



HARTWICK  
COLLEGE

est. 1797

## **Title IX, Bias, Discrimination, and Harassment Policy**

# **HARTWICK COLLEGE TITLE IX, BIAS, DISCRIMINATION, AND HARASSMENT POLICY**

(Revised on March 30<sup>th</sup>, 2025)

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## **POLICY INTRODUCTION AND PURPOSE:**

Hartwick College is committed to fostering an educational and employment environment free from bias, discrimination, harassment, and retaliation.

To ensure compliance with federal, state, and local civil rights laws and to uphold its commitment to equal opportunity, the College has established the Title IX, Bias, Discrimination, and Harassment Policy (“the Policy”). This Policy provides a clear framework for the prompt, fair, and impartial resolution of reports involving discrimination, harassment, bias, and retaliation. Such conduct is unlawful, contrary to Hartwick’s values and expectations, and will not be tolerated.

### **The Policy:**

- Defines prohibited conduct.
- Sets forth available resources, support, and reporting options.
- Describes the College’s prompt and equitable grievance processes.
- Describes programs implemented by Hartwick to educate and increase awareness among the College community.

## **POLICY SCOPE:**

The Policy prohibits all forms of sexual harassment and sex-based harassment including sex discrimination, sex or gender-based harassment, sexual harassment, domestic violence, dating violence, sexual assault, stalking, and retaliation.

The Policy also prohibits bias, discrimination, harassment, and retaliation based on race, religion, disability, and other protected classes, groups, or characteristics, as listed below.

## **NOTICE OF NONDISCRIMINATION:**

The College must comply with applicable federal, state, and local laws, regulations, and ordinances prohibiting discrimination in private post-secondary education institutions that receive federal financial assistance.

The College does not discriminate against employees including faculty, staff and administrators, contractors, subcontractors, vendors, or other third parties on the basis<sup>1</sup> of:

- Age
- Citizenship status
- Color
- Creed
- Criminal conviction record
- Disability (physical or mental)
- Domestic violence victim status
- Ethnicity
- Familial status

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<sup>1</sup> Includes discrimination based on a “perceived” basis and when protected by law.

- Gender expression
- Gender identity
- Genetic information (including family medical history)
- Predisposing genetic characteristics
- Marital status
- National origin (including ancestry)
- Political belief or affiliation
- Pregnancy or related conditions
- Race
- Religion
- Sex
- Sexual orientation
- Veteran or military status (including disabled veteran, recently separated veteran, active-duty, wartime or campaign badge veteran; and Armed Forces Service Medal veteran) retaliation for opposing unlawful discriminatory practices or to other protected characteristics by applicable law.

## **POLICY JURISDICTION**

The Policy applies to the education programs and activities of the College and all other College operations and functions. It covers conduct that occurs on campus, on property owned or controlled by the College, at its sponsored events, or in buildings owned or controlled by the College's recognized student organizations. Any person or group alleged to have violated this Policy is referred to as a Respondent. Those affected by alleged policy violations are referred to as Complainant(s).

All members of the College community are expected to assist in maintaining a working and learning environment that is free of all forms of discrimination, harassment, and retaliation. The Policy may also apply to off-campus incidents if it effectively deprives someone of access to Hartwick's educational programs or activities, impacts the working environment, or affects a "substantial College interest."

A substantial College interest includes but is not limited to:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of local, state, or federal law.
- Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual covered by this Policy.
- Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches peace or causes social disorder.
- Any situation detrimental to the educational interests or mission of the College.

When a Respondent is not a member of the College community, supportive measures, remedies, and resources may be accessible to those affected by the alleged policy violations, referred to as Complainant(s).

If a Respondent is enrolled in or works at another educational institution, the Title IX Coordinator/Compliance Officer may refer to or contact the institution, as allegations may violate that institution's policies. Similarly, the Title IX Coordinator/Compliance Officer may be able to

assist and support a student or employee who experiences discrimination, harassment, and retaliation prohibited by this Policy, in a clinical program, study abroad program, or other entities external to the College.

All vendors serving the College through third-party contracts are subject to the policies and procedures of their employers and to this Policy when engaging with other members of the College community.

## **PROCESS A AND PROCESS B:**

When an alleged violation of this Policy is reported, the allegations are subject to one of two grievance processes, Process A and Process B.

Process A or Process B may be applied to any single incident, pattern of behavior, or the general climate of an education program or activity. While certain forms of discrimination, harassment, and retaliation can constitute a criminal offense under New York State law or federal law, a person's conduct may violate this Policy even if it does not violate state or federal law.

**Process A:** A formal grievance process designated by the College to address conduct that constitutes Sexual Harassment under Title IX, as defined below and which complies with the requirements of the current Title IX regulations, including the geographical jurisdiction of Title IX.

**Process B:** A grievance process designated by the College to apply when Process A does not. Process B applies to unlawful or otherwise prohibited bias, discrimination, harassment, and retaliation, including sex or gender-based discrimination that does not constitute Title IX sexual harassment.

## **POLICY TERMS AND DEFINITIONS:**

**Actual Knowledge:** The College is considered to have "actual knowledge" of allegations of conduct prohibited by this Policy when notice is given to the College or any College official with authority to take corrective action, also known as an Official with Authority.

**Advisor or Advisor of Choice:** A person chosen by a party (Complainant or Respondent) to accompany the party to meetings and proceedings related to Process A or Process B, to advise the party and to conduct cross-examination on behalf of the party at the hearing, if any, under Process A. If a party does not select an advisor to conduct cross-examination at the live hearing under Process A, the College will appoint a trained advisor to that party to conduct cross-examination at the live hearing under Process A.

**Affirmative Consent:** 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 sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent.

The age of consent in New York State is seventeen (17).



The definition of consent does not vary based on a participant's sex, sexual orientation, gender identity or gender expression. Regardless of these factors, consent must always meet the following standards:

- 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.**

**Bystander:** A person who observes a crime, impending crime, violent or potentially violent behavior or conduct that violates this Policy.

**Coercion:** Unreasonable pressure for sexual activity.

**Complainant:** An individual alleged to be the victim/survivor of conduct that violates this Policy or retaliation for engaging in any processes therein, receiving safety and supportive measures or remedies and modifications under this Policy.

**Confidentiality and Confidential Resources:** Information can be kept confidential by designated confidential resources. A Confidential Resource is an individual who can offer services and is not required by law to report known incidents of sexual assault or other crimes to institution officials in a manner consistent with state and federal law, including but not limited to licensed mental health counselors, medical providers, and pastoral counselors. Resources offered by the College that are not confidential resources will maintain privacy to the greatest extent possible.

**Covered Non-Employees:** Members of the College community who are not employed by the College but are covered under this Policy, including applicants for employment or internships, whether paid or unpaid, and people who are employed by a contractor, subcontractor, vendor, consultant or provide other services to the College.

**Day:** One business day in which the College is operational.

**Disciplinary Sanction:** A consequence imposed by the College on a Respondent who is found responsible for having violated this Policy.

**Education Program or Activity:** An education program or activity is any event, location, or

circumstance that provides education or learning. This includes the buildings, events, and programs that are part of an educational institution.

**Force:** Use of physical violence or physical imposition to engage in sexual activity. Force includes threats, implied threats, intimidation, or coercion intended to overcome resistance or produce consent to a sexual activity.

**Formal Complaint:** Applicable to Process A only, a formal complaint is a document filed by a Complainant that includes the Complainant's physical or digital signature, states an allegation(s) against a Respondent(s), and requests the College to investigate the allegation(s).

**Hearing Officer or Decision Maker:** Trained individuals designated by the College to determine responsibility and sanctioning authority applicable to this Policy.

**Incapacitation:** An individual who lacks the ability to knowingly choose to participate in a sexual activity. Incapacitation may be caused by a lack of consciousness, being asleep, being involuntarily restrained, or otherwise not being able to consent. Depending on the degree to which someone is under the influence of alcohol, drugs, or other intoxicants, they may be incapacitated and therefore unable to consent. The age of consent in New York State is seventeen (17).

**Intimidation:** Implied threats that reasonably cause another individual to fear for their safety or well-being.

**Investigator:** A trained individual charged by the College with gathering facts and evidence related to an alleged violation of this Policy.

**Official with Authority (OWA):** An employee of the College with the authority to implement corrective, supportive, and safety measures, remedies, or modifications under this Policy. OWAs include, but are not limited to, the Title IX Coordinator/College Compliance Officer, Deputy Title IX Coordinators, Vice President for Human Resources and Compliance, Vice President for Academic Affairs and Provost, Dean of Students, Director of Residential Life, Housing, and Community Standards, or other College official, as appropriate.

**Party or Parties:** The Complainant(s) and Respondent(s), individually or collectively.

**Pregnancy or Related Conditions:** The full spectrum of processes and events connected with pregnancy, including pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions, including recovery from related medical conditions.

**Preponderance of the Evidence:** An evidentiary standard to determine responsibility under this Policy. The preponderance of the evidence typically means that it is more likely than not that a violation of this Policy occurred.

**Privacy:** Information that cannot be kept confidential under the law and is only shared on a need-to-know basis by an individual who cannot offer confidentiality under the law or by a responsible employee required to disclose information about a crime or violation of this Policy.

