

Duty to Consult Training - Transcript

Cornell is committed to providing a safe, inclusive, and respectful learning, living, and working environment for its students, faculty and staff. To this end through Cornell Policy 6.4 the university provides a means for students, staff and faculty to address bias, discrimination, harassment, and sexual and related misconduct. Including gender based harassment, sexual harassment, sexual assault, domestic and dating violence, stalking, and sexual exploitation. We share the responsibility for creating a safer more caring campus culture in which bias, harassment, and violence have no place and every member of our community is free to flourish.

Cornell complies with applicable State and Federal Statutes including Title IX of the Federal Higher Education Amendments of 1972, which prohibits discrimination on the basis of sex in any education program or activity receiving Federal Financial Aid. Sexual assault and sexual harassment are forms of sex discrimination prohibited by Title IX.

One of the many ways in which Cornell lives up to these commitments is through the Duty to Consult with a Title IX Coordinator, a responsibility set forth in Policy 6.4 and long incumbent upon all staff and faculty members with the important exception of confidential resources. This presentation reviews the Duty to Consult, the importance of maintaining a student's privacy, available confidential resources, and what does and does not happen when you consult with a Title IX Coordinator. As well as providing information and resources for handling difficult conversations with students who choose to share their experiences of sexual and related misconduct with you.

The Duty to Consult in Cornell Policy 6.4 provides Cornell faculty and staff members, with the exception of important Confidential Resources for Support, discussed on the next slide, are required to consult with a Title IX Coordinator or a Deputy Title IX Coordinator when they become aware of an alleged incident of sexual or related misconduct under this policy, such as dating violence, domestic violence, and stalking, that involves a student as either the complainant or the respondent.

Thus, in cases of alleged sexual and related misconduct involving students, faculty and staff members may not make anonymous reports. Faculty and staff members should be prepared to share the name, date, time, location, and description of the incident, if known, with the Title IX Coordinator.

Other than sharing such information with the Title IX Coordinator faculty and staff members will maintain an individual's privacy to the greatest extent possible. When the Title IX Coordinator or Deputy Title IX Coordinator receives a report of prohibited sexual or related misconduct they will contact the complainant, if known, or another individual reporting the prohibited conduct to offer support services, including assistance with academic, housing, transportation, employment, or other reasonable and available accommodations.

The individual will also be advised of the option to pursue a formal complaint if such an option is available. The Duty to Consult is limited to instances that in some iteration involve a student, either as the complainant, i.e. the person who is the subject of the report, or initiates a formal complaint of sexual or related misconduct, or as the respondent, i.e. a person against whom such a report or formal complaint has been made and could possibly be a violation of prohibited sexual related misconduct under Policy 6.4.

This means that the Duty to Consult would apply to an instance where a faculty member is alleged to have sexually harassed a student but would not apply to an instance where a faculty member is alleged to have sexually harassed another faculty member. That said, the university very strongly encourages you to consult with the Title IX Coordinator or other appropriate university official if you learn of any possible violation of Policy 6.4, including prohibited discrimination or harassment involving any member of our community, even if the Duty to Consult does not require you to do so.

Furthermore, to trigger the Duty to Consult you are not being asked to be an investigator or even to be sure that the conduct shared with you occurred. The Duty to Consult is triggered simply by you learning information involving the student, that if true may be a violation of Policy 6.4 Sexual and Related Misconduct Prohibition.

All staff and faculty should maintain an individual's privacy to the greatest extent possible, but most also have the Duty to Consult with a Title IX Coordinator, with the important exception of the university's confidential resources, which include Cornell Health, both the medical and mental health providers, The Faculty and Staff Assistance Program, the Cornell United Religious Work Chaplains, The Advocacy Center of Tompkins County, The Cornell Victim Advocate, The Director of the Women's Resource Center, The Director of the LGBT Resource Center, and the University Ombudsman.

