



Albert Einstein College of Medicine

Discrimination and Harassment Policy (Non-Title IX)

I. Introduction

Overseeing Albert Einstein College of Medicine's (also referred to as "Einstein" or "College of Medicine") compliance with policies and laws pertaining to discrimination and harassment is one of the core responsibilities shared by the College of Medicine's Title IX Coordinator, Office of Human Resources and Office of General Counsel.

Discrimination and unlawful harassment cannot be tolerated in a community committed to maintaining a strong educational, working and living environment. Therefore, the College of Medicine has created guidelines that describe the community standards of conduct, and guidelines and procedures for the resolution of grievances/complaints alleging discrimination and harassment.

Our policy is intended to provide a fair, prompt, and reliable mechanism for determining whether a policy violation occurred and, if so, provide appropriate resolution.

The Title IX Coordinator is responsible for ensuring Title IX compliance at the College of Medicine, as well as compliance with this policy. In addition, the Title IX Coordinator is responsible for overseeing all Title IX Complaints and other Complaints under this Policy, identifying and addressing any patterns of systematic problems that are found based on review of such Complaints or otherwise, and providing education and training about this policy and applicable law to the College of Medicine community.

Any questions or concerns about this Policy should be directed to the Vice President for Human Resources/Title IX Coordinator, the Director of Employee Relations or the College of Medicine's Senior Counsel:

Yvonne M. Ramirez, Vice President for Human Resources/Title IX Coordinator
1300 Morris Park Ave., Belfer 1209
Bronx, New York 10461
(718) 430-2541
yvonne.ramirez@einsteinmed.edu

Dana H.C. Lee, Senior Counsel
1300 Morris Park Avenue
Belfer 310
Bronx, New York 10461
(718) 430-2546
dana.lee@einsteinmed.edu

II. Purpose

This Policy outlines Albert Einstein College of Medicine's commitment to equal opportunity free from discrimination, unlawful harassment (including sexual harassment) and other harassing behavior. However, where conduct relates to gender-based misconduct involving a Title IX violation (Quid Pro Quo Harassment, Title IX Harassment, Sexual Assault, Stalking, Domestic Violence, or Dating Violence, as defined below), the principles and procedures set forth in Einstein's [Title IX Gender Based Misconduct, Discrimination and Harassment Policy and Complaint Procedures for Students](#) and [Title IX Gender Based Misconduct, Discrimination and Harassment Policy and Complaint Procedures for Employees and Non-Students](#) will instead apply.

III. Scope

A. To Whom Applicable

This Policy governs the conduct of all College of Medicine faculty, administration (whether supervisors, administrators, and managers), and other staff, whether full-time or part-time, (collectively, "employees"), employees of contracted service providers, students, interns, volunteers, visitors, and other third-parties conducting business with the College of Medicine and covers their treatment of each other and of students, as well as others with whom they come into contact at or near the College of Medicine and/or at College of Medicine-sponsored and affiliated activities and events.

B. Where Applicable

This Policy is intended to protect all afore-mentioned individuals and applies to conduct that occurs on College of Medicine premises, in buildings owned or controlled by a student organization officially recognized by Einstein, at College of Medicine-sponsored and affiliated activities and events, and/or other circumstances where Einstein exercises substantial control over the accused and the context, including, but not limited to, overnight trips, service learning programs and internships, study or research abroad, work-related travel, off-site conferences, and to all forms/uses of technology by all individuals covered by this policy. The College of Medicine may also address off-campus behavior that occurs other than at College of Medicine-sponsored or affiliated events if it determines that the behavior, or the continued presence of the accused perpetrator creates or contributes to a hostile environment, or impairs, obstructs, substantially interferes with or adversely affects the mission, processes or functions of the College of Medicine. Violations of this policy will be dealt with seriously, promptly and thoroughly.

IV. Statement of Equal Opportunity and Non-Discrimination

This policy is consistent with the College of Medicine's commitment to the principles of equal employment opportunity and non-discrimination. The College of Medicine thus prohibits discrimination on the basis of race, religion, color, creed, age, national origin or ancestry, sex, marital status, sexual orientation, gender identity and expression, physical or mental disability, pregnancy-related condition, veteran or disabled veteran status, military status, pregnancy status, genetic predisposition/carrier status, sexual and reproductive health decisions, citizenship status, familial status, domestic violence victim status, prior arrest

or conviction record, or any other personal characteristic protected under applicable federal, state or local law.

V. Prohibited Conduct & Definitions

Einstein is committed to maintaining an academic, work and living environment in which all individuals are treated with respect and dignity. Each individual at the College of Medicine has the right to work and learn in a safe environment that promotes equal opportunities for all. Consistent with these principles, Einstein prohibits discriminatory practices or harassment as well as sexual misconduct of any kind (“Prohibited Conduct,” as set forth below).

Where Prohibited Conduct has occurred, Einstein will act promptly to stop it, prevent its recurrence, discipline and/or take other appropriate action against those responsible.

This Policy is not intended to regulate protected speech. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates this policy or otherwise violates federal, state or local anti-discrimination laws.