**Remedies:** Actions directed to a Complainant, Respondent, or other members of the College community as mechanisms to address safety, prevent the recurrence of violations of this Policy, and restore or preserve equal access to the College's educational program or activity. Remedies are non-disciplinary or non-punitive and, to the extent possible, avoid burdening one or more parties.

**Report:** Information related to violations of this Policy brought to the attention of the Title IX Coordinator/College Compliance Officer or appropriate Official with Authority. Reports can be made in person, by mail, phone, electronic mail, or via the College's online reporting forms.

**Reporting Party:** A person or group who reports an alleged violation of this Policy to the College.

**Respondent:** A person or group who has been alleged to be the perpetrator of conduct that could constitute a violation of this Policy.

**Responsible Employee:** Any employee who does not serve as a confidential resource is a Responsible Employee and obligated by this Policy to share actual or perceived knowledge of alleged discrimination, harassment, or retaliation with the Title IX Coordinator/College Compliance Officer.

**Sexual Activity:** A sexual act or sexual contact is physical contact:

- Between the penis and the vulva or the penis and the anus where penetration occurs, however slight.
- Between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.
- Penetration, however slight, of the anal or genital opening of another by hand or finger or by any object.
- With an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- That is intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16.

**Sexual Contact** is intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person.

**Supportive Measures:** Non-disciplinary and non-punitive services or provisions provided by the College, free of charge, to Complainants and Respondents or other members of the College community. Supportive measures are designed to restore or preserve equal access to the College's education programs or activities without unreasonably burdening a party, including measures designed to protect the safety of all members of the College community.

## **PROHIBITED CONDUCT UNDER THIS POLICY: TERMS AND DEFINITIONS**

The Policy sets forth conduct expectations for our community, provides a means to report prohibited conduct, and outlines the grievance processes for investigating and adjudicating alleged violations of this Policy. The following are the categories and definitions of prohibited conduct in violation of this Policy.

## SEXUAL HARASSMENT:

The term “sexual harassment” has various definitions under federal and New York State law, and other prohibited conduct in violation of this Policy as defined in this section. The definition of sexual harassment under Title IX applies to students and employees of the College. Formal complaints of sexual harassment that constitute allegations of a violation(s) of Title IX are subject to investigation and adjudication under Process A.

The definitions of sexual harassment under Title VII and the New York State Human Rights Law (NYSHRL) apply to all employees of the College<sup>2</sup>. Reports of allegations that constitute Title VII sexual harassment or NYSHRL sexual harassment are subject to Process B of this Policy. A course of prohibited conduct may meet more than one form of sexual harassment.

### Title IX Sexual Harassment: Students and Employees

Title IX of the Education Amendments of 1972 notes: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

In accordance with Title IX, as interpreted by the Department of Education, the College recognizes the following as conduct violations within the meaning of Title IX, provided that the context and circumstances of the conduct fall within the scope of Title IX, including but not limited to the following:

- The Complainant was in the United States at the time of the alleged conduct.
- The Complainant was participating in or seeking to participate in the College’s education program or activity at the time of the complaint.
- The conduct occurred in the context of the College’s education program or activity.

Title IX Sexual Harassment includes sexual assault, dating violence, domestic violence, and stalking. The definitions of each are listed below.

**Sexual Assault:** The following definitions constitute sexual assault under this Policy and Title IX sexual harassment:

- **Rape:**
  - Penetration, no matter how slight,
  - Of the vagina or anus of a Complainant,
  - With any body part of a Respondent or by a Respondent’s use of an object, or
  - Oral penetration of a Complainant by a sex organ of a Respondent without the consent of the Complainant.
- **Fondling:**
  - Touching of the private body parts of the Complainant (buttocks, groin, breasts),
  - By a Respondent for the purpose of sexual gratification, without the consent of a

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<sup>2</sup> Under certain circumstances, including instances when an enrolled student is also considered an employee of the College, protections and provisions under the NYSHRL and Title VII may apply.

Complainant, including having another person touch a Complainant sexually, forcibly, or without consent.

- **Statutory Rape:**
  - Sexual intercourse with a person who is under the statutory age of 17; or,
  - When a Complainant is incapable of giving consent because of their age, temporary or permanent mental incapacity, or other forms of incapacitation.
- **Incest:**
  - Sexual intercourse between individuals who are related to each other to the degree that marriage is prohibited by New York State law.

### **Dating Violence:**

- Violence,
- On the basis of sex,
- Committed by a person,
- Who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
- The existence of such a relationship shall be determined based on the Complainant's statement and consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:
  - i. Dating violence includes but is not limited to sexual or physical abuse or the threat of such abuse.
  - ii. Dating violence does not include acts covered under the definition of domestic violence.

### **Domestic Violence:**

- Violence,
- On the basis of sex,
- Committed by a current or former spouse or intimate partner of the Complainant,
- By a person with whom the Complainant shares a child in common, or
- By a person who is cohabitating with, or has cohabited with, the Complainant as a spouse or intimate partner, or
- By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of New York State.

### **Stalking:**

- A course of conduct,
- On the basis of sex,
- Directed at a Complainant, that would cause a reasonable person to fear for their safety or the safety of others; or
- Suffers substantial emotional distress.
  - i. Substantial emotional distress means significant mental suffering or anguish that may

- but does not necessarily require medical or other professional treatment or counseling.
- ii. A course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person or interferes with a person's property.
  - iii. A reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

## **Non-Title IX Sexual Assault, Dating Violence, Domestic Violence, and Stalking:**

This category of sexual harassment includes sexual assault and all its sub-definitions, as well as domestic violence, dating violence, and stalking as defined above, where such conduct occurs outside of the geographical jurisdiction of Title IX Sexual Harassment. This includes conduct that occurs off-campus, outside the United States, when a Complainant is not participating or seeking to participate in the College's education program or activity or otherwise in locations over which Hartwick College does not have influence or control (e.g., during College breaks).

## **Title VII Sexual Harassment: (Employees)**

Under Title VII of the federal Civil Rights Act of 1964, it is unlawful to harass a person (an applicant or employee) because of that person's sex. Harassment can include sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly by a term or condition of an individual's employment (quid pro quo).
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such an individual (e.g., an adverse employment decision, such as the individual being fired or demoted) (quid pro quo).
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment (hostile environment).

## **New York State Human Rights Law Sexual Harassment: (Employees)**

The New York State Human Rights Law (NYSHRL) applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors, and people conducting business with the College, regardless of immigration status. The Policy applies to all the aforementioned individuals. This Policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable. For example, in a main office, not an off-site work location, and is provided to employees upon hiring.

Under the NYSHRL, "sexual harassment" includes any unwelcome conduct that is directed at an individual because of that individual's gender identity or expression (perceived or actual or is of a sexual nature when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's

work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment.

- Such conduct is made either explicitly or implicitly a term or condition of employment.
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

## **OTHER FORMS OF SEXUAL HARASSMENT:**

### **Sex, Sex-Based, or Gender-Based Discrimination and Harassment: (Employees and Students)**

The College reserves the right to respond to unwelcome, offensive conduct that is inconsistent with the College's community and professionalism standards, even if it does not rise to a violation of any applicable law.

Unwelcome or offensive conduct that occurs on the basis of sex, sexual orientation, self-identified or perceived sex, gender, gender identity, gender expression, gender stereotyping, or the status of being transgender is prohibited conduct and a violation of this Policy when it consists of:

- Conditioning the provision of aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct (commonly referred to as a quid pro quo); or,
- Unwelcome conduct determined by a reasonable person to be severe, pervasive or objectively offensive (commonly referred to as a "hostile environment").

### **Sexual Exploitation:**

Abuse or non-consensual use of another person's sexuality or nudity without consent for the Respondent's advantage or benefit or the benefit or advantage of anyone other than the one being exploited. Specific conduct that constitutes sexual exploitation could constitute sexual harassment if it meets the definition herein under Title IX. Examples include but are not limited to:

- Prostituting another individual.
- Non-consensual observation, photography, video or audio recording of sexual activity of another individual or of another individual who is in a state of undress or in a place and time where such person has a reasonable expectation of privacy, without the individual's consent.
- Exceeding the boundaries of consent with another individual (such as permitting others to secretly observe you engaging in consensual sex).
- Inducing or attempting to induce the incapacitation in another individual for purposes of compromising that individual's ability to give affirmative consent to sexual activity.
- Employment of another individual or achievement-based inducements.
- Knowingly exposing another person to a sexually transmitted infection or virus without the other individual knowledge.
- Disseminating, streaming or posting sexual activity of any form on social media or any other public forum without permission from the other individual.
- Non-consensual texting of sexual activity or images of another individual.
- Distributing intimate sexual information about another individual.

## **BIAS AND HATE CRIMES:**

### **Bias:**

A broad range of conduct that can be verbal, non-verbal, written or physical conduct that harms, discriminates or harasses anyone in the campus community based on age, color, creed, disability, domestic violence victim status, gender, gender identity (including transgender status or gender expression), familial status, marital status, military status, national origin, predisposing genetic characteristics, pregnancy-related condition, prior arrest or conviction record, sex, race, religion, retaliation for opposing unlawful discriminatory practices or other classes protected by applicable law.

### **Hate Crimes:**

A criminal act involving violence, intimidation and destruction of property based on bias and prejudice. As defined by article 485 of the New York Penal Law, a hate crime is when a person commits a specified offense and either:

- Intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct; or
- Intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.

