

SEXUAL MISCONDUCT ADJUDICATION PROCESS: **For Students In The Public Health & Professional Degree Programs** **At Tufts University**

I. INTRODUCTION:

Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits discrimination on the basis of sex in educational programs as it effectively bars the victim's access to educational opportunities or benefits. Discrimination under Title IX includes sexual harassment, sex/gender discrimination, sexual assault, rape and other gender-based misconduct. Stalking and relationship violence can also constitute discrimination under Title IX when the conduct is gender-based. All of this conduct is generally referred to as "Sexual Misconduct." Tufts University is committed to investigating all allegations of Sexual Misconduct that are alleged to have happened against a person by a Tufts University student, faculty member, staff member, or anyone else affiliated with Tufts University. Sexual assault is a crime of violence that is never acceptable and will not be tolerated at Tufts University. The University is dedicated to the elimination of Sexual Misconduct within the Tufts community, and has adopted policies to that end, including a Sexual Misconduct/Sexual Assault Policy, a Sexual Harassment Policy, a Non-Discrimination Policy, and a Stalking Policy, all of which can be found on the website for the Office of Equal Opportunity <http://oeo.tufts.edu/>.

Any incidents or concerns regarding Sexual Misconduct should be reported immediately, even if the person(s) concerned about or harmed by the misconduct is unsure whether to pursue a disciplinary complaint through this process. Tufts is committed to assisting complainant/survivors of Sexual Misconduct through various support services available for students. Students who wish to receive confidential support services are encouraged to report Sexual Misconduct to Student Advisory and Health Administration Office (617-636-2700) and/or to seek medical attention. Students should contact the Tufts University Police Department (TUPD) if they have concerns about their safety or need transportation for medical services. Such conduct can also be reported to the any of the Sexual Misconduct (Title IX) Reporting Liaisons on your campus (Stacey Herman, *Friedman School*, Stacey.Herman@tufts.edu 617.636.3711; Janet Kerle, *School of Medicine*, Janet.Kerle@tufts.edu 617.636.6534; Robin Glover, *Public Health & Professional Degree Programs*, Robin.glover@tufts.edu 617 636-2497; Kathryn Vosker, *School of Dental Medicine*, Katherine.Vosker@tufts.edu 617.636.0887; and Kathryn Lange, *Sackler School of Graduate Biomedical Sciences*, Kathryn.Lange@tufts.edu 617.636.3737) who can assist in finding support services and explaining the different options for action inside and outside of the University. For a full listing of resources available both on and off campus please refer to <http://oeo.tufts.edu/resources/>

Complaints of Sexual Misconduct brought under this Process within the schools on the Tufts Health Sciences campus in Boston will be decided by a panel chosen from a pool of trained individuals from all of the schools/programs within the health sciences (School of Medicine,

School of Dental Medicine, Public Health & Professional Degree Programs, Friedman School of Nutrition Science & Policy and the Sackler School of Graduate Biomedical Sciences). Within the Public Health & Professional Degree Programs, complaints of Sexual Misconduct can be filed against students with the Intake Officer, Robin Glover (robin.glover@tufts.edu 617 636-2497). The University affirms the right of complainants/survivors of Sexual Misconduct to decide how to best use University resources, their school's judicial process and/or the criminal process to address these offenses. However, the University will *always* respond to allegations of Sexual Misconduct, to the best of its ability, to stop prohibited conduct, prevent its recurrence, and address any lingering effects on campus from the conduct, regardless of whether the complainant/survivor decides to proceed with a complaint. Retaliation against anyone who reports an incident, brings forward a complaint of Sexual Misconduct or who in anyway participates in an investigation into Sexual Misconduct is strictly prohibited. Any person responsible for or involved in retaliation will be subject to disciplinary action by the University.

II. **PRELIMINARY ISSUES/DEFINITIONS**

- A. **Jurisdiction:** Any person may utilize the Sexual Misconduct Adjudication Process to file a complaint of Sexual Misconduct against a Tufts student who is currently enrolled in, or on leave from, the Public Health & Professional Degree Programs regardless of where the alleged Sexual Misconduct occurred. The person filing the complaint is the *Complainant*. The student against who the complaint is filed is the *Respondent*. The Complainant need not be a Tufts student, although the majority of disciplinary charges brought against Tufts students are brought by other Tufts students. If the person bringing the complaint is not a current Tufts student and/or the alleged conduct did not occur on campus, at a University affiliated location or at a University sponsored event, the matter will be referred to the Title IX Coordinator (jill.zellmer@tufts.edu 617-627-3298) for a determination regarding whether the University will exercise jurisdiction over the matter. Although there is no geographical limitation to invoking this process, it should be noted that the greater the distance away from campus that the Sexual Misconduct is alleged to have occurred, the more difficult it may be for the University to investigate and address the conduct. In cases where Tufts has exercised jurisdiction, the University will investigate the incident of Sexual Misconduct to the best of its ability regardless of location.
- B. **Administrative Complaint:** The University may independently initiate a disciplinary complaint against a student under the Sexual Misconduct Adjudication Process. In this type of Administrative Complaint, the University will act as the complainant in the adjudication of a Sexual Misconduct complaint against a student. Such complaints will proceed under the processes outlined herein and may result in disciplinary action.
- C. **Timing of Complaints:** There is no time restriction on the ability to submit a complaint concerning Sexual Misconduct, so long as the Respondent is an enrolled student at Tufts. Students are encouraged to report allegations of Sexual Misconduct as soon as possible in

order to maximize the University's ability to conduct a thorough, impartial, and reliable investigation into the allegations.