A. Prohibited Conduct

Prohibited Conduct for purposes of this policy includes discrimination or harassment based on race, religion, color, creed, age, national origin or ancestry, sex, marital status, sexual orientation, gender identity or expression, physical or mental disability, pregnancy-related condition, veteran or disabled veteran status, military status, pregnancy status, genetic predisposition/carrier status, or sexual and reproductive health decisions, citizenship status, familial status, Domestic Violence victim status, prior arrest or conviction record, or any other characteristic protected by any applicable law, ordinance, or regulation. Applicable laws that prohibit such discrimination and harassment include, but are not limited to, the following: Title VII of the Civil Rights Act of 1964 (“Title VII”), which prohibits discrimination on the basis of sex, pregnancy status, race, color, national origin, or religion and other characteristics; Title IX of the Education Amendments of 1972 (“Title IX”), which prohibits discrimination on the basis of sex; Violence Against Women Act of 1994 (“VAWA”); The Age Discrimination in Employment Act of 1967 (“ADEA”), prohibiting employment discrimination based on age; Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”); Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, which prohibit Discrimination on the basis of disability; N.Y. Executive Law, art. 15, §290 et seq. (New York State Human Rights Law); and Title 8 of the Administrative Code of the City of New York (New York City Human Rights Law).

This Policy prohibits discrimination against or harassment of any individual based on that individual’s characteristic or perceived characteristic based on membership in a protected class, whether or not it rises to the level of unlawful discrimination or harassment.

Examples of conduct that may violate this policy include the use of slurs, jokes, stereotyping, or intimidating or hostile acts directed at any individual because of his/her protected class status, as well as the failure to provide equal consideration, acknowledgment or access to employment or educational

opportunities to equally qualified individuals. Harassment does not have to include intent to harm or be directed at a specific target. Prohibited harassment may involve a single episode or ongoing behavior depending on the severity of the issue. In addition, this policy forbids not only verbal and physical harassment but also harassment in any medium, including email and electronic social media.

B. Sexual Harassment

Sexual Harassment is a form of sex discrimination prohibited by federal, state and local laws. Sexual Harassment is offensive and includes harassment on the basis of actual or perceived sex, sexual orientation, gender identity or expression, pregnancy status, pregnancy-related condition, or sexual and reproductive health decisions. Sexual Harassment in any form is prohibited and constitutes a violation of this policy, regardless of whether it rises to the level of being unlawful. The College of Medicine may be liable for harm to victims of Sexual Harassment by College of Medicine employees and others, and harassers may also be individually subject to liability.

For purposes of this policy, Sexual Harassment refers to any unwelcome or unwanted sexual advances, requests for sexual favors, or other verbal, physical, demonstrative, or electronic conduct or communication of a sexual nature, or which is directed at an individual because of the individual's sex, when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or participation in a College program, department or extra-curricular activity; or
- Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working, learning, studying, or school environment.

Sexual Harassment may occur in a single incident or consist of a series of incidents. It can occur between any two people covered by this policy, including, but not limited to, two faculty or staff members, a faculty or staff member and a student, people of the same or different gender, or people of the same or unequal status or power. A harasser can be a superior, a subordinate, a coworker or anyone in the workplace including independent contractor, vendor, client, customer or visitor. Sexual Harassment is considered a form of misconduct and disciplinary action will be taken against individuals engaging in Sexual Harassment and individuals, including supervisors and managers, who knowingly allow such behavior to continue.

Examples of conduct which may constitute Sexual Harassment include, but are not limited to: verbal comments of an overtly sexual nature, whether in the form of jokes, innuendoes, slurs, or other statements; the use of sexual teaching materials or comments of a sexual nature not relevant to the material being taught or any other academic purpose; remarks of a sexual nature about an individual's clothing or body; remarks speculating about an individual's sexual orientation, activity or previous sexual experiences; verbal harassment or abuse of a sexual nature; making offensive gender-based remarks; the display or transmission of sexually offensive objects, photographs, drawings, graffiti, email, electronic social media communications, computer graphics or programs when sexual content is not relevant to any academic purpose; non-verbal behaviors of a sexually degrading or offensive nature, such as gesturing, or leering; or unwanted touching, hugging, or brushing against an individual's body..

Sexual Harassment also may consist of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone who is offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, and which interfere with the recipient's job performance.

In addition, Sexual Harassment may include hostile actions taken against an individual because of that individual's actual or perceived sex, sexual orientation, gender identity or expression, pregnancy status, pregnancy-related condition, or sexual and reproductive health decisions, such as (i) interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job; (ii) sabotaging an individual's work; or (iii) bullying, yelling, or name-calling. Sex stereotyping may also constitute Sexual Harassment. Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

In certain circumstances, Sexual Harassment may include conduct that constitutes a Title IX Violation, in which case the principles and procedures set forth in Einstein's [Title IX Gender Based Misconduct, Discrimination and Harassment Policy and Complaint Procedures for Students](#) and [Title IX Gender Based Misconduct, Discrimination and Harassment Policy and Complaint Procedures for Employees and Non-Students](#) will apply rather than the principles and procedures in this policy.

C. Title IX Violation

Title IX Violations for purposes of this policy refer to one or more of the following, each of which are defined below:

- Quid Pro Quo Harassment (defined below);
- Title IX Sexual Harassment (defined below);
- Sexual Assault (as defined in Appendix A).
- Dating Violence (as defined in Appendix A).
- Domestic Violence (as defined in Appendix A).
- Stalking (as defined in Appendix A).

D. Quid Pro Quo Harassment

Einstein employees are prohibited from engaging in quid pro quo harassment under this policy. Quid pro quo harassment refers to an employee conditioning the provision of an aid, benefit or service on an individual's participation in unwelcome sexual conduct.

Examples of quid pro quo harassment include where:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational experience; or
- Submission or rejection of such conduct is used as the basis for a decision regarding an employment, academic, or other College-related activity affecting such individual.

E. Title IX Sexual Harassment

Title IX Sexual Harassment, which is expressly prohibited under this policy, refers to sexual harassment that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Einstein's education program or activity.

