Proposed Revisions to Policy 6.4
Adjudication Procedures

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Background

- Current policy adopted in 2012 in response to federal guidance and multiple problems with use of Campus Code

- Key features
  - Removed cases from Campus Code
  - Adjudication through investigation instead of hearing
  - Review by panel based upon paper submissions
  - “Preponderance of the evidence” standard
  - Single appeal to SAS Vice President
Why Revisiting Policy 6.4 Again?

- More federal and state legislation
- Growing nationwide and Cornell concern about high incidents of sexual assault
- At the same time, rising nationwide concern about the efficacy and fairness of campus processes
Review of Policy 6.4
Adjudication Procedures

- Working Group leading revision process
- Consultations with many constituents
  - Review & hearing panel members and chairs
  - Involved professionals
  - Complainant & respondent advocates
  - Law School faculty
  - Campus governance groups
- Guidance from President Garrett
- Benchmarking: 18 colleges and universities
Major Concerns from Review

- Absence of any hearing
- Single investigator is determining responsibility and sanctions
- Inadequate procedural guidance
- Review panel members lack sufficient training and guidance
- Respondents but not complainants are afforded advisors
- Standards for temporary suspensions are unclear
Overview of Major Revisions to Address Concerns

- Separate prosecutorial and investigatory functions from adjudicatory function
- Add hearing by a panel that determines responsibility and sanctions
- Add law-trained hearing chair to provide guidance and ensure compliance with procedures
- Also provide guidance through procedural specificity
- Provide trained advisors to both parties
- Add three-member appeal panel
Redefine and Limit Investigator’s Role

- Interviews parties and witnesses, gathers evidence, and prepares investigatory record and report for hearing panel
- Provides parties with full record for review and response before investigator finalizes and writes report
- Report: investigator synthesizes facts, identifies contested and uncontested facts, sets forth issues of general credibility
- Does not render opinion as to ultimate issues of credibility or responsibility; for hearing panel
- But makes threshold finding of sufficiency; low threshold
- Provides testimony at hearing
Hearing: Balance Rights of Both Parties

- Parties entitled to testify, request witnesses, view remotely other testimony, and submit proposed questions and evidence
- Complainant and respondent in separate rooms and may participate remotely
- Panelists conduct all questioning
- Hearing Chair, after consulting with panelists and parties, approves parties’ witnesses, evidence, and questions; panelists also ask their own questions
- Three-member panel: faculty and staff; trained annually as required by law
- Standard of proof remains "preponderance of the evidence"
Hearing Chair

- To be a Cornell faculty/staff member with legal training
- Ensures panelists understand procedures, standards of proof, and evidentiary issues
- Makes rulings on admissibility of witnesses, questions, and evidence
- Parties’ objections are on the record
- Serves as non-voting member of the panel
Further questions or comments?

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