



## SUNY Ulster Board Policy Manual

Policy Section	
<b>4.18</b>	<b>SEXUAL MISCONDUCT POLICY</b>

Approval Date: August 19, 2014

WHEREAS, SUNY Ulster is committed to Board Policy 4.13 Sexual Harassment Policy and Procedures and to creating and maintaining an educational environment free from all forms of sex discrimination, and

WHEREAS, the Violence Against Women Act (“VAWA”) requires colleges and universities to adopt certain institutional policies to address and prevent campus sexual misconduct, and WHEREAS, SUNY requires all institutions to be in compliance with the Clery Act, Title IX and the Violence Against Women Act (“VAWA”), and

WHEREAS, the “VAWA” Policy will be implemented in 2015 and the attached Sexual Misconduct Policy is an effort by SUNY Ulster to be in compliance with the forthcoming “VAWA” Policy, and

WHEREAS, the Vice President and Dean of Enrollment Management recommends, and the President concurs, and

WHEREAS, the Personnel, Educational Programs and Services Committee has met and concurs, now, therefore be it

RESOLVED that the Board of Trustees approves the Sexual Misconduct Policy, a copy of which Policy is attached hereto.



# SUNY Ulster Board Policy Manual

## Sexual Misconduct Policy

### Introduction

#### **Policy Statement on Sexual Misconduct:**

SUNY Ulster is committed to creating and maintaining an educational environment free from all forms of sex discrimination, including sexual misconduct. Any act involving sexual harassment, violence, coercion, and intimidation will not be tolerated. Specifically, SUNY strictly prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking. These acts have a real impact on the lives of victims. They not only violate a person's feelings of trust and safety, but they can also substantially interfere with a student's education. It is the policy of SUNY Ulster that, upon learning that an act of sexual misconduct has taken place, immediate action will be taken to address the situation and punish the perpetrator. This includes working with State and local law enforcement to bring possible criminal charges, seeking disciplinary action through the College, and enforcing mandatory transcript notifications so other institutions are on notice of the offense committed.

SUNY Ulster encourages the reporting of sexual misconduct that is prompt and accurate. This allows the College community to quickly respond to allegations and offer immediate support to the victim. SUNY Ulster is committed to protecting the confidentiality of victims, and will work closely with students who wish to obtain confidential assistance regarding an incident of sexual misconduct. All allegations will be investigated promptly and thoroughly, and both the victim and the accused will be afforded equitable rights during the investigative process.

It is the collective responsibility of all members of the SUNY Ulster community to foster a safe and secure campus environment. In an effort to promote this environment and prevent acts of sexual misconduct from occurring, the College engages in ongoing prevention and awareness education programs. All incoming students and employees are required to participate in these programs, and all members of the College community are encouraged to participate throughout the year in ongoing campaigns and trainings focused on the prevention of sexual misconduct on campus.

### Scope

**Who:** This policy applies to all members of the SUNY Ulster community, including students, faculty, staff, visitors, independent contractors, and other third parties who are on campus and involved in an incident of sexual misconduct (this can be someone who witnessed an incident or who wishes to report an incident on behalf of another). The policy applies to these parties regardless of sexual orientation or gender identity.

**What:** This policy prohibits all forms of sexual misconduct. This broad term includes, but is not limited to, acts of sexual harassment, sexual violence, sexual coercion, sexual threats or intimidation, domestic violence, dating violence, sexual assault, stalking, and cyber-stalking. Please refer to the Definitions section for a list of terms and prohibited acts.



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Where: This policy covers conduct that takes place on the College campus. This includes any building or property owned or controlled by SUNY Ulster and used in direct support of, or in a manner related to, the school's educational purposes, including dining halls and public property within or immediately adjacent to and accessible from campus. This also includes any building or property owned or controlled by a student organization that is officially recognized by the College and any building or property not within the same reasonably contiguous geographic area of the College that supports or relates to the school's educational purposes and is frequently used by students. This policy also covers conduct that takes place off-campus that may have a nexus to the College community.