- D. Intentional Presentation of False Information: Participants in the Sexual Misconduct Adjudication Process must present truthful and accurate information to the Panel, the Investigator, the Intake Officer and any other administrators involved in this Process. Knowingly making false statements or presenting inaccurate information is unacceptable and may result in a separate disciplinary action regarding that conduct. Please note that filing a complaint which the complainant genuinely believes is accurate, but which is ultimately dismissed due to insufficient evidence, does NOT constitute the intentional presentation of false information.
- E. Reporting Conduct/Leniency: Students may be concerned about reporting Sexual Misconduct believing that their own behavior might subject them to disciplinary action (e.g., a victim or witness was using alcohol or drugs at the time of the incident). Witnesses and victim/survivors should be assured that the focus in matters of Sexual Misconduct is always on the reported behavior, not on whether someone was using alcohol or drugs at the time. Individuals are encouraged to come forward and report such conduct regardless of the surrounding circumstances. In situations involving allegations of Sexual Misconduct, Tufts University will, to the extent allowed by applicable laws and University policy, seek to make the Sexual Misconduct allegation the primary focus of any investigation or disciplinary action, understanding that the University will exercise leniency regarding any secondary conduct violations. It should be noted that the use of alcohol or drugs does not excuse Sexual Misconduct and a person who has been incapacitated through the use of alcohol and drugs (or by any other means) cannot give effective consent to sexual activity.
- F. Right To Investigate And Decide Related Matters: The Fact-Finding Investigation and the Panel's Decision will not be restricted to the violations alleged in the disciplinary complaint. The Panel and the Investigator reserve the authority to pursue any additional potential violations of University Policy that have been identified through the Sexual Misconduct Adjudication Process Investigation. The Panel Chair will notify the parties of the new allegations, and will decide whether such allegations will be investigated by the Sexual Misconduct Adjudication Process Investigator or will be considered in another student judicial process.
- G. No Contact Between Participants: When the Intake Officer receives a complaint alleging Sexual Misconduct, a University "No Contact Order" will be issued barring any communication between the Complainant and the Respondent. This Order prohibits any attempt to contact or respond to any communication from the other party, either directly or through others (i.e. friends or family members). The Intake Officer will work with students involved in the Sexual Misconduct Adjudication Process to help facilitate the "No Contact Order" between the parties, so that they may attend classes and use University facilities as appropriate. In cases where a demonstrated violation of this Order has been shown, the responsible student may be separated from the University pending the final

resolution of the disciplinary complaint. Tufts Police are able to provide information and assistance to students who wish to seek a protective order from the courts.

- H. Interim Remedial Measures: The University will not automatically restrict a student from attending classes or participating in other University activities on the basis of a disciplinary complaint pending in the Sexual Misconduct Adjudication Process. However, the University does reserve the right to impose interim remedial measures at any time upon learning of an allegation of Sexual Misconduct, if the University has concerns about the safety of the Tufts community. Such measures may include, but are not limited to, restrictions regarding movement on campus, removal from University housing and/or removal from campus. The decision to impose interim remedial measures is made solely at the discretion of the Aviva Must, Dean of the Public Health & Professional Degree Programs. The University will also enforce any orders that are issued by the Courts of the Commonwealth of Massachusetts.
- I. No Retaliation: Retaliation against anyone who brings forward a complaint of Sexual Misconduct or who participates in this Process in any manner is strictly prohibited. Anyone responsible for retaliation or threats of retaliation, whether that person is the accused party or another person, will be subject to disciplinary action by the University. A party may also be responsible for retaliation by someone affiliated with them (i.e. a friend or family member). Retaliation should be reported promptly to the Intake Officer, Robin Glover (robin.glover@tufts.edu 617 636-2497) or the Panel Chair. Retaliation by a person not affiliated with the University may be addressed by the police.
- J. Witnesses: The Complainant and Respondent have the right to identify any individuals who may be witnesses to the conduct alleged in the disciplinary complaint. The parties should be aware that it is possible for both the Respondent and Complainant to list the same people to speak as witnesses on their behalf. Witnesses should only be encouraged to cooperate and to speak the truth. Witnesses should not be intimidated, threatened, or improperly influenced in any way by either party or through others (i.e. friends or family members). Any attempt to threaten, intimidate or to otherwise improperly influence the testimony of a witness will result in separate disciplinary action by the University.
- K. Support Person: Students involved in the Sexual Misconduct Adjudication Process as Complainants or Respondents may be more comfortable navigating the process with the help of a support person. A support person is someone whom the student trusts to provide advice and support during the process. A support person can be any person the student feels comfortable confiding in, and need not be affiliated with the University (i.e. a friend, a family member, a person from a support or advocacy agency). The support person does not participate in the process and, as such, cannot be a witness to the allegations in the complaint. He/she may accompany the student to any part of the adjudication process. He/she must agree to maintain the confidentiality of the process and agree to sign a Confidentiality/Non-Retaliation Acknowledgment. Attorneys may not serve as support persons.

- L. Confidentiality: Any information or written material related to a disciplinary complaint filed under the Sexual Misconduct Adjudication Process will be treated as confidential. Disclosure of such information by parties or witnesses to anyone other than the Panel, the Intake Officer, the Investigator, legal counsel, support persons and/or confidential counselors is strictly prohibited and may subject the person responsible for the disclosure to disciplinary action. Any person with whom confidential information is shared will be required to sign a Confidentiality/Non-Retaliation Acknowledgment. The Investigator, legal counsel, support persons, confidential counselors and any other authorized person with whom a student shares confidential information are prohibited from disclosing that information to others without the express written permission of the Panel Chair for the Public Health & Professional Degree Programs. Any disclosure of confidential information without written permission may subject the student who made the initial disclosure to disciplinary action. Accordingly, students should carefully consider the persons with whom they share information. Complainants or Respondents shall not share their statements with anyone not authorized to see it, at any time during the process.