## **DISCRIMINATION AND DISCRIMINATORY HARASSMENT:**

### **Discrimination:**

Unequal or disparate treatment on the basis of a protected characteristic or status as defined in the Notice of Nondiscrimination section of this Policy. In limited circumstances, differential treatment based on protected characteristics may be required or permitted by law and, in those circumstances, is not subject to a violation of this Policy.

### **Discriminatory Harassment:**

Unwelcome or offensive conduct that occurs on the basis of a protected characteristic or status as defined in the above Notice of Nondiscrimination section of this Policy, when such conduct would be considered by a reasonable person to be severe, pervasive, or objectively offensive.

The College reserves the right to respond to unwelcome, offensive conduct that is inconsistent



with the College's community and professionalism standards, even if it does not rise to a violation of any applicable law.

## **RETALIATION:**

Harassing, intimidating, or taking adverse actions against an individual who has made a report, filed a formal complaint, testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.

Retaliation includes any action by an employer or supervisor that punishes an individual upon learning of a harassment claim, that seeks to discourage a worker or covered individual from making a formal complaint or supporting a sexual harassment or discrimination claim, or that punishes those who have come forward.

These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this policy.

Retaliation against an individual or group who has engaged in "protected activity" is prohibited under this Policy. Protected activity occurs when a person has:

- Made a complaint of prohibited bias, discrimination, or harassment, either internally or with any government agency.
- Testified or assisted in a proceeding involving prohibited bias, discrimination, or harassment.
- Opposed prohibited bias, discrimination, or harassment by making a verbal or informal report to the College or an external agency.
- Encouraged someone to report prohibited bias, discrimination, or harassment to the College.

## **THE ROLE OF THE TITLE IX COORDINATOR/COLLEGE COMPLIANCE OFFICER:**

The College's Title IX Coordinator/College Compliance Officer is responsible for coordinating the College's implementation of this Policy, including, but not limited to the following:

- Conducting an initial assessment of reports of allegations of this Policy to determine or triage their application threats to the safety of the campus community, the application of reports to this Policy or to other College policies and procedures.
- Providing supportive and safety measures or other remedies and modifications to stop, remediate or prevent bias, discrimination, harassment and retaliation.
- Identifying patterns or systemic problems of discrimination, harassment, or retaliation.
- Providing ongoing training and education on awareness and proactive prevention of bias, discrimination, harassment, and retaliation under this Policy.

The Title IX Coordinator must act with independence and authority and be free from bias and conflicts of interest to oversee the implementation of this Policy. To raise any concern involving bias or conflict of interest, misconduct or discrimination by the Title IX Coordinator, please contact the Vice President for Human Resources and Compliance at [JanitzS@Hartwick.edu](mailto:JanitzS@Hartwick.edu) or 607-431-4315.

## **Title IX Coordinator/College Compliance Officer Contact Information:**

**Geoffrey P. Gabriel**

Title IX Coordinator / College Compliance Officer

Shineman, 102

(607) 431-4293

[gabrielg@hartwick.edu](mailto:gabrielg@hartwick.edu)

## **REPORTING OPTIONS AND REPORTING REQUIREMENTS:**

### **MAKING A REPORT TO THE COLLEGE:**

The College will respond to reports of violations of this Policy with measures designed to stop, prevent a recurrence or remediate its adverse effects and impact on the College community. Students will be informed of their right to make a report to the College, local or state police or choose not to report to law enforcement or to the College

The College encourages individuals who become aware of any incident prohibited by this Policy to report the information to the College. Making a report to the College can be done by contacting the Title IX Coordinator/College Compliance Officer in person, by mail, by telephone, or by electronic mail.

### **Online Reporting:**

The College has two online reporting forms, both of which can be found on the College's Discrimination and Harassment webpage at [www.hartwick.edu/titleix](http://www.hartwick.edu/titleix)

#### **Self-Reporting or Mandated Reporting for Responsible Employees**

[https://cm.maxient.com/reportingform.php?HartwickCollege&layout\\_id=5](https://cm.maxient.com/reportingform.php?HartwickCollege&layout_id=5)

#### **Anonymous Reporting**

[https://cm.maxient.com/reportingform.php?HartwickCollege&layout\\_id=4](https://cm.maxient.com/reportingform.php?HartwickCollege&layout_id=4)

### **RESPONSIBLE EMPLOYEE MANDATED REPORTING:**

Except for those College employees designated as confidential resources, all College employees are considered Responsible Employees and required to report any incident of bias, discrimination, harassment, or retaliation prohibited by this Policy to the College's Title IX Coordinator/College Compliance Officer or online using the Self-Reporting or Mandated Reporting for Responsible Employees forms.

Responsible Employee reports made to the College typically include relevant details shared by the individual(s) that disclose an allegation(s) of a violation of this Policy or self-reporting if the Responsible Employee witnessed or perceives to have witnessed prohibited conduct in violation of this Policy, individual, including but not limited to the following:

- Names and contact information of the Complainant(s) and Respondent(s) and witnesses, if known.
- Other relevant information such as the date, time, and location of the incident.

Failure of a Responsible Employee to report an incident as described above is a violation of this Policy and subject to disciplinary action.

Responsible Employees cannot guarantee confidentiality but will still strive to maintain privacy to the extent possible. The information reported will be shared only with those on a need-to-know basis in accordance with this Policy. Every effort is made by the College to preserve the privacy of reports.

The College will generally defer to a Complainant's wishes regarding whether to pursue action steps, including investigations or resolution processes related to the reports received by the College. However, if the absence of action steps and other remedies is necessary to mitigate a potential or imminent risk of harm to the reporting individual or other members of the community, the College will pursue action steps and remedies, even if it is against the Complainant's wishes.

### **Threat Assessment Team:**

The Dean of Students, Director of Residence Life and Community Standards, Director of Campus Safety, or Title IX Coordinator may convene a Threat Assessment Team to review incidents that may result in emergency removals, interim separation from the campus, or other action-based safety and prevention strategies and protocols.

The Team will consist of the Dean of Students, the Director of Residential Life and Community Standards, the Title IX Coordinator, the Director of Campus Safety, the Clery Compliance Coordinator, a member of on-campus counseling services, and other parties as needed (Registrar, Academic Affairs representatives, Athletic representatives, etc.). The Team will meet on an ad hoc basis and does not meet regularly. The Team will attempt to meet within twelve (12) hours of the incident.

### **Reporting to Law Enforcement:**

If you are the victim of any form of violence or criminal act, including sexual assault, dating violence, domestic violence, hate crimes, or stalking, the College strongly encourages you to promptly report the incident to law enforcement. Timing is a critical factor in collecting and preserving evidence that the crime occurred or may help obtain an order of protection.

- Oneonta Police Department  
607-432-1113  
81 Main St #2  
Oneonta, NY 13820
- New York State Police Department  
607-561-7400  
823 State Route 7  
Unadilla, NY 13849

## **Disclosure of Policy Violations During Public Events and Climate Surveys:**

Generally, information disclosed at public events and in climate surveys does not obligate the College to investigate information shared in classroom writing assignments or discussions, human subjects research or events such as “Take Back the Night” marches or speak-outs.

## **False Allegations and False Reporting:**

Deliberately making false or malicious accusations or producing false testimony or evidence of violations of this Policy, including that of witnesses, are serious offenses and subject to appropriate sanction or discipline by the College. False reporting and false allegations do not include those made in good faith that are ultimately shown to be erroneous or do not result in a determination of a violation of this Policy.

## **Amnesty:**

**Students:** The health and safety of every student at Hartwick College is of utmost importance. Hartwick College recognizes that students who have been drinking 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. 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 the College will not be subject to discipline or in violation of the Student Code of Conduct or to Community Standards.

**Employees:** Hartwick College endeavors to operate ethically and lawfully and expects all employees and volunteers to conduct their activities in accordance with College policies and applicable federal, state, and local law.

**All employees have a responsibility to report alleged violations or suspected violations of this Policy.**

Employees who make good faith reports of violations are also afforded protections under the Whistleblower Protections as outlined in the Employee Handbook.

## **Confidential Resources:**

The following is the contact information for on-campus confidential resources

### **For Students:**

- **Perrella Wellness Center Counseling Services**, 607-431-4420 or on nights and weekends 607- 431- 4111, [CounselingCenter@hartwick.edu](mailto:CounselingCenter@hartwick.edu)
- **Perrella Wellness Center Health Services**, 607-431-4120, [healthcenter@hartwick.edu](mailto:healthcenter@hartwick.edu)

## For Students and Employees:

The following is the contact information for off-campus confidential resources:

- **Opportunities for Otsego (OFO):** <https://ofoinc.org/>
- **Opportunities for Otsego, Violence Intervention Program (VIP),** 607-432-4855 24-hour hotline <https://ofoinc.org/find-program/violence-intervention-program>
  - (OFO-VIP) Jess Eklund – Victim Advocate: 607-386-5663
- **NYS Domestic Violence Hotline:** 1-800-942-6906
- **New York State Office of Victim Services:** 1-800-247-8035
- **NYS Division of Human Rights Sexual Workplace Sexual Harassment:** 1-800-HARASS (available M-F, 9 a.m. -5 p.m.)
- **A.O Fox Hospital:** 1 Norton Drive, Oneonta, NY 13820, 607-432-2000
- **Bassett Medical Center:** 1 Atwell Drive, Cooperstown, NY 13326, 607-547-3456

These confidential resources can help and provide information regarding medical assistance and treatment (including information about sexually transmitted infections and sexual assault forensic examinations) and resources available through the New York State Office of Victim Services and law enforcement options.

