

**Sponsored by: \_\_\_\_, Codes and Judicial Committee**

**Whereas,** the United States Department of Education’s Office of Civil Rights (OCR) issued a “Dear Colleague” letter on April 4, 2011 (the OCR letter), clarifying what it believes Title IX of the Education Amendments of 1972 and its implementing regulations require of schools receiving federal education money, including Cornell, in regard to resolution of grievances involving sexual harassment, including sexual violence, in the school community;

**Whereas,** the University Assembly (the Assembly) addressed some of the resulting issues, on an emergency basis, through an amendment to the Campus Code of Conduct (the Code) on May 17, 2011, and it also committed to having its Codes and Judicial Committee (the CJC) address all the issues promptly in the current academic year;

**Whereas,** Cornell provides grievance procedures set out in its University Policy 6.4 separate from the Code, with the Policy aimed at providing equal opportunity through civil-style remedies in pursuit of *systemic* amelioration, correction, and compensation, and the Code being an *individualized* disciplinary system based on a respect for rights;

**Whereas,** the CJC has determined that revising Cornell’s somewhat unrefined and inconsistent *grievance* procedures is long overdue and that reconciling them with the recommendations of the OCR letter requires an extensive overhaul--with the special aim of facilitating sexual-harassment grievances against the University and its officials for failure to meet their obligations under federal law, while doing so without extending University Policy 6.4’s coverage to the discipline of students;

**Whereas,** the CJC has determined that the OCR letter does not require changes to the Code’s *disciplinary* procedures for the investigation and resolution of disputes involving sexual harassment, but that some changes to those procedures are nevertheless desirable; and

**Whereas,** Princeton University, after careful study, has taken just this path of strengthening the mechanism for grieving against the university (where the standard of proof is the so-called preponderance of the evidence standard), while making minor changes to the disciplinary code (where the standard of proof remains the clear and convincing evidence standard), http://paw.princeton.edu/issues/2011/11/16/pages/4526/index.xml;

**Be it therefore resolved,** that as responsible university officials designated by the President to revise University Policy 6.4 conduct their work, the Assembly will engage in the revision as a stakeholder under the terms of University Policy 4.1;

**Be it further resolved,** that the amendment to the Code of May 21, 2011 (the provision “that, in cases of sexual violence and sexual harassment (as identified in Sections 1(A) and 1(C)) arising under the Campus Code of Conduct, the standard of proof will be preponderance of evidence and all rights of appeal afforded to the accused will also be afforded to the complainant" and its cross-referencing footnotes) be repealed; and

**Be it further resolved,** that the Code be amended in the following particulars:

* Add a new subsection at the end of Title Two-IV-C: “6. Training of the members of the University Hearing Board and University Review Board pool will include special training in handling complaints of sexual harassment, abuse, assault, or rape.”
* Add before the period in Title Three-III-E-3-a(1): “, except that in cases of sexual harassment, abuse, assault, or rape the victim or the accused may opt for a Hearing Panel composed of three faculty members and two nonfaculty employees drawn from that pool”;
* Add a new fifth sentence to Title Three-III-E-3-b(6)(c): “In particular, to avoid the risk of intimidation in cases of sexual harassment, abuse, assault, or rape, the Hearing Board Chair shall require cross-examination of the complainant or victim to be conducted by written questions read aloud to the witness by the Hearing Board Chair, if the witness so requests.”; and
* Add a new penultimate sentence to Title Three-III-E-3-b(7): “Witnesses shall not see or hear other evidence presented at the hearing, such as any police report, except as the Hearing Board Chair determines to be appropriate.”.