

## **Sexual Misconduct Policy**

### **Statement of Intent**

Cornell College affirms the rights of its students, faculty, and staff to live, work, and study in an environment free from sexual misconduct (sexual assault, sexual harassment, and sexual exploitation). To maintain an environment of trust, care, and respect, community members set and adhere to standards of conduct. Acts of sexual misconduct are serious violations of these standards and will not be tolerated in the Cornell community. Reported violations will be investigated and may result in College disciplinary procedures with sanctions up to and including dismissal. Furthermore, acts of sexual misconduct may also be punishable by civil and criminal legal procedures.

### **Alcohol and Other Drugs**

The use of alcohol and other drugs can diminish an individual's ability to give or withhold consent to sexual activity. No individual will be excused from conduct that is a violation of this policy because of voluntary alcohol or other drug use. All individuals should exercise caution in this area.

### **Applicability**

This policy applies to any sexual misconduct by or against a Cornell student. Students should refer to this policy for information on reporting any sexual misconduct regardless of who engages in the misconduct, whether the accused person is a student, faculty member, or other College employee. Complaints against students will be handled by procedures listed in this document. If the accused person is not a student, other policies and procedures will apply to the investigation and any disciplinary action:

- Complaints against non-faculty employees will be investigated and necessary action taken according to any applicable employee procedures. Violations may result in disciplinary action up to and including termination.
- Complaints against faculty members will be investigated and necessary action taken according to applicable procedures set forth in the Faculty Handbook. Violations may result in disciplinary action up to and including termination.

This policy shall not be construed to conflict with or to supercede the Cornell College Anti-Discrimination Policy, which also prohibits sexual harassment.

### **Questions**

Questions about this policy or any related policy, including how to report a complaint, may be addressed to the Dean of Students, the Dean of the College, the Director of Human Resources, or other individuals authorized to receive complaints. See "Reporting Sexual Misconduct" below.

### **Explanation of Terms Used in Sexual Misconduct Policy**

"Sexual misconduct" as used in these policies includes sexual assault (non-consensual sexual contact and non-consensual sexual intercourse), sexual harassment and sexual exploitation.

"Consent" includes actions or words that indicate a willingness to participate in mutually agreed upon sexual activity. Consent can be withdrawn at any time. There is no consent when sexual contact or intercourse results from force, threat, coercion, or intimidation. There is no consent when sexual contact or intercourse is with a person who is unable to give consent, say "no," or otherwise resist for any reason. Such reasons may include, but are not limited to, the effects of alcohol or other drugs, because the person is asleep or unconscious, is disabled, or has other mental or physical conditions.

"Victim," "complainant" and "accused" are gender-neutral terms used in this policy. Sexual misconduct can be committed by a person of any sex against a person of any sex. Sexual misconduct can be committed by current or former lovers, friends, or acquaintances.

### **Categories of Sexual Misconduct**

Sexual Misconduct includes behavior described in the following categories, but specific acts may fall under more than one category:

## 1. Sexual Assault

Examples of conduct that may constitute sexual assault include, but are not limited to, non-consensual sexual contact and non-consensual sexual intercourse:

A. non-consensual sexual contact includes

- any sexual touching
- however slight
- using any body part or object
- without consent
- including attempted sexual assault

B. non-consensual sexual intercourse includes

- any sexual intercourse (anal, oral or vaginal)
- however slight
- using any body part or object
- without consent

## 2. Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, physical, or other conduct of a sexual nature when:

A. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic, extracurricular or employment status;

B. submission to or rejection of such conduct by an individual is used as the basis for academic, extracurricular or employment decisions affecting that individual, including but not limited to grades, academic assignments, promotions, tenure, performance evaluations, pay adjustments, discipline, work assignments, or receipt of education- or employment-related benefits; or

C. such conduct has the purpose or effect of unreasonably interfering with an individual's academic, extracurricular or work performance, or of creating an intimidating, hostile, or offensive educational, working or living environment.