If an individual shares information with you that falls under the Policy 6.4 Duty to Consult, consulting with the Title IX Coordinator is easy. You can use the online incident form available on websites across the university, including @titleIX.Cornell.edu, and with the direct link available at Biasconcerns.cornell.edu. You can also call or email the Title IX Coordinator. If you are not sure if the information shared with you falls under the Duty to Consult, calling the Title IX Coordinator is a great first step to talk through any questions or concerns you may have.

For any instance that falls under the Title IX Coordinator Duty to Consult please be ready to share the name, date, time, location, and description of the incident to the extent known to you. This last phrase is a very, very important caveat. No one is asking members of our staff and faculty to become investigators. It is our experience that when a student comes to a member of the staff or faculty to share a difficult experience such as sexual or related misconduct the student is seeking you out because you may be able to provide them with crucial academic support, or because you are a trusted mentor.

In those roles you likely do not need to know much, if anything about the details of the misconduct. Please just be a kind active listener and then share what information you do have with the Title IX Coordinator.

It is important to address concerns and misconceptions about what does and does not happen when you consult with a Title IX Coordinator. First, what does not happen. When a staff or faculty member consult with a Title IX Coordinator it does not trigger a report to the police, contact with the student's parents, coaches, faculty, advisors, et cetera, or a formal complaint or notice to the other party. A formal complaint is the term that Cornell uses to describe a formal disciplinary process against a student, staff, or faculty member. This is distinct from what may colloquially be called a report, which is when member of the Cornell Staff and Faculty becomes aware of conduct, that if true may be a violation of Policy 6.4.

This is an important distinction. When the university receives a report we strongly support a complainant's desire for anonymity or a decision not to pursue resolution under Policy 6.4. If the complainant decides not to file a complaint the university will honor the request as long as doing so does not impact the university's ability to provide a safe and non-discriminatory environment. We take very seriously our institutional commitment to honor a complainant's request for anonymity or not to pursue a formal complaint under Policy 6.4.

It is equally important to know what does happen when you consult with a Title IX Coordinator. The complainant, or the reporting person if the complainant is unknown, receives information about their rights and options and available resources and support services. Generally this comes in the form of an email from the Title IX Coordinator, although if a student prefers the Title IX Coordinator may call them or work with a trusted staff or faculty member colleague to provide the information to the student on the Title IX Coordinator's behalf.

This is not an email saying, "I heard that you were sexually assaulted and you must come to the Title IX Coordinator's office tomorrow at three." Rather, it is an email that provides information and offers for, but does not require the individual to meet with the Title IX Coordinator to receive additional information about their rights and options and an opportunity to ask questions. Services and accommodations available to students include assistance accessing services such as counseling, advocacy, and medical services. Academic support and accommodations, job assignments and job related accommodations, changes to campus housing, and escorts or safety transport services on campus.

It is important to note that while this presentation focuses on how the Title IX Coordinator responds to complainants after you fulfill your Duty to Consult, all of these services are also equally available to respondents in the Policy 6.4 process. There are also protective measures that can be taken by the university upon receiving a report, including putting in place a no contact order, or in the case of a formal complaint there can be a temporary suspension of a respondent pending an investigation in limited circumstances.

Accommodations and protective measures are generally referred to collectively as interim measures. You can learn more about interim measures by going to titleIX.cornell.edu, and reviewing the information in the resources tab.

This section provides you with information that you must share with a student, as well as guidance for your conversation with a student who chooses to share an experience of sexual and related misconduct with you. First, communicate with the student about privacy. If a student comes to you and says they would like to share information with you but asks that you promise to keep that information absolutely secret or confidential, this is not a promise that most members of the staff and faculty can keep. Particularly not knowing what the student is going to say next.

The student could share with you that they were having suicidal thoughts, in which case you would follow your college's protocol for such reports. Or, a student could tell you that they just cheated on an exam, in which case you would likely feel compelled to take appropriate steps to maintain the academic integrity of the institution. That said, in an appropriate and caring manner communicate to the student that you will keep the information they share with you private to the greatest extent possible but depending on what they share you may need to consult with a trusted colleague, like for example the Title IX Coordinator if they share certain information about sexual or related misconduct.

