

Guidance on Reporting - Title IX

“The Title IX Coordinator has a responsibility to coordinate the recipient’s efforts to comply with its obligations under Title IX and the Title IX regulations. These responsibilities include coordinating any investigations of complaints received pursuant to Title IX and the implementing regulations.” - *The United States Department of Justice Federal Coordination and Compliance Section*

In accordance with the Title IX, Hackensack Meridian School of Medicine (the School) will respond promptly, and in a manner that is not deliberately indifferent when it has actual knowledge of sexual misconduct prohibited by Title IX. HMSOM is committed to responding appropriately to all forms of sexual harassment.

The School strongly encourages all members of the community to report instances and allegations of Covered Sexual Harassment to Diane Russo, M.A., the Title IX Coordinator as soon as possible. Any person may make a report of Covered Sexual Harassment (whether or not the person reporting is the person alleged to be the victim of the Covered Sexual Harassment) in person, by mail or email, or by telephone. Anonymous reporting is also available by phone or web to HMH ComplyLine, 877-888-8030 or <https://hackensackmeridian.alertline.com/>.

The requirements and protections of the Title IX Policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, age, race, nationality, class status, religion, disability, or other protected classes covered by Federal or state law. All requirements are fairly and equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness.

Upon receipt of a report by the Title IX Coordinator or a School official with authority to institute corrective measures, the School will respond in a way that is not deliberately indifferent. Specifically, the Title IX Coordinator or designee will notify the Complainant of the availability of Supportive Measures (with or without the submission of a Formal Complaint) and the option of filing a Formal Complaint under the Title IX Policy, as well as any other steps deemed necessary or appropriate.

The School’s employees who are designated as Private Resources or are otherwise authorized to institute corrective action are required to notify the Title IX Coordinator upon receipt of a report of alleged Covered Sexual Harassment.

The School will not issue a disciplinary sanction arising from any allegation of a Title IX Covered Sexual Harassment without holding a live hearing. The Parties cannot waive the right to a live hearing, although they can decline to participate. An Informal Resolution process is

available in all matters, except where an HMSOM employee is alleged to have committed Covered Sexual Harassment against a student.

The School will ensure that the Title IX Coordinator, investigators, decision makers, and any person who facilitates a Formal or Informal Resolution receives appropriate training. In addition, The School will ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including rape shield laws and when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators will receive training on issues of relevance to create an Investigation Report that fairly summarizes relevant evidence. Any training materials will be free of sex stereotypes and will promote impartial investigations and adjudications of Formal Complaints of Covered Sexual Harassment.

Training resources include: <https://www.thompsoncoburn.com/title-ix-training-series-materials>

Reporting an incident:

The School strongly encourages all members of the community to report instances and allegations of Covered Sexual Harassment to the Title IX Coordinator as soon as possible. Except as may be permitted by the Family Education and Privacy Act ("FERPA") and Title IX, the School will not disclose the identities of individuals who made a report or complaint of Covered Sexual Harassment, Complainants, Respondents, and/or witnesses. All School employees are designated as "Private Resources" and are required to notify the Title IX Coordinator upon receipt of a report of alleged Covered Sexual Harassment. The Title IX Coordinator, campus security, the School's executive officers, including the dean, as well as all associate and assistant deans are HMSOM's "Officials with Authority" and authorized to institute corrective action.

- Diane Russo, Title IX Coordinator, HMSOM, 123 Metro Boulevard, Office 4240, Nutley, NJ 07110; Diane.Russo@hmhn.org; 862-660-5124.
- Laurie Sullivan, Sr. Associate Dean of Student Affairs and Wellbeing, HMSOM, 123 Metro Boulevard, Office 4237, Nutely, NJ 07110; Laurie.Sullivan@hmhn.org
- Anonymously via ComplyLine - the phone/internet-based compliance/event reporting system; 877-888-8030; hackensackmeridian.alertline.com
- Email to SAW@hmhn.org

The School will respond in a way that is not deliberately indifferent. The Title IX Coordinator or designee will notify the Complainant of the availability of Supportive Measures along with the option to file a Formal Complaint under the Title IX Policy.

