sexual Misconduct and sexual and interpersonal violence and its offering of resources to any victims and survivors of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of ISMMS.
2. Relevant definitions, including but not limited to the definitions of Sexual Misconduct, sexual assault, domestic violence, dating violence, stalking, confidentiality, privacy, and Affirmative Consent.
3. The equal application of ISMMS policies regardless of sexual orientation, gender identity, or gender expression.
4. The role of the Title IX Coordinator, ISMMS Security, and other relevant offices that address Sexual Misconduct, including domestic violence, dating violence, stalking, and sexual assault prevention and response.
5. Awareness of violence and the importance of taking action to prevent violence when one can safely do so.
6. Risk assessment and reduction including but not limited to steps that potential victims, perpetrators, and bystanders can take to lower the incidence of violations, which may contain information about the dangers of drug and alcohol use, including underage drinking and binge drinking, involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol, the importance of communication with trusted friends and family whether on campus or off campus, and the availability of institutional officials who can answer general or specific questions about risk reduction.
7. Consequences and sanctions for individuals who commit these crimes and Code of Conduct violations.

## APPENDIX 13 CAMPUS CLIMATE SURVEYS

Under N.Y. Educ. Law § 6445, ISMMS is required to conduct bi-annual “campus climate assessments” to ascertain general awareness and knowledge of the provisions of N.Y. Educ. Law Article 129-b. Responsibility for development of the ISMMS “campus climate assessment” will be vested in the office of the Title IX Coordinator, who is empowered to utilize all reasonable and necessary resources to do so. The “campus climate assessment” shall be developed using standard and commonly recognized research methods, and shall include questions covering, but not limited to, the following topics:

- a. The Title IX Coordinator’s role;
- b. Campus policies and procedures addressing Sexual Misconduct;
- c. How and where to report Sexual Misconduct as a victim, survivor, or witness;
- d. The availability of resources on and off campus, such as counseling, health and academic assistance;
- e. The prevalence of victimization and perpetration of Sexual Misconduct on and off campus during a set time period;
- f. Bystander attitudes and behavior;
- g. Whether Reporting Individuals disclosed to ISMMS and/or law enforcement, experiences with reporting and ISMMS processes, and reasons why they did or did not report;
- h. The general awareness of the difference, if any, between ISMMS’s policies and the penal law; and
- i. General awareness of the definition of Affirmative Consent

## STUDENT BILL OF RIGHTS REGARDING SEXUAL MISCONDUCT CLAIMS

All Icahn School of Medicine at Mount Sinai (“ISMMS”) students have the right to:

1. Make a report to local law enforcement and/or state police.
2. Have disclosure of Sexual Misconduct, including domestic violence, dating violence, stalking, and sexual assault, treated seriously.
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution.
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available.
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations.
7. Describe the incident to as few institution representatives as practicable and not to be required to unnecessarily repeat a description of the incident.
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution.
9. Access to at least one level of appeal of a determination.
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process.
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

Information and links for filing reports regarding Sexual Misconduct and for making confidential disclosures can be found in the ISMMS Sexual Misconduct Policy, which can be found in the student handbook (<http://icahn.mssm.edu/education/student-resources/resources-for-current-students/student-handbooks>), and on the online Blackboard Learning System at <https://learn.mssm.edu/webapps/login/>





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