

# **POLICY ON SEXUAL AND GENDER-BASED MISCONDUCT AND POLICY FOR ALCOHOL AND DRUG USE AMNESTY IN SEXUAL VIOLENCE CASES**

Date: September 25, 2015

Supersedes: None

References: *Statement of Non-Discrimination Policy; Sexual Harassment Policy; Campus Security Policy and Program; Policy on Victim and Survivors Student Bill of Rights, Reporting and Individual Rights and Resources Available Regarding Sexual Violence Incidents*

## **I. PURPOSE**

This Policy and its procedures is intended to provide for the process and procedures for the prompt and equitable resolution of complaints of sexual and gender-based misconduct and to reaffirm the commitment of New York Medical College (“College”) to ensure a safe and non-discriminatory educational environment in accordance with Title IX, the *Violence Against Women Act, Article 129-B of the New York State Education Law, Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*, and other applicable federal and state laws.

## **II. POLICY**

It is the policy of New York Medical College (the “College”) to prohibit all forms of sexual and gender-based misconduct, which comprise a broad range of behaviors focused on sex and/or gender that may or may not be sexual in nature. Sexual abuse, sexual assault, sexual exploitation, gender-based harassment, stalking, domestic violence and dating violence are all forms of sexual or gender-based misconduct. Sexual and/or gender-based misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship. Sexual and gender-based misconduct can be committed by anyone regardless of gender identity, and it can occur between people of the same or different sex or gender. The College does not tolerate any form of sexual or gender-based misconduct, and all sexual and gender-based misconduct is prohibited by this Policy. Furthermore, this Policy prohibits complicity for knowingly assisting in an act that violates this Policy and retaliation against an individual because of his/her good faith participation in the reporting, investigation, or resolution of violations of this Policy. College students, employees and faculty who violate this Policy may face discipline up to and including expulsion or termination. Finally, it is the policy of the College to provide for alcohol and/or drug use amnesty in sexual violence cases in accordance with this Policy.

***Nothing in this Policy shall be construed to abridge academic freedom and inquiry; the First Amendment rights of students, faculty and others; or the College’s educational mission.***

## **III. SCOPE**

This Policy and associated procedures apply to sexual and gender-based misconduct involving College students, regardless of enrollment status, that: (1) occurs on any College campus or in connection with College programs or activities whether on or off College campus; (2) creates a

hostile environment for College students; or (3) involves a respondent who is a current student at the College. All students, employees and faculty of the College, and third parties (i.e., vendors, alumni/ae, visitors, or local residents) are expected to and shall comply with this Policy and its procedures.

#### **IV. DEFINITIONS**

*Accused* shall mean a person accused of a violation of this Policy who has not yet entered the College's complaint process.

*Respondent* shall mean a person accused of a violation of this Policy who is in the College's complaint process.

*Reporting individual* shall mean the individual who reports a violation of this Policy to the College.

*Affirmative Consent to Sexual Activity* 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 of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. The following principles provide further guidance:

- 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, which 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.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

*Sexual Assault: Non-Consensual Sexual Intercourse* — Any form of sexual intercourse (vaginal, anal, or oral) with any object without consent. Intercourse means: vaginal or anal penetration (however slight) by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact). See 18 U.S. Code 2246 (2).

*Sexual Assault: Non-Consensual Sexual Contact* — Any intentional sexual touching, however slight, with any object without a person's consent. Intentional sexual contact includes contact with the breasts, buttocks, or groin, or touching another with any of these body parts; making

another person touch any of these body parts; and any intentional bodily contact in a sexual manner. See 18 U.S. Code 2246 (3).

*Sexual Violence* is a broader term than sexual assault. The term encompasses sexual homicide, rape, incest, molestation, fondling, stalking, intimate partner violence, and verbal harassment of a sexual nature. Sexual violence includes creating an environment that feels unsafe based on sexual messages or images. Sexual violence is a sexual act that is completed or attempted against a victim's will or when a victim is unable to consent due to age, illness, disability, or the influence of alcohol or other drugs. The act may involve actual or threatened physical force, use of weapons, coercion, intimidation or pressure.

*Rape*, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent.

*Domestic Violence* — The use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual or economic abuse directed towards (a) a current or former spouse or intimate partner; (b) a person with whom one shares a child; (c) a person who is cohabitating with or has cohabited with the victim as a spouse or intimate partner; or (d) anyone who is protected from the respondent's acts under the domestic or family violence laws of New York. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. Domestic violence can be a single act or a pattern of behavior in relationships.

*Dating Violence* — The use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual or economic abuse directed towards a person who is or has been in a social relationship of a romantic or sexually intimate nature with the victim. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. Dating violence can be a single act or a pattern of behavior in relationships.

*Sexual Exploitation* — Non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. Examples of sexual exploitation include: observing another individual's nudity or sexual activity or allowing another to observe nudity or sexual activity without the knowledge and consent of all participants; non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all participants; exposing one's genitals in non-consensual circumstances; and inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

*Stalking* — A course of conduct directed at a specific person that would cause a reasonable person to feel fear for the person's safety or the safety of others or suffer substantial emotional distress. Course of conduct means two or more acts and includes acts in which the stalker directly or indirectly or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates the targeted individual. Stalking

behaviors may also include: unwanted communication or contact—including face-to-face, telephone calls, voice messages, electronic messages, web-based messages, text messages, unwanted gifts, etc.

*Gender-based Harassment* — Unwelcome conduct of a nonsexual nature based on a student’s actual or perceived sex, including but not limited to, conduct based on gender identity or gender stereotyping, gender expression, and nonconformity with gender stereotypes. Such conduct can be in the form of acts of aggression, intimidation, stalking, hostility, or the use of cell phones or the internet (sometimes known as “cyberbullying”). Gender-based harassment can occur if students are harassed either for exhibiting what is perceived as a stereotypical characteristic of their sex, or for failing to conform to stereotypical notions of masculinity or femininity. To constitute harassment, the conduct must unreasonably interfere with an individual’s education or educational activities or create an intimidating, hostile, demeaning, or offensive academic or living environment. Examples of gender-based harassment include the following:

- A female student “hooked up” with a boy at her school, and now a group of girls are repeatedly texting her and tweeting about her at school, calling her a “slut” and a “whore.” This is gender-based harassment.
- Another female student sent her boyfriend “sexts” and pictures of herself naked. Then they break up. The boyfriend shares these sexts and photos with his friends at school to get back at her. He also spreads rumors about her sexual behavior. This is sexual harassment.
- A male student has mostly female friends, he sings Lady Gaga songs in the hallway and is on the dance team. Fellow students call him a “fairy,” “gay boy,” or “queer,” and tell him he should run for homecoming queen. This is gender-based harassment.