Examples of conduct that may constitute sexual harassment include, but are not limited to, the following:

- unsolicited and unwelcome comments or jokes, gestures, correspondence, or physical actions of a sexual nature directed against an individual or group that are unrelated to any serious employment, academic or artistic purpose
- suggestive or obscene comments about a person's body, sexual activities, or sexual orientation
- unwelcome touching or other physical contact
- repeated and unwelcome requests for dates or other repeated and unwelcome requests of a sexual or intimate nature
- use of the campus computer network to sexually harass individuals or groups
- aiding or abetting any form of sexual harassment

## 3. Sexual Exploitation

Sexual exploitation occurs when an individual takes non-consensual, unjust or abusive sexual advantage of another for his/her advantage, benefit or pleasure, or to benefit or advantage anyone other than the one being exploited.

Examples of conduct that may constitute sexual exploitation include, but are not limited to, the following:

- non-consensual video or audio-taping of sexual activity
- going beyond the boundaries of consent (such as letting your friends surreptitiously watch you having consensual sex)
- engaging in peeping Tommerly

## Obtaining Support

There are people available to help you if you have been affected by an incident of sexual misconduct within or outside of the Cornell community. Cornell College counselors provide free counseling for survivors of sexual misconduct. Additional resources in the area are also available to you.

Talking with someone who understands can help you sort out the emotional aftermath of sexual misconduct. Because the reactions to these offenses are complex and often confusing, it is important to remember that your feelings are normal and you are not alone.

You can call or approach any of the people on the list below **confidentially and off the record** and tell them what happened. They will listen and explain your options. They will maintain confidentiality consistent with professional standards and practices. **Talking to any of these people does not constitute reporting the incident.**

#### 1. Current On Campus Confidential Resources

- Director of Counseling x4292 – Dr. Brenda Lovstuen
- Director of Student Health Services x4292 – Jill deLaubenfels
- Assistant Director of Student Health Services x4292 – Nancy Reasland
- Chaplain of the College x4402 – Catherine Quehl-Engel

#### 2. Current Off Campus Confidential Resources

- Waypoint Rape Crisis Services, Cedar Rapids - 363-5490
- Rape Victim Advocacy Program, Iowa City 1- 800-284-7821
- Foundation II Crisis Line, Cedar Rapids - 362-2174
- Emma Goldman Clinic, Iowa City - (319) 337-2111

#### 3. Medical Resource Information

Seeking medical care is important, whether or not you choose to report the incident to police. A hospital emergency room can provide immediate medical attention. **If possible, it is critical that you seek medical attention within 72 hours of the incident so as to best take care of your health and welfare and to collect evidence that might support future prosecution.** You will be asked to sign consent forms to allow the medical personnel to examine, treat and administer medication to you; also to release information to the police *if you choose to do so*. A nurse will explain the examination procedures to you and will be present throughout the exam. A friend, relative or advocate may also accompany you. After an act of sexual misconduct, the primary medical concerns are physical injury, sexually transmitted disease and pregnancy. It is best that you **NOT** bathe, douche or change clothes before the exam in order to preserve evidence. Any available bedding, linens or other items may also be used for evidence collection. If you have already bathed or showered, it is still important to have prompt, thorough medical care and to bring in unlaundered clothes and other pertinent articles, placed in a paper bag, for examination and evidence collection.

The following area hospitals have professionals who are trained in sexual assault response and examination. These hospitals may alert a law enforcement agency of a reported sexual assault. An officer may ask you to make a written report. You may choose not to file a report.

Current Area Hospitals:

- Mercy Medical Center, Cedar Rapids- 398-6041
- St. Luke's Hospital, Cedar Rapids - 369-7105
- University of Iowa Hospitals and Clinics, Iowa City - (319) 356-1616
- VA Medical Center, Iowa City - (319) 338-0581

Note that policies and procedures at hospitals and clinics are subject to change without notice to Cornell College.

### Reporting Sexual Misconduct

Violations of this policy should be reported promptly. As long as the individual being accused is a member of the Cornell College community, the College may investigate and take necessary action if warranted. However, the College's ability to pursue the complaint to conclusion may be hindered by the passage of time. Prompt reporting is crucial to help ensure full investigation of complaints. A delay in

reporting can adversely affect both the informal and formal adjudication procedures. Victims of, and witnesses to, sexual misconduct are strongly encouraged to report the misconduct immediately.

