Siena College Discrimination and Harassment Policy

Table of Contents

I. STATEMENT OF BASIS AND PURPOSE ....................................................................................................... 2
II. TITLE VII AND THE TITLE IX COORDINATOR AND EQUAL OPPORTUNITY SPECIALIST (EOS) RESPONSIBILITIES .................................................................................................................. 3
III. TERMINOLOGY .................................................................................................................................. 5
V. IMMEDIATE ASSISTANCE IN CASES OF DISCRIMINATION AND HARASSMENT ................................. 8
VI. CHOICE OF ACTIONS IN RESPONSE TO DISCRIMINATION AND HARASSMENT ............................... 9
IX. INTERIM MEASURES ........................................................................................................................ 11
X. INVESTIGATION BY SIENA COLLEGE .................................................................................................... 12
XI. REPORTING RETALIATION ............................................................................................................... 13
XII. RESOLUTION .................................................................................................................................... 13
XIV. RESOLUTION THROUGH OTHER MEANS ......................................................................................... 20
I. STATEMENT OF BASIS AND PURPOSE

Siena College is committed to promoting a learning and working environment where discrimination and harassment is not tolerated. This policy shall apply regardless of race, color, religion, creed, ethnicity, national origin, gender, age, sexual orientation, gender identity or expression, familial status, veteran status, disability, predisposing genetic characteristics, domestic violence victim status or other basis identified in federal or state law. Acts of discrimination and harassment, which are offenses directed against persons because of their identification with one of these categories, are prohibited under this policy. This policy prohibits discrimination and harassment in all College programs and activities. Conduct prohibited by this policy also may violate laws enforced through the public criminal justice system. Individuals may decide to utilize both this policy and the public criminal justice system, simultaneously, to address covered conduct. Siena College proceedings that involve alleged violations of this policy will be conducted through a process that is prompt, equitable, fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.

This policy applies to conduct involving students, employees, or third parties (e.g., contractors, alumni, visitors) that: (a) occurs on College property, (b) takes place in any College-sponsored program or activity such as travel, research or internship programs or (c) when such conduct may have a continuing adverse effect or could create a hostile environment on campus. This policy also applies to student conduct that occurs off College property.

Our commitment is rooted in the Franciscan and Catholic tradition, which affirms the unique worth of each person and shares a commitment to building a world that is more just, peaceable and humane. The dignity of the individual should never be violated in any way, and the college community views, with seriousness, violations of this policy against any person.

Accordingly, Siena College is committed to:

1. Defining conduct that constitutes discrimination and harassment
2. Providing clear reporting options for all members of our campus and visitors following disclosing a violation of this policy.
3. Promptly responding to and investigating allegations of discrimination and harassment, including taking steps to eliminate a hostile environment if one has been created and prevent the recurrence of future incidents of discrimination and harassment. The College’s response may include pursuing disciplinary action when appropriate, referring the incident to local authorities when appropriate and taking action to investigate and address any allegations of retaliation
4. Providing ongoing assistance and support to members of our campus who file complaints of discrimination and harassment
5. Providing awareness and prevention information on discrimination and harassment, including disseminating our policies, implementing training, and educational programs for all College constituents
II. TITLE VII AND THE TITLE IX COORDINATOR AND EQUAL OPPORTUNITY SPECIALIST (EOS) RESPONSIBILITIES

Siena College’s Title IX Coordinator/EOS has primary responsibility for coordinating the College’s efforts to comply with and carry out its responsibilities under Title VII and Title IX which prohibits discrimination in all of the College’s programs and activities, as well as retaliation for the purpose of interfering with any right or privilege secured by Title VII and Title IX.

The Title IX Coordinator/EOS oversees the College’s response to reports and complaints that involve possible discrimination and harassment to monitor outcomes, identify and address any patterns, and assess effects on the campus climate, so the College can address issues that affect the wider College community.

An individual should contact the Title IX Coordinator/EOS in order to:

- Seek information or training about rights and courses of action available to resolve reports or complaints that involve potential violations of this policy
- Make a report that involves potential violations of this policy
- Get information about available resources (including confidential resources) and support services relating to discrimination and harassment
- Ask questions about the College’s policies and procedures related to discrimination and harassment

The Title IX Coordinator/EOS at Siena College is:

Lois Goland, JD
Sarazen Student Union Room 235
Siena College
515 Loudon Road
Loudonville, NY 12211-1462
518-782-6673
lgoland@siena.edu

The following Deputy Coordinators and Public Safety investigators have the responsibility for either coordinating Siena’s Title IX compliance efforts and/or assisting in discrimination and harassment investigations in collaboration with the Title IX Coordinator/EOS.