These confidentiality obligations are intended to help protect the privacy of all participants, as well as the integrity of the disciplinary process. Participants should be aware that the University maintains the discretion to share confidential information internally, if necessary, to comply with its obligations regarding campus safety and Title IX. If a student participant in this process is also enrolled with another institution, the University may be required to disclose information regarding the pending complaint to that organization. In either situation, such disclosures will be made in the most limited manner possible and the recipients will be advised that the information must be maintained in a confidential manner.

Confidentiality will remain in full force even after the conclusion of the disciplinary case, with the exception of generic reporting of the case and its outcome to the community and in the University's annual unified crime report.

Students with questions or concerns about the persons with whom they may disclose information should consult with the Intake Officer, Robin Glover (robin.glover@tufts.edu 617 636-2497) or the Panel Chair for the Public Health & Professional Degree Programs, John Matias (john.matias@tufts.edu, 617.636.6568).

- M. Attorneys: Although not necessary, the Complainant and Respondent have the right to seek the assistance of a private attorney, at their own expense, regarding a disciplinary complaint. An attorney for a party may inquire with the Intake Officer, Robin Glover (robin.glover@tufts.edu 617 636-2497) regarding the pending complaint. However, attorneys will not be permitted to be present or to participate in the Fact-Finding Investigation or any other stage of the Sexual Misconduct Adjudication Process.
- N. Criminal Conduct: When a disciplinary complaint involves allegations which may also constitute criminal conduct, participants are advised to seek legal counsel before making

any written or oral statements. This Sexual Misconduct Adjudication Process does not attempt to create a courtroom environment and attorneys for students are not permitted to participate in the process. However, participants should seek legal advice about how this disciplinary process could impact any criminal case in which they are or may become involved. The University will conduct its own investigation and adjudication of a disciplinary complaint, regardless of whether the alleged Sexual Misconduct is also being pursued through the criminal justice system.

- O. Admissibility of evidence: The Fact-Finding Investigation process is intended to arrive at the truth of the matter, without the formalities associated with rules and procedures specifically designed by lawyers to manage courtroom litigation. Students can address issues and present documents to the Investigator without concerns about admissibility. It should be noted that if the Investigator determines that the issues raised and/or documents presented are relevant and probative of whether the alleged conduct occurred, then, in the interest of fairness, that information will be disclosed to the opposing party.
1. *Sexual History*: In a case of Sexual Misconduct, the past sexual history of the Complainant and/or the Respondent, with others, will NOT be used in determining whether the alleged Sexual Misconduct occurred. Prior consensual sexual activity between the two parties will not be determinative of the issue of consent in the pending disciplinary complaint. Consent to one sexual act does not constitute consent for another sexual act.
 2. *Medical and Counseling Records*: Medical and counseling records are privileged and confidential documents that students will never be required to disclose in the Sexual Misconduct Adjudication Process. Medical and counseling documents being privileged means that they cannot be disclosed by the treating professional unless the patient agrees to disclosure. ***Students should be aware that there are legal implications to agreeing to produce privileged records.*** Students are encouraged to seek advice from a knowledgeable source about the possible consequences of releasing this information. A list of additional resources that can provide information regarding this topic can be found at <http://ase.tufts.edu/healthed/topicsSexual.htm> under legal resources.

A Complainant/Respondent who, after due consideration, believes that his/her own medical or counseling records would be helpful in determining whether Sexual Misconduct occurred, has several options for *voluntarily* presenting this information:

- a. The Complainant/Respondent can voluntarily decide to present his/her own medical or counseling records to the Investigator as part of the documents which he/she would like to have the fact-finder consider in deciding the disciplinary complaint. Please note that if a party decides to produce such records, they must be produced in their entirety. The production of excerpts or selected documents is inappropriate and will not be considered;

- b. On occasion, the Investigator may ask the Complainant/Respondent to voluntarily agree to provide these records if the Investigator believes that such documentation exists and that it would be helpful in deciding the disciplinary complaint. A party is under **no obligation** to provide this information and may simply say “no” to this request. A party has a right to refuse to provide these records and that refusal is completely acceptable. Prior to responding to such a request, a party is encouraged to consult with his/her support person about the implications of agreeing to or denying the request. Please note that if a party does decide to produce such records, they must be produced in their entirety. The production of excerpts or selected documents is inappropriate and will not be considered.
- c. The Investigator may ask a Complainant or Respondent to voluntarily provide a verification of therapeutic or medical services to confirm simply that such treatment occurred, but not providing any details regarding that treatment.

On rare occasions, a person may be in possession of the medical and/or counseling records of another party or witness. Such records can only be presented to the Investigator under the following circumstances: (i) the person can show that the records are relevant to the pending disciplinary complaint; (ii) the person can document or otherwise prove that the records were legally obtained; and (iii) the records can be authenticated. Failure to meet all of these conditions means that the records will not be considered in the determination regarding Sexual Misconduct.