The on-campus health and counseling services noted above as confidential reporting resources, are available to students free of charge. Employees are not eligible for on-campus services, but eligible employees may utilize their Employee Assistance Program (EAP) benefits. More information regarding EAP benefits is available to employees online in D2L (online intranet). The above-listed hotlines are also available free of charge. All the confidential resources maintain confidentiality except in extreme cases of the immediacy of threat, danger, or abuse of a minor.

Reporting Parties have the right to disclose the incident to College representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals.

## Immediate Medical Assistance:

The following resources and reporting options can be utilized independently of or in conjunction with an internal report being made to the College. If you or someone you know is or may be the victim of any form of misconduct or violence that results in physical harm, the College strongly urges you to seek immediate assistance. Assistance is available 24 hours a day, 7 days a week.

- **Call 911**
- **Opportunities for Otsego,** 24-hour hotline: 607-432-4855
- **A.O Fox Hospital,** 1 Norton Drive, Oneonta, NY 13820: 607-432-2000
- **Bassett Medical Center,** 1 Atwell Drive, Cooperstown, NY 13326: 607-547-3456
- **NYS Office of Victim Services** Toll-Free Number: (800) 247-8035 \*can report anonymously
- **NYS Domestic Violence and Sexual Assault Hotline,** crisis intervention, shelter services, and referrals: (800)-942-6906

The College's Campus Safety staff are available to respond immediately to any incidents of sexual and other forms of violence and to provide individuals with assistance in obtaining medical treatment.

**Contact Campus Safety, Dewar 3<sup>rd</sup> floor, 607-431-4111.** For your safety and well-being, immediate medical attention is encouraged, including the preservation of forensic evidence by a Sexual Assault Nurse Examiner (SANE) are specially trained medical professionals and are available locally and regionally at Basset Medical Center and A.O. Fox Hospital. Opportunities for Otsego are available to advocate and assist with medical assistance.

## **Supportive and Safety Measures:**

The College will provide supportive and safety measures as appropriate and reasonably available, without fee or charge. Supportive measures are non-disciplinary, non-punitive individualized services that range from referral to supportive services such as counseling or medical services to academic or housing modifications, withdrawals or leaves of absence. Examples of supportive measures include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services.
- Referral to the Employee Assistance Program (EAP).
- Referral to community-based service providers.
- Student financial aid counseling.
- Education to the institutional community or community subgroup(s).
- Altering campus housing assignment(s).
- Altering work arrangements for employees or student-employees.
- Providing campus safety escorts.
- Providing reasonable transportation modifications.
- Implementing contact limitations (no-contact orders) between the parties.
- Academic support, extensions of deadlines, or other course/program-related adjustments.
- Timely warnings.
- Class schedule modifications, withdrawals, or leaves of absence.
- Increase security and monitoring of certain areas of the campus.
- Any other actions deemed appropriate by the Title IX Coordinator/College Compliance Officer.

The College will maintain the privacy of implemented supportive measures and will act to ensure as minimal an academic or workplace impact as reasonably possible.

Upon a written request to the Title IX Coordinator, an individual may also seek a prompt review of the need for and terms of any supportive measures and reasonable modifications that directly affect them. This request should include the basis for the request and any supporting evidence or documentation. Upon receipt of such a request, the Title IX Coordinator will inform other parties of the request to allow them to respond in writing and submit evidence or documentation relevant to the request.

## **No Contact Orders:**

No Contact Orders issued by the College are mutual (all parties associated with a No Contact Order must comply with the order) unless the College determines, at its discretion, and after a fact-specific analysis, that a non-mutual No Contact Order is appropriate. The Title IX Coordinator/College Compliance Officer will issue No Contact Orders in writing and specify its terms, conditions, and responsibilities.

When a No Contact Order is issued before or while a determination of whether a violation of this Policy has occurred, the parties will, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and the terms of rescinding or modifying a No Contact Order. Upon receipt of such a request, the Title IX Coordinator/College Compliance Officer will inform the other parties of the request and allow the other party to respond in writing and submit evidence relevant to the request if desired.

Violation of a No Contact Order under this Policy will be grounds for discipline or sanction, which may include but is not limited to expulsion or termination from the College.

## **Emergency Removal:**

The Title IX Coordinator/College Compliance Officer has discretion under this Policy to implement or stay an Emergency Removal and may do so in consultation with the Threat Assessment Team of other College officials or administrators as appropriate. Emergency Removals are implemented when it is determined that an eminent or immediate threat to the physical health or safety of its members. Violations of an Emergency Removal under this Policy will have grounds for discipline or sanction, which may include but are not limited to expulsion or termination from the College.

Individuals removed from the College under an Emergency Removal are provided notice and an opportunity to challenge the decision. Upon receiving such a request, the Title IX Coordinator/College Compliance Officer will inform other parties of the request and allow them to respond in writing and submit evidence or documentation relevant to the request.

In determining whether an emergency removal is appropriate, the Title IX Coordinator will consider, in consultation with the Threat Assessment Team or other appropriate College officials, the following factors:

- Whether there have been other reports or complaints about the same individual.
- Whether there is an increased risk that the individual might commit future acts of violence.
- Whether the incident involves a weapon or violence.
- Whether the incident represents an escalation in unlawful conduct on behalf of the individual from previously noted behavior.
- Whether the individual has a history of arrests or disciplinary records.

## **GRIEVANCE PROCESS A AND PROCESS B:**

### **PROCESS A: ALLEGATIONS OF TITLE IX SEXUAL HARASSMENT**

Process A applies to qualifying allegations of sexual harassment under Title IX. The procedural steps outlined in Process A are conducted in a prompt, fair and impartial manner during an investigation, adjudication or appeal when such procedures are applicable. The Title IX Coordinator/College Compliance Officer is authorized to make decisions in the event of a dispute about the application of this policy or any aspect of a procedure to a particular situation.

#### **Timeframe:**

Unless there is good cause for temporary delay(s) or limited extension(s), the College will promptly conclude Process A, excluding time spent on any applicable Informal Resolution efforts or appeals within 90 business days of the filing of a formal complaint.

Appeals will be concluded within thirty (30) business days of the filing of an appeal. Informal Resolutions will be concluded within twenty to thirty (20-30) business days of receiving voluntary, written consent from all parties.

#### **How to Submit a Formal Complaint:**

Submitting a formal complaint to the Title IX Coordinator/College Compliance Officer Initiates Process A. A formal complaint is a request by a Complainant or the Title IX Coordinator/College Compliance Officer alleging Title IX Sexual Harassment by a Respondent(s).

A Complainant has the right to withdraw their formal complaint from the College at any time and can request to withdraw their formal complaint or withdraw and resubmit a formal complaint to engage or continue to engage in Process A.

#### **When a Complainant Does Not Wish to Proceed with Process A:**

The College will seek consent via a signed formal complaint from a Complainant before beginning Process A, which typically includes starting an investigation by the College to the allegations stated in a formal complaint.

The Title IX Coordinator/College Compliance Officer will weigh any request for confidentiality or privacy against the College's obligation to provide a safe environment for all members of its community. If a Complainant wishes a report to remain confidential or private such that the Complainant's identity will not be disclosed, the Complainant may receive supportive measures without engaging in Process A. Honoring such a request is at the discretion of the Title IX Coordinator and may limit the College's ability to meaningfully investigate and pursue action against a Respondent. Factors for consideration of requests include:

- Whether the incident represents an escalation in unlawful conduct on behalf of the Respondent from previously noted behavior.
- The increased risk that the Respondent will commit additional acts of violence.



- Whether the Respondent used a weapon, violence or force.
- Whether the Complainant is a minor (person under the age of 18).
- Whether the Respondent has a history of violent behavior, a pattern of misconduct or is a repeat offender.

A Complainant will be given all consideration of their wish to pursue, pause, withdraw or reengage in Process A to every extent possible, so long as those wishes do not compromise the College's obligation to protect its community members or comply with applicable laws.

## **Notice of Allegations and Investigation:**

Under Process A, the Title IX Coordinator/College Compliance Officer will send the Complainant and Respondent a Notice of Allegations and Investigation (NOAI). A NOAI is a written notice that must contain the following information and details:

- Information about the College's formal and informal resolution procedures under Process A.
- A statement of the allegations of behavior potentially constituting prohibited conduct, including the identity of the parties involved, if known, the conduct alleged, and the time date, and location of the alleged incident, if known.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of Process A.
- Notification that parties may have an advisor of their choice who may be but is not required to be an attorney.
- Notification of on and off-campus resources such as counseling, physical health, and mental health.
- Notification that taking any retaliatory action, directly or by way of a third party against any person because they are involved in Process A constitutes a violation of this Policy.
- Notification that providing a false report or false testimony constitutes a violation of this Policy.

If, during an investigation, the College decides to investigate additional or new allegations of the Complainant or Respondent, the College will provide an updated NOAI to all parties.

## **Dismissal of a Formal Complaint**

There are certain circumstances where a formal complaint must or may be dismissed from Process A. Dismissal of a formal complaint from Process A does not preclude action under Process B or other College policies.