VI. Complaint Procedures

For purposes of this policy, a "Complaint" is defined as any written or verbal complaints of Prohibited Conduct regardless of whether they are submitted by the alleged victim or any other individual who has knowledge of Prohibited Conduct.

There is no time limit on when a Complaint pursuant to this policy can be made to the College of Medicine, however, evidence may be lost and the College of Medicine's ability to investigate and respond may be affected by any time delay in reporting.

The College of Medicine strongly encourages alleged victims and/or witnesses to promptly file a Complaint in order to ensure campus safety and to preserve important evidence that may be essential for a thorough and fair resolution, including future formal legal proceedings. Evidence preservation is particularly important because as time goes by, an investigation becomes more difficult. Memories may become unreliable, and information and witnesses may become unavailable.

No College of Medicine employee or student may discourage an individual from reporting Prohibited Conduct covered by this policy. Furthermore, any attempt to retaliate against or penalize an alleged victim or any other person who reports or participates in the resolution of an incident is strictly prohibited, and any party found to have engaged in retaliation will be subjected to discipline.

A. Supervisors Duty to Report

Any employee serving in a managerial or supervisory capacity, unless officially designated by Einstein as a confidential resource as set forth below, with any knowledge, whether from firsthand observation, having been confided in or having heard about it in some other fashion, of a known or suspected instance of Prohibited Conduct must report the incident to the Vice President for Human Resources/Title IX Coordinator, Senior Counsel, Director of Security, or Director of Employee Relations even if the alleged victim of such discrimination or harassment is not interested in filing a Complaint. All other employees are encouraged to make such reports.

Managers and supervisors who knowingly allow Prohibited Conduct to continue without reporting it will be disciplined.

B. Bystander Intervention

Einstein expects all members of the College of Medicine community to take reasonable and prudent actions to prevent or stop an act of discrimination, harassment, or sexual misconduct, and provide assistance if an

act has occurred. Taking action or providing assistance may include direct intervention, calling law enforcement, or seeking assistance from a person in authority.

However, no employee is authorized to investigate or resolve a suspected violation of this policy without the involvement of the Vice President for Human Resources/Title IX Coordinator.

If you are not sure what your duty or role is in a given situation, please contact the Vice President for Human Resources/Title IX Coordinator.

Additionally, all employees have a duty to report immediately to the NYS Maltreatment Hotline (800-342-3720) if they have reasonable cause to suspect abuse or maltreatment of minors (individuals under the age of 18).

C. How to File a Complaint

Anyone who wishes to file a formal complaint regarding a violation of this policy may do so at any time by contacting any of the following:

Vice President for Human Resources / Title IX Coordinator

Yvonne M. Ramirez
1300 Morris Park Ave / Belfer 1209
Bronx, NY 10461
(718) 430-2541
yvonne.ramirez@einsteinmed.edu

Senior Counsel

Dana H.C. Lee
1300 Morris Park Avenue Belfer 310
Bronx, New York 10461
(718) 430-2546
dana.lee@einsteinmed.edu

Employees may also submit a Complaint of Sexual Harassment in writing by submitting a Sexual Harassment Reporting & Complaint Form, HR-FRM-2018-016, to Yvonne Ramirez, Vice President for Human Resources/Title IX Coordinator. These [forms](#) may be obtained [online](#), or from Human Resources.

Individuals not wishing to make a Complaint may instead anonymously call the Confidential Compliance [Hotline](#). Einstein will investigate anonymous calls to the extent possible, and also keep records and reports of certain anonymous calls pursuant to the requirements of the Clery Act. However, all anonymous callers should be aware that reporting anonymously may affect the College of Medicine's ability to investigate and respond effectively. To the extent there is a concern regarding retaliation for making a call or filing a Complaint, any such retaliation is prohibited and Einstein will take steps to prevent such retaliation as well as strong responsive actions should it occur. Anonymous calls may be made as follows:

Confidential Compliance Hotline

1-800-662-8595 or online at <https://www.montefiore.org/compliance-hotline>

See Appendix B for information regarding confidential support services.

Individuals who allege they are victims of Sexual Abuse/Assault, Stalking, Domestic Violence, or Dating Violence (defined in Appendix A) have the right (i) to make a report to the Security Department, local law enforcement and/or State Police or choose not to report; (ii) to report the incident to the College of Medicine; (iii) to request the College of Medicine’s assistance in notifying law enforcement authorities; (iv) to be protected by the College of Medicine from retaliation for reporting an incident; and (v) to receive assistance and resources from the College of Medicine.

Security Department

Neil Kaplan, Chief of Security
1300 Morris Park Avenue, Forchheimer B9
Bronx, New York 10461
(718) 430-2180
neil.kaplan@einsteinmed.edu

When any of these afore-mentioned individuals or any other Einstein employee is first notified of a Complaint, that person must promptly inform the Vice President for Human Resources /Title IX Coordinator of the Complaint. If the Complaint involves an allegation of Prohibited Conduct, the Vice President for Human Resources/Title IX Coordinator will promptly inform Senior Counsel of such Complaint.

D. Confidentiality in Complaints & Reporting

Einstein will endeavor to maintain as confidential the identity of anyone who makes a Complaint, Respondent(s), and witnesses, and reveal the parties’ identities only to those individuals who need to know it in order for an investigation to commence or continue (as applicable) and the matter to be resolved, except as required by the Family and Education Rights Privacy Act (“FERPA”) or a government investigation, hearing, or judicial proceeding, or as otherwise required by law.