- P. Effect of Pending Complaint on Respondent: If the Respondent withdraws from the University while a disciplinary complaint is pending under the Sexual Misconduct Adjudication Process, a permanent notation will be placed on the Respondent’s student transcript stating “Student Withdrew with Disciplinary Charges Pending.” A student who leaves under these circumstances will not be eligible to return to the University. A Respondent cannot receive a degree while there is a pending, unresolved disciplinary complaint against them, or until their status in the University is restored to good standing.
- Q. Parental Notification: Since the University views students as adults, parents and guardians will not be notified when a disciplinary complaint is filed under the Sexual Misconduct Adjudication Process. Students are encouraged to inform their parent(s) or guardian(s) if they are involved in a disciplinary complaint and can refer them to the Intake Officer, Robin Glover (robin.glover@tufts.edu 617 636-2497) if they have questions.
- R. Office of Equal Opportunity/ Title IX: Under Title IX, Sexual Misconduct (which includes sexual harassment, sexual discrimination, rape, sexual assault and/or gender-based relationship violence or stalking) is prohibited. Pursuant to its obligations under Title IX, the University will make an inquiry into all allegations of Sexual Misconduct of which it becomes aware, regardless of whether a disciplinary complaint has been filed. The Office of Equal Opportunity (OEO), the Title IX Coordinator and the Investigator act as the neutral fact-

finding body responsible for making inquiries into allegations of conduct that may violate Title IX (oeo@tufts.edu; 617-627-3298). As such, it is possible that the parties may have been interviewed by OEO prior to a formal complaint having been filed. OEO will act as the Fact-Finding Investigators for all cases of Sexual Misconduct brought under the Sexual Misconduct Adjudication Process. Upon the initiation of a Fact-Finding Investigation by Intake Officer under this process, the Investigator will review any information previously obtained through an inquiry (if made), in light of the information provided through the statements of the parties regarding the complaint. The Investigator will then conduct any additional investigation that is necessary to address the allegations of the complaint. The Investigator will include all relevant findings from the investigation in the Investigation Report submitted to the Panel. OEO will only appoint investigators who have been specially trained to address issues of sexual misconduct.

- S. Decision-Making Panel: Under the Sexual Misconduct Adjudication Process for the Public Health & Professional Degree Programs, the final decision regarding the disciplinary complaint will be made by a Panel of three individuals. This Panel will consist of two administrators from the Tufts Health Sciences Campus and a Panel Chair from the Respondent's school. The two individual panelists will be chosen from a pool of ten administrators who represent all of the schools within the Tufts Health Sciences campus in Boston (School of Medicine, School of Dental Medicine, Public Health & Professional Degree Programs, Friedman School of Nutrition Science & Policy and the Sackler School of Graduate Biomedical Sciences). Each school will identify two standing members for this panel pool, all of whom will be specially trained in the adjudication of Sexual Misconduct. The Panel Chair will be from the Respondent's school, unless there is a conflict. The two other panelists from this pool will be chosen by the Title IX Coordinator. The Coordinator will attempt, if possible, to include a representative from each of the schools in which the parties are enrolled. Either party has the right to raise any concerns he/she might have regarding a possible conflict of interest with any of the Panel members who have been assigned to the matter. In the event that the Panel Chair or one of the administrators has a conflict of interest, they may recuse themselves from the Panel. The Title IX Coordinator will then choose another trained member from the panel pool to sit in the place of the original panelist. If the Panel Chair has recused him/herself, the Panel members will select a Panel Chair to act in his/her stead. Decisions regarding the composition of the Panel are made at the sole discretion of the Title IX Coordinator and the Panel members.

III. THE SEXUAL MISCONDUCT ADJUDICATION PROCESS

- A. Filing a Disciplinary Complaint
1. Complainant's Statement
 2. Complaint Form
 3. Confidentiality/Non-Retaliation Acknowledgment

- B. Responding to a Disciplinary Complaint
 - 1. Initial Meeting/ Confidentiality/Non-Retaliation Acknowledgment
 - 2. Pre-Fact-Finding Resolution of Complaint/ Acceptance
 - 3. Respondent's Statement

- C. Fact-Finding Investigation
 - 1. Document Review
 - 2. Party Interviews
 - 3. Witness Interviews
 - 4. Expert Witnesses

- D. Investigation Report

- E. Pre-Decision Conference

- F. Withdrawal/Acceptance of Charges
 - 1. Complainant May Withdraw Complaint
 - 2. Respondent May Accept Responsibility
 - 3. Respondent May Withdraw

- G. Panel's Decision

- H. Appellate Process
 - 1. Procedural Error
 - 2. New Evidence
 - 3. Severity of The Disciplinary Action

- I. Conclusion of the Case
 - 1. Document Retention
 - 2. Notification to the Tufts Community
 - 3. Internal Reporting

This is the adjudication process under which allegations of Sexual Misconduct will be resolved within the Public Health & Professional Degree Programs of Tufts University. This document only addresses the internal process within the Public Health & Professional Degree Programs. Under ordinary circumstances, the Sexual Misconduct Adjudication Process should be completed within 60 to 90 days from the receipt of the disciplinary complaint. Forms for use with the Sexual Misconduct Adjudication Process can be obtained from the Intake Officer, Robin Glover (robin.glover@tufts.edu 617 636-2497) and can be found on the Public Health & Professional Degree Programs website at <http://publichealth.tufts.edu/Student-Services/Student-Forms>. Students also may have legal remedies available outside of Tufts, including filing charges with the police, filing a civil action and/or filing an administrative action.

Tufts University recognizes that the decision about whether to bring a disciplinary complaint against another student can be complicated and challenging. Nevertheless, students should know that all complaints will be taken seriously and will be investigated.

