

FACULTY MISCONDUCT POLICY¹

I. Assessment of Allegations of Faculty Misconduct

The Faculty of the Medical College affirms that an allegation of faculty misconduct must receive a prompt and considered response, while protecting the rights of the respondent to a fair and transparent investigation. The individual responsible for an inquiry or investigation into alleged faculty misconduct under this policy must be a member of the Faculty. It is acknowledged that there must be a measure of proportionality between the gravity of the accusation and the investigative effort.

II. Scope of misconduct allegations addressed by this policy

Misconduct may involve verbal or physical actions directed against others, misappropriation or improper handling of property, financial impropriety, conflicts of interest and commitment, and failures of responsibility in recognizing and reporting misconduct of others. Several types of misconduct are covered by other University or Medical College policies, including scientific misconduct (Office of Research Integrity (ORI)), conflict of interest in and commitment in the conduct of research (ORI), substance abuse (Employees Assistance Program (EAP)), financial irregularities (Audit) or professional misconduct in the practice setting (Physicians Organization (PO)). These policies shall remain in effect and investigation of allegations of violations that are covered by these more specific policies shall be investigated as provided in those policies. The investigation of allegations of misconduct may only be conducted under one policy. This policy does not apply to tenure, promotion, hiring, dismissal², termination and non-renewal of faculty, which remain governed by the Academic Staff Handbook. This policy applies to faculty who are employed by the Medical College. For individuals who are not Medical College employees, but who hold faculty appointments at Weill Medical College, this document applies only to those functions performed as members of the faculties of WCMC or GSMS.

The University has a special requirement under Title IX to address sexual harassment, assault and/or violence. Cornell University Policy 6.4 on Prohibited Bias, Discrimination, Harassment, and Sexual and Related Misconduct, provides examples of such misconduct.

III. Bringing a charge of faculty misconduct

Allegations of faculty misconduct may come from a member of the Medical College

¹ Approved by the Executive Faculty Council on November 14, 2013, the General Faculty Council on October 14, 2013, the Board of Overseers on December 3, 2013, and the Board of Trustees on January 31, 2014

² For complaints that might lead to dismissal or lengthy suspension of a faculty member for a period of one semester or more, the matter shall be handled under the University policy for Dismissal or Suspension

community, namely other faculty, non-faculty staff, or students, or from outside of the Medical College. An allegation of misconduct may be brought to the Department Chair of the accused faculty or to an administrative officer of the Medical College. For example, when the complainant is a nonacademic staff member, the allegation may be brought to Human Resources (HR); when the reporter is a student, the allegation may be brought to the Associate Dean for Student Affairs or Dean of the Graduate School or campus security authority. Any allegation of misconduct, from outside or from inside the Medical College, may be brought directly to the attention of the Dean of the Medical College, through the Office of the Vice Dean.

IV. Referral to the Faculty Ombudsman

When there is a charge of faculty misconduct, communication between or among the involved parties may provide resolution. The complainant may be referred to Office of Faculty Ombudsman for potential mediation or advice regarding how to proceed. Where both the complainant and respondent are willing to engage with the Ombudsman, the Ombudsman may attempt to assist them in resolving their differences through a process of either mediated or directed discussions. This process will remain informal and confidential. Specifically, there will be no written record of the proceedings, and the parties will not bring counsel to meetings with the Ombudsman. If the Ombudsman fails to resolve a situation or the complainant elects to end the informal mediation process, the case is returned to the Vice Dean for preliminary assessment. The Ombudsman will not participate in the assessment, inquiry or investigation.

V. Preliminary assessment

When a misconduct allegation is presented to a Department Chair or to an administrative office, there is a preliminary assessment of credibility and severity, and a triage decision is made. It is in the interest of the Medical College to resolve misconduct allegations within the appropriate department or unit and to resolve allegations of low severity as efficiently as possible. This will generally mean investigation and resolution within the Department of the respondent faculty member. For allegations registered with a Department Chair, the resolution process may remain within the Department (unless further action is required under Cornell University Policy 6.4 as applied at the Medical College). While many allegations related to faculty misconduct may be resolved within the Department, allegations also may be brought directly to the Dean, Vice Dean or other Medical College official. An allegation of misconduct registered with an administrative office must be brought to the attention of the Vice Dean for disposition. The Vice Dean may pursue an inquiry into the allegation, triage it to the Department Chair or the appropriate unit, or may decide that the allegation should not be pursued at that time.

VI. Role of the complainant in assessment of a misconduct allegation

In some cases, an individual reporting faculty misconduct may not wish to be identified to the accused, for example if the complainant is concerned about possible retaliation. The request for anonymity may or may not be able to be accommodated depending on the circumstances of the complaint. The Vice Dean will determine whether

the allegations can be assessed while maintaining anonymity for the complainant. In some circumstances, the complainant may be offered the status of “witness”, in which the act of registering the allegation is not made known.

VII. Initial inquiry into a misconduct allegation

Although exceptional cases may occur, it is expected that upon receipt of a misconduct allegation against a faculty member, the initial step of the Vice Dean will be to interview the complainant. If at this point the Vice Dean believes that there is a situation that requires immediate action (e.g., issues of workplace safety, potential retaliation or other harm to the complainant), the Dean will be notified and appropriate interim measures may be taken. Unless the Vice Dean determines that other steps are appropriate (e.g., to secure evidence), the next step in the inquiry process should be an interview with the respondent faculty member to discuss the misconduct allegation. Early faculty notification (e.g., before contacting the Department Chair) reduces the possibility of a loss of confidentiality before the respondent faculty member is aware of alleged misconduct. Following the initial interviews (with accuser and accused), the Vice Dean may have discussions with the Department Chair or with others who might be knowledgeable of the situation. At this point, it may be the case that the Vice Dean can see a clear path to resolution, perhaps through direct discussion of the parties, or through mediation, or through intervention at the Departmental level or by the Faculty Ombudsman. If the severity of the allegation is relatively minor, and if both parties are in agreement, the matter may proceed along this path, obviating the need for a formal investigation.