*Intimidation* — Any threat of violence or other threatening behavior directed toward another person or group that reasonably leads the target(s) to fear for their physical well-being or to engage in sexual conduct for self-protection.

*Retaliation* — Any adverse action, or attempted adverse action, against an individual (or group of individuals) because of their participation in any manner in an investigation, meeting or proceeding under this Policy, including individuals who file a third-person report. Retaliation can take many forms, including sustained abuse or violence, threats, and intimidation. Any individual or group of individuals, not just a respondent or complainant, can engage in retaliation.

***Important Related Concepts: The definitions that follow provide further guidance as to the conduct this Policy prohibits:***

*Coercion* — Unreasonable pressure for sexual activity. When someone makes it clear that he or she does not want to engage in sexual activity or does not want to go beyond a certain point of sexual interaction, continued pressure beyond that point can be considered coercive. The use of

coercion can involve the use of pressure, manipulation, substances, and /or force. Ignoring objections of another person is a form of coercion.

*Force* — The use of physical violence and/or imposing on someone physically to engage in sexual contact or intercourse. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance.

*Incapacitation* — A state where a person cannot make a rational, reasonable decision because the person lacks the ability to understand his or her decision. A person can become incapacitated as a result of disability, involuntary physical constraint, sleep, or consumption of alcohol or other drugs.

## **V. ALCOHOL AND/OR DRUG USE AMNESTY IN SEXUAL VIOLENCE CASES.**

The health and safety of every student at the College is of utmost importance. The College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to College officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to College officials or law enforcement will not be subject to College's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

## **VI. REPORTING PROCEDURES FOR SEXUAL OR GENDER-BASED MISCONDUCT**

The College encourages all students affected by sexual or gender-based misconduct to report such incidents immediately and to seek immediate assistance. Seeking assistance promptly may be important to ensure a student's physical safety or to obtain medical care or other support. It may also be necessary to preserve evidence, which can assist law enforcement and/or the College in responding effectively. Assistance is available 24 hours a day, 7 days a week. Please refer to Article V. **Resources Available** of the *Policy on Victim and Survivors Student Bill of Rights, Reporting and Individual Rights and Resources Available Regarding Sexual Violence Incidents* for contact information for the campus and community resources available.

To report an incident, the student may contact the Town of Mount Pleasant Police at (914) 769-1941 or 911, the Westchester County Department of Public Safety at (914) 864-7700, the New York State Police hotline at (844) 845-7269 or 911. The College also encourages students to report sexual and gender-based misconduct to the Title IX Coordinator and/or the College's Security Office as promptly as possible so that the College can investigate and respond effectively. If the student reports the misconduct to the College's Security Office, the Security personnel will promptly report the incident to the Title IX Coordinator. Generally, once the College receives a report, it must investigate. Students may meet with the Title IX Coordinator to learn more about the process before making a report.

The contact information for the Title IX Coordinator is as follows:

TITLE IX COORDINATOR (Not Confidential)

**Katherine Dillon Smith, MSW**

Director of Student & Residence Life

(914) 594-4527

Email: [Katherine.Dillon@NYMC.edu](mailto:Katherine.Dillon@NYMC.edu)

DEPUTY TITLE IX COORDINATOR (Not Confidential)

Anthony Sozzo

Associate Dean, Student Affairs

(914) 594-4491

Email: [SOZZO@NYMC.EDU](mailto:SOZZO@NYMC.EDU)

Theresa R. Haviland

Director, Human Resources

(914) 594-4560

Email: [TERRI\\_HAVILAND@NYMC.EDU](mailto:TERRI_HAVILAND@NYMC.EDU)

The contact information for the College's Security Office is as follows:

SECURITY OFFICE (Not Confidential)

- Located in the Basic Sciences Building, Room 223, Valhalla, NY
- Main: 914-594-4226, or Dial ext. 4226 from any campus phone
- William Allison-Security, Director  
Located in Basic Sciences Building, room 223B, Valhalla, NY  
914 594-4577  
Email: [william\\_allison@nymc.edu](mailto:william_allison@nymc.edu)
- Kim Bologna, Associate Director of Security  
Located in Basic Sciences Building, Room 223, Valhalla, NY  
914 594-4662  
Email: [kim\\_bologna@nymc.edu](mailto:kim_bologna@nymc.edu)
- Charles Longo, Assistant Director of Security  
Located in Basic Sciences Building, Room 223, Valhalla, NY  
914 594-4339  
Email: [charlie\\_longo@nymc.edu](mailto:charlie_longo@nymc.edu)

The College recognizes that students may be more comfortable disclosing sexual or gender-based misconduct to a College employee or faculty member that they know well. Except for the confidential resources identified in Article V. **Resources Available** of the *Policy on Victim and Survivors Student Bill of Rights, Reporting and Individual Rights and Resources Available Regarding Sexual Violence Incidents*, any College employee or faculty who receives a report is required to inform a Title IX Coordinator about the incident. The College will endeavor to

follow up on any report it receives about possible sexual or gender-based misconduct, whether from a student, employee, faculty or other member of the community or an anonymous source.

## 1. The College's Title IX Coordinator and Deputy Title IX Coordinators

The College's Title IX Coordinator is together with the Deputy Title IX Coordinators responsible for overseeing the College's response to Title IX reports and complaints, and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. The Title IX Coordinator oversees the administration of this Policy and its procedures in a neutral and equitable manner.