The following officials are authorized to receive reports: the Dean of Students, The Vice President for Student Affairs, the Dean of the College, the Director of Human Resources, and not more than two additional individuals named by the Dean of Students to assure adequate gender representation. Individuals currently authorized to receive reports are:

- Dean of Students, Heidi Levine - x4234
- Vice President for Student Affairs, John Harp - x4234
- Dean of the College, Chris Carlson - x4210
- Director of Human Resources, Vickie Farmer - x4243

The person receiving the report will ensure that the incident is investigated. Applicable procedure depends upon whether the accused is a student, faculty member, or non-faculty employee.

### **Confidentiality**

Persons involved in the reporting, investigation and resolution of complaints under this policy are required to act with careful discretion and due respect for the privacy of the complainant, the accused, and all other members of the College community who may be personally affected by the alleged sexual misconduct. However, it is impossible for the College to maintain complete confidentiality while investigating and resolving sexual misconduct claims. At a minimum, accused persons must be notified about the complaints against them. Witnesses to alleged misconduct may be interviewed and/or asked to provide testimony for a judicial hearing. In an effort to protect the privacy of all concerned, persons reporting violations of this policy, accused persons, and all persons who participate in the investigation or resolution of sexual misconduct complaints will be required to keep the matter confidential. Willful violations of the confidentiality of reporting or grievance procedures under this policy will be treated as violations of student conduct policy.

The Dean of Students will record the number of reported allegations and violations of this policy for the purposes of statistical reporting.

### **Limited Immunity for Complainants and Witnesses**

It is in the best interests of this community that all sexual misconduct be reported to College officials. To encourage reporting of sexual misconduct, Cornell College will consider extending limited immunity to the complainant and/or witnesses regarding other policy violations such as underage alcohol consumption. To the extent possible, the College will provide educational options for minor policy violations.

### **Retaliation Prohibited**

Retaliation against a person who reports or participates in an investigation of sexual misconduct is strictly prohibited. It constitutes a violation of student conduct policy and may also violate state and federal laws.

### **False Reporting**

Cornell will not tolerate false reporting of sexual misconduct. It will be considered a violation of student conduct policy.

### **Legal Action**

An individual may choose to report sexual misconduct to the police as well as seek internal College support and/or judicial action. Any staff member listed in this policy is available to arrange a neutral meeting place for initial contact with the police. The College has no control over the investigative and legal process that may result once a crime is reported. Currently, local law enforcement authorities may be contacted at:

Mount Vernon Police Department - 895-6141 or 911 (9-911 from on campus)  
213 First Street West, Mount Vernon

## **Response to Sexual Misconduct Allegations Against Students**

The College offers both formal and informal procedural options for resolving cases of alleged sexual misconduct against students. Formal procedures may be initiated by either a complainant or the College.

### **1. Informal Grievance Procedures**

The complainant may choose, in consultation with the Dean of Students or the Dean's designee, to resolve the complaint informally. If the complainant wishes to proceed with informal grievance procedures, the accused person or persons will be notified of the allegations by the Dean of Students. The focus of the informal grievance procedure is to resolve problems between the complainant and accused on an informal basis. Every attempt will be made to resolve the problems in a timely manner.

Options for informal resolution include, but are not limited to:

- utilizing accommodations listed in the statements of student complainant's and accused student's rights
- participating in a confidential discussion and/or mediation of the complaint with the complainant, accused, and a mediator appointed by the Dean of Students

If the informal grievance procedure is successful, then the matter will be closed between the complainant and the accused. If at any time during informal grievance procedures, the complainant desires instead to pursue resolution through formal grievance procedures, the complainant may inform the mediator and file a written request with the Dean of Students. If the informal grievance procedure proves inadequate, the Dean of Students, Dean's designee or mediator may terminate the informal grievance procedure, and the complainant or the College may then initiate formal grievance procedures. The mediator may not be brought into any formal grievance process.