Programs: This policy covers all educational, extracurricular, athletic, or other campus programs.

Activities: This policy covers all campus and school-related activities, including, but not limited to, student organizations (academic, multicultural, religious, service, social and support, sports and recreational), community organizations with student and/or faculty participation, and all other educational or extracurricular events hosted by or at the College.

Relationships: This policy covers sexual misconduct occurring between individuals in various types of relationships. These include, but are not limited to, student to student, staff to staff, faculty member to faculty member, visitor/contracted employee to faculty/staff, faculty member to student, staff to student, supervisor to subordinate, and coach to student athlete. Sexual misconduct may be acts committed by an individual or collective actions committed by members of a group or organization. These acts may be committed against an individual or against a group or organization. These acts may be committed by a stranger, an acquaintance, or someone with whom the victim has a social, romantic, or intimate relationship. These acts may be committed by or against any individual, regardless of sexual orientation or gender identity.

Confidentiality: The College is committed to maintaining the privacy of all individuals involved in a report of sexual misconduct. While the College encourages victims to report an incident of sexual misconduct, there are many options available for students to speak with someone about what happened while maintaining confidentiality.

### **Resources Available for Support**

After an allegation that an act of sexual violence has occurred, including any act of dating violence, domestic violence, sexual assault, or stalking, the College offers students a range of protective measures.

- 1. Resources for Immediate Assistance:** The information below provides contacts for trained on- and off- campus advocates and counselors who can provide an immediate confidential response in a crisis situation. Also provided are emergency numbers for on- and off- campus safety, law enforcement, and other first responders.



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**Confidential Resources:** The College encourages all members of the school community to report any incidents of sexual misconduct; however, there are several confidential resources available to students, faculty, and staff who are not yet ready to report an incident. These individuals can help a victim obtain needed resources, explain reporting options, and assist in navigating the reporting process. These resources are required by law to keep all communications confidential without an individual's express consent to release information.

On-Campus	Off-Campus
(advocates)	Domestic Violence Outreach 845 338 2370
(counselors) Linda Farina VAN 119F 845 687 5192	Family of Woodstock 845 679 2485
(emergency response)	SANE 845 340 3363
(emergency response)	Crime Victims Assistance 845 340 3443

**Campus Resources:** These are resources provided by the College community offering intervention services, counseling, academic support, and medical services. These resources are not bound by confidentiality, but will work together to maintain individual privacy.

On-Campus
(college police) Public Safety 845 687 5221
(campus health services) Health Services 845 687 5246
(Dean of Students) John Frampton 845 687 5288
(Title IX Coordinator) Ann Marrott 845 687 5070

**Community Resources:** These are resources located off-campus in the local community offering intervention services and counseling.

Off-Campus
Ulster County Sheriff 845 338 3640
State Police 845 338 1702
Family of Woodstock 845 679 2485/845 338 2370
Crime Victims Assistance 845 340 3443

**Health Care Resources:** Medical assistance is available during business hours by calling 845 687 5246 or 24/7 by calling 845 687 5221. Every victim has the option to seek treatment for injuries sustained during an incident of sexual misconduct, preventative treatment for sexually transmitted diseases, and other health services. A medical exam is also an important way for a health provider to properly collect and preserve evidence.

Immediate Medical Attention
(911)
(local hospital) Kingston Hospital 845 331 3131
(campus health services) Health Services 845 687 5246



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(local rape crisis center) Family of Woodstock 845 679 2485/845 338 2370
Crime Victims Assistance 845 340 3443

**2. Resources for Ongoing Assistance:** The information below provides contacts for trained on- and off- campus advocates who can provide on-going counseling, advocacy, and support following an incidence of sexual misconduct.

Confidential Resources: These are resources on- and off- campus where the victim may disclose confidentially with counseling, advocacy, health, mental health, or sexual-misconduct-related resources.