The Title IX Coordinator's function and responsibilities include, but are not limited to:

- Regular training for students, faculty and staff regarding their rights and obligations under Title IX
- Overseeing investigations of reports and complaints of sexual and gender-based misconduct
- Ensuring appropriate accommodations and interim measures are taken promptly upon learning of a report or complaint of sexual or gender-based misconduct
- Monitoring and assessing ongoing compliance with Title IX
- Serving as a Title IX resource to the College community as appropriate

A student should contact the Title IX Coordinator or Deputy Title IX Coordinator(s) in order to:

- Seek information or training about students' rights and courses of action available to resolve reports or complaints that involve potential sex discrimination, including sexual misconduct,
- File a complaint or make a report of sex discrimination, including sexual misconduct,
- Notify the College of an incident or policy or procedure that may raise potential Title IX concerns,
- Get information about available resources (including confidential resources) and support services relating to sex discrimination, including sexual misconduct, and
- Ask questions about the College's policies and procedures related to sex discrimination, including sexual misconduct.

## 2. Confidentiality

The College values the privacy of its students, employees, and other community members. It wants all community members to seek the assistance they need without fear that the information they provide will be shared more broadly than they would like. Federal and state laws, however, impose reporting obligations on College personnel that, in some circumstances, can require certain personnel to share information from a report of sexual or gender-based misconduct with government authorities, the College's Security Office or others at the College. Please refer to Article V. **Resources Available** of the *Policy on Victim and Survivors Student Bill of Rights, Reporting and Individual Rights and Resources Available Regarding Sexual Violence Incidents*

for information on the confidentiality obligations of different categories of College personnel with respect to reports of sexual or gender-based misconduct.

Even when College employees have an obligation to report to others, which means their office is described as “Not Confidential” in Article V. **Resources Available** of the *Policy on Victim and Survivors Student Bill of Rights, Reporting and Individual Rights and Resources Available Regarding Sexual Violence Incidents*, they will explain their reporting obligations, protect and respect students’ privacy to the greatest extent possible and share information only on a need-to-know basis. All reporting individuals shall be therefore be told and provided with the following statement:

“Even College offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

The College provides confidential advocacy, crisis, and medical and mental health services on campus. Advocates, counselors, clergy and healthcare providers can provide students with immediate and long-term help. Conversations with them are confidential, except as described in Article V. **Resources Available** of the *Policy on Victim and Survivors Student Bill of Rights, Reporting and Individual Rights and Resources Available Regarding Sexual Violence Incidents*. They will listen and help access additional assistance, and explain options for obtaining additional support from the College and others. They can also arrange for medical care and accompany students, or arrange for someone to accompany students, to seek such care. Students may use these resources whether or not they decide to make an official report or participate in College disciplinary proceedings or the criminal process. These advocates, counselors, clergy, and healthcare providers are familiar with the College’s disciplinary process, can explain what to expect, and provide support while disciplinary or criminal processes are pending.

### 3. Requesting Confidentiality When Reporting an Incident to the College

When a complainant reports sexual or gender-based misconduct to the Title IX Coordinator or Deputy Title IX Coordinators and/or the College’s Security Office, he/she may request that the office not disclose his or her identity to anyone else, including the person who allegedly committed the misconduct. While such a request may limit the College’s ability to investigate and respond to the reported misconduct, the Title IX Coordinator and/or the College’s Security Office, in consultation with appropriate College personnel, including the Office of the General Counsel, will consider the request in light of the College’s obligation to provide a safe and non-discriminatory environment for all members of its community. The Title IX Coordinator will promptly notify the complainant making the request whether the College will be able to honor it. The College shall assist with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of reporting choices. Whether or not the College is able to grant a request to keep the complainant’s identity confidential, College personnel will reveal information about investigations and disciplinary proceedings related to sexual or gender-based misconduct only to those who need to know in order to carry out their duties and responsibilities.

#### 4. Accommodations/Interim Measures

In all cases, the College will take appropriate steps designed to mitigate the effects of the alleged sexual or gender-based misconduct, prevent its recurrence, and make accommodations for the students involved. The Title IX Coordinator will work with all students affected by sexual or gender-based misconduct to ensure their safety and promote their well-being. Sometimes this assistance will take the form of actions or accommodations to support or protect a student in the immediate aftermath of an incident and while an investigation or a disciplinary action is pending. This may include academic, residential, and work accommodations; increased monitoring; supervision; security at locations or in connection with activities where the alleged misconduct occurred; and training and educational materials for the campus community. If there is reason for concern about possible retaliation or harm, the College will take protective measures in consultation with the affected students.

Following report of an incident, the Title IX Coordinator will provide written notice to the complainant and respondent of the accommodations that may be available. Students may request accommodations even in cases where a complainant has requested that no investigation be undertaken or the complainant or respondent has declined to participate in College disciplinary proceedings or the criminal process. The Title IX Coordinator will evaluate any request for accommodations in light of the circumstances and information available at the time. The College will provide information about the accommodations only to those who need to know in order to make them effective.

Failure to comply with accommodations or interim measures is a violation of College policy and may lead to additional disciplinary action.

The Title IX Coordinator shall ensure that individuals are provided the following protections and accommodations:

- When the accused or respondent is a student, to have the College issue a "no contact order" consistent with College policies and procedures, where continued intentional contact with the reporting individual would be a violation of this Policy subject to additional conduct charges; if the accused or respondent and a 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. Both the accused or respondent and the reporting individual shall, upon request and consistent with the College's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no contact order, including potential modification, and shall be allowed to submit evidence in support of his or her request. The College may establish an appropriate schedule for the accused and respondents to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the reporting individual;

- To be assisted by the College’s Security Office or other College representative in obtaining an order of protection;
- To receive a copy of the order of protection or equivalent when received by the College and have an opportunity to meet or speak with a College representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused's responsibility to stay away from the protected person or persons;
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension;
- To receive assistance from College Security in effecting an arrest when an individual violates an order of protection to call on and assist local law enforcement in effecting an arrest for violating such an order;
- When the accused or respondent is a student determined to present a continuing threat to the health and safety of the community, to subject the accused or respondent to interim suspension pending the outcome of the conduct process under this Policy. Both the accused or respondent and the reporting individual shall, upon request and consistent with this Policy, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of his or her request;
- When the accused is not a student but is a member of the College community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with College policies and applicable collective bargaining agreements;
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation or other applicable arrangements in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment, consistent with the College’s policies and procedures. Both the accused or respondent and the reporting individual shall, upon request and consistent with the College’s policies and procedures, 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, and shall be allowed to submit evidence in support of his or her request.