The College must dismiss a formal complaint from Process A when the conduct alleged:

- Would not constitute Title IX sexual harassment, even if proven.
- Did not occur in the College's education program or activity.
- Did not occur against a person in the United States.
- Involves a Complainant who is not participating in or attempting to participate in the College's education programs or activities at the time of filing a formal complaint.

The College may dismiss the formal complaint, NOAI, or any allegations therein if, at any time during the investigation or hearing, when:

- The Complainant notifies the Title IX Coordinator/College Compliance Officer in writing that the Complainant would like to withdraw the formal complaint or any allegations therein.
- The Respondent is no longer enrolled at or employed by the College.
- Specific circumstances prevent the College from gathering sufficient evidence to reach a determination as to the formal complaint or allegations therein.

If a formal complaint or any allegations therein are dismissed, the Title IX Coordinator/College Compliance Officer will promptly and simultaneously send written notice of the dismissal, including a rationale, to the parties. The dismissal decision is appealable by any party under the procedures for an appeal below, as outlined below.

Once a NOAI is issued, the Title IX Coordinator/College Compliance Officer will meet with the Respondent and conduct the following, as applicable:

- The steps of an investigation under Process A.
- The right to an advisor or advisor of choice.
- Confidentiality vs. Privacy.
- Retaliation and the potential consequences.  
Supportive measures that have been put in place with the complainant that directly affect the respondent; and
- An Informal Resolution process.

## **PROCESS A: INVESTIGATION OF FORMAL COMPLAINTS**

Investigations of formal complaints are performed by appropriately trained individuals who are typically members of the Title IX and Nondiscrimination Team (see Appendix G). A party (Complainant or Respondent) wishing to challenge the selection of an Investigator(s) must notify the Title IX Coordinator/College Compliance Officer, in writing, within three (3) business days of receipt of the name and contact information of the Investigator, stating the specific reason(s) for the party's objection.

The Title IX Coordinator/College Compliance Officer will determine whether the challenge has merit and reserves discretion to make changes to the individual(s) assigned as the Investigator. Investigators must not have a conflict of interest or bias.

During an investigation, the College is responsible for proving the case and gathering enough evidence to determine responsibility. While a Complainant and a Respondent are not restricted from gathering and presenting relevant evidence, the Investigator is responsible for gathering relevant evidence to the extent possible.

An investigation typically involves interviews with the parties, including witnesses, and gathering and reviewing relevant evidence. Complainants and Respondents will be given an equal opportunity to present information in the context of the investigation, such as documents, communications, photographs, or other evidence, and the opportunity to suggest facts, expert witnesses, and other inculpatory or exculpatory evidence. The Investigator retains discretion to determine the order and

method of investigation as unnecessary or inappropriate.

Parties whose participation is invited or expected at a hearing, investigative interview, or other meeting will be provided with written notice of its date, time, location, participants, and purpose.

No unauthorized audio or video recording of any kind is permitted during investigation meetings by the parties. If the Investigator elects to audio or video record interviews, all involved parties must be made aware of the audio or video recording. All parties will have an equal opportunity to inspect and review any evidence that is directly related to allegations as stated in the NOAI.

Before the conclusion of an investigation, the Investigator will prepare a case file. The case file will include all collected evidence that is directly related to the allegations as stated in the NOAI and a written Report of the Investigation that clearly summarizes and details the Investigator's interviews with the parties and witnesses and the evidence gathered during the investigation process.

The parties will be provided with the case file in an electronic format and provided ten (10) business days to submit a response, known as the Period of Review and Comment. The Investigator will consider each party's response, if any, prior to the Investigator finalizing the Report of Investigation and the updated case file, if applicable. Responses from the Period of Review and Comment may include providing written statements, additional evidence, additional witnesses, or questions they wish the Investigator to ask of a party or witness.

An electronic or hard copy of the finalized Report of Investigation must be provided to each party and their advisor, if any, and ten (10) business days for their review and an opportunity to issue a written response. Any written responses from the parties must be submitted during this 10-day period.

Any written responses will be made available to the parties at least five (5) business days before the start of a live hearing, and the finalized Report of Investigation and case file will be available for the parties to inspect, review, and refer to during the live hearing, and to conduct cross-examination.

## **PROCESS A: ADJUDICATION**

### **Live Hearings with Cross-Examination: Procedures and Decorum**

A live hearing that permits cross-examination is required under Process A. The Title IX Coordinator/College Compliance Officer will appoint a Hearing Officer from a pool of trained individuals, who are typically members of the Title IX and Nondiscrimination Team.

Where circumstances warrant, the Title IX Coordinator may determine that a Hearing Officer external to the College will be assigned. The Hearing Officer must not have a conflict of interest or bias. Neither the Title IX Coordinator/College Compliance Officer nor the Investigator(s) may serve as the Hearing Officer. The Hearing Officer will access and review the finalized Report of Investigation, the case file, and any submitted written statements

The Title IX Coordinator/College Compliance Officer will provide the parties with a written notice of the live hearing at least five (5) business days in advance of the scheduled time and date of the live hearing. The written notice will include:

- The time, date, and location of the hearing.
- The name and contact information of the Hearing Officer. A party wishing to challenge the participation of the Hearing Officer must notify the Title IX Coordinator/College Compliance Officer, in writing, within 3 business days of receipt of the notice of hearing, stating the specific reason(s) for the party's objection. The Title IX Coordinator/College Compliance Officer will determine whether the challenge has merit and reserves discretion to make changes to the individual assigned as the Hearing Officer at any time.
- Any technology that will be used to facilitate the hearing.
- A statement that if the party or witness does not appear at the scheduled hearing, the hearing may be held in their absence.
- A reminder that the parties may have the assistance of an advisor of their choosing at the hearing requires that one be present to conduct cross-examination.
- A list of those who will attend the hearing, including but not limited to the parties and witnesses.

The live hearing will take place on the date and time specified in the notice of hearing. If circumstances arise that require a change in the hearing date or time, the College will provide the parties with written notice explaining the reason for such a change. Live hearings are typically conducted virtually through Zoom but may be conducted through other means, either in-person or virtually. Either party may request that the live hearing occur with parties located in separate rooms with technology enabling the Hearing Officer and parties to simultaneously see and hear the party or the witness.

The rules of decorum will be read to the parties at the beginning of the hearing. The Hearing Officer is responsible for maintaining orderly, fair, and respectful hearings and will have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or dismissing a party, witness, or advisor.

The parties may speak on their behalf, including providing an opening and closing statement. The Hearing Officer will determine the order of witnesses and answer any procedural questions. Each party's advisor is permitted to ask the other party(s) and any witnesses relevant questions and follow-up questions, including those challenging credibility, as part of cross-examination.

The parties must be accompanied by an advisor during any conducted cross-examination, though advisors are permitted to be present for the entire hearing. If a party does not have an advisor present at the hearing, an advisor will be provided by the College, free of charge, for the purposes of conducting cross-examination. Cross-examinations must be conducted directly, orally, and in real-time by the advisors.

Before a Complainant, Respondent or witness answers a cross-examination or other question, the Hearing Officer shall determine whether the question is relevant, verbally state a finding of relevance for the record, instruct the witness or party whether they are permitted to answer a question and explain any decision to exclude a question as not relevant.

The Hearing Officer may not permit questions determined to be duplicative of information already gathered or asked, irrelevant, or otherwise unnecessary or inappropriate. For witnesses participating in a hearing, the Hearing Officer will allow them to respond to specific questions from the Hearing Officer and the parties, after which they will then be excused from the hearing.

The parties have the right to choose whether they wish to answer any questions posed to them during a hearing, in part or in full. The hearing officer may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or other questions.

After opening statements, questions posed by the Hearing Officer to the parties or witnesses, questions posed by the parties to witnesses, and cross-examination are conducted, the Hearing Officer will provide the parties with the opportunity to make a closing statement. Parties are not obligated to make closing statements (or opening statements), and once any closing statements are made, the Hearing Officer will adjourn the hearing and begin their deliberation of establishing a finding(s) of responsibility.

## **Determination of Responsibility:**

The Hearing Officer must issue a written determination regarding responsibility. In determining responsibility, the Hearing Officer will ensure that all relevant evidence is objectively evaluated, weighted and assessed, including the credibility of a party or witness.

If the Hearing Officer determines that the Respondent is responsible for a violation of this Policy, the Hearing Officer will receive the Respondent's disciplinary record (i.e., any previous disciplinary action or other violation of College Policy(s), including this Policy, for which the Respondent was found responsible) and any submitted impact statements to consider, as appropriate, in determining sanctions. Applied sanctions for a violation of this Policy will be based on consideration of all circumstances, including, but not limited to, the nature and severity of the conduct, the Respondent's disciplinary history and any other information deemed relevant by the Hearing Officer.

Within ten (10) business days of the conclusion of the hearing process, the Hearing Officer will issue their written decision to the Title IX Coordinator/College Compliance Officer outlining relevant facts in determining responsibility for each allegation and, if applicable, the appropriate sanctions. The Hearing Officer's written decision must include:

- The identification of the allegations potentially constituting Title IX sexual harassment.
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence and hearings held.
- Findings of fact supporting the determination.
- Conclusions regarding the application of this Policy to the facts.
- For each allegation, a statement of, and rationale for, both the determination regarding responsibility and any sanctions imposed.
- Whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant.
- The College's procedures and permissible grounds for the Complainant or Respondent to appeal.