On-Campus	Off-Campus
(advocates)	Domestic Violence Outreach 845 338 2370
(counselors) Linda Farina VAN 119F 845 687 5192	Family of Woodstock 845 679 2485

Campus Resources: These are resources provided by the college/university community offering counseling and support for victims of sexual misconduct, whether or not a victim chooses to make an official report or participate in the institutional disciplinary or criminal process. These individuals can also provide ongoing support during the institutional disciplinary and criminal process.

On-Campus
(college counseling) Linda Farina VAN 119F 845 687 5192
(Title IX Coordinator) Ann Marrott 845 687 5070
(campus health services) Health Services 845 687 5246

Academic Accommodations: The College is committed to ensuring the safety and well-being of the victim. A student who has been a victim of sexual misconduct may request an academic accommodation after a report of sexual misconduct. Any individual who makes a request will receive appropriate and reasonable accommodation. Possible requests include the ability to change academic schedules or work schedules, withdraw from or retake a class without penalty, and access academic support such as tutoring services.

Interim Measures: In situations where it is necessary, the College will take immediate steps to protect victims pending the final outcome of an investigation. These steps include the accommodations listed above in addition to issuing no contact orders. Pending resolution of the complaint, the accused may be prohibited from contacting the victim and may be placed on suspension or denied access to campus. Also, the College may change the course schedule of the accused. Please refer to the Student Code of Conduct for disciplinary procedures related to acts of sexual misconduct.



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### **Title IX Coordinator**

The Title IX Coordinator is responsible for the College's compliance with Title IX of the Education Amendments of 1972. In this role, the Title IX Coordinator administers the review, investigation, and resolution procedures for reports of sexual misconduct. Please refer to the Reporting Policies & Procedures section for additional information on the role and duties of the Title IX Coordinator.

Ann Marrott VAN 119 687 5070 [marrotta@sunyulster.edu](mailto:marrotta@sunyulster.edu)

### **Reporting Policies & Procedures**

#### ***A. Where to Report All Acts of Sexual Misconduct/Violence***

##### **1. Filing a Complaint with the College:**

A student may file a complaint with one or more Offices, and each Office is prepared to assist the student with deciding on where complaints may be filed, if any, and the processes associated with each Office's complaint procedures. In addition, each Office is able to refer a student for academic accommodations and health care services.

A student may report sexual misconduct, including sexual harassment, sexual assault, domestic violence, dating violence, sexual assault, stalking, and cyber-stalking to the following offices:

1. Criminal complaint
  - a. Public Safety (687 5023 or in an emergency 687 5221)
2. Institutional complaint
  - a. Title IX Coordinator (687 5070)
  - b. Health Services (687 5246)
  - c. College Counselor (687 5192)
  - d. Employee Discipline - Office of Human Resources (845 687 5251)

##### **2. Filing a Complaint with a State and/or Federal Agency:**

A student who is not satisfied with the College's handling of a complaint, may also file a complaint with federal and state agencies. Attached is an Appendix listing the agencies and their respective contact information.

##### **3. Dual Filing a Complaint with the College and a State and/or Federal Agency:**

In addition, the Complainant may file a complaint with the appropriate State or Federal agency at any point during the process.

#### ***Role of the Title IX Coordinator in the Complaint Process:***



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*The Title IX Coordinator shall be notified of all sexual misconduct complaints by the College employee who took the complaint in order for the Title IX Coordinator to oversee the complaint processes and accommodations for the student.*

### ***B. Investigatory Procedures:***

1. ***Criminal complaints:*** the NYS and/or federal penal codes will apply, and the matter will follow the criminal processes through a police investigation, a referral to the District Attorney's Office for prosecution and the criminal court system for resolution.
2. ***Institutional complaints:*** the complaint will be handled through the College's Policy and Procedures Against Sexual Harassment.
3. ***Student Disciplinary complaints:*** the complaint will be handled through the College's Student Disciplinary Code.
4. ***Employee Disciplinary complaints:*** the complaint will be handled through the Office of Human Resources, in accordance with its procedures for complaints against management confidential employees, or for complaints against an employee who is a member of a union, in accordance with the disciplinary procedures set forth in the applicable NYS Collective Bargaining Agreements negotiated statewide through the NYS Governor's Office of Employee Relations.