John Bebb
Senior Deputy Title IX Coordinator (Student Specialist)/Associate Dean of Students
Sarazen Student Union Room 302
783-2328
jbebb@siena.edu
Jennifer Dorsey, Ph.D., Deputy at Large
Associate Professor of Early American History
229 Kiernan Hall
783-2319
jdorsey@siena.edu

Melissa Forrest, Deputy for Students
Assistant Director of Community Living
Sarazen Student Union Room 318
783-2919
mpotocki@siena.edu

Michelle Barriere, Deputy for Employees
Contract Administrator- Office of Auxiliary Services
Trustco Center 204
783-2403
mbarriere@siena.edu

Donna McIntosh, MSW, Deputy for Faculty
Professor of Social Work
310 Rosetti Hall
783-4261
MCINTOSH@siena.edu

Melody Nadeau, Ph.D., Deputy for Students
Assistant Director of International Programs/ESOL
Foy Hall Room 301
786-5047
mnadeau@siena.edu

Jabrina Robinson, JD, Deputy for Students
Dean of Students
Sarazen Student Union Room 302
783-2328
jrobinson@siena.edu

Thomas Breslin, Investigator
Associate Director of Public Safety
Hines Hall East Wing First Floor
III. TERMINOLOGY

**DEFINITION of PROTECTED CLASS GROUPS:** Protected class groups are groups of individuals protected from discrimination and harassment. The following protected class groups are legally protected either by Federal or New York State law.

**Federal Protected Categories:**
- Age
- Disability
- Equal Compensation
- Genetic Information
- National Origin
- Pregnancy
- Race/Color
- Religion
- Retaliation
- Sex
- Sexual Harassment

**New York State Protected Categories:**
- Age
- Race
- Creed
- Color
- National Origin
- Ancestry
- Military Status
- Sex
- Pregnancy
- Disability
- Sexual Orientation
- Genetic Predisposition or Carrier Status
- Arrest or Conviction
- Lawful Off-Duty Activities
Marital Status
Status as Domestic Violence Victim

Siena College includes all of these protected categories and also includes gender identity as a category it protects for staff, faculty, students and administrators.

IV. LEGAL AND BEHAVIORAL DEFINITIONS OF DISCRIMINATION AND HARASSMENT

Discrimination: Discrimination is adverse treatment of any staff, faculty, student and administrator based on the protected class or category of persons to whom he/she belongs, rather than on the basis of his/her individual merit, with respect to the terms, conditions, or privileges of employment or academic standing.

Federal and State Law: Under Federal and New York State laws, it is illegal to discriminate against individuals, including:

- Recruitment and selection
- Compensation, assignment, or classification of individuals
- Transfer, promotion, layoff, or recall
- Job advertisements
- Testing
- Use of campus facilities
- Training and apprenticeship programs
- Fringe benefits
- Pay, retirement plans, and disability leave or
- Other terms and conditions of employment or academic standing
- Retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices
- Employment/academic decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, age, sexual orientation religion, or ethnic group, or individuals with disabilities and denying employment or academic opportunities to a person because of marriage to, or association with, an individual of a particular race, religion, national origin, an individual with a disability or other protected category.

Harassment: Harassment is unwelcome verbal or physical conduct prohibited by law directed toward, or differential treatment of, an employee or student because of his/her membership in any Federal or New York State protected group or on any other prohibited basis.

Harassment becomes unlawful when:

(a) Enduring the offensive conduct becomes a condition of continued employment/academic standing, or

(b) The conduct is severe or pervasive enough to create a work/learning environment that a reasonable person would consider intimidating, hostile or abusive.

Examples of harassment based on protected categories include, but are not limited to:
• Racial Slurs or Epithets
• Treating an Individual Differently Because of the Individual’s Race, Sexual Orientation, National Origin, Sex, Religion or Other Protected Categories
• Unwelcome Sexual Advances
• Sexual Innuendoes, Comments and Sexual Remarks
• Racial and Sexual Graffiti
• Telling Jokes Pertaining to Protected Categories
• Suggestive, Obscene or Insulting Sounds
• Posters, Email, Cartoons, Pictures Displayed in the Work Area that Creates an Offensive and Intimidating Environment
• Implied or Expressed Threat of Reprisal for Refusal to Comply with a Sexual Request
• Patting, Pinching, Brushing up Against Another’s Body
• Engaging in Threatening, Intimidating or Hostile Acts Towards an Individual because that Individual Belongs to or is Associated with any Protected Categories
• Electronic transmission of derogatory, demeaning or hostile materials

**Work/Learning Environments:** A hostile work/learning environment results from harassing conduct that has the purpose or effect of unreasonably interfering with an employee’s work or student’s learning and creates an intimidating, hostile or offensive working environment.

A hostile work/learning environment may exist when verbal and/or nonverbal behavior in the campus/workplace:

• Occurs because of an individual being a member of a protected class (e.g., sex, race, sexual orientation, age).
• Is unwanted or unwelcome.
• Is severe or pervasive enough to unreasonably impact the employee’s work or student’s learning.