VII. Seeking Procedural Information and Guidance on Complaint Process

Anyone may seek advice, information or counseling on matters related to discrimination and harassment without having to report or file a complaint. Persons who feel they have been discriminated against or harassed, and or are uncertain as to whether what they experienced is discrimination or harassment, and/or desire information as to their options in dealing with harassment and discrimination are encouraged to talk with any one of the confidential resource persons as described below.

If “Complainant” is a:	Seek assistance from:
MD Student or Graduate Student	Associate Dean, Office of Diversity Enhancement Assistant Dean, Office of Student Affairs
Post-doctoral Fellow	Director, Career and Professional Development

Faculty Member

Senior Associate Dean, Diversity and Inclusion

Staff Member

Director, Talent Acquisition, Human Resources

For Pre-Medical and Pre-professional Students: Complainants and Respondents who are students enrolled in pre-college or volunteer programs at the time of the alleged violation, should contact the resources outlined for Staff.

These persons are trained to assist the individual in assessing the incident and/or to explain the options and resources available. Questions are encouraged; merely discussing an incident in this way does not commit an individual to making a complaint. These individuals can also assist a complainant in accessing a College of Medicine official who may be able to mediate the conflict by discussing the allegation informally with relevant parties in an attempt to end the alleged discrimination or harassment and resolve the issue. The complainant may request to have her or his name kept confidential at this informal stage. If there is a resolution acceptable to both parties, the matter will not proceed further. Records will be kept of materials generated by such informal mediation along with an informal written agreement which will be reviewed and signed by both parties and kept in the appropriate office where the complaint is filed. All cases will also be reported and tracked by the Title IX Coordinator and the Senior Associate Dean for Diversity and Inclusion

VIII. Interim Protective Measures and Accommodations

The College of Medicine may take reasonable and prudent interim measures to protect and ensure safety, prevent retaliation, and/or avoid an ongoing hostile environment, and/or restore or preserve equal access / opportunities. Interim measures may be available to the Complainant, the reporter (if different than the Complainant), the Respondent, and all third-party witnesses pending resolution of the Complaint, regardless of whether the Complainant or reporter chooses to report the conduct to campus security or local law enforcement. Interim measures may include without limitation: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact (College of Medicine-issued “no contact” orders),¹ leaves of absence, increased security and monitoring of certain areas of the campus, bans from areas of campus, and changes to academic, living/ housing, transportation, employment, or working situations (including moving offices or locations and changing work schedules). Non-student employees may also be placed on administrative leave. Otherwise, a Respondent will be subject to emergency removal from Einstein’s education program or activity only if Einstein determines that doing so is necessary to prevent an immediate threat to physical

¹ No contact orders prohibit continued intentional contact with the Complainant. If the accused/Respondent and Complainant/reporting individual observe each other in a public place, it shall be the responsibility of the accused or Respondent to leave the area immediately and without directly contacting the reporting individual. The College of Medicine may establish an appropriate schedule for the accused/Respondent to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the Complainant/reporting individual. Intentional and/or continued violations of a College of Medicine issued “no contact” order is a violation of this policy and may result in additional misconduct charges and additional disciplinary sanctions including suspension and expulsion for students, or up to and including termination of employment for employees. To be clear, the no contact orders referenced here are NOT the equivalent of and do NOT offer the same legal protections as an Order of Protection issued by a court of law.

health or safety, and Einstein also provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

Individuals may discuss their options for any such interim measures or accommodations, as applicable, with the Vice President for Human Resources / Title IX Coordinator, who may assist with identifying and obtaining reasonably available accommodations. Upon request by the Complainant or Respondent, an individual's request for an interim measure or accommodation will be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects him or her, including potential modification, and shall be allowed to submit evidence in support of his or her request.

The College of Medicine may also assist an individual with obtaining an Order of Protection or other protective measures via reports to law enforcement or otherwise. If an Order of Protection or the equivalent is received by the College of Medicine, individuals have a right to receive a copy of it, and have an opportunity to meet or speak with a College of Medicine representative, or other appropriate individual, who can explain the order and answer questions about it, including information about the accused's responsibility to stay away from protected persons. An explanation of the consequences for violating such an order will also be explained, and may include, but not be limited to, arrest, as well as suspension or expulsion for students, and termination for employees. If an Order of Protection or the equivalent is violated, campus security may provide assistance in making an appropriate arrest.

Interim measures may be modified as necessary while the Complaint is pending.

The College of Medicine also will consider the safety of the College of Medicine community when making decisions regarding appropriate interim measures. The College of Medicine will endeavor to maintain as confidential any accommodations or protective measures to the extent that maintaining them would not impair the ability of the College of Medicine to provide such measures.

IX. Investigation & Grievance Procedures

Complaints of Prohibited Conduct under this policy may be resolved pursuant to the Informal Resolution Process or the General Grievance Procedures, and will be overseen by the Vice President for Human Resources/Title IX Coordinator. If you have any questions, such as to which set of procedures apply, please contact the Vice President for Human Resources/Title IX Coordinator, Director of Employee Relations or Senior Counsel.