The Title IX Coordinator/College Compliance Officer will provide the written determination, (Notification of Outcome), to the parties simultaneously. The College must wait to act on the determination regarding responsibility, including implementing disciplinary sanctions or remedies, until determination becomes final. The determination regarding responsibility becomes final either on the date that the Notification of Outcome is issued, or the result of an appeal.

## **Disciplinary Sanctions and Remedies:**

Sanctions are imposed when a Respondent has been found responsible for violating this Policy and range from a warning up to and including expulsion or termination from the College or revocation of any College-awarded degree. Sanctions for violations of this Policy will be based on consideration of all circumstances, including but not limited to the nature and severity of the conduct, the Respondent's disciplinary history, previous allegations involving similar conduct, and any other information deemed relevant by the Hearing Officer. Disciplinary sanctions include, but are not limited to the following:

- Behavioral requirement.
- Change of class/job assignment and/or housing/work location.
- Required training and/or counseling.
- Student/employee probation.
- Educational requirements and/or community services.
- Expulsion/termination.
- Housing probation or removal from housing.
- Removal from office/position, demotion, and/or reduction in pay.
- Removal of privileges/eligibility restriction.
- Suspension/leave with or without pay.
- Written warning/letter of reprimand or censure.
- Withholding diploma.
- Revocation of degree.
- Other sanctions as deemed appropriate.

Supportive and safety measures will be provided to a Complainant where a Respondent has been found responsible, through Process A. Remedies, which can include supportive and safety measures, including but not limited to, referral to counseling or medical services and academic or housing modifications.

If a Respondent is a current student and takes a leave of absence or withdraws while Process A is pending or if an employee leaves the College's employment, the College has the discretion to continue and conclude Process A. If a former student or employee is found responsible, Hartwick may revoke that student's degree or impose a ban from campus for any length of time. If during Process A, other inappropriate conduct is determined to have occurred, the College retains the right to address such conduct.

## **Impact Statements:**

The parties will be offered an opportunity to provide impact statements to the Hearing Officer, but only when the Hearing Officer determines whether a party is responsible for one or more of the alleged violations of this Policy. Submitted impact statements by the parties will be provided to the Hearing Officer and considered by the Hearing Officer as one of the factors in determining appropriate sanctions. Impact statements cannot be used or considered in determining responsibility.

## **Transcript Notations:**

For those crimes of violence that Hartwick College is required by federal law to include in its Annual Security Report, and in accordance with New York State law, the transcripts of students found responsible after a hearing or appeal include one of the following notations, as applicable:

- “Suspended after a finding of responsibility for a code of conduct violation.”
- “Expelled after a finding of responsibility for a code of conduct violation.”
- When a Respondent withdraws from the College before the conclusion of Process A, a notation is placed on the Respondent’s official transcript stating that the Respondent “withdrew with conduct charges pending.”

A student has the right to appeal a transcript notation or to request its removal in the event of a suspension. Transcript notations for suspensions may be removed at the discretion of the College, but no earlier than one (1) year after the conclusion of the suspension. Transcript notations for expulsion cannot be removed. However, if a finding of responsibility is vacated for any reason, any applicable transcript notation will be removed.

## **PROCESS A: APPEALS**

Following the issuance of a Notification of Outcome from the Hearing Officer, a Complainant or Respondent may file an appeal with the Title IX Coordinator. A written appeal, based on one or more of the grounds listed below, must be made within five (5) business days of the notification and must include evidence and articulation to support each identified ground of appeal to which an appealing party is asserting. The grounds for appeal are limited to:

- Procedural irregularity that affected the outcome of the matter.
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.
- The sanction is disproportionate to the violation for which the respondent was found responsible (e.g., the sanction is too severe or too light).
- The Title IX Coordinator/College Compliance Officer, Investigator(s), or the Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent, that affected the outcome of the matter.

The Title IX Coordinator/College Compliance Officer, or designee, will determine if the written appeal identifies one or more of the grounds for appeal. The Title IX Coordinator/College Compliance Officer will not assess the merit of the appeal but will review the documentation to confirm that grounds for an appeal have been asserted in the appeal. If a request for an appeal is accepted, both parties will be notified in writing that an appeal has been filed.

The non-appealing party will be provided with the opportunity to review the appeal and given five (5) business days from the date of the notification of an appeal to submit a written statement in support of or challenge to the appeal.

The Title IX Coordinator/College Compliance Officer will appoint an Appeals Panel with up to three

(3) members, typically from members of the Title IX and Nondiscrimination Team who have not served as the Investigator or Hearing Officer related to the allegations and findings of responsibility, or where appropriate, individuals trained in Title IX who are external to the College, to review the appeal. No member of the Appeals Panel can have a conflict of interest or bias.

Appeals are not intended to be a full investigation (de nova) or re-hearings and generally will be considered upon a review of the written documentation of the appealing party(s) and any pertinent documentation regarding the grounds for appeal to which an appellant has asserted.

A preponderance of the evidence standard will be applied to all appeals. Unless there is good cause for temporary delay(s) or limited extension(s), the decision of the Appeals Panel will be communicated within eight (8) business days to all parties, simultaneously and in writing. The written decision will describe the result of the appeal and the rationale for the result. The decision of the Appeals Panel will be final and binding on the part of the College.

Parties have the right to choose whether to disclose or discuss the outcome of Process A.

## **PROCESS B: RESOLUTION PROCEDURES:**

### **NON-TITLE IX ALLEGATIONS OF DISCRIMINATION, BIAS, AND HARASSMENT:**

Process B applies to allegations of prohibited discrimination, harassment, and retaliation under this Policy that do not constitute Title IX Category Sexual Harassment. However, if any of the allegations in a complaint are subject to Process A, all allegations in the case will be processed pursuant to Process A.

The Title IX Coordinator/College Compliance Officer, or Vice President for Human Resources and Compliance will coordinate the application of Process B under this Policy.

#### **Complaint or Report:**

To engage in Process B, there is no firm requirement that a written and signed formal complaint be submitted. The College encourages individuals who believe they have experienced discrimination, harassment, or retaliation to report such conduct as soon as possible to the Title IX Coordinator/College Compliance Officer.

#### **Timeframe:**

Unless there is good cause for temporary delay(s) or limited extension(s), and excluding time spent on any related or applicable Informal Resolution or appeal, the College will promptly conclude the grievance process within the following timeframes:

- Within ninety (90) business days from its inception.
- Appeals will be concluded within thirty (30) business days of the filing of an appeal.
- Informal Resolutions will be concluded within twenty to thirty (20-30)



business days of receiving the report by all parties to engage in an Informal Resolution.

### **When a Complainant Does Not Wish to Proceed:**

If a Complainant does not wish for their name or personal identifying information to be shared, does not wish for the College to conduct fact-finding or an investigation or otherwise does not want the grievance process to be pursued, they may make such a request to the Title IX Coordinator/College Compliance Officer.

The Title IX Coordinator/College Compliance Officer will weigh whether requests for privacy or not to engage in the grievance process against Hartwick's obligation to provide a safe, welcoming and professional environment for all members of its community, before determining whether to honor any such requests. A Complainant may receive supportive measures regardless of whether the College engages in the grievance process.

Note: The College's ability to remedy or respond to reported incidents applicable to initiating a grievance process may be limited if the Complainant does not want the College to proceed.

Factors used to determine whether a Complainant's request for privacy or the College not to engage in the grievance include, but are not limited to the following:

- Whether the Respondent has a history of violent behavior or is a repeat offender.
- Whether the incident represents an escalation in unlawful conduct on behalf of the Respondent from previously noted behavior.
- The increased risk that the Respondent will commit additional acts of violence.
- Whether the Respondent used a weapon or force.
- Whether the reporting individual is a minor.
- Whether the College possesses other means to obtain evidence such as security footage.
- Whether available information reveals a pattern of perpetration at a given location or by a particular group.
- Other considerations appropriate to the broad categories of conduct related to discrimination and harassment, including standards of decorum, community values and professional expectations.

### **Notice of Allegations:**

After a complaint or report is received, the Title IX Coordinator will send the Complainant and Respondent a Notice of Allegations (NOA). An NOA is a written notice that includes the following information and details:

- Information about the College's resolution procedures under Process B.
- A statement of the allegations of behavior potentially constituting prohibited conduct, including sufficient detail that includes the identity of the parties involved if known.
- The conduct alleged, and the time, date, and location of the alleged incident(s), if known.
- A statement that the Respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility is made at the conclusion of the process.
- A notification that parties may have an advisor of their choice who may be, but is not

- required to be, an attorney.
- Notification of on- and off-campus resources such as counseling, physical health, and mental health.
- Notification that taking any retaliatory action, directly or by way of a third party, against any person because of their involvement in a grievance process pursuant to this Policy constitutes a violation of this Policy.
- Notification that providing a false report or false testimony constitutes a violation of this Policy.

If, during the investigation, the College decides to investigate allegations about the Complainant or Respondent that are not included in the original notice described above, the College will provide notice of the additional allegations to the parties whose identities are known.