**Third Party Harassment:** The individual to whom the harassing conduct is aimed is not the only person who can complain about the harassment. Third parties may complain when the harassment directed at others adversely affects the other person’s work/learning environment. Third parties may also complain when offensive conduct, even if it is consensual between the parties involved, is creating a hostile work/learning environment for the third party.

**DEFINITION OF CONSENSUAL RELATIONSHIPS**

Siena College does not intrude upon private choices regarding personal relationships when these relationships do not violate the policies of the College, cause harm to the safety and wellbeing of members of campus community, or increase the risk of harm to the safety and wellbeing of members of campus community.

Consensual romantic or sexual relationships in which one party retains a direct supervisory or evaluative role over the other party are unethical, create a risk for real or perceived coercion, and are expressly a violation of this policy. Furthermore, the possibility of a future amorous relationship may distort the present instructional or advisory relationship. Therefore, persons with direct supervisory,
evaluative, grading, or academic advising responsibilities who are involved in such relationships must bring those relationships to the attention of their supervisor, and will likely result in the necessity to remove the staff member from the supervisory, evaluative, grading, or academic advising responsibilities.

**DEFINITION OF COMPLAINANT**

“Complainant” shall mean a student or employee who has reported discrimination or harassment. In some instances, the College may serve as the Complainant (see “complaints filed by the College” in Section X – Investigation by Siena College of this policy).

**DEFINITIONS OF ACCUSED and RESPONDENT**

“Accused” shall mean a person accused of a violation under this policy who has not yet entered the College’s conduct process. A person accused under this policy who is not a student or employee of Siena or whose identity is unknown shall also be referred to as accused.

A “Respondent” shall mean a person accused of a violation who has entered the College’s conduct process.

**DEFINITION OF REPORTING INDIVIDUAL**

Reporting Individual” shall encompass the terms Complainant, witness and any other term used to reference an individual who brings forth a report of a violation.

**DEFINITION OF WITNESS**

A “witness” is defined as an individual who has knowledge of facts that may be relevant to the resolution of an allegation.

**DEFINITION OF BYSTANDER**

A “bystander” shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of the College.

**DEFINITION OF REVIEW PANEL**

The review panel consists of faculty, staff and administrators selected from the Siena College community. The review panel makes a determination of responsible or not responsible and makes sanctioning recommendations in formal meeting. These panel members have been trained in the college’s Discrimination and Harassment Policy and procedures, case review and adjudication. To serve on a review panel the member must have had no conflict with the presented case.

V. IMMEDIATE ASSISTANCE IN CASES OF DISCRIMINATION AND HARASSMENT
Students, faculty, staff, administrators and visitors at Siena College who experience any form of discrimination and harassment on or off-campus (including Siena-sponsored trips and events) are strongly encouraged to immediately report the incident by contacting Siena College’s Department of Public Safety (518-783-2376 or 518 -783-2999), which is available 24 hours a day, 7 days a week. Campus public safety officers can also assist the Complainant with filing a complaint both on and off campus, and in obtaining counseling and other services.

VI. CHOICE OF ACTIONS IN RESPONSE TO DISCRIMINATION AND HARASSMENT

Options in General:

Complainants have many options that can be pursued simultaneously, including one of the following:

- Confidentially disclose a violation to the Center for Counseling and Student Development, Health Services, the Office of the College Chaplain or Siena College Friars. Confidential resources can share options and advice without any obligation to tell anyone, and will not share information without the consent of the Complainant.
- Anonymously disclose a crime or violation to the Public Safety anonymous tip line: www.siena.edu/anonymous. The College may have a duty to investigate anonymous disclosures to the extent possible, based on the information disclosed.
- Make a report to a College Official/Responsible Employee. Complainants have the right of privacy when reporting to College Officials/Responsible Employees, to the extent possible under the circumstances. However information must be shared with other administrators who have a need to know. (Private, Not Confidential)
- Public Safety (Private, Not Confidential)
- Title IX Coordinator/EOS (Private, Not Confidential)
- Deputy Title IX Coordinators (Private, Not Confidential)

VII. CONFIDENTIALITY AND CONFIDENTIAL RESOURCES

At Siena College, the following is the list of Confidential Resources:

- Counseling Center: 518-783-2342
- Health Services: 518-783-2554
- Office of the College Chaplain and Siena College Friars: 518-783-2332

These are the only Siena College employees who can offer legally protected confidentiality. These individuals are not required to report any information about an incident to the Title IX Coordinator/EOS without a Complainant’s permission. While professional counselors will maintain an individual’s confidentiality vis-à-vis the College, they may have reporting or other obligations under New York State law, e.g., mandatory reporting to law enforcement in case of minors, imminent harm to self or others.
An individual who speaks to a professional and/or pastoral counselor in these specific roles must understand that, if the individual wants to maintain confidentiality, the College will be unable to conduct an investigation into particular incidents or pursue disciplinary action against the alleged Respondent.