### ***C. Evidentiary Standard in Institutional, Student Disciplinary and Employee Disciplinary Complaints:***

***Preponderance of the Evidence:*** the standard of proof in sexual misconduct cases, which asks whether it is "more likely than not" that the sexual misconduct occurred.

### ***Potential Outcomes under the Procedures:***

1. ***Criminal Complaints:*** The complaint may result in criminal penalties, such as fine, community service, probation, jail sentence, registration as a sex offender with the NYS or federal data bases.
2. ***Institutional Complaints:***
  - a. Under the ***sexual harassment policy***, if there is a finding that a sexual assault may have occurred ***and the alleged perpetrator is***
    - A ***student***, then the matter is referred to the Student Discipline process for student discipline, and the penalties may be disciplinary probation, suspension or expulsion from the College.
    - An ***employee***, then the matter is referred to the Office of Human Resources for employee discipline and the penalties may include fines,



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formal counseling, probation, suspension with or without pay, or termination from employment.

- b. Under the *Student Discipline process*, the penalties may be disciplinary probation or suspension or expulsion from the College.
- c. Under the *Employee Disciplinary process*, the penalties may be fines, formal counseling, probation, suspension with or without pay, or termination from employment.

### *D. Retaliation*

The College is firmly committed to a policy that encourages timely disclosure of sexual misconduct. Any person, who, in good faith, reports sexual misconduct will be protected from retaliation (defined as an adverse action taken because an individual has engaged in protected activities), threats of retaliation, suspension or discharge from an educational opportunity or employment, or any other forms or means of discrimination because this person reported alleged sexual misconduct.

### *E. Confidentiality and Reporting Protocol*

If a crime of sexual misconduct has occurred, including dating violence, domestic violence, sexual assault, or stalking, the College encourages accurate and prompt reporting of these crimes to the campus police or State and local police agencies. However, it can be difficult for a victim to come forward after such an event, and there are several options available for students who wish to maintain confidentiality while getting the support they need. Different employees on campus have different abilities to maintain a victim's confidentiality:

1. Privileged Communications: Some employees are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication."
2. No Personally Identifying Information: Other employees may talk to a victim in confidence, and generally only report to the College that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger a College investigation into an incident against the victim's wishes.
3. Responsible Employees: These employees are required to report all the details of an incident (including the identities of both the victim and accused) to the Title IX coordinator. A report to these employees (called "responsible employees") constitutes a report to the College—and generally obligates the College to investigate the incident and take appropriate steps to address the situation.

#### ***1. Privileged & Confidential Communications:***





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### Professional and Pastoral Counselors:

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without a victim’s permission. Following is the contact information for these individuals:

Professional & Pastoral Counselors
Crime Victims Assistance 845 340 3443

### **2. No Personally Identifying Information:**

#### Non-Professional Counselors and Advocates:

Individuals who work or volunteer in the on-campus College Counselor’s Office can generally talk to a victim without revealing any personally identifying information about an incident to the College. A victim can seek assistance and support from these individuals without triggering a College investigation that could reveal the victim’s identity or that the victim has disclosed the incident. While maintaining a victim’s confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the victim – helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the victim to ensure that no personally identifying details are shared with the Title IX Coordinator. A victim who speaks to a professional or non-professional counselor or advocate must understand that, if the victim wants to maintain confidentiality, the College will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the accused. Even so, these counselors and advocates will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to working or course schedules. A victim who at first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors and advocates will provide the victim with assistance if the victim wishes to do so. Following is contact information for these non-professional counselors and advocates:

Non-Professional Counselors and Advocates
(college counseling) Linda Farina VAN 119F 845 687 5192