A. Informal Resolution Process

Informal means of addressing the issues raised in a Complaint may include, but are not limited to:

- An informal direct discussion between the Complainant and the Respondent in the presence of the Title IX Coordinator/Vice President for Human Resources;
- Requesting additional education for the area or department where the Complaint originated; or

- Commencing mediation of the Complaint. The Complainant and the Respondent must agree to mediation if mediation is to go forward. **Mediation is optional.** The mediator will be designated by the Title IX Coordinator/Vice President for Human Resources within 10 business days after the parties' agreement to participate in mediation. The mediator will contact the parties to set the date, time, and location of the mediation session(s). Only the mediator and the parties will be participants in the mediation session(s), except as provided below. During the mediation process, the mediator normally will: (i) ask the parties to give their versions of the incident, including both factual information and their feelings; (ii) identify key issues; (iii) seek the agreement of both parties on the issues; (iv) facilitate discussion; and (v) work with both parties to develop a written document that will include a statement of agreement. If either party is dissatisfied with the mediation process at any time prior to the signing of a mediation agreement, that party may request that the mediation process cease.

B. General Investigation and Grievance Procedures

These investigation and grievance procedures govern Complaints of Prohibited Conduct under this policy. These procedures may be applied subject to any employee's union rights pursuant to a collective bargaining agreement or otherwise.

Einstein will respond to all reported Complaints promptly, thoroughly, fairly and impartially. Upon receipt of a Complaint or upon receiving information which Einstein determines on its own warrants further investigation (even if no Complaint is filed or even if a Complaint is filed and later withdrawn), Einstein will conduct an investigation as necessary and appropriate. The investigation will commence as soon as practicable upon receipt of a Complaint (or, if no complaint has been filed, upon the College of Medicine receiving information which it determines on its own warrants further investigation). All Complaints of Prohibited Conduct under this policy will be overseen by the Vice President for Human Resources/Title IX Coordinator. Generally, the investigation will be conducted by the Vice President for Human Resources/Title IX Coordinator, the Employee Relations Department, or another appropriate entity as determined by the College of Medicine (it being understood that the College of Medicine reserves the right to use an outside individual or organization to conduct or assist with the investigation). Such individuals have or will receive appropriate training on conducting investigations in a fair and impartial manner.

The grievance procedure will permit both parties an opportunity to be heard and present information during and/or after the course of an investigation. Depending on the nature of the allegations, the investigation may include interviews with the Complainant and Respondent, interviews of witnesses, collection of documentation (including email and other communications relevant to the complaint), a review of documents or any other steps deemed important by the investigator in order to thoroughly and fairly conduct the investigation. Einstein will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

All members of the College of Medicine community are required to cooperate with investigations regarding Prohibited Conduct under this policy. However, the College of Medicine's ability to compel a third party to participate in the investigation process may be limited.

Any employee represented by a union, retains any right to union representation throughout the investigation process.

The Vice President for Human Resources/Title IX Coordinator (or other designated investigator) will seek to conclude the investigation as promptly as practicable, and in any event generally within 60 business days after receipt of the Complaint. The facts and circumstances of each case may make it necessary to extend the resolution timeline.

Both parties will be advised by the Vice President for Human Resources/Title IX Coordinator (or his/her designee) that reasonable efforts will be made by the College of Medicine to protect the privacy of the parties, and to maintain confidentiality to the extent possible and as is consistent with investigative needs and applicable laws.

The College of Medicine, in its sole discretion, reserves the right to depart from the prescribed steps in order to effectively handle any and all Complaints in accordance with applicable laws.

X. Remedies and Sanctions

At the close of the investigation, the investigator will report to the parties, as appropriate, regarding any findings and outcome. If the investigator finds based on clear and convincing evidence that Prohibited Conduct has occurred, Einstein will take prompt and appropriate remedial action, including disciplinary action. Depending on the circumstances, disciplinary action may include, but is not limited to, counseling, warning, loss of privileges, suspension, training, reassignment and termination of employment (or termination of vendor/independent contractor relationship), and expulsion (in cases involving students).

If Einstein determines based on clear and convincing evidence that a third party has violated this policy, appropriate action will be taken.

In addition to any disciplinary action, Einstein may take action to eliminate a hostile environment created by discrimination, harassment or sexual misconduct, to prevent the recurrence of the discrimination, harassment or sexual misconduct, and to address the effects of the discrimination, harassment or sexual misconduct on the parties involved, the witnesses and the Einstein community, as appropriate. Such efforts may include additional training and awareness programs for the Einstein community.

The College of Medicine's disciplinary authority may not extend to third parties mentioned above (employees of contracted service providers, interns, volunteers, visitors, and other third-parties conducting business with the College of Medicine) who are not employees, faculty, or students of the College of Medicine. However, a Complaint that such a person engaged in Prohibited Conduct against an Einstein faculty, employee, staff or student will be investigated in accordance with this policy or other applicable Einstein policy, as will a Complaint of Prohibited Conduct by a third party about an Einstein faculty, employee, staff or student.

Einstein will exercise due diligence in complying with the stated time limits set forth in this policy. However, stated time limits may be extended for good cause depending on the nature of the allegations, the time of year, and any other unforeseen or extenuating circumstance.

XI. Documentation of Investigations and Resolution & Grievance Procedures

The Vice President for Human Resources/Title IX Coordinator will maintain records of all Complaints (both formal and informal), investigations, and findings (including the basis for those findings). These records will be kept on file in accordance with the College of Medicine's records and retention policy.

XII. Retaliation

This policy prohibits retaliation against any individual because the individual has made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy, even if the Complaint is unsubstantiated. Retaliation includes threats, intimidation, coercion, discrimination, reprisals, harassment, and/or any other adverse action threatened (expressed or implied) or taken. Retaliation may take place in person, over the telephone or through electronic or social media means. Regardless of how it manifests itself, retaliation is prohibited.

Retaliation is a serious violation of this policy, as well as federal, state and local law. Anyone who either observes or becomes aware of such retaliatory behavior is strongly encouraged to report it to the Vice President for Human Resources/Title IX Coordinator, and all College of Medicine employees are under a business duty to do so.