Confidential resources may assist individuals in receiving other necessary protection and support, such as advocacy, academic support or accommodations, disability, health and mental health services, changes in residence halls, working and course schedules in coordination with the Title IX Coordinator/EOS.

Individuals who initially request confidentiality may later decide to file a complaint with the College and thus have the incident investigated. These counselors will provide the individual with assistance in contacting the Title IX Coordinator/EOS if the individual wishes to do so.

**PRIVACY/ NON-CONFIDENTIAL**

Privacy may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate college officials.

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/EOS to investigate and/or seek a resolution.

**DUTY TO REPORT BY RESPONSIBLE EMPLOYEES**

“Responsible Employees” have a duty to report incidents of discrimination and harassment, including all relevant details, to the Title IX Coordinator/EOS. A “responsible” employee is a Siena College employee who has the authority to redress discrimination and harassment or sexual misconduct, who has the duty to report incidents of discrimination and harassment or sexual misconduct or who a student could reasonably believe has the authority or duty. Such employees are not permitted under any circumstances to maintain a Complainant’s confidentiality.

Siena has designated all Faculty, Staff and Administrators, with the exception of those serving in their role as a confidential resource, as responsible employees.

Immediately upon learning of potential campus discrimination or harassment, any employee with a duty to report violations of this policy who receives a complaint of discrimination or harassment or who observes or learns of conduct that is reasonably believed to be in violation of this policy, is required to report the alleged conduct to the Title IX Coordinator/EOS and/or Public Safety who will take appropriate action to address the report.

A responsible employee must report to the Title IX Coordinator/EOS and/or Public Safety all relevant details about the alleged discrimination or harassment shared by the Complainant and that the College will need to determine what happened, including the names of the Complainant and alleged Respondent, any witnesses and any additional relevant information, including the date, time, and specific location of the alleged incident.
ANONYMOUS REPORTING

If a Complainant self-identifies but asks to remain anonymous during the investigation, the Title IX Coordinator/EOS will consider how to proceed, taking into account the Complainant’s wishes, the College’s commitment to provide a safe environment, and the Respondent’s right to have specific notice of the allegations if the College were to take action that affects the Respondent.

VIII. WELFARE OF THE COMMUNITY (AMNESTY) POLICY

The health and safety of every student at Siena College is of utmost importance. Siena 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 discrimination and harassment, 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. Siena College strongly encourages students to report discrimination and harassment, 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 discrimination or harassment, domestic violence, dating violence, stalking or sexual assault to college officials or law enforcement will not be subject to Siena’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 discrimination and harassment, domestic violence, dating violence, stalking, or sexual assault.

This policy may also be applied, but not limited to: alcohol or drug related incidents, discrimination and harassment, sexual misconduct or situations of vandalism and damage. The policy only applies to the College’s Student Code of Conduct and has no status in other jurisdictions such as local or state courts.

EXCEPTION TO OBLIGATION TO INVESTIGATE

If an individual discloses information through a public awareness event such as candlelight vigils, protests, or other public event, the college is not obligated to begin an investigation based on such information. The college may use the information provided at such an event to inform efforts for additional education and prevention efforts.

IX. INTERIM MEASURES

Upon receipt of a report, the Title IX Coordinator/EOS may provide reasonable and appropriate interim measures designed to preserve the Complainant’s educational experience, the safety of all parties and the broader campus community, maintain the integrity of the investigative and/or resolution process, and deter retaliation. The Title IX Coordinator/EOS may provide interim measures regardless of whether the Complainant seeks formal disciplinary action. The Title IX Coordinator/EOS will work collaboratively with the Dean of Students, Assistant Vice President for Human Resources and Associate Vice President for Academic Affairs in providing interim measures.
Interim measures may include, but are not limited to:

- Access to counseling services and assistance in arranging an initial appointment.
- Rescheduling of exams and assignments
- Change in class schedule
- Change in work schedule or job assignment
- Change in housing
- Imposition of an on-campus “no contact order,” an administrative remedy designed to curtail contact and communications between two or more individuals
- Providing the Complainant assistance with filing a criminal complaint and seeking an order of protection
- Other remedies that can be used to achieve the goals of this policy, i.e. interim suspension or campus restriction pending the outcome of the investigation / process

X. INVESTIGATION BY SIENA COLLEGE

All reports and complaints of discrimination and harassment should be filed with the Title IX Coordinator/EOS, Public Safety or Deputy Coordinator as soon as possible after the incident(s) occurred or in a timely manner. While Complainants are welcome to file a report or complaint at any time, Complainants are encouraged to come forward as soon as possible because a delay in reporting or making a complaint may impact the effectiveness of the investigation. Delays in reporting may impair the college’s ability to investigate due to, but not limited to, fading memories and the availability of witnesses and evidence.