## 5. Reporting to Law Enforcement

Students may report sexual or gender-based misconduct to the Town of Mount Pleasant Police, the Westchester County Department of Public Safety or the Westchester County District Attorney’s Office – Sex Crimes Bureau (see “Resources” section above), or the local law enforcement agency where the misconduct occurred if the misconduct occurred outside of the Valhalla Campus. The College’s process and the criminal justice system are separate and work

independently from one another. Law enforcement authorities do not determine whether a violation of this Policy has occurred. The College's Security Office personnel and the other resources listed in Article V. **Resources Available** of the *Policy on Victim and Survivors Student Bill of Rights, Reporting and Individual Rights and Resources Available Regarding Sexual Violence Incidents* are familiar with Town of Mount Pleasant and Westchester County law enforcement processes and can explain what happens when sexual or gender-based sexual misconduct is reported to law enforcement. While confidential support resources, the Title IX Coordinator and the College's Security Office can explain how to report sexual assault and other forms of gender-based misconduct to law enforcement, they cannot serve as a substitute for legal advice on these matters.

#### 6. Time for Reporting

The College does not limit the time for submitting a report of gender-based misconduct. However, the College's ability to investigate and respond effectively may be reduced with the passage of time.

#### 7. Reporting from Others and Anonymous Reports

In cases where sexual or gender-based misconduct is reported to the College by other than the complainant (by a faculty member, resident advisor, friend or roommate, for example), the Title IX Coordinator will promptly notify the complainant that a report has been received. This Policy and its procedures will apply in the same manner as if the complainant had made the initial report. The Title IX Coordinator will make every effort to meet with the complainant to discuss available options and on-campus and off-campus resources. Reports from an anonymous source will be treated in a similar fashion.

#### 8. Unknown/Non-College Offenders/Off-Campus Incidents

The College will investigate reports of incidents affecting College students that are committed by individuals who are not members of the College community or whose identity is not known to the extent it is able, and take appropriate actions designed to protect affected students and others in the College community. The College will process all complaints of sexual or gender-based misconduct regardless of where the conduct occurred, to determine whether the conduct occurred in the context of an education program or activity or had continuing effects on campus or in an off-campus program or activity.

#### 9. Related Alcohol/Drug Violations

Sometimes students may be reluctant to report instances of sexual or gender-based misconduct because they fear being charged with College alcohol or drug policy violations. The College encourages students to report all instances of sexual and gender-based misconduct and shall take appropriate action consistent with Article V. of this Policy.

#### 10. The College's Reporting Obligations

A federal law called the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* (the “Clery Act”) requires the College to record and report certain information about campus safety, including the number of incidents of certain crimes on or near campus, some of which constitute sexual or gender-based misconduct under this Policy. As described in the “Resources” section above, many employees who receive reports of sexual or gender-based misconduct are required by the Clery Act to notify the College’s Security Office about such incidents for statistical reporting purposes. These notifications may include the classification and location of the reported crime but do not identify the students involved. The Clery Act also requires the College to issue a “timely warning” when it receives a report of certain crimes that pose a serious or continuing threat.

In addition, the College is required under *Article 129-B of the New York State Education Law* to file an annual aggregate data and information report to the New York State Department of Education about reports of domestic violence, dating violence, stalking and sexual assault. This report includes the total number of reports received, open and closed investigations, outcomes of such investigations, and penalties imposed on perpetrators.

## 11. Student Bill of Rights

The following Student Bill of Rights is a summary of many of the procedures listed below. Under this Bill of Rights all students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

## **VII. PROCEDURES FOR RESPONDING TO ALLEGATIONS OF SEXUAL OR GENDER-BASED MISCONDUCT**

For additional specific procedures and statement of rights, please refer to the College's *Policy on Victim and Survivors Student Bill of Rights, Reporting and Individual Rights and Resources Available Regarding Sexual Violence Incidents*.

### **A. Procedural Rules**

#### **1. Privacy**

The College will reveal information about its investigations and determinations of sexual and/or gender-based misconduct only to those who need to know the information in order to carry out their duties and responsibilities. It will inform all individuals participating in an investigation, meeting or proceeding under this Policy that they are expected to maintain the privacy of the process and that such individuals shall not be allowed to use any type of electronic recording device including, but not limited to, laptop computers, tape or digital recorders, cell phones, or PDAs of any investigation, meeting or proceeding under this Policy. This does not prohibit either a complainant or respondent from obtaining the assistance of family members, counselors, therapists, clergy, doctors, attorneys, or similar resources.

#### **2. Advisors**

The complainant and respondent, respectively, may be accompanied to any investigatory meeting related to an incident of misconduct by the advisor of their choice. Meetings will not be scheduled or postponed based upon the availability of a student's advisor. If the complainant or respondent wishes to be accompanied by an advisor to an investigatory meeting, he or she must inform the Title IX Coordinator, in writing, a minimum of 48 hours in advance of the meeting and indicate the name and phone number of the advisor.

The role of the advisor at the investigatory meeting is limited. Advisors may support the student and provide advice about the investigation and disciplinary process. During meetings, the student may confer quietly with the advisor in a non-disruptive manner. The advisor is not entitled to and may not intervene in a meeting or address the investigators or investigatory panel, including by questioning witnesses or making objections. Repeated violations may result in the advisor being asked to leave the meeting.

#### **3. Declining to Participate**

A complainant and/or respondent may decline to participate in the investigative or disciplinary process. The College may continue the process without the complainant's and/or respondent's participation. In most cases, a refusal to participate in the investigative process will preclude a complainant or respondent from participating before the Investigatory Panel.

#### **4. Time Frame for Investigation**

The College will seek to resolve every report of sexual or gender-based misconduct within approximately sixty to ninety calendar days of an initial report, not counting any appeal. Generally, the time line will be as follows:

- a. Investigation begins within 5 days after the initial report
- b. Investigation completed within 30 days after the investigation begins
- c. Investigatory Panel (if any) shall meet within 15 days after the conclusion of the investigation
- d. Determination of the Investigatory Panel issued within 15 days after the conclusion of investigatory meetings
- e. Notice of sanctions issued within 5 days after the determination of the Investigatory Panel
- f. Notice of appeals filed by either/both complainant and respondent within 5 days after the notice of determination and sanctions received by the complainant and respondent
- g. Decision on the appeal within 30 days after notice of appeal received

It is important to note that the time frames outlined above may vary depending on the details of a case and at certain times of the academic year (for example, during holidays or breaks, study periods or final exams). The College may extend any time frame within its reasonable discretion, with a written explanation to the complainant and respondent.