XIII. Knowingly False Claims or Information

The College of Medicine considers any allegation of discrimination, harassment or sexual misconduct a serious matter and encourages individuals to report all incidents to the College of Medicine. All good faith reports will be treated seriously. Any individual who knowingly files a false claim, or who knowingly provides false information during an investigation or proceeding may be subject to appropriate disciplinary action, up to and including termination of employment for employees, and disciplinary sanctions for students.

XIV. Re-Evaluation

The College of Medicine reserves the right to modify and/or amend any or all of the terms and/or procedures outlined herein at any time, in its sole discretion. In the event the College of Medicine determines that circumstances warrant modification or amendment of this policy, timely notice of the same will be communicated to all affected parties. This policy is made available to the entire faculty, staff, and student body of Einstein, as well as all interested others, and can be accessed via the Human Resources webpage or can be obtained from the Vice President for Human Resources / Title IX Coordinator, Senior Counsel, or the Einstein Office of Student Affairs.

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XV. Effective Date

Effective as of: August 14, 2020

XVI. Policy Management and Responsibilities

Einstein's Human Resources department is the Responsible Office under this Policy. Einstein's Dean is the Responsible Executive, and Einstein's Vice President of Human Resources and Diversity is the Responsible Officer for the management of this Policy.

XVII. Approved (or Revised)

	<u>11/2/20</u>
Responsible Executive	Date

Appendix A: Crime and Related Definitions

The following definitions are drawn from the Violence Against Women Act (VAWA) and its regulations, as well as various New York State laws.

Affirmative Consent (“Consent”)

Affirmative Consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition does not vary based upon a participant’s sex, sexual orientation, gender identity or expression.

- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act;
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol;
- Consent may be initially given but withdrawn at any time;
- Consent cannot be given when a person is incapacitated (as hereafter described);
- Consent cannot be given when it is the result of any coercion, Intimidation, force, or threat of harm; and
- When consent is withdrawn or can no longer be given, sexual activity must stop.

Children under 17 years of age cannot legally consent under New York State Law to having sex or sexual contact with an adult (i.e., someone who is 17 years of age or older). Any sexual contact in New York between a child under 17 and an adult is a crime, and any such illegal behavior between a member of the College of Medicine community under 17 and a member who is an adult will be reported to an appropriate law enforcement agency. Other jurisdictions may have different standards, and any illegal behavior in such jurisdiction also will be reported to the appropriate law enforcement agency.

Additionally, state law identifies certain other individuals who are incapable of consent, including, the mentally disabled, mentally incapacitated, physically helpless, and certain persons who are committed to the care and custody or a client or patient of a health care provider or certain governmental departments, offices or agencies (including the state department of correctional services, a hospital, the office of children and Family services the office of mental health, the office for people with development disabilities, or the office of alcoholism and substance abuse services), where the actor is an employee or volunteer of such department or health care provider.

Dating Violence

Dating Violence, for purposes of this policy, is a Title IX Violation (see Section III.C.3.) and refers to violence committed by a person who is or has been in a romantic or intimate relationship with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction

between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

New York State does not specifically define “Dating Violence.” However, under New York Law, intimate relationships are covered by the definition of Domestic Violence when the crime is committed by a person in an “intimate relationship” with the victim. See “Family or Household Member” for definition of “intimate relationship.”

Regarding the appropriateness of romantic or sexual relationships between College of Medicine employees and students, see Einstein’s Workplace Romance & Fraternization Policy.

Domestic Violence

Domestic Violence is a Title IX Violation (see Section III.C.3.), and includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner under applicable law, by a person similarly situated to a spouse of the victim under applicable law, by a Family or Household Member, or by any other person against an adult or youth victim who is protected from that person’s acts under applicable law.

Examples of conduct that may constitute, whether alone or in combination, Domestic Violence include, but are not limited to: a pattern of name-calling, insults, put-downs; keeping or limiting a person from contacting Family or friends; withholding money, food or other necessities; stopping a person from getting or keeping a job, getting to class, or staying in school; actual or threatened physical harm; Sexual Abuse/Assault (“sexual violence”); Stalking; possessiveness or extreme jealousy; Intimidation; physical assault or threats thereof; and emotional isolation/manipulation.

Family or Household Member

The following individuals: (a) persons related by consanguinity or affinity; (b) persons legally married to one another; (c) person formerly married to one another regardless of whether they still reside in the same household; (d) persons who have a child in common regardless of whether such persons are married or have lived together at any time; (e) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; (f) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an “intimate relationship” include, but are not limited to: the nature or type of relationship regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship”; or (g) any other category of individuals deemed to be a victim of Domestic Violence as defined by the office of children and Family services in regulation. Factors that may be considered in determining whether a relationship is an “intimate relationship”

include, but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship.²

Incapacitation

Occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

Evaluating Incapacitation requires an assessment of an individual's:

- Decision-making ability;
- Awareness of consequences;
- Ability to make informed judgments;
- Capacity to appreciate the nature and the quality of the act; and
- Level of consciousness.

An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of making a knowing, reasonable decision about whether to engage in sexual activity is in violation of this policy.

Alcohol and Other Drugs: Being intoxicated or impaired by drugs or alcohol is never an excuse for Prohibited Conduct and does not diminish one's responsibility to obtain Affirmative Consent for any sexual contact. In general, sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person's ability to provide Affirmative Consent, awareness of the consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity. Please also see the College of Medicine's [Drug and Alcohol Policy](#).