### **3. Reporting to Responsible Employees:**

A “responsible employee” is a College employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. When a victim tells a



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responsible employee about an incident of sexual violence, the victim has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. A responsible employee must report to the Title IX coordinator all relevant details about the alleged sexual violence shared by the victim and that the College will need to determine what happened – including the names of the victim and accused, any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident. To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College’s response to the report. A responsible employee should not share information with law enforcement without the victim’s consent or unless the victim has also reported the incident to law enforcement. Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee’s reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources. If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the victim that the College will consider the request, but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the victim’s request for confidentiality. Responsible employees will not pressure a victim to request confidentiality, but will honor and support the victim’s wishes, including for the College to fully investigate an incident. By the same token, responsible employees will not pressure a victim to make a full report if the victim is not ready to.

#### **4. Requesting Confidentiality:**

If a victim discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College must weigh that request against the College’s obligation to provide a safe, non-discriminatory environment for all students, including the victim. If the College honors the request for confidentiality, a victim must understand that the College’s ability to meaningfully investigate the incident and pursue disciplinary action against the accused may be limited. Although rare, there are times when the College may not be able to honor a victim’s request in order to provide a safe, non-discriminatory environment for all students. The College has designated the following individual(s) to evaluate requests for confidentiality once a responsible employee is on notice of alleged sexual violence:

Requests for Confidentiality
William Ryan - College Attorney

When weighing a victim’s request for confidentiality or that no investigation or discipline be pursued, the College Attorney will consider a range of factors, including the following:

- The increased risk that the accused will commit additional acts of sexual or other violence, such as:
  - whether there have been other sexual violence complaints about the same accused individual;



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- whether the accused has a history of arrests or records from a prior school indicating a history of violence;
- whether the accused threatened further sexual violence or other violence against the victim or others;
- whether the sexual violence was committed by multiple perpetrators;
- whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether the College possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will likely respect the victim's request for confidentiality. If the College determines that it cannot maintain a victim's confidentiality, the College will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response. The College will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or College employees, will not be tolerated.

The College will also:

- Assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus (see portion of policy identifying these);
- Provide other security and support, which could include issuing a no-contact order, helping arrange a change of working arrangements or course schedules (including for the accused pending the outcome of an investigation) or adjustments for assignments or tests; and inform the victim of the right to report a crime to campus or local law enforcement – and provide the victim with assistance if the victim wishes to do so.

The College may not require a victim to participate in any investigation or disciplinary proceeding. Because the College is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices. If the College



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determines that it can respect a victim's request for confidentiality, the College will also take immediate action as necessary to protect and assist the victim.

### 5. Other Confidential Avenues:

There are other ways to disclose a sexual assault that will be handled confidentially:

#### a. **Take Back the Night and other Public Awareness Events**

If a student discloses a situation through a public awareness event such as "Take Back the Night," candlelight vigils, protests, a Student Survivor Advocacy Alliance forum, or other public event, the information the student provides will not result in an investigation. The College may use the information the student provides to inform the need for additional education and prevention efforts.

#### b. **Anonymous Reporting**

A student may call the College Counselor anonymously at 845 687 5192 to talk about the situation and find out information about the student's options. The student should simply tell the receptionist that he or she would prefer not to give his or her name. The student can talk confidentially with the Counselor, and disclose as much or as little information as the student would like to. The student may also complete a Sexual Assault Anonymous Report.

#### c. **Off-Campus Counselors and Advocates**

Crisis Services and off-campus healthcare providers will generally maintain confidentiality unless a student signs a consent or waiver form.

#### Timely Warnings and Emergency Notifications

##### 1. **What warrants a "timely warning" or "emergency notification"?**

**Timely Warnings** shall be issued whenever a Clery Crime that is considered to represent a serious or continuing threat to students and employees is reported to Public Safety or a local police agency and has occurred within the College's Clery Geography. Whenever a timely warning is sent it may be sent to the entire Campus Community or to the relevant population if technology allows.