### **Dismissal of a Report:**

The College will gather facts and related information, and evidence related to allegations applicable to reports made to the College of allegations applicable to Process B when a Complainant wishes to move forward with a grievance process or if the Title IX Coordinator/College Compliance Officers determines it is necessary considering the circumstances and implications of the allegations. However, some incidents may be more appropriately handled under a different College Policy or procedure.

The Title IX Coordinator/College Compliance Officer, in consultation with the Vice President for Human Resources and Compliance, Vice President for Academic Affairs and Provost, Dean of Students, Director of Residential Life, Housing and Community Standards, or other College official, as appropriate, will determine if an incident or report will be handled under a different College Policy or procedure. Dismissal from Process B does not preclude action under another provision of the College's policies, handbook, or code of conduct/community standards. When applicable, the Title IX Coordinator/College Compliance Officer will send a written notice of the dismissal to the parties. The dismissal decision is appealable by a party under the procedures for an appeal.

### **INFORMAL RESOLUTIONS:**

Depending on the nature of the allegations of violations, an Informal Resolution may be an appropriate option. At any time prior to reaching a determination regarding responsibility, the College may facilitate an Informal Resolution.

An Informal Resolution is a voluntary and remedies-based process that does not involve taking disciplinary action against a Respondent. The goal of an Informal Resolution is not to determine whether there was intent to engage in conduct violating this Policy, but rather to ensure that the alleged offending behavior stops and that the matter is resolved promptly.

An Informal Resolution is initiated only when it is agreeable to the College and all parties. Prior to beginning an Informal Resolution, the College will provide the parties with a written notice disclosing:

- The allegations.
- The requirements of the agreed-upon Informal Resolution process.

- That at any time prior to the conclusion of an Informal Resolution, a party has the right to withdraw from the process and resume an investigation or other procedure under Process B.
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- The College must obtain the parties' voluntary, written consent to engage in an Informal Resolution.

An Informal Resolution may involve, but is not limited to, the following:

- An agreement to pursue individual or community remedies.
- Targeted or broad-based educational programming or training.
- Supported direct conversation between parties or through shuttled communication, or technology-facilitated communications.
- Restorative practices administered by trained facilitators.
- Other means of reaching an agreed upon resolution, which may include supportive remedies.

An Informal Resolution does not necessarily require the parties to meet and may involve a third-party facilitator. Anyone designated to facilitate an Informal Resolution cannot have a conflict of interest or bias and is typically facilitated by faculty or staff members or members of the Title IX and Nondiscrimination Team, as appropriate. An informal resolution must be agreed upon by both parties and the Title IX Coordinator/College Compliance Officer. The results of an Informal Resolution are not appealable.

An Informal Resolution may involve mediation or restorative practices, by which the parties reach a mutually agreed upon resolution of an allegation. The Title IX Coordinator/College Compliance Officer may also, with the consent of the parties, negotiate and implement an agreement to resolve the allegations that satisfy all parties. If an Informal Resolution results in an agreement, then it is considered successful. Both parties will sign a statement agreeing that the matter will be considered resolved. If attempts at an Informal Resolution are unsuccessful, other components of process B will resume.

The Respondent may also accept responsibility for all or part of the alleged Policy violations at any prior to the conclusion of the process. An Informal Resolution may include an acceptance of responsibility and sanctions. When a resolution is accomplished, the appropriate sanctions or responsive actions are promptly implemented to effectively stop the offensive behavior or violence, prevent its occurrence, and remedy the effects of the misconduct.

A case will be resolved via Informal Resolution if:

- Either party does not consent to participate in the Informal Resolution process.
- Either party withdraws consent to participate in the informal resolution process before the process is concluded.
- The parties cannot agree on an appropriate resolution.
- The Title IX Coordinator/College Compliance Officer or appropriate College official determines that the resolution agreed upon by the parties (with or without the assistance of a mediator) is not in the best interests of the College.

## **INVESTIGATIONS:**

Investigations may include basic fact-gathering, evidence-gathering, or a more thorough investigative process resulting in a formal investigation report that is reviewable by the parties. The application of the elements of an investigation under Process B depends on the circumstances and implications of the allegations and the College-affiliated status of the parties.

Investigations under Process B are conducted by the Title IX and Nondiscrimination Team or a College employee trained as appropriate, and depending on the College-affiliated status of the parties.

During an investigation under Process B, the College has the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility. The College cannot access, consider, disclose or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity or assisting in that capacity and which are made and maintained in connection with the provision of treatment to the party, unless the College obtains voluntary, written consent from that party.

Questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege are not permitted unless the person holding such privilege has waived that privilege.

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the Investigator elects to audio or video record interviews, all involved parties must be made aware of the audio or video recording. Neither party is restricted from discussing the allegations or gathering and presenting evidence. If relevant evidence is destroyed by a party, the decision-maker can take that into account in assessing the credibility of the parties and the weight of evidence in the case. Both parties will have an equal opportunity to review any evidence as part of the investigation that is directly related to the allegations in the report.

## **Determination of Responsibility:**

Under Process B, when an investigation is concluded, a Decision-Maker is appointed. Decision-Makers have the discretion to determine responsibility and appropriate sanctions, if applicable. The Decision-Maker will typically issue a written determination regarding responsibility. In reaching this decision, all relevant evidence must be objectively evaluated. Credibility determinations may not be based on a person's status as a Complainant, Respondent or witness.

The College will provide a written determination to the parties simultaneously after a Decision-Maker renders their determination of responsibility and any applicable sanctions.

## **Disciplinary Sanctions and Remedies:**

Disciplinary sanctions range from a warning up to and including expulsion/termination from the College or revocation of a degree. The disciplinary sanction(s) for a violation of this Policy will be based on consideration of all circumstances, including but not limited to the nature and severity of

the conduct, the Respondent's disciplinary history, previous allegations involving similar conduct, and any other information deemed relevant by the Decision-Maker. The following is a possible list of sanction(s) that may be imposed:

- Change of class/job assignment and/or housing/work location.
- Required training or counseling.
- Student/employee probation.
- Behavioral requirements.
- Educational requirements or community services.
- Expulsion/termination.
- Housing probation or removal from housing.
- Removal from office/position, demotion, or reduction in pay.
- Removal of privileges/eligibility restriction.
- Suspension/leave with or without pay.
- Written warning/letter of reprimand or censure.
- Withholding a diploma.
- Revocation of degree.
- Other sanctions as deemed appropriate.

## **APPEALS:**

There is generally no right of appeal under Process B. In the event the College identifies that there is a right pursuant to applicable federal or state law to an appeal, the College will notify the parties, and the appeal will proceed in accordance with an appeal procedure set forth above in Process A.

## **ADDITIONAL TERMS AND DEFINITIONS: PROCESS A AND PROCESS B:**

### **The Role of an Advisor or Advisor of Choice:**

A Complainant or Respondent may be accompanied during any proceeding, interview or related meetings by an Advisor of their choice who can be but is not required to be an attorney (at the party's own expense, if the Advisor is a paid advisor). An Advisor is an individual chosen by a Complainant or a Respondent to provide guidance during Process A or Process B. While parties are free to consult with multiple individuals, they are permitted to designate only one (1) individual as an Advisor of Choice.

The role of the Advisor is narrow: they may attend meetings or interviews at which a party is entitled to be present and may help a party prepare. However, an Advisor may not serve as a proxy or representative for a party and is not permitted to participate in the College's process, except for cross-examination in Process A. If a party does not have an Advisor of Choice for a live hearing under Process A, the College will appoint one to conduct cross-examinations on behalf of a party.

The role of a College-appointed advisor under Process A is limited to asking questions drafted by the party. Advisors otherwise may not participate or be disruptive to any part of Process A or Process B.

The College has the right to determine what constitutes appropriate behavior on the part of an Advisor

and to take steps to ensure compliance with this Policy. Investigation meetings and hearings will not be delayed for more than three (3) business days based on the unavailability of a party's advisor of choice. Repeated delays due to the unavailability of an advisor of choice are impermissible, and if needed, a new Advisor will be appointed by the College.

### **Presumption and Expectations:**

There is a presumption that a Respondent is not responsible for any alleged conduct that violates this Policy until a determination regarding responsibility is made following the completion of Process A or Process B.

Hartwick expects all members of the College community to cooperate with the processes outlined in this Policy, including responding in a timely manner to requests from the Title IX Coordinator/College Compliance Officer or an Investigator(s) and making reasonable adjustments to schedules to participate in meetings, hearings, or other proceedings.

### **Standard of Evidence:**

The standard for decisions determining responsibility under this Policy is a preponderance of the evidence, meaning whether it is more likely than not that a violation occurred. The same standard is applied regardless of whether a Respondent is a student or an employee.

### **Consolidation of Reports or Formal Complaints:**

If two or more reports are made to the College or formal complaints are reported or submitted that arise from the same set of facts and circumstances, the Title IX Coordinator/Coordinator may determine that the reports or formal complaints be consolidated when applied to Process A or Process B.

For Process A, consolidation of formal complaints means that the alleged incidents are investigated, and adjudicated by the same Investigator(s), Hearing Officer, or Decision-Maker.