#### 5. Equal Treatment of Complainant and Respondent

The College shall give the complainant the same rights that it gives to the respondent, and *vice versa*. Specifically:

- Throughout the investigation and disciplinary proceedings, the parties must have an equal opportunity to present relevant witnesses and other evidence.
- If the College allows one party to have advisors at any stage of the proceedings, it must do so equally for both parties. Any College-imposed restrictions on the ability of advisors to speak or otherwise participate in the proceedings must also apply equally.
- If the College permits one party to submit third-party expert testimony, it must do so equally for both parties.
- The appeals process (see “Appeals” section below) must be equally available to both parties.
- The Title IX Coordinator shall notify both parties, in writing, of the outcome of the complaint and any appeal.

#### 6. Rights of the Parties

The complainant and the respondent will be afforded the following rights in the process:

- To be treated with respect, dignity, and sensitivity throughout the process.
- To seek support services at the College.

- To confidentiality and protection under applicable laws, including FERPA. The College will make all reasonable efforts to ensure preservation of privacy and restrict information to those with a legitimate need to know.
- To be informed of the process.
- To receive a written determination of findings after the investigation, and to appeal the determination.
- To a prompt, thorough and impartial investigation of the allegations.
- To participate or decline to participate in the process.
- To report the incident to law enforcement if he/she wishes to do so.
- To understand that information collected in the process may be subpoenaed in criminal or civil proceedings.

## **B. The Investigation**

The Title IX Coordinator will inform the complainant before starting an investigation. The complainant may request that an investigation not be undertaken. While honoring such a request may limit the College's ability to meaningfully investigate and pursue conduct action against an accused individual, the Title IX Coordinator, in consultation with appropriate College personnel, including the Office of the General Counsel, will honor such a request unless the College determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual or other members of the community. Factors to be considered in such a request include, but are not limited to, the following:

1. Whether the accused has a history of violent behavior or is a repeat offender;
2. Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior;
3. The increased risk that the accused will commit additional acts of violence;
4. Whether the accused used a weapon or force;
5. Whether the reporting individual is a minor; and
6. Whether the institution possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group.

If the Title IX Coordinator determines not to investigate, the complainant shall be notified in writing, including that the determination was made at the complainant's request. At the complainant's request, the Title IX Coordinator will also notify the respondent in writing, including that the complainant asked the College not to investigate.

If the Title IX Coordinator determines to proceed with an investigation, the Title IX Coordinator will notify the complainant in writing and take immediate action as necessary to protect and

assist the complainant. With the investigation proceeding, the College will notify the respondent in writing that a report has been filed. The notice will describe the allegations in the report including the date, time, location and factual allegations concerning the violation(s) of this Policy and possible sanctions. The complainant and respondent will be given the opportunity to meet separately with the Title IX Coordinator to review this Policy and its procedures.

The College's process for responding to, investigating and determining sexual and gender-based misconduct reports will continue during any law enforcement proceeding. The Title IX Coordinator may need to temporarily delay an investigation while the police are gathering evidence but the Title IX Coordinator will resume the investigation after advised that the police department has completed its evidence-gathering and will generally not wait for the conclusion of any related criminal proceeding.

The Title IX Coordinator will designate a specially trained investigator (or team of investigators) to interview the complainant, respondent and any witnesses. The investigator will also gather pertinent documentary materials (if any) and other information. The investigator will follow the protocols set forth below:

- **Fact and Evidence Gathering.** The investigator will interview and obtain statements from the complainant, respondent and any witnesses regarding the alleged incident (s), corroborating information; and relevant information about pre-and post-incident behavior and/or actions. The investigator will also obtain and preserve any physical or documentary evidence.
- **Preserving Evidence.** The investigator will direct the complainant, respondent, witnesses, and other interested individuals to preserve any relevant evidence.
- **Character Witnesses.** The investigator will not interview witnesses whose sole purpose is to provide character information.
- **Romantic or Sexual History in Sexual Assault Cases.** The investigator will not consider information concerning the romantic or sexual history of either the complainant or the respondent, except from either the complainant or respondent regarding their shared sexual history. If either offers such information, the other will have the right to respond. The existence of a prior consensual dating or sexual relationship between the complainant and respondent by itself does not support an inference of consent to alleged sexual or gender-based misconduct.
- **Prior Conduct Violations.** The investigator will not consider the respondent's prior conduct violations, unless the Title IX Coordinator or the respondent's school provides information because:
  - The respondent was previously found to be responsible, and
  - The previous incident was substantially similar to the present allegation(s) and/or the information indicates a pattern of behavior by the respondent.

The investigator will prepare a report detailing the relevant content from the interviews and the documentation gathered. The report will include the investigator's assessment of individual credibility and recommended findings of responsibility. The investigator may consult with appropriate College personnel including the Office of General Counsel

The respondent and complainant will each have the opportunity to review a copy of the investigative report and any other information that will be used during the disciplinary proceedings. The names and other identifying information of other students will be redacted from such materials in accordance with the Family Educational Rights and Privacy Act (FERPA), except to the extent that doing so would interfere with the purpose of Title IX to eliminate sex-based discrimination. The Title IX Coordinator will supervise this review and ensure that reasonable time is afforded for review prior to review by the Investigatory Panel.