**Emergency Notifications** shall be issued when a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurs on the campus. As appropriate, emergency notifications may be targeted at only a segment or segments of the campus community that is at risk. Emergency notifications will be issued without delay unless doing so would compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.



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**Who decides?** The President or a designee of the President, in conjunction with the Director of Public Safety and/or other campus and non-campus officials as appropriate, shall confirm the existence of a situation that may warrant a warning or notification and determine if a timely warning or emergency notification is warranted and the extent of the notification as appropriate. In addition to criminal incidents emergency notifications may be issued in situations such as, but not limited to:

1. Safety Related Issues:

- An incident that occurs ON any of our campuses that affects the personal safety and security of our population.

- An incident that occurs in close proximity to the campus that may potentially affect the personal safety and security of our student, faculty and staff population.

2. Health Related Issues:

- A member of our population is diagnosed with a serious or life threatening communicable/infectious disease.

- Evidence of bio terrorism.

***The only reason an immediate notification for a confirmed emergency or dangerous situation would not be issued is if doing so will compromise efforts to: assist a victim, contain the emergency, respond to the emergency, or otherwise mitigate the emergency.***

### 2. How will a Timely Warning or an Emergency Notification be Communicated?

***For Safety Related Issues:*** The means of communication will be chosen by the President or the designee based upon the nature of the incident. Possible means of communication are:

- E-mail to all students and/or faculty/staff
- Postings on campus
- Posting of notification in Public Safety Area
- ***SUNY NY Alert in the case of a critical campus wide emergency***
- Post to web portal

***For Health Related Issues:*** The means of communication will be chosen by the President or the designee based upon the nature of the incident. Possible means of communication are:

- Letters to students and/or parents (communication to parents is extremely minimal, most likely done in cases of measles, mumps, or rubella. Viral Meningitis would be communicated to the parents whose students are directly affected.)
- Letters to faculty and staff, if appropriate



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- Posting of notification on the College web-site

### Investigation, Grievance, & Adjudication Procedures

#### ESTABLISHING TIME FRAMES FOR THE REVIEW PROCESS

*The College will conduct a review of all sexual harassment complaints as prescribed in The College's Sexual Harassment Policy and Procedures.*

*The College will conduct a timely review of all complaints of domestic violence, dating violence, and/or stalking. Absent extenuating circumstances, review and resolution is expected to take place within sixty (60) calendar days from receipt of the complaint.*

*The preliminary review of all complaints, including any necessary interviews to be conducted and any necessary interim measures to be put in place, will usually be completed within 15 days of receipt of the complaint.*

*The subsequent, comprehensive review and investigation of the complaint, including interviews with all involved parties and gathering of evidence, is usually completed within 30 days of receipt of the complaint.*

*Results of the complaint, via either a formal hearing or waiver of hearing are typically issued within 45 days of receipt of the complaint.*

*An appeal of the results must be submitted within 7 days of receipt of the written result. Absent extenuating circumstances, decisions on appeals are typically issued within 7 days of submission of the appeal.*

#### BURDEN OF PROOF

*The burden of proof in all cases is "the preponderance of the evidence" – whether it is "more likely than not" that the sex discrimination, dating violence, domestic violence, sexual assault, or stalking occurred. If the evidence presented meets this standard, then the respondent must be found responsible.*

#### EXTENSIONS

*All deadlines and time requirements in the Code may be extended for good cause as determined by the Title IX Coordinator. Both the respondent and the complainant will be notified in writing of the delay, the reason for delay, and provided the date of the new deadline or event. Extensions will not be longer than 5 business/school days.*

#### EVIDENCE

*Evidence to be presented by complainant(s) and respondent(s) during any hearing on the charges must be shared with the opposing party at least two (2) business days in advance of the scheduled hearing. The College Official presiding at and/or hearing the case may exclude*