Incest

Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

² Generally, "intimate relationship" status shall be applied to those who are or were married, dating, or in an intimate relationship, regardless of sex, gender identity or expression, or sexual orientation.

Intimidation

To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Parent

Natural or adoptive Parent or any individual lawfully charged with a minor child's care or custody.

Sexual Assault

Sexual Assault, for purposes of this policy, is any nonconsensual sexual act prohibited by law, including when the victim is incapable of giving consent. New York State does not specifically define Sexual Assault. However, for the purposes of this policy, Sexual Assault is a Title IX Violation (see Section III.C.3) and includes offenses that meet the definitions herein of Rape, Fondling, Incest, Sexual Abuse, or statutory Rape. Sexual Assault includes:

Non-Consensual Sexual Act or Contact: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent (as defined above under "Affirmative Consent"). This includes any intentional sexual touching, however slight and with any object or body part, that is without Affirmative Consent, and/or by threat, Intimidation, coercion, duress, violence, or by causing a reasonable fear of harm. Such touching may include intentional contact with breasts, buttocks, groin, mouth, or genitals, as well as any other intentional bodily contact that occurs in a sexual manner.

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, forcibly or without Affirmative Consent or where the victim is incapable of Affirmative Consent due to mental or physical incapacity. Statutory Rape is non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.

New York State law specifically defines Rape as sexual intercourse with another person by forcible compulsion, or where the person is incapable of consent, including in most circumstances where such person is a minor. It similarly defines a criminal sexual act as oral sexual conduct or anal sexual conduct with another person by forcible compulsion, or where the person is incapable of consent, including in most circumstances where such person is a minor (Statutory Rape).

Sexual Misconduct

When a person (1) engages in sexual intercourse with another person without such person's consent; or (2) engages in oral sexual conduct or anal sexual conduct without such person's consent; or (3) engages in sexual conduct with an animal or a dead human body.

Fondling

The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

New York State law specifically prohibits forcible touching, defined as when a person intentionally, and for no legitimate purpose: (1) forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person, or for the purpose of gratifying the actor's sexual desire; or (2) subjects another person to sexual contact for the purpose of gratifying the actor's sexual desire and with intent to degrade or abuse such other person while such other person is a passenger on a bus, train, or subway car operated by any transit agency, authority or company, public or private, whose operation is authorized by New York State or any of its political subdivisions. Forcible touching includes squeezing, grabbing, or pinching.

Sexual Abuse

When a person subjects another person to sexual contact without the person's consent or where the person is incapable of consent, including in most instances where such person is a minor.

Stalking

Stalking is a Title IX Violation (see Section III.C.3.), and refers to engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her own safety or the safety of others, or to suffer substantial emotional distress (i.e., significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling). Such a course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Stalking may include contact through a third party.

Examples of conduct that may constitute prohibited Stalking include, but are not limited to: unwelcome/unwanted communications of any type, including face-to-face, telephone calls, voice messages, e-mail, text messages, postings, written letters or notes and unwanted gifts; use of threatening words or conduct; pursuing or following; observing and/or surveillance; trespassing or vandalism; entering or remaining on or near a person's property, residence, classroom, place of employment or any other location where the person is present; interfering with or damaging a person's property, including pets; and engaging in other unwelcome contact.

Additionally, New York State law specifically defines Stalking as when a person intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate Family or a third party with whom such person is acquainted; or (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or

contact with such person, a member of such person's immediate Family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or (3) is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

Appendix B: Resources and Reporting Options

Employee Resources

An anonymous call may be placed with the Confidential Compliance [Hotline](#) at 1-800-662-8595. A Complaint or Report also may be made to the College of Medicine's Vice President for Human Resources/Title IX Coordinator, Director of Employee Relations, Senior Counsel, Security Department, or other "campus security authorities" (See Section III.F.1). Either type of report may trigger an investigation by the College of Medicine.

For a confidential support services, employees may also contact the Employee Assistance Program at:

Carebridge: 844-300-6072 or www.myliferesource.com

1199 Members Assistance: 646-473-6900 or www.1199SEIUBenefits.org (1199 members only)

Community Resources³

Law Enforcement

The College of Medicine's first and foremost concern for anyone who has been the victim of an incident of Sexual Abuse/Assault, Stalking, Domestic Violence, Dating Violence, or any other crime is their physical safety. Thus, if anyone who has been a victim of such unlawful behavior is feeling physically unsafe, he/she should immediately call the Security Department, the local police precinct, 911, or the state police for assistance.

New York City Police Department & State Police

911 (Emergency)

Local Police Precincts

49th Precinct

2121 Eastchester Rd., Bronx, NY 10461

(718) 918-2000

Medical Care & Evidence Preservation

If anyone has been the victim of an incident of Sexual Abuse/Assault, Stalking, Domestic Violence, Dating Violence, or any other crime is in need **of immediate medical treatment**, he/she should go to the nearest hospital emergency room or call 911.

Additionally, victims of Sexual Assault should consider the following:

³ Fees may apply to off campus resources. Complainants should check with each resource to determine whether reporting is confidential.

Sexual Assault Forensic Examination

Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a Rape kit) at a hospital. While there should be no charge for a Rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services.

To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.

To obtain a Sexual Assault Forensic Examination (SAFE), a Sexual Assault victim may contact Jacobi Medical Center, Social Work Department, 1400 Pelham Parkway, room 1E4, Bronx, NY 10467, tel. 718-918-5800, or the North Central Bronx Hospital, Sexual Assault Treatment Program, 3424 Kossuth Avenue, Bronx, NY 10467, tel. 718-519-5722. Both Jacobi Medical Center and North Central Bronx Hospital are SAFE-designated hospitals. Emergency care and support is available 24 hours/7 days a week, and a Victim Service Program social worker or volunteer advocate is on call at all times.