VIII. Investigation of a misconduct allegation

Misconduct allegations of sufficient severity, or allegations which cannot be managed or resolved during an assessment or inquiry, will be brought to the attention of the Dean, via the office of the Vice Dean, for investigation. The Vice Dean will appoint an investigating panel. When the respondent Weill Medical College faculty member is not a Medical College employee, the decision to proceed to an investigation is at the discretion of the Vice Dean. The panel will have reasonable discretion in the scope and sequence of the investigation. All proceedings will be confidential, and the panel will have sole discretion regarding if and when the complainant and respondent may attend meetings of the panel.

1. The investigating panel. From 1 to 3 additional faculty members will be appointed by the Vice Dean as the investigating panel, and the Vice Dean will appoint the Chair of the investigating panel. The Vice Dean will serve as a non-voting ex-officio member of the panel. The Vice Dean may engage appropriate assistance by appointing non-faculty academic or support staff to assist the investigating panel.

2. The allegation. The initial step typically will be an interview with the complainant, and development of a written statement of the allegation. Except in the circumstances in which the complainant has requested anonymity and the panel determines that such anonymity is necessary to protect the rights of the complainant, the allegation will be signed by the complainant. In the course of the interview, the complainant will be offered the opportunity to suggest avenues of investigation, such as witnesses to interview, evidence

to examine, or documents to review. At this interview, and at all points in the investigation process, the complainant will have the right to seek the advice of personal advisors, and the complainant must be so-informed. One advisor may attend the investigative interview, but may not respond to questions for their clients or advisees, and may not pose questions.

3. *The faculty response.* The next step is notification of the respondent faculty member. The accused will be furnished a copy of the allegation and invited for an interview to respond to the charges. At this interview, and at all points in the investigation process, the respondent faculty member will have the right to seek the advice of personal advisors, including other faculty, and the faculty member must be so-informed. One advisor may attend the investigative interview, but may not respond to questions for their clients or advisees, and may not pose questions. In the course of the interview, the respondent will be offered the opportunity to suggest avenues of investigation, such as witnesses to interview, evidence to examine, or documents to review. At the time of the interview, or shortly thereafter, the respondent will provide a written reply to the written accusation.

4. *Duty to cooperate.* University faculty, staff, and students must cooperate with in the investigation of allegations of faculty misconduct. A faculty or staff member or student who has relevant information, but refuses to cooperate after being asked to do so during an investigation, may be subject to disciplinary action.

5. *The investigation record.* The investigation will maintain a record, of all witnesses interviewed, recordings of the interviews, if any, and, if prepared, a written summary of those interviews and copies of all documents or other records reviewed by the panel.

6. *Administrative assistance.* The investigating panel may seek the assistance of and advice from other administrative offices, notably the Office of University Counsel, Office of Faculty Development and Diversity, Office of Research and Sponsored Programs, Audit or the Finance Office. Such advice does not become part of the investigation record, and is not available for review by the involved parties. In the absence of special circumstances, it is expected that the investigating panel will complete its investigation within 90 calendar days from receipt of the written allegations. If needed, additional time for the investigation may be obtained by specific request to the Dean.

7. *Investigation report.* Upon concluding an investigation, the investigating panel will produce a written investigation report, which will include the following: the scope of the investigation, a summary of the findings, recommendations for any corrective actions and/or sanctions, any non-punitive, preventative remedies for the complainant, and if warranted, recommended action to restore the accused's reputation, such as notifying persons who participated in the investigation, and/or a public announcement of the outcome.

8. *Review of the investigation report.* Once the investigation report has been created, it is forwarded to the complainant and to the respondent faculty member for review, and they may either approve or dispute it. In the absence of special circumstances, review of the investigation report, and written responses from accuser and accused, should be completed within 20 days. Failure to respond to the request for review within that time may

be taken as tacit approval of the report. The investigating panel will decide whether or not to revise the investigative report based on the comments before forwarding the investigation report and recommendations to the Dean. The investigating panel will forward its investigation report and recommendation to the Dean, including comments from the complainant and respondent.

9. *The Dean's decision.* Upon receipt of the charge, the investigation report, and the recommendation of the investigating panel, the Dean may accept the recommendation, send the report back to the investigating panel for reconsideration, or render an independent decision for a final course of action. The decision of the Dean will be communicated to the complainant and respondent, and where appropriate, to the Department Chair. A copy of the investigation report, recommendation, and Dean's decision will be maintained as part of the faculty member's faculty affairs file.

10. *Grieving the Dean's decision.* The decision of the Dean may be grieved by the respondent faculty member or complainant. Grievance by faculty members shall be according to the procedures detailed in section 12 of the Academic Handbook; grievances by non-academic staff shall be according to WCMC Human Resources grievance procedures; and grievances by students will be reviewed by the Associate Dean for Academic Affairs.

IX. Obtaining Protection from Retaliation and Bad-Faith Complaints

Retaliation against complainant, respondent and others who participate (e.g., as witnesses) in the assessment, inquiry or investigation is prohibited. Retaliation also may violate local, state, and federal law and other institutional policies. Violation of this prohibition may result in disciplinary action.

At the same time, as with any complaint brought in bad faith, an individual who is aggrieved because a complaint was malicious, knowingly false, or fundamentally frivolous, may invoke any applicable disciplinary or grievance procedure that may result in disciplinary action against the party that brings such a complaint.

The following is a link to Cornell University Policy 6.4:

https://www.dfa.cornell.edu/sites/default/files/vol6_4.pdf