A. Filing A Disciplinary Complaint

A person who has experienced an incident of Sexual Misconduct, including sexual harassment, sexual discrimination, sexual assault, relationship violence, stalking and any other gender-motivated misconduct committed by a Tufts student, may file a complaint against the Public Health & Professional Degree Programs student responsible for that conduct. Complaints should be filed with the Intake Officer:

Robin Glover
Biomedical Research & Public Health Bldg
M & V Wing
136 Harrison Ave
Boston, MA
617 636-2497
robin.glover@tufts.edu

The individual bringing the allegation is called the *Complainant*. The Complainant will be asked to submit a statement to initiate the disciplinary complaint. The Complainant's Statement should be signed, dated, and submitted to the Intake Officer. Email submission of the Complainant's Statement directly to the Intake Officer, Robin Glover (robin.glover@tufts.edu 617 636-2497) is also acceptable.

1. **Complainant's Statement:** To file a disciplinary complaint against a student, the Complainant must submit a written statement detailing the allegations of the Sexual Misconduct. This statement is the first opportunity for the Complainant to describe the allegations against the accused student. The statement should communicate the Complainant's full account of the event and its context, as well as the Complainant's reflections. To facilitate the process, the Complainant should:

-Tell the story in full. Relate in full the facts of the incident as you recall them. Take care to distinguish between what you saw, heard, or experienced first-hand from what you may have learned later from others.

-Describe the context. It is important for you to give your perception of the Respondent's conduct and the context in which the incident occurred, including its location, and any witnesses to it.

-Reflect on the event. It is helpful for you to provide any conclusions you have drawn about the incident, stating clearly why you believe the Respondent's actions may have violated University policy.

The Complainant's Statement should include the name of the accused student, the date and location of the alleged Sexual Misconduct and the details of the alleged misconduct. This statement should provide as much information as possible about the facts surrounding the alleged Sexual Misconduct.

A descriptive list of all sources of information (e.g., witnesses, correspondence, records, etc.) should be attached to the Complainant's Statement. This list should include information which the Complainant believes should be considered in deciding this disciplinary complaint, along with a brief explanation of why this information would be relevant and helpful to the process. Please identify the sources and/or location of this supporting information but do not attempt to obtain this information yourself. The Investigator will solicit any relevant statements or documents referenced through this process.

The Complainant's Statement is one of the most important documents to be considered in the Sexual Misconduct Adjudication Process. Once submitted, the Complainant's Statement may not be amended. The statement must be written by the Complainant. It is unacceptable for a Complainant to submit a statement written by others, including parents, support persons, or attorneys. However, Complainants are encouraged to share a draft of the statement with a support person who is well-positioned to discuss, among other matters, the statement's style, organization, length, and clarity, while also anticipating questions it may raise for the fact-finder. The Complainant will be required to sign a statement verifying that he/she wrote the Complainant Statement.

The accused student, or *Respondent*, will not be allowed to see the Complainant's Statement until **after** he/she has filed their statement in response. Once the Respondent has submitted his/her statement, they will be given a copy of the Complainant's Statement. The Complainant will also be given a copy of the Respondent's Statement.

2. *Complaint Form:* In addition to the Complainant's Statement, the Complainant will be asked to complete a less detailed Complaint Form. This document will contain basic information about the complaint made against the accused student, such as the time, date, location, and brief description of the allegations underlying the disciplinary complaint. This Complaint Form must contain sufficient detail to permit the Respondent to understand the charges being brought and to be able adequately respond. The Respondent will be given access to the Complaint Form **prior** to filing his/her written response statement.

3. *Confidentiality/Non-Retaliation Acknowledgment:* The Complainant will be required to sign a Confidentiality/Non-Retaliation Acknowledgment, agreeing not to disclose or discuss anything relating to the disciplinary complaint with anyone other than those authorized to see such information under this process. The Complainant will still be able to discuss the facts underlying the subject the disciplinary complaint with counselors, other therapeutic professionals, friends and family. However, the Complainant should refrain from discussing the disciplinary complaint itself and/or the adjudication process. Through this Acknowledgment, the Complainant also agrees to refrain from any retaliatory conduct against the Respondent or any witnesses in the matter, as discuss under Section II, Paragraph I, and may be responsible for any retaliation by persons affiliated with the Complainant (i.e. a friend or family member).

B. Responding To A Disciplinary Complaint

The person against whom the disciplinary complaint is brought is called the *Respondent*. The Respondent shall be given written notification when a disciplinary complaint has been filed against him or her.

1. *Initial Meeting/ Confidentiality/Non-Retaliation Acknowledgment:* Within **five (5) business days** of receiving notice of the disciplinary complaint, the Respondent must meet with the Intake Officer, Robin Glover (robin.glover@tufts.edu 617-636-2497). At this meeting, the Intake Officer will provide the Respondent with a copy of the Complaint Form, discuss the nature of the complaint, explain the rights and responsibilities of the Respondent, explain the prohibition against retaliation, explain the Sexual Misconduct Adjudication Process and give the Respondent a copy of the relevant policies. Prior to reviewing the Complaint Form, the Respondent will be required to sign a confidentiality/non-retaliation acknowledgment, agreeing not to disclose or discuss anything relating to the disciplinary complaint with anyone other than those authorized to see such information under this process. Through this Acknowledgment, the Respondent also agrees to refrain from any retaliatory conduct against the Complainant or any witnesses in the matter, as discuss under Section II, Paragraph I and may be responsible for any retaliation by persons affiliated with the Respondent (i.e. a friend or family member). Refusal/failure by the Respondent to meet and cooperate with the Intake Officer or the Investigator regarding this matter or to sign the Confidentiality/Non-Retaliation Acknowledgment, as determined by Aviva Must, Dean of the Public Health & Professional Degree Programs (Aviva.must@tufts.edu, 617-636-0446), may result in either (1) an automatic suspension of the Respondent from the University and/or (2) the adjudication of the disciplinary complaint without input from the Respondent.
2. *Pre-Fact-Finding Resolution of Complaint/Acceptance:* After reviewing the Complaint Form and meeting with the Intake Officer, the Respondent has the right to end the Sexual Misconduct Adjudication Process by accepting responsibility for the conduct