Supportive Measures: Non-disciplinary and non-punitive individualized services offered as appropriate, and without fee or charge to any Party. Some examples include:

Any decision regarding Supporting Measures shall be made by the Title IX Coordinator in consultation with appropriate School officials and the Party requesting them. Failure to comply with Supportive Measures may constitute a violation of the student or employee code of conduct and subject the individual to disciplinary action.

Formal Complaint:

A Complainant must provide the Title IX Coordinator with a written, signed document describing the facts allegedly constituting Covered Sexual Harassment. When submitting a Formal Complaint under the Title IX Policy, a Complainant must be currently participating in, or attempting to participate in, the Education Program or Activity of the School.

The Title IX Coordinator will provide written Notice of Allegations set forth in the Formal Complaint to the Parties as soon as notice is practicable but no more than five (5) calendar days following the School's receipt of the Formal Complaint. Parties will be notified via their hmhn.org email account. The Parties will be provided sufficient time to prepare a response before an interview.

The Title IX Coordinator will determine if the Formal Complaint or allegations in the Formal Complaint must or should be dismissed based on the following elements:

- The alleged conduct, if substantiated, would constitute Covered Sexual Harassment under the Policy;
- The conduct is alleged to have occurred in the United States; and
- The conduct is alleged to have occurred in the School's Education Program or Activity.

If the above elements are met, the School will proceed with an investigation; if not met, the Title IX Coordinator will promptly issue a written Notice of Dismissal simultaneously to the Parties.

Informal Resolution Process:

Some matters may lend themselves to resolution without an investigation and/or hearing, except where a School employee is alleged to have committed Covered Sexual Harassment against a student. A Formal Complaint must be filed in order to proceed with an Informal Resolution, which a Complainant may request at time of submitting the Formal Complaint. The Title IX Coordinator will review the matter and determine whether an Informal Resolution is appropriate.

The Title IX Coordinator must approve any resolution achieved in the Informal Resolution to ensure consistency and compliance with the School's Title IX obligations. The resolution must be memorialized in a written Informal Resolution Agreement signed by the Parties and the Title IX Coordinator. Upon execution of the Informal Resolution Agreement, the Procedure will be concluded and the matter will be closed.

Formal Resolution Process:

After the issuance of the Notice of Allegations, a specially trained investigator(s) will be assigned by the Title IX Coordinator to investigate the allegations and to conduct a thorough and fair investigation of the Covered Sexual Harassment allegations in a reasonably prompt timeframe. The investigation will include interviewing the Complainant, Respondent, and witnesses, and gathering relevant evidence directly related to the Formal Complaint. The Parties will have equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The burden of proof and gathering of evidence rests on the School, not the Parties. The Parties are not required to participate in the Investigation and are not otherwise required to share their account of the conduct that is the subject of the Investigation.

Inspection and Review of Evidence:

Prior to the completion of the investigation, the Parties will have an equal opportunity to review and respond to the evidence obtained through the investigation that directly relates to the allegations of Covered Sexual Harassment in the Formal Complaint. Evidence that will be available for inspection and review by the Parties will be any evidence that is directly related to the allegations of Covered Sexual Harassment in the Formal Complaint. All Parties must submit any evidence they would like the investigator to consider prior to when the Parties' time to inspect and review evidence begins. The Parties and their respective advisors must sign an agreement not to disseminate or otherwise distribute, photograph or otherwise copy, or use such evidence provided or heard during the hearing for any purposes unrelated to the Procedure. The School will send the evidence made available for each Party's Advisor to inspect and review. The Parties will have ten (10) calendar days to inspect and review the evidence and submit a written response by email to the investigator. If a Party does not provide the investigator with a response within the allotted time, it will be assumed that the Party has reviewed all of the evidence and chose not to respond. The investigator will consider the Party's written responses before completing the Investigation Report. Copies of each Party's written response to the evidence will be provided by the School to the other Party and Advisor. The evidence will be available at any hearing, including for the purposes of cross-examination.