Complainants and Respondents may use an advisor of their choice (including legal counsel) at each point in these proceedings. The advisor may serve only in an advisory role and may not directly represent either party.

Upon receiving information of an alleged violation of this policy, either the Title IX Coordinator/EOS, Public Safety Investigators, a Deputy Coordinator or a combination of these individuals will conduct an investigation (interview parties, take or receive statements).

If the reporting witness or Complainant chooses to pursue action under this policy, s/he shall make a written statement (which can be either written by the Complainant or dictated and ascribed to) regarding the discrimination and harassment complaint.

A reporting witness or Complainant may choose to withdraw a complaint and/or involvement from the college process at any time.

COMPLAINTS FILED BY THE COLLEGE

The Title IX Coordinator/EOS or Deputy Coordinator may file a complaint through these procedures against any individual s/he has a reason to believe has engaged in conduct in violation of this policy where doing so is deemed appropriate by the Title IX Coordinator/EOS or Deputy Coordinator, such as, by way of example but not limitation, where it appears that the individual may have engaged in a
pattern of conduct in violation of this policy, based upon the number of complaints filed against the individual and resolved through informal intervention.

Additionally, often individuals are reluctant to pursue the remedies provided in this policy even when the individual perceives they have been subjected to conduct prohibited by this policy. Should the Title IX Coordinator/EOS or Deputy Coordinator become aware of conduct potentially in violation of this policy, even if the person potentially subject to such conduct has not reported it or is unwilling to pursue a complaint, the College may conduct an investigation, as appropriate, and take any necessary action.

When the reporting party is not a student or employee, the College will serve as the Complainant throughout the Resolution process.

XI. REPORTING RETALIATION

Individuals may file a complaint with the Title IX Coordinator/EOS if they have been retaliated against for reporting discrimination and harassment, assisting someone in making such a report or participating in any manner in an investigation or resolution of a discrimination and harassment complaint. All retaliation complaints will be investigated in accordance with the investigation procedures set forth in this policy and individuals who have been found to have engaged in retaliation will be subject to disciplinary action through the student code of conduct or employee disciplinary procedures.

XII. RESOLUTION

INFORMAL RESOLUTION

Individuals may seek an informal resolution to end nonviolent conduct that the person believes violated this policy. These interventions include negotiation, shuttle diplomacy, mediation or restorative justice. Negotiation, shuttle diplomacy and mediation will not be used in cases that involve any form of violence.

If the Respondent confirms the allegations and acknowledges responsibility for his/her actions, the Title IX Coordinator/EOS and/or Deputy Coordinator, in consultation with the Complainant and other designated College officials, will determine the most appropriate course of action.

If the Complainant is not in agreement with the outcome of the informal intervention process or chooses to end it and proceed to the formal process, if the issue cannot be resolved informally, or if the Title IX Coordinator/EOS or Deputy Coordinator determines that additional inquiry is still appropriate, the Title IX Coordinator/EOS and/or Deputy Coordinator will commence the complaint process. Either party may end the informal resolution process at any time and proceed with the formal process.

FORMAL RESOLUTION

Siena College generally completes investigations within thirty (30) business days, absent extenuating circumstances. In certain circumstances the time frames may need to be extended (e.g., during July and August; students and faculty members are often not available, significant number of witnesses to interview, multiple allegations in a single complaint). However, every effort will be made to resolve
cases as expeditiously as possible. The preponderance of evidence or “more likely than not” standard of review will be used during the investigatory process.

The Respondent shall be provided with a notice of complaint describing the date, time location, and factual allegations, a reference to the specific policy violations alleged together with possible sanctions. Once presented with the notice of complaint, the Respondent has four (4) business days to formally accept or deny responsibility for the alleged behavior in writing. Failure to respond by the deadline will be treated as denial of responsibility and the formal process will proceed as outlined.

The Complainant and Respondent shall be advised periodically of the status of the investigation.

INVESTIGATION REPORT

The Title IX Coordinator/EOS and/or Deputy Coordinator will prepare a written report following the completion of the investigation. Except in certain circumstances, the report should be completed within five (5) business days after the completion of the investigation. The report, at a minimum, must include:

1. Summary of the complaint.
2. Summary of the response by the individual against whom the complaint was made.
3. Summary of the statements and evidence obtained during the investigation.
4. Summary of prior settlements or substantiated complaints against the Respondent.

NOTICE OF OUTCOME OF INVESTIGATION

The Title IX Coordinator/EOS and/or the Deputy Coordinator will present a written notice of the outcome of the investigation to the Complainant and Respondent. This document shall consist of a summary of allegations, a summary of the evidence in support of the complaint, and specific areas/of this policy of which the Respondent is alleged to have violated.