alleged in the Complaint Form. If the Respondent accepts responsibility for the conduct alleged in the Complaint Form, the process would not proceed to the Fact-Finding Investigation phase. Instead, the matter would be referred to Aviva Must, the Dean of the Public Health & Professional Degree Programs who would then convene the Panel to decide the issue of the appropriate disciplinary action against the Respondent. The Panel may take the Respondent's acceptance of responsibility into consideration in determining the appropriate sanction. Once the Respondent accepts responsibility, such acceptance cannot be withdrawn. A written finding of the accepted complaint and the resulting disciplinary action will be issued by the Panel Chair, which will become part of the Respondent's student records and will be shared with the Complainant. If the Respondent does not wish to participate in this resolution process, then he/she will need to prepare a Respondent's Statement as noted below. The Respondent must decide whether he/she would like to utilize this resolution process before expiration of the seven (7) business days for submitting the Respondent's Statement.

3. *Respondent's Statement:* Like the Complainant, the Respondent will be asked to provide a written response to the information contained in the Complaint Form. The Respondent's Statement must be submitted to the Intake Officer within **seven (7) business days** after the meeting between the Respondent and the Intake Officer. The Respondent's Statement should contain the Respondent's full recollection of the alleged incident. This statement is the Respondent's first opportunity to respond to the allegations made by the Complainant. The statement should communicate the Respondent's recollection of the event and its context, as well as the Respondent's reflections:

-Tell the story in full. Relate in full the facts of the incident as you recall them. You should take care to distinguish between what you saw, heard, or experienced from what you may have learned later from others.

-Describe the context. It is important for you to give your perception of the Complainant and the context in which the alleged incident occurred, including its location, and any witnesses to it.

-Reflect on the event. It is helpful for you to provide any conclusions you have drawn about the incident and/or complaint, stating clearly why you believe that your actions have not violated University policy.

A descriptive list of all sources of information (e.g., witnesses, correspondence, records, etc.) should be attached to the Respondent's Statement. That list should include information which the Respondent believes should be considered in deciding the disciplinary complaint, along with a brief explanation of why this information would be relevant and helpful to the process. Please identify the sources and/or location of this supporting information but do not attempt to obtain the information yourself. The

Investigator will solicit relevant statements or documents referenced through this process

The Respondent's Statement will be one of the most important documents to be considered in the Sexual Misconduct Adjudication Process. Once submitted, the Respondent's Statement may not be amended. The statement must be written by the Respondent. It is unacceptable for a Respondent to submit a statement written by others, including parents, support persons, or attorneys. However, Respondents are encouraged to share a draft of the statement with a support person who is well-positioned to discuss, among other matters, the statement's style, organization, length, and clarity, while also anticipating questions it may raise for the fact-finder. The Respondent will be required to sign a statement verifying that he/she wrote the Respondent's Statement. Once the Respondent has submitted his/her statement, they will be given a copy of the Complainant's Statement. The Complainant will also be given a copy of the Respondent's Statement.

C. Fact-Finding Investigation

After both parties have submitted their statements, Intake Officer will initiate a Fact-Finding Investigation, utilizing the University's neutral investigators within the Office of Equal Opportunity (OEO). During the course of the investigation, the Investigator may utilize some or all of the following procedures, in whatever order the Investigator deems most appropriate. The scope of the Fact-Finding Investigation will not be limited to information provided by the parties or to the violations outlined in the disciplinary complaint. In all cases, the Investigator will conduct an adequate, reliable, and impartial investigation into the allegations of the disciplinary complaint. Parties and witnesses will make themselves reasonably available to the Investigator. Refusal by a person to cooperate with the Investigator in the Fact-Finding Investigation, as determined by Aviva Must, Dean of the Public Health & Professional Degree Programs (Aviva.must@tufts.edu, 617-636-0446), may result in disciplinary action against the person refusing to cooperate. Under ordinary circumstances, the Fact-Finding Investigation should be completed within 30 to 45 days after the Respondent's Statement has been received.

1. Document Review: Once statements have been submitted by the parties, the Investigator will review the statements and all of the supporting material referenced. The Investigator will then attempt to obtain any documents or other materials deemed relevant to the investigation. Any documents or information deemed to be material to the findings regarding the disciplinary complaint or any other violations will be disclosed to both parties for comment or rebuttal.
2. Party Interviews: The Investigator will interview the Complainant and the Respondent separately. This meeting is an opportunity for the participant to discuss his/her recollection of the event in question, supplement any written statements already submitted, voice any concerns, and to work with the Investigator to determine what

information may helpful in the investigation of the allegations. Parties may also discuss the impact that this experience has had on them. All of the materials provided to the Investigator by either the Complainant or the Respondent will be disclosed to the other party in advance of their respective interviews, including the complete statement of the other party. The Investigator may interview the parties more than once, as necessary. The Complainant's or Respondent's support person may accompany him/her to all the meetings with the Investigator but may not participate in the conversation. Prior to attending any interviews, the support person will be required to sign a Confidentiality/Non-Retaliation Acknowledgment, agreeing not to disclose or discuss anything relating to the disciplinary complaint with anyone other than those authorized to see or hear such information under this process. At the conclusion of the interview, the parties are permitted to make an optional closing statement.