### **C. Informal Resolution**

The Title IX Coordinator, upon consultation with appropriate College personnel, including the Office of the General Counsel, may seek to resolve certain gender-based misconduct cases through an informal process involving both the complainant and respondent. (For example, a complainant and respondent may agree with the Title IX Coordinator that education and training for the respondent are an appropriate and sufficient response in a particular case). This type of informal resolution can take place during the investigation or after its conclusion. If, based on the information known about the incident, the Title IX Coordinator believes such a resolution is possible, the Title IX Coordinator will speak with the complainant. If the complainant agrees, the Title IX Coordinator will then speak with the respondent. If both complainant and respondent are satisfied with a proposed resolution and the Title IX Coordinator believes the resolution satisfies the College's obligation to provide a safe and non-discriminatory environment for all students, the resolution will be implemented, the disciplinary process will be concluded and the matter will be closed. If these efforts are unsuccessful, the disciplinary process will continue. Before starting these discussions, the Title IX Coordinator will notify the complainant and respondent that each has the right to end the informal process at any time. **The College will not use informal resolution for cases involving allegations of sexual assault.**

### **D. Administrative Resolution**

After the complainant and respondent have had an opportunity to review the investigative report and related material, the Title IX Coordinator will ask the respondent to respond to the alleged violation in one of the following ways: 1) Responsible; 2) Not Responsible; or 3) No Response. If the respondent accepts responsibility, the matter will proceed to the sanctions stage, followed by any appeals. If the respondent declines responsibility, or chooses not to respond, the College will convene an Investigatory Panel.

### **E. Investigatory Panel**

The Investigatory Panel determines whether the respondent is responsible or not responsible by a preponderance of the evidence for a violation of this Policy. If the respondent is determined to be responsible, the matter proceeds to the sanctions stage.

The Investigatory Panel will generally have three members drawn from a small group of specially-trained College administrators and/or faculty, except that in certain matters, the College may include retired judges, lawyers or other individuals with relevant experience and special

training. Faculty on the Panel will not be from the school of either the complainant or the respondent. The complainant and respondent will be informed of the Investigatory Panel's membership before the Investigatory Panel convenes.

All panelists will receive training, including from experts in the field, initially and on a regular basis. In addition to training on how the investigatory and disciplinary process works, the training will include specific instruction about how to approach students about sensitive issues that may arise in the context of sexual and gender-based misconduct.

## **F. Written Submissions by Complainant and Respondent**

Both the complainant and respondent will have the opportunity to submit written responses to the investigative report and other relevant information to the Investigatory Panel. Each of the complainant and respondent will have the opportunity to review any written submissions by the other. The Investigatory Panel may set reasonable parameters for these written submissions. The Investigatory Panel will review the investigative report and written submissions. The Investigatory Panel may determine that a meeting is not necessary when all three panel members agree that the information in the investigation report and the written submissions (if any) is sufficient to make a determination (for example, where the complainant and the respondent do not disagree about the relevant facts). If the Investigatory Panel decides that a meeting is not necessary, the Investigatory Panel will proceed directly to make a determination, including an explanation of why a meeting is not necessary, as described below.

## **G. Investigatory Panel Meetings**

### **1. Notice**

The Title IX Coordinator will, whenever possible, give the complainant and respondent at least five days' advance notice of any meeting of the Investigatory Panel. The meeting is a closed proceeding, meaning that no one other than the Panel members, the complainant and respondent, their respective advisors, witnesses (when called), and necessary College personnel may be present in the meeting room or rooms during the proceeding. The Title IX Coordinator will work with other College personnel so that any student whose presence is required may participate in the procedures.

### **2. Meeting Procedures**

The Investigatory Panel may set reasonable time limits for any part of the meeting. Each of the complainant and respondent will have the opportunity to present witnesses and other information consistent with this Policy and its procedures. The Investigatory Panel may determine the relevance of, place restrictions on, or exclude any witnesses or information. When the complainant and respondent are not able to be present for the Investigatory Panel meeting, arrangements will be made for participation via alternate means. In cases where either the complainant or respondent opts not to participate in these proceedings, the Investigatory may still hear from the other.

Questioning. Only the Investigatory Panel may ask questions of the complainant and respondent and any witnesses. If the Investigatory Panel allows the parties to cross-examine the other party or any witness, the parties may do so by submitting questions to the Investigatory Panel to ask the questions on their behalf. The parties and their advisors are not permitted to personally question or cross-examine the other party or any witness. The Investigatory Panel may revise or not ask any or all submitted questions.

### 3. Equal Treatment

The Investigatory Panel shall give the complainant the same rights that it gives to the respondent, and vice versa. Specifically,

- The Investigatory Panel is not required to allow a complainant or respondent to be present for the entire meeting. However, if the Investigatory Panel allows one party to be present for the entire meeting, it must do so equally for both parties. At the same time, when requested, the Investigatory Panel should make arrangements so that the complainant and the respondent do not have to be present in the same room at the same time (e.g., by using closed circuit television or other means).
- The Investigatory Panel is not required to allow cross-examination of witnesses, including the parties, if they present evidence at the meeting. However, if the Investigatory Panel allows one party to cross-examine witnesses, it must do so equally for both parties, subject to the rules regarding “Questioning” under the “Meeting Procedures” section above.
- The Investigatory Panel is not required to allow a complainant or respondent to make an opening statement. However, if the Investigatory Panel allows one party to make such statement, it must do so equally for both parties.
- The Investigatory Panel is not required to allow a complainant or respondent to make a closing statement. However, if the Investigatory Panel allows one party to make such statement, it must do so equally for both parties.

### 4. Information Regarding Romantic or Sexual History

The Investigatory Panel will not consider the romantic or sexual history of either the complainant or respondent in cases involving allegations of gender-based misconduct, except for testimony offered by one or the other about the complainant’s and respondent’s shared sexual history that the Investigatory Panel deems relevant. If such information is offered by the complainant or respondent, the other has the right to respond. The existence of a prior consensual dating or sexual relationship between the complainant and respondent by itself does not support an inference of consent to alleged sexual or gender-based misconduct.

### 5. Prior Conduct Violations

The Investigatory Panel will not consider the respondent’s prior conduct violations, unless the Title IX Coordinator or the respondent’s school provided that information to the investigator because:

- The respondent was previously found to be responsible, and
- The previous incident was substantially similar to the present allegation(s) and/or the information indicates a pattern of behavior by the respondent.

#### 6. Meeting Recordings

The College will keep an audio recording of the Investigatory Panel meeting for the use of the Investigatory Panel, for sanctioning, and for purposes of appeal. The Investigatory Panel members and the Sanctioning Officer (described below) and/or the Dean of the respondent's and/or the complainant's school(s) may request a transcript of the recording. The record of Investigatory Panel meeting(s) shall be preserved and maintained by the College for at least five years from the date of the Investigatory Panel meeting.