Following a notice of outcome of the investigation, the Complainant and their advisor and the Respondent and their advisor may review a redacted copy of the investigation report. Following this review the Complainant and/or Respondent may provide an additional written response to be included in the materials for informal or formal resolution. Both the Complainant and Respondent may also submit a written impact statement to the Title IX Coordinator/EOS to be reviewed prior to deliberation of sanctions, if any.

ACCEPTANCE OF RESPONSIBILITY (STUDENT)

If the Respondent accepts responsibility, the Title IX Coordinator/EOS or Deputy Coordinator shall convene a review panel of three (3) to review the case and make recommendations for sanction to the Associate Vice President for Student Life or designee. Within three (3) business days of the completion of the case by a Review Panel, the recommended finding(s) and sanction(s), if any, shall be forwarded to the Associate Vice President for Student Life (AVPSL) who may accept, amend or reject the findings and/or sanctions.
Student Respondents may have sanctions administered, including but not limited to: expulsion, dismissal, suspension, withholding degree, revocation of admission and/or a degree, disciplinary probation, suspension or dismissal from college housing, social/residence hall probation, housing relocation, restriction from privileges, student reprimand, warning, or discretionary sanctions. This may also include restriction from contact with the Complainant or restriction from parts of or the entire campus.

The Associate Vice President for Student Life (AVPSL) will provide written notice of the outcome and sanction(s) to the Complainant, Respondent, Title IX Coordinator/EOS and Vice President for Student Life within seven (7) business days. The AVPSL will make every effort to schedule notice simultaneously to these parties. All sanction(s), except for suspension, dismissal or expulsion from the College will take effect immediately pending appeal. The sanction(s) shall become final five (5) business days after written notice of said findings was sent to the parties unless formal written appeal is submitted to the Title IX Coordinator/EOS and the Vice President of Student Life. Failure to submit the appeal within five (5) business days waives the right of written appeal.

If the Complainant or Respondent disagrees with the sanction, he/she may make a formal written appeal to the Vice President for Student Life. The Complainant and Respondent may submit an additional statement. The Vice President for Student Life has seven (7) business days to confirm, amend or reject a sanction(s). In cases where the Vice President amends or rejects the sanction(s), the Vice President will include in the file a rationale for the decision not to accept the sanction(s). The Vice President of Student Life will provide written notice of the outcome of the appeal to the Complainant, Respondent and Title IX Coordinator/EOS. The Vice President for Student Life will make every effort to schedule notice simultaneously to these parties. The decision of the Vice President for Student Life is final.

ACCEPTANCE OF RESPONSIBILITY (*FACULTY, STAFF OR ADMINISTRATOR)

If the Respondent accepts responsibility, the Title IX Coordinator shall convene a review panel of three (3) to review the case and make recommendations for sanction to the Vice President of the Respondent’s work assignment. Any sanction takes into account the Respondent’s prior record and any prior complaints as well as the severity of the incident and the outcome sought by the Complainant. Both the Complainant and Respondent may submit a written impact statement to the Title IX Coordinator to be reviewed prior to deliberation of sanctions, if any.

Faculty, staff or administrator Respondents may have sanctions administered that include, but are not limited to: the Respondent’s participation in counseling or individualized training as a corrective action; prohibition of the Respondent from participating in grading, honors, and recommendations; reappointment and promotion decisions or other evaluations of the Complainant; letter of reprimand; restriction of the Respondent’s access to College resources, such as salary increase for a specific period; or suspension or dismissal from employment at the College.

In cases where the Vice President of the Respondent’s work assignment amends or rejects a recommendation, the Vice President of the Respondent’s work assignment will include in the file a rationale for the decision not to accept the recommendation.
The Vice President of the Respondent’s work assignment will send written notice to the Complainant, Respondent, Human Resources and Title IX Coordinator/EOS of his/her decision regarding findings and sanction(s) within seven (7) business days of receipt of the recommended findings and sanctions. The Vice President of the Respondent’s work assignment will make every effort to schedule notice simultaneously to these parties.

**Staff and Administrator Appeal**

If the Complainant or Respondent disagrees with the sanction, he/she may make a formal written appeal to the Title IX Coordinator. The Complainant and Respondent may submit an additional statement regarding the case. The Title IX Coordinator will convene a new three (3) person panel to review the sanction imposed and make a sanction recommendation to the Vice President of the Respondent’s work assignment, whose sanction decision is final. The Vice President will provide written notice of the outcome of the appeal to the Complainant, Respondent and Title IX Coordinator. The Vice President will make every effort to schedule notice simultaneously to these parties.