Financial Assistance for Healthcare

The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds.

More information may be found here: http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf

or by calling 1-800-247-8035. Options are explained here:

<http://www.ovs.ny.gov/helpforcrimevictims.html>

Sexually Transmitted Infections

Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Contact your primary care physician or, in emergencies, visit your local hospital if you need testing for STIs and emergency contraception.

Victims of Sexual Assault, Stalking, Domestic Violence, Dating Violence or other crime should also consider seeking mental health services.

The College of Medicine is well aware of the emotional trauma often suffered by a victim of sexual violence, and therefore it has designated trained counselors in its Counseling Center to serve as Sexual Assault coordinators for the College of Medicine. They can be reached by calling (929) 246-6791 or emailing oasc@einsteinmed.edu and asking for a Sexual Assault coordinator. Advice and support will be offered on a confidential basis as the victim begins to make choices regarding how to proceed post-assault.

Other Resources Not Affiliated with the College of Medicine

The NYC Alliance Against Sexual Assault has compiled numerous resources available to victims on-line at www.svfreennyc.org or by calling (212) 229-0345.

SOVRI (Support for Orthodox Victims of Rape and Incest) Hotline at Beth Israel Medical Center, (888) 613-1613 is a confidential hotline (no caller-ID is used) that may be called anonymously for information and support.

Manhattan Family Justice Center can provide a wide range of services and support.

The Manhattan location is at:

80 Centre Street

New York, NY, 10013

Phone: (212) 602-2800

<http://www.nyc.gov/html/ocdv/html/help/fjc.shtml>

Family Court Volunteer Lawyer Program (part of the New York State Access to Justice Program)

900 Sheridan Avenue

Bronx, NY 10451

Phone: (718) 618-2150

Hotline: (718) 618-2150

Safe Horizon (NYC)

2 Lafayette Street, 3rd Floor

New York, NY 10007

Phone: (212) 227-3000

<http://www.safehorizon.org/help@safehorizon.org>

Hotline: (866) 689-4357

Lifenet Helpline 1-800-543-3638 is a general crisis hotline

Immigration & Visa Assistance Services for Victims of Sexual & Interpersonal Violence:

U.S. Citizenship and Immigration Services (USCIS)

<http://www.uscis.gov/citizenship/learners/find-help-your-community>

USCIS Find Legal Services Webpage

<http://www.uscis.gov/avoid-scams/find-legal-services>

Board of Immigration Appeals (BIA) (Listing of attorneys by state who provide immigration services either for free or for little cost)

<http://www.justice.gov/eoir/probono/states.htm>

American Immigration Lawyers Association (AILA) Immigration Lawyer Referral Service
<http://www.ailalawyer.org/>

American Bar Association (ABA) (Information on finding legal services by state)
<http://apps.americanbar.org/legalservices/findlegalhelp/home.cfm>

Legal Rights & External Remedies for Sexual Harassment:

Sexual Harassment is not only prohibited by the College of Medicine, but is also prohibited by applicable federal, state and local law. Aside from the internal processes for reporting a Complaint at the College of Medicine, employees may also choose to pursue legal remedies and relief with the following governmental entities:

- **New York State Division of Human Rights (NYSDHR)**
One Fordham Plaza, Fourth Floor
Bronx, NY 10458
(718) 741-8400
www.dhr.ny.gov

The New York State Human Rights Law (NYSHRL), codified as N.Y. Executive Law, art.15, § 290 et seq., applies to employers in New York State with regard to Sexual Harassment and protects employees, paid or unpaid interns and non-employees regardless of immigration status. A Complaint alleging violation of the NYSHRL may be filed either with the NYSDHR or in New York State Supreme Court. Complaints with the NYSDHR may be filed any time within one year of the harassment. If an individual did not file with the NYSDHR, they can sue directly in state court under the NYSHRL, within three years of the alleged Sexual Harassment. The NYSDHR will investigate the Complaint and determine whether there is probable cause to believe that Sexual Harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If Sexual Harassment is found, after a hearing, the DHR has the power to award relief, which varies but may include requiring the employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorneys' fees, and civil fines.

- **United States Equal Employment Opportunity Commission-New York District Office (EEOC)**
33 Whitehall Street, 5th Floor New York, NY 10004
1-800-669-4000
TTY: (800) 669-6820
Fax: (212) 336-3790
www.eeoc.gov

The EEOC enforces federal anti-discrimination laws, including Title VII of the Civil Rights Act of 1964 (codified as 42 U.S.C. §2000e et seq.). An individual can file a Complaint with the EEOC anytime within 300 days from the harassment. The EEOC will investigate the Complaint and determine whether there is

reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a Complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an individual filed an administrative Complaint with the NYSDHR, the NYSDHR will file the Complaint with the EEOC to preserve the right to proceed in federal court.

- **New York City Commission on Human Rights (NYCCHR)**
40 Rector Street, 10th Floor
New York, NY 10006
(212) 306-7450
www.nyc.gov/humanrights

The New York City Human Rights Law (NYCHRL) allows individuals to file a Complaint with the Law Enforcement Bureau of the NYCCHR or proceed directly to court. The NYSDHR and NYCCHR have a work-sharing agreement. Therefore, filing a claim with each agency is unnecessary, as long as you indicate to one of the agencies that you want to cross-file the claim with the other agency.