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*evidence that has not be shared or adjourn the hearing to afford all parties the opportunity to review evidence to be presented during the hearing. The College Official presiding at and/or hearing the case will make the final decision relating to the admissibility of all evidence.*

### PARTIES' RIGHTS TO ADVISORS

*The respondent and complainant may be assisted during disciplinary hearings and related meetings, by an advisor of their choice. The respondent and complainant may present witnesses and may produce other evidence for consideration by the student conduct body. The respondent and complainant are responsible for presenting evidence on their own behalf. Advisors may speak privately to their advisee, respondent or complainant, during the proceeding. Either party may request a brief recess to consult with their advisor which will be granted at the discretion of the Associate Dean of Students or designee. Advisors for the respondent and complainant may not present evidence or question witnesses.*

### Notification of findings

*Within five (5) class days after the adjournment of the hearing, the student conduct hearing body shall submit written findings of fact, conclusions regarding the charge(s), and imposition of a sanction, if any, to the respondent and any College official who is determined by the Associate Dean of Students to have a legitimate interest in the result. In the case of sexual misconduct and violations involving dating violence, domestic violence, sexual assault, or stalking, both the complainant and respondent shall also receive simultaneous notice of the results and sanctions imposed (and the rationale for the result and sanctions), as well as notice of the appellate procedures available, any possible changes to the result that may occur before it becomes final, and when the result becomes final.*

### SANCTIONS

*The College considers dating violence, domestic violence, sexual assault, and stalking as extremely serious violations and subject to **SUSPENSION** and/or **EXPULSION** from the College.*

### RETALIATION

*No member of the College community shall retaliate, intimidate, threaten, coerce or otherwise discriminate against a person who files a Title IX complaint, serves as a witness, or assists or participate in a Title IX proceeding in any manner. Participants who experience retaliation should report the incident to the Title IX Coordinator.*



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### How to Help as a Bystander

The College expects all members of the campus community to take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Educating and engaging bystanders are effective ways to help prevent acts of sexual misconduct. Bystanders can help in several different ways, including direct intervention, seeking assistance from an authority figure, notifying campus security, or calling State or local law enforcement.

If you see an act of sexual misconduct: It is important to understand that no individual has the right to be violent, even if two people are in a relationship. Recognizing when acts of sexual misconduct are occurring is the first step to intervening. Required campus education and training programs give a full synopsis on recognizing when sexual misconduct is taking place. If you make the decision to intervene, do so safely—violence does not stop violence, and, if you cannot stop the act with your words, call law enforcement. Do not be afraid to ask other students, faculty or staff for help.

If a victim confides in you: It is important to let the victim tell their story. Listen respectfully, and help them explain and identify what has happened to them. Help the victim identify others in their network who they can confide in. Ask the victim what they need to feel safe, encourage them to seek medical attention and counseling, and encourage them to report the act if they feel comfortable doing so.

### Prevention Education & Awareness Programs/Trainings

The College has education programs to promote the awareness of rape, acquaintance rape, dating violence, domestic violence, sexual assault, and stalking. These education programs include primary prevention and awareness programs for all incoming students and new employees. These education programs will include: a statement that these crimes are prohibited at the College; definitions of consent, domestic violence, dating violence, sexual assault, and stalking in the College's jurisdiction; safe and positive bystander intervention when there's a risk of one of those incidents; information on risk reduction to recognize warning signs of abusive behavior and avoiding potential attacks; and information about the institutional disciplinary procedures. The various programs and trainings offered by the College are described below:

1. *Prevention Programs:* These are programs to prevent dating violence, domestic violence, sexual assault, and stalking. The programs are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome. They also consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.
2. *Awareness Programs:* These are community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and



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share information and resources to prevent violence, promote safety, and reduce perpetration.