3. *Witness Interviews:* The Investigator will attempt to contact and interview any witnesses identified by the parties that the investigator deems to be relevant to the resolution of the disciplinary complaint. Witnesses may not bring support persons to their interviews. Prior to being interviewed, a witness will be required to sign a Confidentiality/Non-Retaliation Acknowledgment, agreeing not to disclose or discuss anything relating to the disciplinary complaint and their interview with anyone. Through this Acknowledgment, the witness will also agree to refrain from any retaliatory conduct against the parties or any witnesses in the matter, as discuss under Section II, Paragraph I and will prevent any retaliation by persons affiliated with them (i.e. a friend or family member). The Investigator will employ best efforts to interview relevant witnesses who are no longer on campus or in the Boston area, attempting to contact them by phone and/or internet.
4. *Expert Witnesses:* The Investigator reserves the right to consult with any experts which he/she deems necessary to the determination of the facts of this case. An expert witness could be consulted to review or provide a professional opinion regarding evidence discovered in the Fact-Finding Investigation.

D. Investigation Report

Once the Fact-Finding Investigation has been completed, the Investigator will evaluate the information obtained during this process. The Investigator will prepare a report summarizing and analyzing the relevant facts received through the investigation, noting any supporting documentation or statements. The Investigator may draw conclusions regarding the credibility of witnesses and reliability of documentation. The Investigator will present the Investigation Report to the Panel Chair. Under ordinary circumstances, the Investigation Report should be submitted within 15 days of the completion of the Fact-Finding Investigation. The Investigation Report will not be shared with the parties. It will only be shared with the Panel.

E. Pre-Decision Conferences

As discussed in Section II, Paragraph S, a Panel will be assembled to act as the final decision-maker in the Sexual Misconduct Adjudication Process. The Panel will have the ultimate responsibility to determine whether University policy has been violated. The Panel will base its decision on the facts presented in the Investigation Report. Upon receipt of the Investigation Report, the Panel will meet and review the document. After reviewing the Investigation Report, but prior to making the Panel's Decision, the Panel Chair will schedule a Pre-Decision Conference with the Complainant and the Respondent *separately*. These conferences will be scheduled within seven (7) business days after the receipt of the Investigation Report by the Panel. During the Pre-Decision Conference, the Panel Chair will provide each party with an overview of the Investigation Report, noting the facts from which conclusions will be drawn in the Panel's Decision. The Panel Chair will also discuss any investigative findings relating to policy violations found beyond those noted in the disciplinary complaint. At this time, each party will have an opportunity to comment on and respond to the information presented and provide any additional information that should be considered prior to a decision being rendered regarding the disciplinary complaint. The parties must provide any rebuttal statements, document or other new information regarding the sources of potentially relevant information and/or witnesses within 24 hours of their meeting with the Panel Chair.

After meeting with the parties, the Panel will review any additional information submitted for consideration. The Panel may determine that additional inquiry is needed in order for a decision to be rendered regarding the disciplinary complaint. If so, the Panel may ask OEO to conduct a Supplemental Fact-Finding Investigation regarding the areas of concern. The Investigator will focus any additional investigation on the specific inquiries made by the Panel. The Investigator will then prepare and submit a Supplemental Investigation Report addressing the findings as to the issues raised by the Panel. Under ordinary circumstances, any additional investigation and Supplemental Investigation Report should be completed and submitted to the Panel within 30 days of the request for Supplemental Fact-Finding. The Panel Chair reserves the right to schedule a subsequent Pre-Decision conference to address the findings from the supplemental investigation with the parties separately, should s/he deem, at his/her discretion, that such a meeting would be helpful to the process.

F. Withdrawal/Acceptance of Charges

1. *Complainant May Withdraw the Complaint:* Prior to the Panel's Decision, the Complainant may withdraw the disciplinary complaint. Withdrawal of the Complaint will, under most circumstances, end the Sexual Misconduct Adjudication Process for that complaint. Once a complaint has been withdrawn, it cannot be filed again by the Complainant within this Process. The University reserves the right to move forward with the disciplinary complaint, even after the Complainant decides to withdraw it, at

the request of the Respondent or in order to protect the interests and safety of the Tufts community.

2. *Respondent May Accept Responsibility:* Prior to the Panel's Decision, the Respondent may accept responsibility for the Sexual Misconduct alleged in the disciplinary complaint. This acceptance, under most circumstances, will end the Sexual Misconduct Adjudication Process and the matter would be referred to Aviva Must, the Dean of the Public Health & Professional Degree Programs, who would then convene the Panel to decide the issue of the appropriate disciplinary action against the Respondent. In deciding the appropriate sanction, the Panel may take the Respondent's acceptance of responsibility into consideration. Once the Respondent accepts responsibility, such acceptance cannot be withdrawn. A written finding of the accepted complaint and the resulting disciplinary action will be issued by the Panel Chair and will become part of the Respondent's student records and will be shared with the Complainant.
3. *Respondent May Withdraw:* At any time up until three (3) days after the Pre-Decision Conferences, the Respondent has the right to withdraw as a student from Tufts University. In such a case, the Respondent will leave the University with the notation "Student Withdrew with Disciplinary Charges Pending" on his/her student transcript. After withdrawing, the Respondent will not be eligible to return to the University. A Respondent's withdrawal will end the Sexual Misconduct Adjudication Process for that complaint. On the fourth (4th) day after the Pre-Decision Conference, the Respondent will no longer be allowed to withdraw, and the pending Panel's Decision and disciplinary action will determine his/her status with the University.