### **2. Formal Grievance Procedures Initiated by the Complainant**

The complainant may choose, in consultation with the Dean of Students or the Dean's designee, to pursue a formal grievance. Campus judicial procedures for a formal grievance against a student are set forth in the student handbook, *The Compass*, currently online at [http://cornellcollege.edu/student\\_affairs/handbook/studentrights.shtml#judicialprocedures](http://cornellcollege.edu/student_affairs/handbook/studentrights.shtml#judicialprocedures)

If at any time during formal grievance procedures, the complainant desires instead to pursue resolution through the informal grievance procedure, the complainant may file a written request to do so with the Dean of Students or Judicial Board Chair. This person may then direct that the formal procedure be stayed pending resolution of the informal procedure. If resolved through the informal procedure, the formal complaint will be dismissed.

### **3. Formal Grievance Procedures Initiated by the College**

When student welfare is of concern, the College is obligated to pursue reports of sexual misconduct to the extent possible whether the alleged victim chooses to participate or not. In this event, the Dean of Students or the Dean's designee shall pursue a formal grievance. Campus judicial procedures for a formal grievance against a student are set forth in the student handbook, *The Compass*, currently online at [http://cornellcollege.edu/student\\_affairs/handbook/studentrights.shtml#judicialprocedures](http://cornellcollege.edu/student_affairs/handbook/studentrights.shtml#judicialprocedures).

## **Student's Rights**

### **Statement of Student Complainant's Rights**

It is the goal of Cornell College to ensure that students who report sexual misconduct have access to needed resources, services, and information including the right:

- to have all complaints of sexual misconduct made by the student investigated
- to have a support/advisory person present during a campus judicial board hearing
- to be informed of the outcome of any investigation and sanction or any disciplinary hearing involving sexual misconduct, usually within five class days following the end of the judicial hearing
- to be informed of options to notify proper law enforcement authorities, and to be assisted by campus authorities in notifying such authorities if the complainant requests

- to be notified of options for, and to be assisted with, changing academic and living situations after alleged sexual misconduct, if such accommodations, in the discretion of the College, are reasonably available. The complainant needs to request these accommodations. Accommodations may include:
  - change of an on-campus student's housing to a different on-campus location
  - rescheduling of academic requirements
  - health withdrawal from a course
  - leave of absence from the College
- to be notified of available counseling, mental health, or student services for complainants of sexual misconduct, both on campus and in the community

The College will provide assistance to the complainant, whether or not the accused is a Cornell College student, faculty member or staff member. Where the accused is not a student or member of the faculty or staff, the College's ability to investigate may be limited. Assistance options may include a campus-based restraining order, trespass actions, and assisting the complainant to obtain a civil restraining order or criminal prosecution options.

### **Statement of the Accused Student's Rights**

It is the goal of Cornell College to ensure that students accused of sexual misconduct have access to needed resources, services and information. The College strives to offer a reasonable parity of resources, services, and information, to the extent possible, to all parties to the complaint, including the right:

- to have all complaints of sexual misconduct made against the student investigated
- to have a support/advisory person present during a campus judicial board hearing
- to be informed of the outcome of any investigation and sanction of any disciplinary hearing involving sexual misconduct, usually within five class days following the end of the judicial hearing
- to be informed that the complainant has the option to notify law enforcement authorities
- to be notified of options for, and to be assisted with, changing academic and living situations after alleged sexual misconduct, if such accommodations, in the discretion of the College, are reasonably available. The accused student needs to request these accommodations. Accommodations may include:
  - change of an on-campus student's housing to a different on-campus location
  - rescheduling of academic requirements
  - health withdrawal from a course
  - leave of absence from the College
- to be notified of available counseling, mental health, or student services, both on campus and in the community

### **Annual Updates**

Resources and contact information described in this policy as "current" (i.e. names, phone numbers, and addresses) will be updated annually by the Dean of Students.

*Approved by the Faculty: May 27, 2003*

*Approved by the President of the College:*