Investigation Report:

At the conclusion of the investigation, the investigator will prepare an Investigation Report that fairly summarizes the relevant evidence. Only relevant evidence will be referenced in the Investigation Report. The Investigation Report is intended to provide a fair summary of the relevant evidence. The Investigation Report will be provided to the Parties at least ten (10) calendar days prior to the hearing in an electronic format or hard copy for each Party's review and written response. Any information or evidence deemed irrelevant will be maintained as part of the file and securely stored but will not be included in the Investigation Report.

Live Hearing:

After the issuance of the Notice of Allegations, a specially-trained investigator will be assigned by the Title IX Coordinator. The Investigator will conduct a thorough and fair investigation of the Covered Sexual Harassment allegations in a reasonably prompt timeframe. The burden of proof and gathering of evidence rests on the School, not the Parties. The Parties are not required to participate in the Investigation and are not otherwise required to share their account of the conduct that is the subject of the Investigation.

The School will not issue a disciplinary sanction arising from any allegation of Covered Sexual Harassment without holding a live hearing. The Parties cannot waive the right to a live hearing although they can decline to participate.

Live Hearings are not public. Those only permitted to participate include the Parties, the hearing decision-maker(s), the Parties' Advisers of Choice, the Parties' Support Persons, witnesses, and a school staff member to manage logistical and technical aspects of the hearing.

All participants are required to comply with the Hearing Decorum Guidelines. A participant's failure to abide by the Guidelines may result in their removal from the hearing.

Live Hearing Decision-Maker:

The Live Hearing Decision-Maker will consist of a single decision-maker who, in the sole discretion of the School, may be employed by the School or retained by the School as an independent third-party decision-maker. The Live Hearing Decision-maker shall not have served as the Title IX Coordinator, investigator, nor Advisor of Choice to any Party in the matter and may not serve as the decision-maker on an appeal. The Live Hearing Decision-Maker will be trained on topics including how to serve impartially, issues of relevance, how to apply the rape shield protections provided for Complainant, maintaining the Guidelines of Decorum at the hearing and any technology to be used at the hearing. The hearing decision-maker will make the Determination Regarding Responsibility and sanctions.

Witnesses:

Witnesses cannot be compelled to testify at the live hearing and have the right not to participate free from retaliation. Witnesses are excluded from the Live Hearing during the testimony of the Parties and other witnesses. Witnesses are required to abide by the Guidelines of Decorum.

Newly Discovered Evidence:

No new evidence nor witnesses may be submitted during the Live Hearing. However, if a Party identifies new evidence or witnesses that were not reasonably available prior to the Live Hearing and could affect the outcome of the matter, the Party may request that such evidence or witnesses be considered at the Live Hearing. The Live Hearing Decision-Maker will consider the request and make a determination as to whether such evidence or witness testimony could affect the outcome of the matter. If the Live Hearing Decision-Maker agrees, then the Parties will be granted a reasonable pause in the Live Hearing to review the evidence and/or prepare for questioning of the witnesses.

Record of the Live Hearing:

An audio or audiovisual record, or transcript, of the Live Hearing shall be created and available for review by the Parties within ten (10) calendar days following the completion of the hearing, unless there are extenuating circumstances. A copy of the audio and audiovisual records or transcript will not be provided to the Parties nor their Advisors.

Live Hearing Procedures:

1. The Live Hearing Decision-Maker will convene the Live Hearing and establish guidelines and expectations for the live hearing, including Hearing Decorum Guidelines.
2. The Live Hearing may be conducted with the Parties physically present in the same geographic location, or the hearing may be held live virtually via Zoom Video Conferencing Platform or other such platforms that are available to all Parties. This technology will enable the participants to see and hear each other.
3. The Parties will be given the opportunity to present an opening statement.
4. The Live Hearing Decision-Maker will ask questions of the Parties and witnesses.
5. The Parties will be given the opportunity for live cross-examination after the Live Hearing Decision-Maker conducts the initial round of questioning.
 - a. Each Party's Advisor will conduct live cross-examination of the other Party or witnesses.
 - b. A Party's Advisor may appear and conduct cross-examination in the absence of the Party.
6. If a Party does not choose an Advisor, the School will select an Advisor to serve in this role for the limited purpose of conducting cross-examination during the Live Hearing at no fee nor charge to that Party.
7. Before any cross-examination question is answered, the Live Hearing Decision-Maker will determine if the question is relevant and briefly explain the decision. Cross-examination questions may be disallowed by the Live Hearing Decision-Maker.
8. A Party is permitted to waive cross-examination through a written or oral statement to the Live Hearing Decision-Maker.