G. Panel's Decision

Upon determining that all of the issues regarding the disciplinary complaint have been fully investigated and adequately addressed, the Panel will issue its Panel's Decision. The Panel will apply the preponderance of the evidence standard -- that is whether the facts presented in the Investigation Report support a finding that it is more likely than not that a University policy has been violated. The decision of the Panel will be reached by a majority. The Panel will base its decision solely on the information presented in the Investigation Report and any Supplemental Investigation Report. Under ordinary circumstances, the Panel's Decision will be issued, in writing, within seven (7) business days after the Pre-Decision Conferences and/or the receipt of any Supplemental Investigation Report. The Panel Chair will draft the written decision of the Panel.

The Panel may issue one of the following decisions:

- A finding that a University policy was *violated*. The Panel will then impose the appropriate disciplinary action (probation, suspension, expulsion).

- A finding that a University policy was not violated as there is insufficient information to substantiate the allegations of the disciplinary complaint. The Panel will then dismiss the disciplinary complaint.

Once the Panel's Decision has been issued, both the Complainant and the Respondent will be notified by the Panel Chair. Each party will receive a copy of the Panel's Decision, referencing the supporting information that the Panel relied on from the Investigation Report. The Panel's Decision is a confidential document that can only be shared with authorized persons as noted in this process (i.e. support persons, attorneys, counselors). Anyone disclosing the Panel's Decision to a person not authorized to see it shall be subject to disciplinary action. If the Panel's Decision results in disciplinary action which includes a separation from campus, that sanction will be imposed immediately regardless of whether an appeal has or will be filed.

H. Appellate Process

Both the Complainant and Respondent are entitled to appeal a Panel's Decision issued through the Sexual Misconduct Adjudication Process. The person filing the appeal is the *Appellant*. An appeal must be filed, in writing, within **ten (10) business days** of the notification of the Panel's Decision. The opposing party will be notified if an appeal has been filed.

Appeals should be filed with the Intake Officer:

Robin Glover
Biomedical Research & Public Health Bldg
M & V Wing
136 Harrison Ave
Boston, MA
617 636-2497
robin.glover@tufts.edu

The appeal will be considered by an impartial decision-maker body consisting of Harris Berman, Dean of the Tufts Medical School. In considering the appeal, the appellate body will be given the appeal, the statements of the Complainant and Respondent, and the Panel's Decision to review.

There are only three grounds on which a Panel's Decision can be appealed:

1. ***Procedural Error***: The Appellant alleges that there was a deviation or change from the procedures outlined in the Sexual Misconduct Adjudication Process which adversely impacted the outcome of the hearing. If the appellate body determines that there was a procedural error which could have altered the outcome of the case, the matter will be remanded to the Panel for a determination regarding the impact of the procedural error on the outcome of the complaint.

2. *New Evidence*: The Appellant alleges that, subsequent to the issuing of the Panel's Decision, new evidence became available which would have impacted the outcome of the disciplinary complaint. The Appellant must: (i) present the new evidence; (ii) show why it was unavailable prior to the Panel's Decision; and (iii) show that the new evidence could have altered the outcome of the complaint. The opposing party will be given an opportunity to rebut these assertions by the Appellant. If the appellate body determines that there is evidence that meets these requirements, it will remand the matter to the Panel for investigation and review in light of the new evidence.
3. *Severity of The Disciplinary Action*: The Appellant alleges that the disciplinary action issued in the Panel's Decision is inconsistent with the type of discipline issued to others who were found to be responsible for substantially similar violations or offenses. If the appellate body determines that that disciplinary action was inconsistent with discipline for similar violations, it will remand the matter to the Panel for reconsideration of the sanction.

The written appeal must specifically state the grounds under which the appeal has been filed and must be submitted within the 10 day time limit. The appeal must set forth the information/evidence to support the appeal. Appeals which do not comply with these requirements may not be considered. The appeal is not an opportunity to argue that the initial decision was wrong. The appeal is not a new fact-finding process.

I. Conclusion of the Case

1. *Document Retention*: After the Panel's Decision has been issued, and after all appeals by the parties have been exhausted, all materials created by or reviewed by the Panel, Dean and/or the Investigator will be destroyed except for the Investigation Report and the Panel's Decision. OEO will maintain its investigative files for purposes of Title IX compliance. All of these retained documents will be maintained by the University in a safe and confidential manner. If the allegations which are/were the subject of the disciplinary complaint appear to be moving toward litigation, all of the documentation relating to the disciplinary complaint will be preserved until the litigation is resolved.
2. *Notification to the Tufts Community*: Under certain circumstance, the nature and outcome of a disciplinary complaint may be relevant to the Tufts community. In such circumstance, Aviva Must, the Dean of the Public Health & Professional Degree Programs may provide a summary of the factual circumstances and the findings of the case for reporting purposes. Due to the confidential nature of proceedings under the Sexual Misconduct Adjudication Process, identifying information regarding the parties or witnesses will not be disclosed.
3. *Internal Reporting*: Once a final resolution has been reached, whether through a Panel Decision or by acceptance of responsibility, that disciplinary decision will become a

permanent part of the Respondent's student records. As such, the outcome of this disciplinary adjudication will be available to the Dean and Associate Dean of the Public Health & Professional Degree Programs for consideration.