*Faculty Appeal*

Where a complaint is made against a faculty person and that faculty person is seeking the appeal, appellate review shall be provided through the Faculty Grievance Committee pursuant to the procedures in the Faculty Handbook. The Title IX Coordinator will send written notice of the request for an appeal to the Complainant.

**DENIAL OF RESPONSIBILITY**

If the Respondent denies responsibility, a formal review panel will be convened.

**Formal Review**

Once a Respondent denies responsibility and the investigation is complete, the Title IX Coordinator/EOS will convene a three (3) person Review Panel. The purpose of the review is for the Review Panel to determine whether it is more likely than not that the facts established constitute a violation of this policy. The Panel will examine all testimony and documentary evidence it deems relevant, including the Deputy Coordinator’s investigation report, where appropriate. Privacy and confidentiality shall be protected to the extent practicable, given the College’s need to administer the process.

- Generally, reviews should convene within fourteen (14) calendar days of when the Respondent denied responsibility and the investigation is complete except for good cause, or by agreement of the parties. Written notice of the date, time and location of the review will be provided to the Complainant and Respondent.

- The Review Panel will render a finding regarding responsibility based on the evidence using a “preponderance of the evidence” standard, which is reviews whether it is more likely than not that a violation of this Policy has or has not occurred. The panel will normally render a finding based upon unanimity. In those instances where unanimity is unavailable, a majority vote may be used to render the decision.

- **Student Respondents** may have sanctions administered, including but not limited to: expulsion, dismissal, suspension, withholding degree, revocation of admission and/or a degree, disciplinary
probation, suspension or dismissal from college housing, social/residence hall probation, housing relocation, restriction from privileges, student reprimand, warning or discretionary sanctions. This may also include restriction from contact with the Complainant or restriction from parts of or the entire campus. Student Respondents who are sanctioned with expulsion, suspension, or dismissal from college are subject to a notation on their official college transcript.

- **Faculty, staff or administrator** Respondents may have sanctions administered that include, but are not limited to: the Respondent’s participation in counseling or individualized training as a corrective action; prohibition of the Respondent from participating in grading, honors, and recommendations; reappointment and promotion decisions or other evaluations of the Complainant; letter of reprimand; restriction of the Respondent’s access to College resources, such as salary increase for a specific period; or suspension or dismissal from the College.

**HEARING OUTCOME NOTIFICATIONS**

**Students:** Within three (3) business days of the completion of the case by a Review Panel, the recommended finding(s) and sanction(s), if any, shall be forwarded to the Associate Vice President for Student Life (AVPSL) who may accept, amend or reject the findings and/or sanctions. The AVPSL will provide written notice of the outcome and sanction(s), if any, to the Complainant, Respondent, Title IX Coordinator/EOS and Vice President for Student Life. The AVPSL will make every effort to schedule notice concurrently to these parties.

**Faculty, staff or administrator:** Within three (3) business days of the completion of the review of the case by a Review Panel, the recommended finding(s) and sanction(s), if any, shall be forwarded to the Vice President of the Respondent’s work assignment who may accept, amend or reject the findings and/or sanctions. The Vice President will send written notice to the Complainant, Respondent, Human Resources and Title IX Coordinator/EOS of his/her decision regarding findings and sanction(s) within seven (7) business days of receipt of the recommended findings and sanctions. The Vice President will make every effort to schedule notice concurrently to these parties.

In cases where the AVPSL or a Vice-President (in the case of a faculty, staff or administrator) amends or rejects a recommended finding and/or sanction as presented by the Review Panel, the AVPSL or Vice President will include in the file a written notice and rationale for the decision not to accept the recommendation.

**APPELLATE REVIEW**

**Students**

All sanction(s), except for suspension, dismissal or expulsion from the College will take effect immediately pending appeal and shall become final five (5) business days after written notice of said decision was sent to the Respondent unless a formal written appeal is submitted. Failure to submit the appeal within five (5) business days waives the right of written appeal.

Complainant(s) or Respondent(s) may submit an appeal based on the findings. Appeals of the finding(s) of responsibility must be based on procedural error or new information that was not available at the time of the Formal Review, and could not have been produced by a reasonable effort. Complainant(s)
and Respondents may also appeal a sanction(s) based on grounds that the sanction(s) imposed are disproportionate to the violation of policy that was found to have occurred. The Complainant(s) or Respondent(s) may make a formal appeal in writing to the Title IX Coordinator/EOS. The Complainant and Respondent may submit an additional statement. The Title IX Coordinator/EOS will convene a new Review Panel of three (3) to review the case make a recommendation to the Vice President of Student Life whose decision is final.

The Vice President of Student Life will provide written notice of the outcome of the appeal to the Complainant, Respondent and Title IX Coordinator/EOS within seven (7) business days. The Vice President for Student Life will make every effort to schedule notice concurrently to these parties.