3. *Bystander Intervention*: These programs and trainings offer safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. They include recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.
4. *Ongoing Prevention & Awareness Campaigns*: These include programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the college/university and including information provided in campus education programs.
5. *Primary Prevention Programs*: These include programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.
6. *Risk Reduction Programs*: These programs present options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

### **Definitions:**

#### **DATING VIOLENCE**

*Dating violence is any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. This definition does not include acts covered under domestic violence.*



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### **DOMESTIC VIOLENCE**

*Domestic violence is any violent felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.*

### **STALKING**

*The term stalking means intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy, or alarm him or her.*

### **CONSENT**

*Consent is the agreement to engage in specific sexual contact, which may be given by verbal agreement or active and willing participation in the sexual activity. Consent to sexual contact or any specific sexual act cannot be given if an individual is incapacitated or impaired because of a physical or mental condition or the ingestion of drugs or alcohol, or under the age of 17. Silence, previous sexual relationships, current relationships, or the use of alcohol and/or drugs is not an indication of consent. The use of force, threat of force, threat of immediate or future harm, or use of physical intimidation to secure compliance with sexual activity is evidence of lack of consent. Consent may be initially given, but it may be revoked at any point, either verbally, through physical resistance, or by losing consciousness. Failure to cease sexual contact promptly in response to a withdrawal of consent constitutes prohibited nonconsensual sexual contact. "No" or any other negative statement or acts/physical gestures supporting the desire to cease contact in response to sexual contact or an invitation to sexual contact will be regarded as a denial of consent to such sexual contact.*

### **APPENDIX:**

#### **NYS Division of Human Rights**

##### State Headquarters

New York State Division of Human Rights  
One Fordham Plaza, 4th Floor  
Bronx, New York 10458  
Tel: (718) 741-8400  
Fax: (718) 741-3214



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### Albany

New York State Division of Human Rights  
Empire State Plaza, Corning Tower, 28th Floor  
Post Office Box 2049  
Albany, New York 12220  
Tel: (518) 474-2705  
Fax: (518) 473-3422

### Office of Sexual Harassment

New York State Division of Human Rights  
Office of Sexual Harassment  
55 Hanson Place, Suite 347  
Brooklyn, New York 11217  
Tel: (718) 722-2060 or 1-800-427-2773  
Fax: (718) 722-4525

### Office of AIDS Discrimination

New York State Division of Human Rights  
Office of AIDS Discrimination  
20 Exchange Place, 2nd Floor  
New York, New York 10005  
Tel: (212) 480-2522 or 1-800-522-4369  
Fax: (212) 480-0143

### **United States Department of Labor**

#### Office of Federal Contract Compliance Programs (OFCCP)

201 Varick Street, Room 750  
New York, NY 10014  
Tel: (212) 337-2006  
Fax: (212) 620-7705

#### OFCCP New York District Office

26 Federal Plaza, Room 36-116  
New York, NY 10278-0002  
Tel: (212) 264-7742  
Fax: (212) 264-8166



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### **New York State Department of Labor**

State Campus, Building 12, Room 500  
Albany, NY 12240-0003  
Tel: (518) 457-2741  
Fax: (518) 457-6908

### **United States Equal Employment Opportunity Commission**

EEOC National Headquarters  
131 Main Street NE, Fourth Fl. Suite 4NW02F  
Washington, D. C. 20507  
Tel: (202) 663-4900  
Fax: (202) 663-4912  
EEOC Field Office  
6 Fountain Plaza, Suite 350  
Buffalo, New York 14202  
Tel: (716) 551-4441  
Fax: (716) 551-4387

### **Office for Civil Rights**

OCR National Headquarters  
U. S. Department of Education  
Office of Civil Rights, Customer Service Team  
Mary E. Switzer Building  
330 C. Street, S. W.  
Washington, D. C. 20202  
Tel: (800) 421-3481  
Fax: (202) 205-9862

Office for Civil Rights, New York Office  
32 Old Slip, 26<sup>th</sup> Floor  
New York, NY 10005-2500  
Tel: (646) 428-3800  
Fax: (646) 428-3843

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