#### 7. Cell Phones and Recording Devices

Cell phones and recording devices may not be used in the Investigatory Panel meeting rooms unless approved by the Investigatory Panel in advance.

#### 8. Investigatory Panel Determination and Standard of Proof

The Investigatory Panel will use "preponderance of the evidence" as the standard of proof to determine whether a violation of the Policy occurred. Preponderance of the evidence means that an Investigatory Panel must be convinced based on the information it considers that the respondent was more likely than not to have engaged in the conduct at issue in order to find the respondent responsible for violating the Policy. The Investigatory Panel may consult with appropriate College personnel including the Office of General Counsel.

The Investigatory Panel will find a student responsible, or not responsible, by a preponderance of the evidence, based on a majority vote. The panel will generally render a decision within 15 days after the conclusion of an Investigatory Panel meeting. The Investigatory Panel's decision will include an explanation of the basis for the decision.

If the Investigatory Panel finds the respondent responsible by a preponderance of the evidence, the matter will proceed to the sanctions stage. The Title IX Coordinator will transmit the Investigatory Panel's determination to the Sanctioning Officer (described below) of the respondent's school, the respondent, and the complainant.

### **H. Sanctions**

#### 1. The Sanctioning Officer

The Dean of the respondent's school, or his/her designee, shall be the Sanctioning Officer under this Policy.

To promote consistency with the College's handling of similar cases: (1) appropriate training will be provided to Sanctioning Officers initially and on a regular basis; and (2) prior to imposing any sanction, a Sanctioning Officer will consult with the Title IX Coordinator and other College personnel, including the Office of the General Counsel, about sanctions imposed in similar cases. Available sanctions will be consistent across all College schools. Similar offenses may result in different sanctions where there are distinguishing facts and circumstances in the opinion of the Sanctioning Officer.

All Investigatory Panel determinations will be referred to the Sanctioning Officer of the respondent's school. The Sanctioning Officer will impose sanctions that are:

- Fair and appropriate given the facts of the particular case;
- Consistent with the College's handling of similar cases;
- Adequate to protect the safety of the campus community; and
- Reflective of the seriousness of sexual or gender-based misconduct.

The Sanctioning Officer will consider relevant factors, including if applicable: (1) the specific sexual or gender-based misconduct at issue (such as penetration, touching under clothing, touching over clothing, unauthorized recording, etc.); (2) the circumstances accompanying the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.); (3) the respondent's state of mind (intentional, knowing, bias-motivated, reckless, negligent, etc.); (4) the impact of the offense on the complainant; (5) the respondent's prior disciplinary history; (6) the safety of the College community; and (7) the respondent's conduct during the disciplinary process.

In determining what sanctions will protect the safety of the College community, the Sanctioning Officer will be advised by the College's Security Office, the Office of the General Counsel, and other experts as appropriate, and will consider: (1) the risk that the respondent may engage in additional sexual or gender-based misconduct; and (2) the deterrent or permissive effect of a particular sanction on the campus community, including on particular individuals and organizations aware of the offense (keeping in mind that a sanction must always be fair and appropriate for the particular case).

The Sanctioning Officer will render a sanctioning decision within five days following the receipt of the panel's determination. The sanctioning decision will be communicated in writing to the complainant and the respondent.

## 2. List of Sanctions

The College may impose any one or more of the following sanctions on a student determined to have violated the Policy. This list is not intended to be exhaustive.

- Reprimand/warning
- Changing the respondent's academic schedule
- Disciplinary probation
- Revocation of honors or awards

- Restricting access to College facilities or activities (including student activities and campus organizations)
- Community service
- Issuing a “no contact” order to the respondent or requiring that such an order remain in place
- Moving the respondent’s residence
- Dismissal or restriction from College employment
- Removal from student housing
- Suspension (limited time or indefinite)
- Expulsion
- Revocation of degree

In addition to any other sanction (except where the sanction is expulsion or revocation of a degree), the College will require any student determined to be responsible for a violation of the Policy to receive appropriate education and/or training related to the sexual or gender-based misconduct violation at issue. The College may also recommend counseling or other support services for the student.

### 3. Ongoing Accommodations for Complainant

Whatever the outcome of the investigation and disciplinary process, a complainant may request ongoing or additional accommodations and the Title IX Coordinator, in consultation with appropriate College personnel, including the Office of the General Counsel and the Dean of the complainant’s school, will determine whether such measures are appropriate. Potential ongoing accommodations include but are not limited to:

- Providing an escort for the complainant
- Moving the complainant’s residence
- Changing the complainant’s academic schedule
- Adjusting the complainant’s work schedule
- Allowing the complainant to withdraw from or retake a class without penalty
- Providing access to tutoring or other academic support, such as extra time to complete or re-take a class

## **I. Appeals**

Either the respondent or the complainant or both may appeal the determination of the Investigatory Panel and/or the sanctions. Appeals are decided by the Chancellor and Chief Executive Officer of the College. The three grounds for appeal are:

1. A procedural error affecting the determination or sanction;
2. New information that was not available at the time of the investigation or Investigatory Panel meeting and that may change the determination or sanction; and,
3. Excessiveness or insufficiency of the sanction.

Disagreement with the finding or sanctions is not, by itself, grounds for appeals.

The appealing student must submit the appeal in writing to the Chancellor and Chief Executive Officer, with a copy to the Title IX Coordinator, within five days after receiving the sanctioning notice. If either the complainant or respondent submits an appeal, the Title IX Coordinator will notify the other that an appeal has been filed and the grounds of the appeal. The non-appealing student may submit a written response within five days after notice of an appeal.

The Chancellor and Chief Executive Officer shall review the reports. If the Chancellor and Chief Executive Officer concludes that a change in the Investigatory Panel's determination is warranted, the Chancellor and Chief Executive Officer may enter a revised determination, reconvene the Investigatory Panel to reconsider the determination, or return the matter for additional investigation. After consultation with the Title IX Coordinator, the Office of the General Counsel and the Dean(s) of the complainant's and respondent's school(s), the Chancellor and Chief Executive Officer may also change the sanction. If both the complainant and respondent appeal, the appeals will be considered concurrently.