9. The School may determine that multiple sessions or a continuance is needed to complete a Live Hearing. If so, the School will notify all participants.
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Determination Regarding Responsibility

- A. **Standard of Proof** - the School uses the preponderance of evidence standard of proof for investigations and Determinations Regarding Responsibility for allegations of Covered Sexual Harassment in Formal Complaints filed under the Title IX Policy.
 - B. **Timing of Determination Regarding Responsibility** - If there are no extenuating circumstances, The Determination Regarding Responsibility will be issued by the School within ten (10) calendar days following completion of the hearing or if access to the record of the hearing is requested, then ten (10) calendar days from when access to the record of the Live Hearing is provided.
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Advisors:

The School will provide the Complainant (individual who has reported being or is alleged to be a victim of Covered Sexual Harassment) and Respondent (individual who has been reported or alleged to have engaged in conduct that could constitute Covered Sexual Harassment) with equal access to an Advisor of Choice (“Advisor”) and Support Person. Any restrictions on an Advisor or Support Person will be applied equally. The Parties (Complainant and Respondent) have a right to select an Advisor of their choosing to conduct cross-examination at the hearing. The Advisor may, but is not required, to be an attorney. The Parties can choose to have their Support Person serve as their Advisor or may select an additional individual to serve as their Advisor.

Retaliation:

Retaliation is prohibited. Neither the School nor any other person may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any Title IX right or privilege or because an individual has made a report, complaint or Formal Complaint, testified, assisted, or participated or refused to participate, in any manner in an investigation, proceeding, or hearing.

Non-Retaliation/Retribution for Reporting; Conscientious Employee Protection Act (CEPA)
[Non-Retaliation Policy Link](#)

Appeals:

A Party may appeal the dismissal of a Formal Complaint or any of the included allegations and/or Determination Regarding Responsibility. To appeal, a Party must submit their written appeal within five (5) calendar days of being notified of the Determination Regarding Responsibility, including the grounds for appeal.

The grounds for an appeal are limited to the following:

- Procedural irregularity that affected the outcome of the matter.
- New evidence that was not reasonably available at the time of the Determination Regarding Responsibility or dismissal was made that could affect the outcome of the matter.
- The Title IX Coordinator, investigator(s) or decision-maker(s) had a conflict of interest or bias for or against an individual Party, or for or against Complainants or Respondents in general, that affected the outcome of the matter.

If a Party appeals, the School will as soon as practicable, notify the other Party in writing of the appeal. The time for appeal shall be offered equitably to the Parties and shall not be extended for any Party solely because the other Party filed an appeal. The non-appealing Party may submit a written response within five (5) calendar days after notice of an appeal.

If both the Complainant and the Respondent appeal, the appeals will be consolidated.

- Appeals and written responses may be no longer than five (5) letter size (8-½" x 11") pages, including attachments.
- Appeals and written responses should be submitted in electronic form, 12-point font, single spaced.
- Appeals that don't meet the above standards may be returned to the Party for correction; the time for appeal will not be extended.
- The submission of an appeal stays any Sanctions during the pendency of the appeal.
- Supportive Measures remain available while the appeal is pending.
- The transcript or recording of the Live Hearing will be made available to the Parties.
- The appeal will be decided by a decision-making person that will be free of conflicts of interest and bias, and will not have served as the Title IX Coordinator, investigator, or Live Hearing Decision-Maker in the same matter.
- The outcome of the appeal will be provided in writing simultaneously to the Parties within ten (10) calendar days of receipt of the appeal.

Finality of Decision:

The Decision is final either on the date that the School provides the Parties with the written determination of the result of the appeal, if an appeal is filed in accordance with this Policy or, if an appeal is not filed, the date on which the opportunity to appeal expires.