## **APPENDICES:**

### **APPENDIX A: SEXUAL MISCONDUCT BILL OF RIGHTS**

Members of the Hartwick community who report an incident of sexual assault, domestic or dating violence or stalking have the right to:

- Make a report to local law enforcement and/or state police.
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously.
- Decide about whether 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.
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.
- Be treated with dignity and receive from the institution courteous, fair, and respectful health care and counseling services, where available.
- 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.
- Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident.
- 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 College.
- Access to at least one level of appeal of a determination.
- 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.
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

### **APPENDIX B: FERPA, CLERY/VAWA COMPLIANCE, AND ACADEMIC FREEDOM**

#### **FERPA:**

The Family Educational Rights and Privacy Act (FERPA) permits institutions to share information with parents when: (i) there is a health or safety emergency or (ii) when the student is a dependent on either parent's prior year federal income tax return. Generally, the College will not share information about a report of domestic violence, dating violence, stalking or sexual assault with parents without the permission of the reporting individual or Complainant.

#### **Clery Act/VAWA Compliance:**

The College will make reports of certain crimes occurring in specific geographic locations that shall be included in the College's Annual Security Report and Crime Log pursuant to the Clery Act, 20 U.S.C. § 1092(f), in an anonymized manner that identifies neither the specifics of the crime nor the

identity of the reporting individual, including a Complainant.

The College is applicable to and will issue timely warnings of crimes enumerated in the Clery Act occurring within the relevant geography that are reported to campus security or local police agencies and that represent a serious or continuing threat to students and employees, with the following exceptions when issuing such a warning may:

- Compromise current law enforcement efforts.
- Jeopardize the safety of an individual.
- Cause a suspect to flee or evade detection.
- Result in the destruction of evidence.
- When the warning itself could potentially identify the reporting individual or the Complainant.

The reporting individual or Complainant will not be identified in a timely warning.

### **Academic Freedom:**

Hartwick College is an academic institution in which academic freedom is possessed by those who are teaching/conducting research, and their students are necessary and valued. The College will not construe this Policy to prevent or penalize a statement, opinion, theory, or idea offered within the bounds of legitimate, relevant, and responsible teaching, learning, working, or discussion.

## **APPENDIX C: COORDINATION WITH OTHER POLICIES**

A particular situation may potentially invoke one or more College policies or processes. These situations will be addressed on a case-by-case basis. The College reserves the right to determine the most applicable Policy or process and to utilize that Policy or process. If an individual is charged with Policy violations under both this Policy and another policy, the alleged violations may be handled through one investigation and adjudication process.

In circumstances where there is a conflict between the procedures and/or processes set forth within Community Standards and the Student Code of Student Conduct, the Employee Handbook or Faculty Manual and this Policy and the Resolution Process set forth in this Policy will govern, subject to the College's discretion. Alternatively, a situation that invokes more than one College policy may have allegations divided on the basis of which policy was allegedly violated, with each grouping addressed separately using the grievance or resolution process in the applicable policy.

## **APPENDIX D: REVISION, DESIGNATION OF AUTHORITY, AND RECORD KEEPING**

The most current revision of this Policy supersedes all previously issued revisions and inconsistent verbal or written policy statements. The College reserves the right at any time to change, modify, delete or add to any of the provisions of this Policy.

The College may, at its discretion, designate a trained and experienced individual(s) to act in the place of any person with a role in this Policy. If there is such a designation, all Parties involved will be promptly notified.



Records generated in connection with reports, formal complaints, investigations, the resolution process, or appeals involving allegations of Title IX Sexual Harassment are maintained in confidential files for at least seven (7) years by an appropriate office, which may be the Title IX Coordinator/College Compliance Officer, the Dean of Students, the Vice President for Human Resources and Compliance, or the Registrar's Office (for records concerning disciplinary outcomes). Only those with a right and need to know are permitted access.

The Parties will have access to a full and fair record of the hearing in which they were involved and have the right to have all information obtained during a grievance process protected from public release until the appeals panel makes a final determination unless otherwise required by law. For additional information about maintenance and accessibility to student records, please see the College's Policy governing Student Privacy Rights and Confidentiality.

Records to be kept, include but are limited to the following:

- Any investigation or determination of responsibility and any audio or audiovisual recording or written transcript of a hearing.
- Any disciplinary sanctions imposed on the Respondent.
- Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity.
- Any appeal and the result therefrom.
- Any informal resolution and the result therefrom.
- All materials used to train Title IX Coordinators, Investigators, Hearing Officers or Decision-Makers, and any person who facilitates an informal resolution process. These training materials will be publicly available on the College website.

Additionally, the College must create and maintain for a period of seven (7) years, records of any actions, including any supportive measures, taken in response to a report of sexual misconduct, including sexual harassment or formal complaint. In each instance, the College must document the basis for its conclusion that its response was not deliberately indifferent and document that it has taken measures designed to restore or preserve equal access to the College's education program or activity.

If the College does not provide a Complainant with supportive measures, then the College must document the reasons why such a response was not clearly unreasonable considering the known circumstances.

## **APPENDIX E: TRAINING AND EDUCATION**

Title IX Coordinators/College Compliance Officer, Deputy Title IX Coordinators, the Title IX and Nondiscrimination Team, and anyone who facilitates an informal resolution process will be trained in many different areas including but not limited to the following:

- The definitions of Title IX sexual harassment.
- The scope of the College's education program or activity.
- How to conduct an investigation.
- Resolution Process A and Process B.

Individuals serving in these roles will additionally receive training and education on how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Hearing Officers and Decision-Makers will receive training on technology to be used at a live hearing and on issues of relevance to questions and evidence. Investigators will also receive training on issues of relevance. Any training materials used to train these individuals will be made available on the College's public website.

The Title IX and Nondiscrimination Team will receive annual training on relevant topics, including bias, discrimination, harassment, sexual harassment, and retaliation, including sexual assault, stalking, domestic violence, dating violence, impartiality, the rights of the Complainant(s) and Respondent(s), including the presumption that Respondents are "not responsible" at or until a finding or determination of responsibility resulting from Process A or B or when a Respondent voluntarily accepts responsibility.

In addition, annual workplace discrimination and harassment training is required for all employees, including all administrators and all faculty, whether full-time or part-time. The objective of this training is to enable individuals to understand and recognize the nature of harassment, its impacts, and when it occurs in their behavior and that of others. All new employees are required to complete this training within thirty (30) calendar days of hire, and every year thereafter. The College may, at its discretion, terminate an employee who does not complete the required training(s).

## **APPENDIX F: AWARENESS AND PREVENTION**

Creating a safe and respectful environment is the responsibility of all members of the College's community. To promote and maintain this environment, the College engages in comprehensive educational programming to reduce the frequency of all prohibited bias, discrimination, harassment and retaliation, including sex or gender-based discrimination, and sexual harassment under this Policy.

The College provides mandatory primary prevention and awareness programs for all incoming students and employees and ongoing prevention and awareness campaigns for all students and employees to promote awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking.

Certain students must complete training on domestic violence, dating violence, stalking or sexual assault prevention. These students include student leaders and officers of student organizations recognized by or registered with the College and those seeking recognition by the College, as well as student-athletes. These students must complete such training prior to receiving recognition or participating in intercollegiate athletic competitions and awareness programming.

## **APPENDIX G: THE TITLE XI AND NONDISCRIMINATION TEAM**

The Nondiscrimination and Title IX Team members receive annual training related to their respective roles. This training may include, but is not limited to the following:

- How to conduct a sex discrimination resolution process consistent with the nondiscrimination and procedures, including issues of disparate treatment, disparate impact, sex-based harassment; quid pro quo, hostile environment harassment, and retaliation.
- Determining relevance.
- The role of the Title IX Coordinator/College Compliance Officer.
- Supportive measures.
- Clery Act/VAWA requirements applicable to Title IX.
- Any other training deemed necessary to comply with Title IX.

## **APPENDIX H: EXTERNAL ADMINISTRATIVE AGENCIES**

An individual who has experienced harassment or discrimination may file a report and/or formal complaint with the College only or may also file a complaint with an external enforcement agency. Filing a report and/or formal complaint internally with the College does not extend the time to file with an external agency. One does not need an attorney and there is no cost to file a complaint.

### **U.S. Department of Education Office**

Office for Civil Rights  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Telephone: 1-800-421-3481  
Fax: 202-453-6012; TDD: 1-800-877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

### **Office for Civil Rights, New York**

U. S. Department of Education  
32 Old Slip, 26th Floor  
New York, NY 10005-2500  
Telephone: 646-428-3800  
Fax: 646-428-3843  
Email: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

### **New York State Education Department: Office of Higher Education**

89 Washington Avenue  
Albany, NY 12234  
Telephone: 518- 486-3633  
[www.nysed.gov](http://www.nysed.gov)

## **U.S. Equal Employment Opportunity Commission (EEOC)**

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1- 800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov)

Buffalo Local Office, Buffalo, New York  
Olympic Towers  
300 Pearl Street, Suite 450  
Buffalo, NY 14202  
Telephone: 1-800-669-4000  
TTY: 1-800-669-6820  
ASL Video Phone: 844-234-5122

## **New York State Division of Human Rights**

The Human Rights Law (“HRL”), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment and protects employees, paid or unpaid interns, and non-employees regardless of immigration status. A complaint alleging a violation

NYS Division of Human Rights,  
One Fordham Plaza, Fourth Floor, Bronx, New York 10458,  
Telephone: 718-741-8400  
Telephone: 1-888- 392-3644  
[www.dhr.ny.gov](http://www.dhr.ny.gov)