**Staff and Administrators**

The decision of appropriate Vice-President and sanction imposed shall become final five (5) business days after written notice of said decision was sent to the Respondent unless a formal written appeal is submitted to the Title IX Coordinator/EOS along with a copy to the appropriate Vice-President. Failure to submit the appeal within five (5) business days waives the right of written appeal.

Complainant(s) or Respondent(s) may submit an appeal based on the findings. Appeals of the finding(s) of responsibility must be based on procedural error or new information that was not available at the time of the Formal Review, and could not have been produced by a reasonable effort. Complainant(s) and Respondents may also appeal a sanction(s) based on grounds that the sanction(s) imposed are disproportionate to the violation of policy that was found to have occurred. The Complainant(s) or Respondent(s) may make a formal appeal in writing to the Title IX Coordinator/EOS. The Complainant and Respondent may submit an additional statement. The Title IX Coordinator/EOS will convene a new Review Panel of three (3) to review the case and make a recommendation to the appropriate Vice President whose sanction decision is final.

The Title IX Coordinator/EOS will send written notice to the appropriate Vice President of the findings of the Appellate Review Panel within three (3) business days of receipt of the findings.

The Vice President will send written notice to the Complainant, Respondent, Human Resources and Title IX Coordinator/EOS of his/her decision regarding findings and sanction(s) within seven (7) business days of receipt of the recommended findings and sanctions. The Vice President will make every effort to schedule notice simultaneously to these parties.

**Faculty**

Where a complaint is made against a faculty person and that faculty person is seeking the appeal, appellate review shall be provided through the Faculty Grievance Committee pursuant to the procedures in the Faculty Handbook. The Title IX Coordinator/EOS will send written notice of the request for an appeal to the Complainant.

**DISPOSITIONS/COMPLIANCE MONITORING**

The Dean of Students or designee is responsible for monitoring student compliance, if applicable.
Written notification of findings that trigger monitoring responsibilities shall be provided to the person responsible for monitoring compliance. Other parties may be notified, as deemed necessary, to ensure compliance.

Failure to observe the terms and/or conditions of any informal resolution or sanctions imposed in formal resolutions constitutes grounds for new action under either the procedures outlined in this policy or those identified for addressing matters of student misconduct.

The Deputy Coordinator, in consultation with the Title IX Coordinator/EOS, the Complainant and/or person responsible for monitoring compliance, will determine which procedures shall be applied for investigation and response.

**DISMISSAL OF TENURED FACULTY**

In cases where complaints against tenured faculty members are found to have merit and where dismissal is the decision, the Vice President for Academic Affairs shall provide a Notice of Termination to the tenured faculty member which shall be effective two (2) weeks after served or mailed to the Respondent, unless, during the two (2) week time frame, the Respondent submits a written request for a dismissal hearing by the Faculty Grievance Committee.

Upon the submission of a request for a dismissal hearing, the procedures set forth in the Faculty Handbook shall be followed.

Tenured faculty members shall have no additional appeal rights under this policy and procedures other than those provided under the Faculty Handbook.

**RECORDS OF COMPLAINTS/REPORTS**

A copy of the investigation report and the final decision shall be maintained by the College and included in the Conduct or Human Resources file of the Respondent only if the determination concludes that the Respondent engaged in prohibited conduct.

Complaints against students will be held in the Respondent’s file in accordance with the policy as stated in the Retention and Release of Student Disciplinary Records.

No record of a complaint is kept in the Complainant’s Human Resources file or student file unless the investigation concludes that the complaint was knowingly false and malicious.

The Title IX Coordinator/EOS shall keep a record of all reports and complaints made under the Discrimination and Harassment Policy, regardless of the outcome.

All documents prepared and maintained pursuant to the Discrimination and Harassment Policy and Procedures shall conform to all applicable governing law.

Record retention and release by the College shall be in conformance with applicable law and regulations.
XIII. ANNUAL REPORTING

The Title IX Coordinator/EOS shall provide the President of the College and the Cabinet with an annual confidential report, detailing the number and disposition of different types of incidents, allegations, reports and complaints of discrimination that have come to their attention each year. Information that could identify Complainants, or Respondents against whom no finding has been made, shall not be included. A summary may be provided to the college community so long as confidentiality of individuals’ identities is not breached. The President shall determine the propriety of a report to the entire College community.

XIV. RESOLUTION THROUGH OTHER MEANS

Complainants and Respondents have the right to seek resolution through other sources, for example, the New York State Division of Human Rights, the Equal Employment Opportunity Commission or Office of Civil Rights of the United States Department of Education (1-800-421-3481).

XV. MODIFICATIONS

Final policy changes that are material to the policy and procedure are to be approved by the President, President’s Cabinet and Board of Trustees. However, modifications to the policy concerning changes in personnel shall only require approval of the President and the President’s Cabinet.

Last Modified: May, 2016