We strongly encourage you to share this information in a way that is sensitive to the student and does not intentionally or unintentionally discourage them with speaking with you. They have likely come to you because you are a trusted mentor or an individual who may be able to immediately address an academic concern. Discouraging them from speaking with you may result in the student not accessing the resources that you and the university as a whole can provide. If the student insists that they will only speak to someone who can promise a greater degree of confidentiality, help the student access one of our many confidential resources.

Second, communicate with the student about their rights. Under New York State Law and Cornell Policy students have the right to make a report of criminal conduct to the Cornell University Police, local law enforcement, and, or, State Police, or to choose not to report, to report sexual and related misconduct to Cornell, or choose not to report the incident, to be protected by Cornell from retaliation for reporting the incident and to receive assistance and resources from the university. Put another way, a student may choose to report to the police and fully engage with the Criminal Justice System or may choose not to. Cornell will not make this decision for them.

A student may also choose to simultaneously fully participate in a formal complaint under Policy 6.4, or may choose not to. Knowing their rights and options can be very reassuring and empowering for a student. Our community members are adults and it is important that we treat them with respect and empower them to make the decision that is best for them.

Some key things to avoid if a student comes to you to share their experience of sexual and related misconduct include touching or hugging the student unless you are sure that they are comfortable with physical contact. In addition, you should avoid telling the student what to do, instead help them explore their own options so that they can make the decision that's right for themselves. You should also avoid asking probing or investigative questions. Even if you do not mean to do so such questions may lead an individual to feel as though you are blaming them for the conduct, or that you doubt the account that they have shared with you.

Also avoid using phrases or actions that express your own emotional response, own emotional response may be very natural in one of these circumstances. Showing your own anger or even sadness as a result of the account shared with you can be upsetting for the individual speaking with you and discourage them from sharing additional information with individuals who could provide support. Finally, it is important to avoid overreaching your own training. A counselor with expertise in treating individuals is more appropriate to help with the student's recovery than many of us as members of the staff and faculty can be.

As a corollary as things to avoid here are some best practices for a conversation with a student, including listening fully and allowing for silences. Asking a student how you can help rather than telling them what to do. Providing kind reassurance to the extent you feel able, this may be, for example, saying that the incident is not their fault. Your comfort level however is important. The university is not asking or expecting you to be making any determination on your own about whether an incident shared with you is prohibited conduct under Policy 6.4 and we recognize that you may know, like, or respect both the complainant and the respondent. You are of course welcome to your own opinions and conclusions about the conduct.

What is important at the time of the report is that you show appropriate compassion and kindness and do not engage in conduct to blame the person who has come to you. Another best practice is to work

with the Title IX Coordinator to connect the student to resources they may need immediately for their health and safety, or to preserve evidence including medical assistance, counseling, or connecting with law enforcement. You should support the student in making the decision about whom to tell and how to proceed.

Offer to accompany them in seeking medical care or counseling, or connecting with the police for example, but do not insist that they do so. Be aware that some individuals may appear to have their feelings in control, only to become extremely upset again within a short time. Accept that there are a wide range of feelings and experiences that a student may have including shock, denial, sleeplessness, intrusive memories or thoughts about the incident. Inability to focus, or feelings of guilt, despair, depression, fear, anxiety, self-blame, and anger. Each individual is different and you don't know at what point in their recovery they have come to speak with you.

Key resources available in our community include the Cornell University Police, the Title IX Coordinator, the Victim Advocate, the Faculty and Staff Assistance Program, Cornell Health, The Advocacy Center, and the Crisisline. For more information about additional available resources please go to titleIX.cornell.edu, and please do not hesitate to contact the Title IX Coordinator for questions or consultations about resources and reporting requirements.

Thank you for your attention to this program and please be in touch with the Office of the Title IX Coordinator with any questions.