The Chancellor and Chief Executive Officer will notify the complainant and respondent of the final decision in writing. Appeals decisions will be rendered within thirty days after the receipt of the written appeal. All appeal decisions are final.

## **J. Records Disclosure and Transcript Notation**

Disciplinary proceedings conducted by the College are subject to the Family Educational Records and Privacy Act (FERPA), a federal law governing the privacy of student information. FERPA generally limits disclosure of student information outside the College without the student's consent, but it does provide for release of student disciplinary information without a student's consent in certain circumstances.

Any information gathered in the course of an investigation may be subpoenaed by law enforcement authorities as part of a parallel investigation into the same conduct, or required to be produced through other compulsory legal process.

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the Clery Act, the College shall make a notation on the transcript of students found responsible after a conduct process under this Policy that they were "Suspended after a finding of responsibility for a code of conduct violation" or "Expelled after a finding of responsibility for a code of conduct violation." For the respondent who withdraws from the College while such conduct charges are pending, and declines to complete the conduct process under this Policy, the College shall make a notation on the transcript of such students that they "Withdrew with conduct charges pending." A respondent with a transcript notation of suspension can appeal to seek the removal of such notation from the transcript provided that such notation shall not be removed prior to one year after conclusion of the suspension. A transcript notation of expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

## **VIII. RETALIATION**

This Policy prohibits retaliation against any individual who in good faith filed and/or participated in the investigation of a complaint, even if the complaint is unsubstantiated. Both the complainant and respondent will be so informed by the Title IX Coordinator at the outset of the process. Retaliation includes threats, intimidation, reprisals, harassment, and/or any other adverse action threatened, expressly or impliedly, or taken against anyone who reports a violation or suspected violation of this Policy or who participates in an investigation of a complaint. Such prohibited 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. The College shall take all reasonable and legally appropriate actions to protect individuals from retaliation. Anyone who either observes or becomes aware of such retaliatory behavior is strongly encouraged to report it to the Title IX Coordinator, and all College employees have the obligation and responsibility to do so. The Title IX Coordinator will review the facts and recommend the appropriate disciplinary action, leading up to and including expulsion for students and termination of employment for employees. Violations of this prohibition will be addressed through this Policy and/or other College disciplinary procedures, as deemed appropriate in the College's discretion.

## **IX. KNOWING FALSE CLAIMS OR INFORMATION**

The College considers any allegation of sexual or gender-based misconduct a serious matter and encourages individuals to report all such incidents to the College as more fully described in this Policy. All good faith reports will be treated with the seriously. However, as false claims can have a significant adverse effect on one's reputation, any individual who *knowingly* files a false allegation of misconduct under this Policy, or who *knowingly* provides false information during an investigation or proceeding under this Policy, may be subject to appropriate disciplinary action, leading up to and including expulsion for students and termination of employment for employees.

## **X. TIME LIMITS**

The College will exercise due diligence in complying with the stated time limits set forth in this Policy. Occasionally, stated time limits may be extended for good cause (e.g., the unavailability of witnesses, an unusually complex investigation, the academic calendar or other considerations). Any party may request an extension of any deadline by submitting a written request to the Title IX Coordinator detailing the reason for such request and the amount of additional time requested. The Title IX Coordinator has total discretion to grant or deny any such request.

## **XI. EDUCATION/TRAINING AND CAMPUS CLIMATE ASSESSMENTS**

As part of the College's commitment to providing a safe and non-discriminatory educational environment, this Policy shall be disseminated widely to the College community through publications, websites, student orientation, new employee orientation, current employee training and other appropriate channels of communication. The College also mandates unlawful

harassment training programs for College employees and students to promote awareness and a safe and respectful College environment.

In addition, the College shall develop and implement a comprehensive student onboarding and ongoing education campaign to educate members of the College's community about domestic violence, dating violence, stalking, and sexual assault, in compliance with applicable federal laws, including the Clery Act, as amended by the *Violence Against Women Act*, and with *Article 129-B of the New York State Education Law*. Included in this campaign shall be requirements that all new First-year and transfer students shall, during the course of their onboarding to the College, receive training on sexual assault, domestic violence, dating violence and stalking education and prevention including bystander intervention training and risk reduction strategies and that each student leader and officer of student organizations recognized by or registered with the College, as well as those seeking recognition by the College, complete such training prior to receiving recognition or registration by the College as a student organization.

The College shall also conduct, no less than every other year, a campus climate assessment using standard and commonly recognized research methods. The assessment shall include questions covering, but not be limited to, the following:

- A. The Title IX Coordinator's role;
- B. Campus policies and procedures addressing sexual assault;
- C. How and where to report domestic violence, dating violence, stalking or sexual assault as a victim, survivor or witness;
- D. The availability of resources on and off campus, such as counseling, health and academic assistance;
- E. The prevalence of victimization and perpetration of domestic violence, dating violence, stalking, or sexual assault on and off campus during a set time period;
- F. Bystander attitudes and behavior;
- G. Whether reporting individuals disclosed to the College and/or law enforcement, experiences with reporting and College processes, and reasons why they did or did not report;
- H. The general awareness of the difference, if any, between the College's policies and the penal law; and
- I. General awareness of the definition of affirmative consent.

The College shall ensure that the answers to such surveys remain anonymous, that no individual respondent is identified and that the high-level results of such surveys are published on the College's website provided that no personally identifiable information is shared.

## **XII. REVIEW AND ASSESSMENT**

The College shall regularly review this Policy to determine its effectiveness and relevance to students and 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 determines that circumstances warrant modification or amendment of this Policy, timely notice of the same will be communicated to all affected parties.

### **XIII. EFFECTIVE DATE**

This Policy shall be effective immediately.

### **XIV. POLICY RESPONSIBILITIES AND MANAGEMENT**

Responsible Executive: The respective Deans of the School of Medicine, the School of Health Sciences and Practice, and the Graduate School of Basic Medical Science

Responsible Officer: The Title IX Coordinator and Deputy Title IX Coordinators

Responsible Department: Office of Student Affairs

Questions relating to the interpretation and implementation of this Policy are to be directed to the the Office of the General Counsel.

APPROVED BY THE CHANCELLOR'S OFFICE, THE OFFICE OF INSTITUTIONAL COMPLIANCE AND THE OFFICE OF SECURITY.: