

**Albany College of Pharmacy and
Health Sciences**

Annual Security and Fire Safety Report

October 2023

Introduction to the Annual Security Report

In November, 1990, the Student Right-to-Know and Campus Security Act was signed into law (Public Law 101-542 as amended by Public Law 102-26 and The Higher Education Amendments of 1992). This law, known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, requires educational institutions to publish and distribute an annual security report containing campus security policies and procedures as well as campus crime statistics. The Higher Education Act of 2008 created additional requirements to disclose policies related to fire safety, missing persons and emergency notification. In 2013, the reauthorization of the Violence Against Women Act further expanded the requirements for policies and crime data collection. This document is published and distributed to the students and employees of the Albany College of Pharmacy and Health Sciences in compliance with this act.

Office of Public Safety

Security services for the Albany College of Pharmacy and Health Sciences are provided by the University Heights Association's Office of Public Safety. The University Heights Association is a consortium of three colleges - The Albany Law School, The Albany College of Pharmacy and Health Sciences and The Sage Colleges - which share contiguous campuses, academic collaboration and a variety of services.

The Office of Public Safety is located In Suite 114 of The Armory at Sage, 130 New Scotland Avenue. **In an emergency, Public Safety may be reached at 518-244-3177.** In the event that this line is out of service, call 518-858-2381. Non-emergency calls can be made to 518-244-3177 or 518-858-2381

The Director of Public Safety reports directly University Heights Executive Committee and the Vice President of Student Experiences.

The Office of Public Safety provides uniformed, radio-dispatched patrols on a 24 hour a day, seven day a week basis. Among the services provided by the Office of Public Safety are:

- preventive patrol, by vehicle, foot and bicycle
- emergency response
- emergency management
- law enforcement
- incident reporting and Clery Act reporting
- investigations
- medical emergency response

- traffic control and parking enforcement
- crime prevention awareness and training
- liaison with public sector public safety agencies

The staff of the Office of Public Safety is assisted by several technologies that are intended to enhance the safety and security of students, faculty and staff across all of the campuses. Those technologies include:

- "Blue light" emergency telephones that connect directly to the Public Safety dispatch center. They are placed at strategic locations around campus.
- A closed-circuit television systems that places cameras at a number of locations, both inside and outside, around campus. The cameras are monitored in the dispatch center and they are recorded for investigatory and evidentiary purposes.
- A proximity card/fob access to exterior doors of buildings that notifies Public Safety when doors are opened outside of normal business hours or when they are propped open.
- *Send Word Now*, an emergency text messaging system that the College uses to communicate vital information to the ACPHS community in the event of an emergency. *Send Word Now* allows students, staff and faculty to register multiple cellular phone numbers and email addresses to which emergency messages and instructions will be sent.

Authority of Campus Public Safety Officers

Public Safety Officers are security guards licensed by the State of New York. They are trained to the standards and requirements set by the New York State Division for Criminal Justice Services and the Department of State.

As security guards, their authority to arrest is the same as a citizen; they may make warrantless arrests for a felony "in fact committed" or any offense "in fact committed" in their presence. They may not make warrant arrests or arrests based on reasonable cause.

Selected Public Safety Officers attend a regional Campus Public Safety Officer Academy at the Zone 5 Regional Law Enforcement Academy, which is certified by NYS DCJS. Graduates of that Academy are eligible for appointment, upon request of the Board of Trustees, as a private

college security officer. Such appointment grants authority, restricted to the geographical area of authority, to make a warrantless arrest for an offense committed in his presence, or a crime when he has reasonable cause to believe that such person has committed such crime.

Public Safety Officers have the authority to request identification from all persons on campus, and to determine the reason for their presence on campus. Public Safety Officers have the authority to issue UHA tickets for parking violations and moving offenses on any of the UHA campuses.

Reporting Criminal Activity, Emergencies and Suspicious Behavior

All students, staff and faculty of the Albany College of Pharmacy and Health Sciences are encouraged to immediately report to Public Safety any criminal activity, emergency or hazardous situation or suspicious person or behavior as follows:

- Emergencies may be reported by dialing 518-244-3177 or by using any of the emergency phones located directly beneath blue lights. For your safety and protection, all calls made to 518-244-3177 are recorded and are available for instant replay. Although the Public Safety Dispatch Center has direct communication with the Public Safety Answering Points (PSAPs) in both Albany and Rensselaer counties, emergencies may also be reported directly to the Albany Police or Fire Departments by dialing 911 from any campus telephone.
- Non-emergencies may be reported by calling 518-244-3167 or 518-858-2381.
- Under certain circumstances, confidential reporting of incidents may be available to victims.

ACPHS and the UHA Office of Public Safety encourage that all criminal activity also be reported to the Albany Police Department. Public Safety Officers will assist victims or witnesses in that effort.

In the event that the victim of a crime is unable to report it, anyone with knowledge of the crime is encouraged to report it to Public Safety or any Campus Security Authority.

Campus Security Authorities

Recognizing that crime victims may be inclined to report their victimization to someone other than a Public Safety Officer or the police, the Clery Act requires all institutions to collect crime reports from a variety of individuals that Clery considers to be "Campus Security Authorities (CSA's)". Under Clery, a crime is "reported" when it is brought to the attention of a CSA by a victim, witness, offender or third party. If a CSA receives crime information and believes it was provided in good faith, he or she must document the incident in a report.

At the Albany College of Pharmacy and Health sciences, Campus Security Authorities include all University Heights Association Public Safety Officers, Resident Directors and Assistants and the following:

Vice President of Student Experiences	John Felio	518-694-7319
Director of Student Engagement and Leadership	Logan Gee	518-694-7352
Director of Human Resources	Karen Biehler	518-694-7278
Director of Residence Life	Alison Buckley	518-694-7155

Voluntary Confidential Reporting

If you are the victim of a crime and do not want to pursue action within the ACPHS judicial process or within the criminal justice process, you may file a private report with Public Safety. Public Safety may need to share information regarding the incident with College Officials to investigate an incident as mandated by law. The only individuals who can maintain confidentiality at ACPHS are staff at the Counseling Center (Peter Cornish 518-694-7262, Beth Sweet 518-694-7143) and staff at the Albany Wellness Center (518-292-1917). With your permission, the Director of Public Safety will cause a report to be filed, recording the details of the incident. The purpose of a confidential report is to comply with your wish to keep the incident confidential as much as possible, while taking steps to ensure the future safety of yourself and others. With such information, the College can keep accurate records of the number of incidents involving students, faculty, staff and visitors, determine if and where there is a pattern of crime, and alert the ACPHS community to a potential danger. Reports filed in this manner are counted and disclosed in the annual crime statistics for the institution.

Response to Reports

Victims, witnesses and any other persons affected by criminal activity are encouraged to report that activity to the Office of Public Safety immediately. Accurate and timely information is essential to the investigation of any incident.

It is the policy of the Public Safety Office to investigate all crimes, complaints and incidents reported. It may also proactively investigate any activity or situation of potential hazard or criminality.

When a complaint or report of criminal activity is reported, it is investigated immediately. Depending on the needs of the College, the wishes of the complainant and the severity of the crime, it may also be referred to the appropriate local, state or federal law enforcement agencies.

Public Safety and other appropriate Campus offices will also investigate reports of non-criminal activity that violates College policy. The Office of Public Safety cooperates closely with the judicial process at the Albany College of Pharmacy and Health Sciences.

Disclosing Information to the Community

Information related to reported crime and emergencies is essential to a safe campus. The Office of Public Safety has several means of sharing this important information with the community.

In the event of a serious incident that poses an immediate threat to members of the community, a message will be disseminated through the *Send Word Now* emergency system advising people of the incident and providing instructions that should be followed. This system will be used for “all hazards”, regardless of the nature of the incident. It may be used for crimes, weather emergencies, hazardous material incidents, terrorist incidents or natural disasters. *Send Word Now* will also be used to update the community and provide an “all clear” message when the incident has been resolved.

The Office of Public Safety will also provide “timely warnings” when crimes occur that pose a continuing threat to members of the community. A continuing threat occurs when a suspect in a crime is not yet identified or is identified but remains at large. These warnings are generally shared by email, voicemail, Blackboard 5 announcement or by posted flyers. In the event that a threat is both immediate and continuing, *Send Word Now* may also be used.

All crimes reported to the Office of Public Safety will be recorded in the crime log, which is available to the public at the Armory at Sage, 130 New Scotland Avenue. This chronological log of crime on campus is updated each business day and shows crimes occurring over the most recent 60 days. It contains information such as the nature of the crime, its location, date and time, and the disposition of the case.

A fire safety log is also available at the Office of Public Safety. It includes information about all fires occurring at the Albany College of Pharmacy and Health Sciences, including the nature of the fire, its location, date and time. It is updated each business day and shows any fires occurring over the most recent 60 days.

Other sources of information about crimes and fires include the following tables in this document: Crime

Statistics, Hate Crimes and Fires. Incident reports may be available to the community in the Office of Public Safety, contingent upon confidentiality requirements and the need for investigative integrity. The US Department of Education also offers this information for all colleges and universities in the country.

Emergency Notification and Evacuation of the ACPHS community

In the event of an emergency requiring immediate action, ACPHS will notify the community and provide instructions as soon as a timely assessment of the situation allows. A *Send Word Now* message will be crafted and sent, information and instruction will be posted in the Emergency Announcement section of Blackboard, and a global voicemail will be delivered. Depending on circumstances, a room by room verbal notification may be made. Each of those information delivery systems is practiced and tested once each semester.

Administrators authorized to issue these emergency notifications are:

Vice President of Student Experience	John Felio
Director of Residence Life	Alison Buckley
Director of Public Safety	Robert Sears
Assistant Director of Administrative Operations	Kristen Ruby

Evacuation is practiced three times a year. All classrooms and offices have evacuation routes prominently displayed.

Building Access

The O'Brien Building at 106 New Scotland Avenue and the ACPHS Library Building at 51 Union Drive are accessible to faculty, staff and students on a schedule that is communicated to the college community at the beginning of each semester. The schedule may be modified during vacation periods, holidays and summer

session. Faculty, administration and staff members are provided an access fob allowing access beyond regular building hours. Student access to the Library in evening and weekend hours is by fob access. However, access to buildings is not unlimited. Securitas, Inc. monitors access to the buildings during the hours of 12:30AM to 6:00AM. In order for anyone to access the buildings during those hours, special arrangements have to be made with the Assistant Director for Administrative Operations.

Residence Halls are staffed by Resident Assistants and Resident Directors. Residence Halls are entered with an access fob and each resident has a key to their own suite and bedroom. The buildings utilize emergency telephones, panic buttons and closed-circuit television. Perimeter entrances to Residence Halls are locked 24 hours a day.

Safety and Crime Prevention Programming

Safety and Crime Prevention Programming begins at Orientation and continues with a mandatory session for new resident students. Programming is available to student and employee groups on a wide variety of topics such as street safety, fire safety, sexual assault, identity theft, active shooter, etc. The College's Public Safety Advisory Committee, comprised of students, staff and faculty, meets three times a year to discuss issues including safety and crime prevention. The Behavioral Intervention Team meets bi-weekly to discuss behavior that may be predictive of a safety threat or concern to the campus community. The Office of Public Safety monitors several Albany Police Department resources, including their crime mapping program and their booking information program.

Sexual Assault, Sexual Harassment, Relationship Violence, Stalking and Misconduct Policies & Procedures for Students and Employees

This policy is continuously reviewed and revised, if necessary, to reflect changes and compliance requirements put forward by the Department of Education Office of Civil Rights and the Department of Justice Violence Against Women Act.

Prohibited Acts

The Albany College of Pharmacy and Health Sciences (ACPHS) is committed to creating and maintaining a safe environment for all of its students and employees. All forms of sexual misconduct offenses and other nonconsensual sexual contact by members of the ACPHS community is strictly prohibited. This includes any acts of sexual assault, domestic violence, dating violence, and stalking. In the event a sexual assault, act of stalking, dating violence, or domestic violence does occur, ACPHS considers it both a violation of College policy and a violation of law. Violation of these policies will result in a responsive action, as prescribed under Title IX including an investigation of what occurred; action to stop the prohibited conduct; support for the victim of the conduct and, as necessary, for the broader community; and action to reasonably prevent the reoccurrence of the behavior. This may result in possible suspension, dismissal or termination from the College. ACPHS will apply the provisions of this policy regardless of whether the sexual assault, act of stalking, dating violence, or domestic violence occurs on campus or off campus. ACPHS will also apply the provisions of this policy when the sexual harassment, sexual assault, act of stalking, dating violence, or domestic violence occurs while a student or employee is participating in a study abroad program.

Non-discrimination

ACPHS applies the protections set forth in these policies and procedures regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

Students may exercise civil rights and practice religion without interference by ACPHS's investigative, criminal justice, or judicial or conduct process.

Definitions of Individuals:

Accused – a person accused of a violation who has not yet entered ACPHS's judicial or conduct process.

Bystander – a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of ACPHS.

Reporting Individual – a victim, survivor, complainant, claimant, or witness with victim status.

Respondent – a person accused of a violation who has entered ACPHS's judicial or conduct process.

Title IX Officials - Individuals who by law (Title IX), have remedial authority to address sexual misconduct complaints on behalf of the institution. For the purpose of this policy, the following administrative officials are designated to receive sexual misconduct complaints and, if appropriate, to investigate those complaints.

Title IX Representative for all Employees and Students:

Emma Hempel/Title IX Coordinator is the College's administrator for the Title IX Policy.
Office: LIB 309

Phone: 518-694-7418

Email: emma.hempel@acphs.edu
<https://www.acphs.edu/students/title-ix>

Trained Investigators - ACPHS has identified Emma Hempel, Title IX Coordinator and Grand River Solutions as investigators of Sexual Misconduct complaints. The investigators will receive annual training on issues related to:

- The four types of cases: domestic violence, dating violence, sexual assault, and stalking, as well as other forms of sexual misconduct as outlined in this policy.
- How to conduct an investigation "that protects the safety of victims and promotes accountability."

Definitions of Behavior

Crime of Violence – murder, sexual assault, domestic violence, dating violence, stalking, robbery, aggravated assault, burglary, motor vehicle theft, manslaughter, and arson.

Incapacitated Sex

To have sex with someone whom you know to be, or reasonably should know to be, incapable of making a rational, reasonable decision about a sexual situation is a violation of ACPHS policy, New York State Law, and Vermont State Law. Incapacity to make rational decisions about a sexual decision might result from the taking of a date rape drug, other drugs, alcohol, or as a result of illness. Intoxication on the part of the initiator is not an excuse for the violation of this policy or the law.

Relationship Violence

Relationship Violence is a pattern of coercive behaviors that serve to exercise control and power in an intimate relationship. The coercive and abusive behaviors can be physical, sexual, psychological, verbal and/or emotional in nature. Intimate partner abuse can occur in relationships of the same or different genders; between current or former intimate partners who have dated, lived together, or been married. Relationship Violence includes both domestic violence and dating violence.

Under the Clery Act regulations:

- domestic violence is defined as felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or New York and Vermont family violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under New York or Vermont domestic or family violence laws.
- dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship is determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. Under Vermont law, it is unlawful to attempt to cause or to willfully or recklessly cause bodily injury to a person one is dating or has dated, or to willfully cause such person to fear imminent serious bodily injury.

Under New York law, domestic violence is generally defined as:

A pattern of coercive tactics, which can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim. There is no specific crime of "domestic violence" under New York State law. Domestic violence is handled through the criminal

courts and the Family Court as a “family offense.” A family offense is defined as certain acts/crimes delineated in the Penal Law (such as harassment, menacing, assault, and stalking) committed by a family member (individuals who are married, related by blood, or who have a child in common). Victims who meet this definition may go to criminal court to seek an order of protection and have the abuser prosecuted, or they may go to Family Court for an order of protection, services, and assistance with custody and child support. Individuals victimized by an intimate partner who does not meet the definition of family member, such as a boyfriend or same-sex partner, can only go to criminal court for legal assistance. In addition, mandatory arrest, which applies when an abuser violates an order of protection or commits certain other offenses, is only applicable when a case involves individuals who meet the family definition. According to the NYS Office for the Prevention of Domestic Violence, however, many police departments in New York State use an expanded definition of family when making mandatory arrest determinations. This provides greater protection to victims who fall outside of the family definition, although these victims still do not have access to Family Court.

Under Vermont law, domestic violence:

includes violence committed (1) by a current or former spouse of the complainant, (2) by a person with whom the complainant shares a child in common, (3) by a person who is cohabitating with or has cohabitated with the complainant as a spouse, (4) by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Vermont, or (5) by any other person against an adult or youth complainant who is protected from that person’s acts under the domestic or family violence laws of Vermont. Per Vermont law, it is unlawful to attempt to cause or to willfully or recklessly cause bodily injury to a family or household member, or to willfully cause a family or household member to fear imminent serious bodily injury. “Household members” are defined as those persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, and are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or have dated.

Sexual Activity:

- Contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
- Contact 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 a 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; or
- Intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Sexual Assault

Under the Clery Act regulations, the term “sexual assault” means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s UCR program and as set forth in Appendix A to the Clery Act regulations (34 CFR § 668.46). These terms are defined as follows:

- Rape – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling – the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will; or, not forcibly or against the person’s will where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.
- Incest – sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape – sexual intercourse with a person who is under the statutory age of consent.

Under New York law, “sexual assault” includes any and all “sexual offenses” defined in New York State Penal Code Article 130. These sexual offenses include sexual misconduct, rape, sexual abuse, forcible touching, and aggravated sexual contact, and involve conduct that would generally fall within the above-listed definitions. However, these offenses also cover certain actions, such as sexual assault with an object, which may not be included within the above-listed definitions. Students and employees are encouraged to review the full definitions and elements of these offenses, which can be found in New York State Penal Law §§ 130.00 to 130.96. Under New York State law, a sexual offense occurs when certain sexual acts are perpetrated against a victim without his or her affirmative consent.

Under Vermont law, sexual assault is defined as engaging in a sexual act with another person by any of the following means:

- Without his or her consent; or
- By physically forcing, threatening, intimidating or coercing the other person; or
- By placing the other person in fear that any person will suffer imminent bodily injury; or
- When the person knows, or reasonably should know based on an objective standard, that the other person’s ability to give or withhold consent is impaired: 1) by the consumption of drugs, alcohol or other intoxicants; or; 2) because the other person is subject to a physical or mental incapacity such as sleep or unconsciousness.
- Students and employees are encouraged to review the full definitions and elements of these offenses, which can be found in Vermont Penal Law §§ 3252.

Sexual Misconduct:

- **Non-Consensual Sexual Contact:** Any intentional sexual touching without effective consent. This includes any contact with the breasts, buttocks, groin, genitals, mouth or other bodily orifice of a person upon another person, as well as the touching of another with any of these body parts, without effective consent; or other intentional contact of a sexual nature without consent.
- **Non-Consensual Sexual Intercourse:** Any sexual intercourse or penetration (anal, oral, or vaginal) however slight, with any object or body part, by a person upon another person without effective consent.
- **Forced Sexual Intercourse:** Any sexual intercourse (anal, oral or vaginal), by any object or body part, by a person upon another person, that occurs as a result of force. The prohibited force may be physical in nature, or represented by threats, intimidation or coercion. Intercourse obtained by any form of force impacts the free will of the victim and thus removes the opportunity for effective consent
- **Sexual Exploitation:** Sexual exploitation occurs when an individual takes non-consensual, unfair, or abusive advantage of another for their own advantage or benefit, even though that behavior does not constitute one of the other sexual misconduct offenses. Examples include, but are not limited to:
 - Non-consensual video or audio taping of sexual activity.
 - Stalking with a sexual component. Stalking may take many forms, including persistent calling, texting, or posting on a social networking site as well as physical stalking. When the content of the messages or the nature of the physical stalking is of a sexual nature sexual misconduct has occurred.
 - Voyeurism is a form of sexual exploitation in which one individual engages in secretive observation of another for personal sexual pleasure or engages in non-consensual video or audio taping of sexual acts. Although the source for the secretive viewing or taping may be unaware of the observation, this behavior is a form of sexual misconduct and violates the integrity of the unaware student.
 - The disrobing or exposure of another person without their consent.

Sexual Harassment:

Sexual harassment is defined under this policy as severe or persistent or pervasive and objectively offensive unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct or communication of a sexual nature that limits or denies a student's ability to participate in or benefit from the college's educational programs or activities, or creates a hostile working environment for employees when:

- Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's academic or other advancement (quid pro quo harassment);
- Submission to, or rejection of, the conduct is used as the basis for academic decisions affecting the individual (quid pro quo harassment); or
- Has the effect of unreasonably interfering with a person's work, professional or educational performance, productivity, physical security, participation in living arrangements; or

extracurricular activities, academic or career opportunities, services or benefits—or of creating an intimidating, hostile, or offensive learning environment.

Stalking

Generally, stalking is a pattern of behavior that can include:

- Repeatedly leaving or sending victim unwanted items, presents, flowers
- Harassing the victim through the internet, including social networking websites
- Repeated, unwanted and intrusive phone calls, e-mails or text messages; especially after being clearly informed to stop
- Damaging or threatening to damage the victim's property
- Following, monitoring, surveillance of victim and/or victim's family, friends, co-workers
- Abusing or killing a pet or other animal
- Crossing jurisdictions/borders to stalk/commit offenses

Under the Clery Act regulations, stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person's safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of this definition:

- "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
- "reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim; and
- "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Under New York law, a person engages in stalking when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

- is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
- causes material harm to the mental or emotional health of such person, where such conduct consists of following (including unauthorized tracking of someone's movements or location through a GPS or other device), telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or

- is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

More detailed definitions can be found in New York State Penal Law §§ 120.45 to 120.60.

Under Vermont Law, stalking is defined as intentionally following, lying in wait for, or harassing a person that serves no legitimate purpose and would cause a reasonable person to fear for his or her physical safety or suffer substantial emotional distress.

More detailed definitions can be found in Vermont Penal Law §§ 1061, 1062, 1063

Definition of Consent

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 the sexual activity.

Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

- 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.

Consent can be established if the following four conditions are present (Berkowitz, 2002):

- Both participants are fully conscious;
- Both participants are equally free to act;
- Both parties have clearly communicated their willingness/permission; and

- Both parties are positive and sincere in their desires.

Definitions of Confidentiality and Privacy

Confidentiality

Different people on campus have different reporting responsibilities and different abilities to maintain confidentiality, depending on their roles at the college and upon college policy. All parties should be aware of confidentiality, privacy and mandatory reporting, when consulting campus resources, in order to make informed choices. On campus, some people can offer you confidentiality, sharing options and advice without any obligation to tell anyone unless you want them to. Other people are expressly there for you to report crimes and policy violations and they will take action when you report your victimization to them. A victim may seek assistance from these campus community members without starting a formal process that is beyond the victim's control, or violates her/his privacy. The following explains each of these types of reporting.

• Privileged Reporting

Privileged reporting resources are those individuals who, by law and/or professional ethics, maintain privileged based confidentiality of the disclosure of sexual misconduct. These individuals are not required to re-disclose information shared with them other than in very extreme and unusual circumstances involving evidence of a serious and imminent threat to identifiable individuals, or by subpoena. Privileged reporting resources include:

- Counseling and Wellness, Student Center, (518) 694-7262 or (518) 694-7143
<http://www.acphs.edu/albany-campus/health-safety/counseling-services>
- Equinox, 95 Central Ave., Albany, (518) 432-7865 [Domestic Violence Hotline],
<http://www.equinoxinc.org>
- Albany County Crime Victims and Sexual Violence Center, 112 State St., Albany, (518) 447-7716 (hotline), www.albanycounty.com/cvsvc/

• Administrative (Mandatory) Reporting By Responsible Employees

At ACPHS Responsible Employees are considered Mandatory Reporters and include all employees including Resident Assistants. Mandatory reporters are required to report all details of an incident of sexual misconduct, including the identity of the victim and the perpetrator, the date and location of the incident and details regarding the incident if known, to the appropriate office for purposes of initiation of an investigation and appropriate action. Responsible Employees are trained to provide information and support and appropriate referral to confidential or private reporting resources. Responsible Employees are also required to provide Clery Act statistical information and/or information for a Timely Warning if the circumstances warrant.

Privacy

Employees of ACPHS must offer privacy to reporting individuals if they are unable to offer confidentiality to those individuals under the law. Information learned from a reporting individual or bystander to a crime or incident will not be disclosed more than necessary to comply with state and federal laws, including informing appropriate officials of ACPHS. A reporting individual's identity will remain private at all times if the reporting individual wishes to maintain privacy.

Privacy of Records

The investigation and resolution conducted by ACPHS are maintained confidentially. Information is shared only between ACPHS administrators who need to know. Where information must be shared to permit the investigation to move forward, the person bringing the accusation will be informed. Privacy of the records specific to the investigation is maintained in accordance with New York and Vermont State laws and, with respect to student records, the federal Family Educational Rights and Privacy Act of 1974 (FERPA) statute. Any public release of information to comply with the timely warning provisions of the Jeanne Clery Act (Clery Act) will not release the names of victims or information that could easily lead to a victim's identification.

What Do I Do If I Am A Victim of Sexual Misconduct/Violence?

If you believe you are the victim of any of the offenses described above, you should follow the following procedures:

- A. **Get yourself to a safe place.** UHA Public Safety and the Albany Police Department can help you do this. Officers of those agencies are trained to respond to the needs of a victim of sexual assault, relationship violence, and stalking. They can also make you aware of support and advocacy services and advise you about reporting procedures and requirements.
- B. **Obtain medical attention.** For your safety and well-being, immediate medical attention is encouraged. Further, being examined as soon as possible is important in the case of sexual assault. The hospital will arrange for a specific medical examination at no charge. We encourage you to do so at a facility that uses SANE, or Sexual Assault Nurse Examiners. Albany Medical Center, Memorial Hospital, Samaritan Hospital, and University of Vermont Medical Center are SANE facilities. Remember that this medical treatment may also provide the opportunity for the collection and documentation of evidence, should you decide to pursue the incident and offender through the legal system. Public Safety and the Albany Police Department may assist you in this effort as well.
- C. **Preserve evidence.** We encourage you to take steps to preserve any and all evidence when a domestic violence, dating violence, or sexual assault incident occurs, as this evidence may be necessary to prove that the offense took place and/or to obtain a protective order. Be aware that the location of the offense, your clothing, and your person may be considered a "crime scene," and as such, a source of evidence. The location of the incident should be safe guarded and the victim should avoid washing, douching, using the toilet or changing clothes prior to a medical/legal exam.

- D. **Report the incident.** ACPHS encourages, but does not require, victims, survivors, complainants, claimants, and witnesses with victim status of sexual assault, relationship violence, or stalking (reporting individuals) to report the incident to one or more of the following resources:
1. You may (but are not required to) report it to local law enforcement and/or state police for the sole purpose of documentation. You may also (but are not required to) report it to local law enforcement and/or state police so that they may investigate the matter and identify an offender. You have the further option (but are not required to) to pursue the case through the criminal justice system, where you will be assisted by the District Attorney's office, the local or state Police Department and the support and advocacy services of your choice. If you want or need assistance in notifying the local or state Police Department, you should contact the Office of Public Safety who will assist you in doing so.
 2. You may (but are not required to) report it to UHA Public Safety. This may trigger the judicial process of ACPHS, which may result in the removal of the offender from the campus. It also assists ACPHS in complying with Federal requirements for reporting offenses occurring on campus. You may (but are not required to) report incidents of sexual assault, relationship violence, or stalking anonymously to UHA Public Safety Albany Police, preserving your privacy and only reporting the particulars of the incident.
 3. You may also (but are not required to) report the incident to a Compliance Officer (identified below) or any senior officer of ACPHS.
 - When you first disclose an incident to a representative of ACPHS, you will be presented with (1) a copy of this policy, (2) a written explanation of your rights and options, whether the incident occurred on or off-campus, and (3) the following information: "You have the right to make a report to university police or campus security, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution."
 - You will have the right to emergency access to the Title IX Coordinator or a Compliance Officer, who will be available upon the first instance of disclosure by a reporting individual to provide immediate information and assistance regarding (1) options to proceed, including other reporting options; (2) where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible; and (3) the criminal justice process, including that it utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. The Compliance Officer will also explain whether he or she is authorized to offer you confidentiality or privacy, and will inform you about other reporting options.

- Be aware that certain ACPHS officials with significant responsibility for student and employee activities may be required by law to disclose the occurrence of the event. If you make a report to an official who is required by law to disclose the occurrence of the event, but you request confidentiality, the Title IX coordinator will evaluate the confidentiality request, by weighing the request against ACPHS's obligation to provide a safe, non-discriminatory environment for all members of its community. If it is determined that the incident must be disclosed, your name will be kept confidential, and you will be offered privacy to the greatest extent possible. If it is determined that the incident must be kept confidential, ACPHS will still assist with academic, housing, transportation, employment, and other reasonable and available accommodations.
 - Even ACPHS officers and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. Your identity will remain private at all times if you wish to maintain privacy.
 - ACPHS will make every effort to ensure that you are asked to describe the incident to as few representatives of ACPHS as possible, and are not required to unnecessarily repeat a description of the incident.
4. In addition to, or in lieu of, reporting an incident to one or more of the above, you may (but are not required to) make a confidential report to any mental health counselor, pastoral counselor, social worker, psychologist, nurse-practitioner, or other person with a professional license or who is supervised by such a person. This includes, but is not limited to, professional employees and support staff at the Counseling and Wellness Center. These employees are exempt from any requirement to further disclose your report to them, unless you want and ask them to do so. These employees can assist in obtaining services for reporting individuals.
 5. In addition, you may confidentially disclose the incident and obtain services from the state or local government.
 6. You can also make an anonymous report to a confidential hotline provided by New York state agencies and not-for-profit entities. These hotlines include:
 - New York State Domestic and Sexual Violence Hotline: 1-800-942-6906.
 - Equinox Hotline: 518-432-7865.
 - Unity House Hotline: 518-272-2370.
 - The National Domestic Violence Hotline: 1-800-799-7233.
 - The National Sexual Assault Hotline: 1-800-656-4673.

- Safe Horizon Hotlines: 800-621-4673 (domestic violence), 866-689-4357 (victims of other crimes, 1-212-227-3000 (rape & sexual assault victims).

ACPHS encourages the victims of sexual assault, relationship violence, and/or stalking to report the incident, in any of the manners described above. However, again, victims are not required to report the offense to, or to seek assistance from ACPHS, law enforcement, or campus authorities. ACPHS will not pressure any student or employee to disclose a crime or violation, or to participate in the judicial, conduct, or criminal justice processes.

Reporting an incident does not:

- obligate the victim to prosecute;
- subject the victim to inappropriate scrutiny or judgment by the person receiving the report; or
- suggest in any way that the victim is at fault for the crime or violation, or should have acted in a different manner to avoid the crime or violation.

Reporting the incident does:

- ensure that a victim of sexual assault, relationship violence, or stalking receives necessary medical testing and treatment;
- provide the opportunity for collection of evidence critical to a prosecution, which cannot be obtained later;
- ensure that the victim has knowledge of and access to professional, confidential counseling from a counselor specifically trained in the areas of sexual assault, relationship violence, or stalking.

Students' Bill of Rights

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;

8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

Ways to Protect Yourself

There are some practical steps you can take that may decrease the risk of sexual assault.

- Express your expectations and limits clearly before you are involved in a sexual encounter.
- Limit alcohol and drug use. They make it more difficult for you to be in control. Never ride with someone who has used alcohol or drugs.
- Avoid meeting in secluded places and walking alone. If you are concerned, ask campus security to escort you.
- Try to be aware of attitudes that your date expresses concerning women or men: hostility, unrealistic views of women or men and/or viewing people as "sex objects."
- Use assertive language such as, "I feel uncomfortable when you don't listen to me or when you touch me like that."
- Scream "fire" (rather than "rape" or "help"), if you need assistance.
- Be alert to what is happening around you.

These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.

- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

Additional Options of Available Action

BYSTANDER INTERVENTION

Bystander intervention means safe and positive options that may be carried out by an individual(s) to prevent harm or intervene. There are four types of bystander intervention we can choose to act out to assist a person who is at risk of an unsafe situation:

- **Direct** - Directly taking action to intervene in a situation.
 - Stepping in to take an intoxicated friend home.
 - Watching a friend's drink while they are in the bathroom.
 - Asking questions such as: "Hey, are you OK? Do you need help?"
- **Delegate** - Getting another person to intervene in a situation.
 - Calling Public Safety or local police.
 - Asking a friend to assist you in finding a ride for someone.
 - Asking the host of the party, or a bouncer at a bar, to ask someone to leave.
- **Distract** - Creating a situation to distract to interrupt precursors to violence to prevent harmful situations from occurring.
 - "Hey, I think your car is getting towed!"
 - Spilling a drink.
- **Delay** - Creating an opportunity to check in with someone to prevent a harmful situation from occurring.
 - Use a distracting technique, then ask the person to go to the bathroom with you or to get another drink so you can check in "Are you OK? Do you need any help?"
 - Sending a friend a text when you see them leave with someone to ask if they are OK or if they need help getting out of a situation.
 -

PREVENTING SEXUAL VIOLENCE

As a reminder, a survivor/victim/complainant is never at fault for sexual or interpersonal violence. The following practical steps are offered to help you feel more safe as a student here at ACPHS.

- Be alert to your surroundings.
- Avoid meeting in secluded places and walking alone. If you are concerned, ask campus security to escort you.
- Be mindful of drug and alcohol consumption, as they can impact our ability to communicate and can result in loss of coordination.
- Empower yourself to communicate your expectations and limits clearly before you get into a sexual situation.

The following suggestions provide individuals with important content to improve communication when engaging in intimate behaviors with others:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- **Don't make assumptions** about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you **do not** have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

Potentially File Student Conduct Charges. If the accused or respondent is a student, you may file student conduct charges against the accused or respondent. Charges should be prepared in writing and directed to the Student Conduct Officer/Director of Residence Life. Additional details regarding the Student Disciplinary Code can be found on the ACPHS Intranet.

Potentially Seek a Court Order. Victims of relationship violence, sexual assault, and/or stalking may have a right to obtain a court order to protect themselves from the perpetrators. ACPHS will enforce all applicable no contact orders, restraining orders, and similar lawful orders issued by a criminal, civil, or tribunal court, to the extent required by law.

ACPHS will provide reporting individuals assistance from UHA Public Safety or other ACPHS officials in obtaining an Order of Protection. ACPHS will provide the accused or respondent and the reporting individual a copy of any Order of Protection or equivalent that ACPHS receives. ACPHS will also provide the accused or respondent and the reporting individual an opportunity to meet or speak with a representative of ACPHS, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused person's responsibility to stay away from the protected person or persons. ACPHS will provide the accused or respondent and the reporting individual an explanation of the consequences of violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension. ACPHS will also call on and assist local law enforcement in effecting an arrest when an individual violates an order of protection.

Right to Withdraw. You have the right to withdraw your report and/or to withdraw from involvement in ACPHS's investigation of the complaint at any time.

Immediate Consequences Following a Report of an Incident of Sexual Assault, Relationship Violence, and/or Stalking

A. Mandatory No Contact Order

- When both parties are students, ACPHS may issue a mutual restriction of contact, or “no contact order,” whereby:
- Both parties should refrain from contacting and communicating with each other in person, electronic messages, including social media, or through third parties.
- If the parties observe each other in a public place, either on-campus or off-campus, it is their mutual responsibility to refrain from engaging with the other party or directly contacting the other party.

B. Mandatory Interim Suspension

If after undertaking an individualized safety and risk analysis, the Title IX Coordinator, in consultation with the Vice President of Student Experiences or designee determines that the Respondent poses an immediate threat to the physical health or safety of any student or other individual in the College community, the College may remove the Respondent on an emergency basis. The length and nature of the removal will depend on the facts of the particular case. The College will notify the Respondent of the emergency removal. Both the Complainant and the Respondent will have an opportunity to challenge the decision and its terms, including by submitting evidence, immediately following the removal.

C. Additional Interim Measures.

ACPHS will offer reasonable and available interim measures to all reporting individuals in order to help ensure safety, prevent retaliation, and avoid an ongoing hostile environment. These interim measures may include:

- support services (victim advocacy, housing assistance, academic support, counseling, health and mental health services, legal assistance);
- changing work assignments and situations (for employees);
- changing living arrangements, course schedules, assignments, or test schedules (for students); • no contact orders, campus escorts, transportation assistance, or targeted interventions; • providing increased monitoring, supervision, or security; and/or providing an escort.

- When the accused is not a student, but is a member of ACPHS’s community and presents a continuing threat to the health and safety of the community, ACPHS will subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and rules and policies of ACPHS.
- ACPHS will provide reasonable and available interim measures to all reporting individuals.
- ACPHS will protect the confidentiality of accommodations or protective measures provided to a complainant or accuser, to the extent that doing so will not impair ACPHS’s ability to provide the accommodations or protective measures.
- Upon request, ACPHS will provide both the accused or respondent and the reporting individual a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects him or her, in which he or she is allowed to submit evidence in support of his or her request.

On and Off-Campus Support Services Following an Incident of Sexual Assault, Relationship Violence, and/or Stalking

ACPHS recommends that reporting individuals seek the assistance of trained professionals in the aftermath of an incident of sexual assault, relationship violence, and/or stalking, and will assist reporting individuals to receive this assistance. ACPHS will provide reporting individuals with information on sexually transmitted infections and sexual assault forensic examinations.

ACPHS’s Office of Counseling and Wellness is a provider of services for reporting individuals, including exit counseling, health, mental health, and other related services. These services are provided at no cost to the reporting individual. These resources are located and can be contacted at:

<p><u>Albany Campus</u> Gozzo Student Center, SC 209 106 New Scotland Avenue Albany, New York 12208</p> <p>Phone: (518) 518-694-7262</p>	<p><u>Vermont Campus</u> UVM Medical Center Urgent Care 790 College Parkway Fanny Allen Campus, Colchester, VT 05446</p> <p>Phone:(802) 847-1170</p>
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A number of resources are also available through the New York State Office of Victim Services (OVS). OVS can be contacted by phone at 1-800-247-8035. OVS resources can also be accessed at the following website: <https://ovs.ny.gov>.

ACPHS has also entered into collaborative partnerships with community-based organizations to refer students for assistance and provide services such as counseling, legal assistance, victim advocacy, and visa/immigration assistance).

Program /Entity	Contact Information	Cost
New York State Office for the Prevention of Domestic Violence	P: 1-800-942-6906 E: http://www.opdv.ny.gov/contact.html	No cost
New York State Coalition Against Sexual Assault	P: 1-800-942-6906 E: https://www.nyscasa.org/	For a fee
The Albany County Crime Victim and Sexual Violence Center	P: (518) 447-7716 E: http://www.albanycounty.com/Government/Departments/CrimeVictimandSexualViolenceCenter.aspx	No cost
Equinox, Albany, NY	P: (518) 434-6135 E: http://www.equinoxinc.org/contact/index.php	No cost
Legal Aid Society of Northeastern New York	P: 1-800-462-2922 E: http://www.lasnny.org	For a fee
Safe Horizon Hotlines	P: (800) 621-4673; (866)-689-4357	No cost
Vermont Statewide Sexual Violence Hotline	P: (800) 489-7273	No cost

Medical services are also available to reporting individuals from the following providers:

Program/Entity	Location	Contact Information	Cost
Albany Medical Center	43 New Scotland Ave. Albany, NY 12208	P: 518-262-3125	Fees charged
St. Peter's Hospital	315 S. Manning Blvd. Albany, NY 12208	P: 518-262-3125	Fees charged
Albany Memorial Hospital	600 Northern Blvd. Albany, NY 12204	P: 518-471-3221	Fees charged
University of Vermont Medical Center	790 College Parkway Fanny Allen Campus, Colchester, VT 05446	Phone:(802) 847-1170	Fees charged

Amnesty from Campus Conduct Process

ACPHS strongly encourages the reporting of incidents of sexual misconduct.

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

New York State Law

Article 130 of the New York State Penal Code defines sexual offenses. It lists the sections and degrees of sex crimes. Sexual assault is a criminal act carrying a penalty of varying degrees.

Sexual Misconduct--Sexual misconduct is defined as engaging in sexual intercourse with another person without such person's consent or engaging in deviate sexual intercourse (sodomy) with another person without that person's consent. **Penalties**--The maximum penalty is a \$1,000 fine and/or one year in jail.

Rape and Sodomy--Rape is defined as engaging in sexual intercourse or deviate sexual intercourse (sodomy) by forcible compulsion or by engaging in such action with a person who is incapable of consent due to age, physical helplessness or mental handicap.

Penalties--Rape and sodomy are classified as felonies with penalties of up to 25 years imprisonment and/or a fine of up to \$5,000.

Sexual Abuse and Aggravated Sexual Abuse--Sexual abuse and aggravated sexual abuse are defined as subjecting another person to sexual contact by forcible compulsion or subjecting another person who is incapable of consent due to age, physical helplessness or mental handicap to sexual contact.

Penalties--The penalty for a sexual abuse offense may range from three months imprisonment and/or a \$500 fine to 25 years imprisonment and/or a \$5,000 fine. Some types of sexual abuse may be classified as felonies. For more detailed information on this article of the New York State Penal Code, contact Campus Security at 518244-3177.

Investigation and Disciplinary Procedures in all Cases of Sexual and Gender Based Harassment and Discrimination, as well as Sexual Misconduct, Sexual Assault, Relationship Violence, and Stalking

When ACPHS becomes aware of a Title IX Sexual Harassment Incident as defined in the ACPHS Title IX Policy section VI , the College will follow the following ACPHS Title IX policy.

ACPHS Title IX Policies

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I. POLICY STATEMENT

Albany College of Pharmacy and Health Sciences complies with Title IX of the Educational Amendments of 1972 as well as the Title IX regulations released by the Department of Education effective August 14, 2020. This policy prohibits all forms of sexual and gender-based harassment and discrimination. This policy also covers sexual misconduct that does not fall within the scope of Title IX, as defined in the August 2020 regulations. This policy is effective August 15th, 2022.

II. SCOPE OF THE POLICY AND JURISDICTIONAL STATEMENT

This policy applies to all students;¹ student organizations; College employees and contractors, including staff, faculty, and administrators; and all other persons that participate in the College's educational programs and activities, including third-party visitors on campus. This policy prohibits the conduct set forth in Section VI regardless of the Complainant and Respondent's relationship status, sex, gender, gender identity, gender expression, or sexual orientation.

Albany College of Pharmacy and Health Sciences may investigate any alleged violation of this Policy that occurs in the context of a College program, or activity (including academic, educational, extracurricular, study abroad and internships, and other College programs), or that otherwise affects the working, living or learning environments, regardless of whether that conduct occurred on or off campus. Regardless of where the conduct occurred, the College will review complaints to determine whether the conduct occurred in the context of its employment or educational program or activity or has continuing effects on campus or in an off-campus sponsored program or activity, or whether the College otherwise has a substantial interest in the allegations. A substantial interest includes:

1. Any action that constitutes a criminal offense as defined by law (This includes, but is not limited to, single or repeat violations of any local, state, or federal law.);
2. 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; or
3. Any situation that is detrimental to the educational interests or mission of the College.

All actions by a student that involve the use of the College's computing and network resources from a remote location, including but not limited to accessing email accounts, will be deemed to have occurred on campus.

If the Respondent is unknown or is not otherwise subject to sanctions imposed by the College, the Title IX Coordinator will offer the Complainant supportive measures, remedies, and resources, such as, identifying appropriate campus and local resources and support options or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. Although the College may not, in certain instances, be in a position to conduct an investigation, it may

¹ For the purpose of this policy, the College defines "student" as a currently matriculated (part- or full-time) student.

provide appropriate resources or support to impacted individuals and where appropriate, the broader the College community.

III. DEFINITIONS

Confidential Resources: Confidential Resources are certain employees that are required by law to protect confidentiality when acting in the course of their professional duties. Under most circumstances, Confidential Resources will not share information with other individuals without the express consent of the reporting party. An exception may be made if there is an imminent risk of danger to the reporting party or another individual.

Complainant: When used in this policy, “Complainant” is the person who is alleged to have experienced Prohibited Conduct.

Formal Complaint: A Formal Complaint is a document signed by the Complainant or the Title IX Coordinator alleging a violation of this Policy against a Respondent and requesting that the College initiate an informal or formal Resolution of the Formal Complaint pursuant to this Policy and its procedures. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail by using the contact information as described in this section. For matters involving Title IX Prohibited Conduct, the Complainant must be participating or attempting to participate in the College’s educational program or activities at the time of the filing of the Formal Complaint.

Mandated Reporter: Mandated Reporters are required to report allegations regarding conduct prohibited by this policy to the Title IX Coordinator. Most employees, with the exception of counselors in The Office of Counseling and Wellness, are mandated reporters. If you have questions regarding your reporting requirements, please reach out to your supervisor or the Title IX Coordinator.

Party or Parties: Refers to the Complainant and the Respondent, collectively.

Prohibited Conduct: Conduct prohibited by this Policy, as defined in Section VI.

Respondent: When used in this policy, “Respondent” is the person who is alleged to have engaged in Prohibited Conduct.

IV. STATEMENT REGARDING PRIVACY AND CONFIDENTIALITY

The College is committed to protecting the privacy of all individuals who are involved in a report of Prohibited Conduct. To the fullest extent practicable, consistent with fair and full investigation procedures, information related to a report of Prohibited Conduct will be shared only with those who “need to know” (i) to assist in the investigation or resolution of the report, or (ii) to allow the College to comply with other requirements under this Policy or state or federal law. Individuals who are involved in the review, investigation, or resolution of reports or Formal Complaints are trained to safeguard private information.

Complainants, Respondents, and any witnesses involved in a resolution process under this policy are strongly encouraged to exercise discretion in sharing information learned in such process in order to protect the privacy of the individuals involved, to safeguard the integrity of the process, and to avoid the appearance of retaliation. Complainants and Respondents are not restricted from discussing the allegations set forth in a Formal Complaint.

The College prohibits parties from distributing documents obtained in the course of their participation in matters under this Policy's accompanying procedures, including, but not limited to, the Formal Complaint, interview summaries or transcripts, and the evidence file and investigative report, other than for the purpose of consulting with an advisor; incidental to seeking support and advice from family, clergy, health professionals, and others playing a similar role; or as part of a civil, criminal, or administrative legal proceeding.

As appropriate, in a given case, a College official, such as the Title IX coordinator, may issue an order restricting the parties from disclosing specific information. Additionally, sharing private information in a manner that harms another individual may constitute retaliation prohibited under this Policy.

The College will provide other participants, such as witnesses, investigators, and hearing and appeal panel members, with instructions about respecting and safeguarding private information. Such persons are obliged to comply with the College's rules regarding privacy which are set forth in this section.

Students and employees who wish to obtain confidential assistance without making a report to the school may do so by contacting the confidential resources listed in Appendix C.

When the College receives a report or Formal Complaint of Prohibited Conduct, but the Complainant requests that their identity remain confidential or that the College not take action to address the conduct reported, the College must balance this request against its responsibility to provide a safe and non-discriminatory environment for all members of the campus community. The College will take all reasonable steps to investigate and respond to the report consistent with the Complainant's request, but its ability to do so may be limited. If the College determines that it cannot maintain Complainant's request for confidentiality, the College will inform the Complainant as soon as practicable and will take immediate and necessary action to protect and assist the Complainant. The Complainant will not be required to participate in any proceedings initiated by the College. However, if Complainant declines to participate in an investigation or adjudication under this Policy and its Procedures, the College's ability to meaningfully respond to a report of Prohibited Conduct may be limited.

V. TITLE IX COORDINATOR

The College has designated the Title IX Coordinator, with the assistance of designated staff, to coordinate the College's compliance with Title IX and related provisions of the Clery Act (as amended by VAWA) and New York State Law. The Title IX Coordinator oversees compliance with all aspects of this Policy, including oversight of the College's response to all reports of Prohibited Conduct.

When used in this Policy, the term Title IX Coordinator may include an appropriate designee. The Title IX Coordinator's contact information is:

Title IX Coordinator
TitleIX@acphs.edu
Emma Hempel
emma.hempel@acphs.edu

If you have any questions about this Policy, you may contact the College's Title IX Coordinator.

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and related complaint resolution procedures. The Title IX Coordinator may delegate responsibilities under this policy to designated College staff or external professionals, who will have appropriate training or experience. Individuals tasked with aspects of implementation of this Policy and its Procedures are vetted and trained to ensure that in overseeing the institutional response to reports of Prohibited Conduct or the provision of supportive measures they do not act with bias for or against any party in a specific case, or for or against Complainants or Respondents, generally.

VI. PROHIBITED CONDUCT

The conduct prohibited by this Policy ("Prohibited Conduct") is set out below. The College will respond to all reports of Prohibited Conduct pursuant to the applicable Procedures set out in this Policy.

Conduct that does not meet the definitions below or that is not otherwise prohibited by this Policy may violate other College policies or may be considered inappropriate or unacceptable within the College community. In appropriate cases, the Title IX Coordinator may refer such conduct elsewhere within the College for resolution.

1. Title IX Sexual Harassment

Title IX Sexual Harassment is conduct on the basis of sex, occurring within the United States, that constitutes one or more of the following:

- a. **Quid Pro Quo Sexual Harassment:** an employee of The College, conditions the provision of an aid, benefit, or service of the College, on an individual's participation in unwelcome sexual conduct; or
- b. **Hostile Environment Sexual Harassment:** unwelcome conduct, determined by a reasonable person, to be so severe, and pervasive, and, objectively offensive, that it effectively denies a person equal access to the College's education program or activity.²

² Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of

c. Sexual Assault: Any sexual act directed against another individual, without the consent of that individual, including instances in which the individual is incapable of giving consent

i. Non-Consensual Sexual Penetration (Rape, Sodomy)

- a. Penetration, no matter how slight, of the vagina or anus of an individual with any body part or object, or oral penetration by a sex organ of another individual, without the consent of the individual or against the individual's will, or
- b. not forcibly or against the individual's will in instances in which the individual is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

ii. Non-Consensual Sexual Contact (Fondling)

- a. The touching of the private body parts of another individual (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, without the consent of the individual or against the individual's will, or
- b. not forcibly or against the individual's will in instances in which the individual is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

iii. Incest: Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by New York law.

iv. Statutory Rape: Non-forcible sexual intercourse, with a person who is under the statutory age of consent. The age of consent in New York is 17 years old.

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

e. Domestic Violence: Violence, committed by a current or former spouse or intimate partner of an individual, by a person with whom the individual shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the individual as a spouse or intimate partner, or by a person similarly situated to a spouse of the individual under the domestic or family violence laws of New York, or by any other person against an adult or youth individual who is protected from that person's acts under the domestic or family violence laws of New York.

a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

f. Stalking: Engaging in a course of conduct, directed at a specific person, that would cause a reasonable person to fear for that person's safety, or the safety of others; or suffer substantial emotional distress. For the purposes of this definition:

- i. 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.
- ii. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- iii. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Additional Requirements

Conduct must also meet the following additional requirements to fall within the definition of Title IX Sexual Harassment:

- It must occur within the United States; and
- It must occur within the scope of the College's educational program or activities;
- It must occur on or after August 14, 2020
- The College exercised substantial control over the Respondent and the context in which the harassment occurs;

Prohibited Conduct occurs within the scope of The College's education programs or activities if it meets one or more of the following:

- It occurs on campus;
- It occurs on a property or in any facility owned and controlled by the College;
- It occurs as part of the College's operations;
- It occurs in a building owned or controlled by a student organization that is officially recognized by the College.

As described in Section X(4)(b) of this Policy, if conduct alleged in a Formal Complaint does not meet the definition of Title IX Sexual Harassment, the College must dismiss the Formal Complaint (or the allegations of Title IX Sexual Harassment in the Formal Complaint) for purposes of compliance with Title IX. If the conduct would still, as alleged, constitute Non-Title IX Prohibited Conduct under this Policy, the College may continue to address the allegations pursuant to the Procedures in this Policy set forth in Appendix B.

2. Non-Title IX Prohibited Conduct

In addition to the conduct set forth above as Title IX Sexual Harassment, the following conduct is also prohibited under this Policy:

a. Non-Title IX Sexual Harassment

Non-Title IX Sexual Harassment includes conduct that meets the definition of Title IX Sexual Harassment but does not occur within the United States or within the College's educational program or activities (e.g., sexual harassment occurs on a school trip outside of the United States).

Non-Title IX Sexual Harassment also includes conduct that does not meet the definition of Title IX Sexual Harassment but otherwise constitutes an unwelcome sexual advance, a request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise when the conditions outlined in (i) or (ii) below are present; or unwelcome conduct based on sex, gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal, non-verbal, graphic, physical, or otherwise when the conditions outlined in (i) or (ii) below are present;

(i) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any College program or activity or is used as the basis of College decisions affecting the individual; or

(ii) Such conduct creates a hostile environment. A "hostile environment" exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the School's education or employment programs or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and objective perspective. In evaluating whether a hostile environment exists, the College will consider the totality of known circumstances, including, but not limited to:

- The frequency, nature, and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the Complainant's mental or emotional state;
- Whether the conduct arose in the context of the discriminatory conduct;
- Whether the conduct unreasonably interfered with the Complainant's educational or work performance or College programs or activities; and
- Whether the conduct is protected by academic freedom or freedom of speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment.

b. Non-Title IX Sexual Assault: Non-Title IX Sexual Assault includes conduct that meets the definition of Title IX Sexual Assault but does not occur within the United States or within the College's educational program or activities.

c. Non-Title IX Dating Violence: Non-Title IX Dating Violence includes conduct that meets the definition of Title IX Dating Violence but does not occur within the United States or within the College's educational program or activities.

d. Non-Title IX Domestic Violence: Non-Title IX Domestic Violence includes conduct that meets the definition of Title IX Domestic Violence but does not occur within the United States or within the College's educational program or activities.

e. Non-Title IX Stalking: Non-Title IX Stalking includes conduct that meets the definition of Title IX Stalking but does not occur within the United States or within the College's educational program or activities.

f. Sexual Exploitation: Sexual Exploitation is intentionally engaging in any of the following:

- i. Observing another person when that person is nude or engaged in sexual activity without the knowledge and consent of the person observed or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- ii. Making, sharing, posting, streaming or otherwise distributing any image, photography, video, or audio recording depicting or otherwise recording another person when that person is nude or engaged in sexual activity without the knowledge and consent of the person depicted or recorded;
- iii. Exposing one's genitals to another person without the consent of that person; iv. Exposing another person to a sexually transmitted infection without the knowledge and consent of the person exposed; and
- v. Causing another person to become incapacitated with the intent of making that person vulnerable to nonconsensual sexual assault or sexual exploitation

g. Aiding or Facilitating: Knowingly and intentionally aiding or facilitating any act of sexual misconduct, before or after the fact, is a violation of this policy.

h. Retaliation: Retaliation is adverse action taken against an individual with the purpose of interfering with an individual's rights under these procedures, including for making a good faith report of prohibited conduct, for participating in an investigation, proceeding, or hearing, or for refusing to participate in an investigation, proceeding, or hearing under these procedures. Retaliation may include intimidation, threats, coercion, discrimination, or adverse employment or educational actions. Retaliation may be found even when an underlying report made in good faith was not substantiated. Retaliation may be committed by the Respondent, the Complainant, or any other individual or group of individuals. Retaliation does not include good faith actions pursued in response to a report of prohibited conduct.

i. **False or Bad Faith Allegations:** An individual found to have knowingly made a false complaint or report, or to have knowingly given false information during a process under this Policy, may be subject to disciplinary action, up to and including termination of employment or dismissal from the College's academic programs.

3. Affirmative Consent, Coercion, Force, and Incapacitation

Affirmative Consent: Sexual contact must be consensual at all times, and sexual contact is considered consensual only after affirmative consent has been given. Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

The following are principles that apply to the above definition of affirmative consent:

- Consent to any sexual act or prior consensual sexual activity 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 or alcohol.
- Consent may be withdrawn at any time.
- When affirmative consent is withdrawn or can no longer be given, sexual activity must stop.
- A person is incapable of affirmative consent when they are:
 - Less than seventeen years of age;
 - 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.

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats and intimidation (implied threats) that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want."). Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is intimidation or conduct that would compel an individual to do something against their will by:

- a. expressed or implied threats of physical, emotional, property, or reputational harm, or
- b. pressure that would cause a reasonable person to fear such harm.

Coercion is more than an effort to persuade or attract another person to engage in sexual activity. In assessing whether coercion was used, the frequency, duration, and intensity of the pressure applied will be taken into consideration.

Incapacitation: A person cannot consent if they are unable to understand what is happening or disorientated, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

- a. Incapacitation negates consent. An individual cannot give consent when mentally or physically incapacitated, when the incapacity is known or based on the circumstances should reasonably have been known to be incapacitated.
- b. Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent
- c. Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.
- d. This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

VII. CAMPUS AND COMMUNITY RESOURCES

1. Overview of Resources and Disclosures

The College is committed to treating all individuals with dignity, care, and respect. Both Complainants and Respondents have equal access to support and counseling services through the College. All parties are encouraged to utilize on-campus and/or off-campus resources for assistance. For a comprehensive list of resources, see Appendix C of this policy.

Any individual who has been the victim of a crime is encouraged to get to a safe place and to call 911 or to contact local law enforcement, immediately.

The College recognizes that not every individual will choose to report conduct prohibited by this Policy to the College or to law enforcement. Accordingly, Confidential Resources are available to all students and employees. Confidential Resources can provide critical support and information, and can assist individuals in evaluating whether to make a report to the College and/or to law enforcement. Confidential Resources are listed in Appendix C.

As set forth in Appendix C, Counseling Center is The College's designated Confidential Resource. A Confidential Resource is a certain employee that is required by law to protect confidentiality when acting in the course of professional duties. Under most circumstances, Confidential Resources will not share information with other individuals without the express consent of the reporting party. An exception may be made if there is an imminent risk of danger to the reporting party or another individual.

All other employees of the College are mandated reporters and have an obligation to share any reports of conduct prohibited by this Policy with the Title IX Coordinator.

2. Medical Care After a Sexual Assault

Any person who experiences sexual assault or violence is encouraged to immediately seek medical assistance. Seeking medical care does not result in a report to law enforcement or to the College. In the aftermath of sexual assault or violence, medical providers can facilitate or provide the following:

- Treatment of any injury or physical trauma
- HIV and STI testing
- Pregnancy testing
- Advice on health care concerns related to the incident
- Collection and preservation of evidence as a part of a sexual assault forensic exam for potential use in criminal prosecution.

On-Campus Resources include:

- The College Counseling Services: 518-210-5298

Off-Campus Resources include:

- [Albany County Crime Victims and Sexual Violence Center](#): 518-447-7716
- [Equinox Domestic Violence Services](#): 518-432-7865
- [The Legal Project Campus Violence Connection](#): 518-435-1770

For more information about sexual assault forensic examinations, visit RAINN's webpage, call RAINN's 24-hour National Sexual Assault Hotline: (800) 656-HOPE, or chat online at online.rainn.org.

VIII. MAKING A REPORT UNDER THIS POLICY

1. Reporting Guidelines

All members of the College community are encouraged to report information about any form of conduct potentially prohibited by this Policy involving a student or an employee. The College will respond to all reports of Prohibited Conduct, including contacting the Complainant to discuss the availability of supportive measures, resources for support, and options for resolution.

At the time a report of Prohibited Conduct is made, a Complainant does not have to decide whether to pursue resolution of the report through any particular resolution process. Choosing to make a report and deciding how to proceed can be a process that unfolds over time. Although the College may need to take action as a result of a particular report, the College will endeavor to respect a Complainant's wishes in making the decision that is best for them and will provide support to assist each individual in making that decision.

Because the conduct prohibited by this Policy often involves behaviors or interactions that are not witnessed by third parties, reports cannot always be substantiated by additional direct evidence. Lack of corroborating direct evidence should not discourage a person from reporting an experience of Prohibited Conduct.

Individuals may make a report of Prohibited Conduct by emailing the Title IX Coordinator.

a. Mandated Reporters

All College employees are Mandated Reporters. When Mandated Reporters become aware of an alleged incident of sexual harassment (which includes sexual assault, dating violence, domestic violence, and stalking) or other conduct prohibited by this Policy, that involves a student as either the Complainant or Respondent, they are always obligated to report the information they have to the Title IX Coordinator. Mandated Reporters should be prepared to report the name, date, time, location, and description of the incident (if known). They are otherwise required to maintain an individual's privacy to the greatest extent possible.

When the Title IX Coordinator receives a report of Prohibited Conduct, they will contact the Complainant, if known, or another individual reporting the Prohibited Conduct to offer resources and supportive measures. The individual will also be advised of the option to pursue a Formal Complaint, if such an option is available, and any other available reporting options and resources.

A Mandated Reporter who receives a report, should not, under any circumstances, attempt to resolve the report without first reporting it to the Title IX Coordinator. Such failure to report may subject the individual to disciplinary sanctions.

b. Time Frame for Reporting

There is no time limitation on reporting or filing a Formal Complaint of Prohibited Conduct to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Acting on reports and Formal Complaints significantly impacted by the passage of time (including, but not limited to, acts that have been impacted by the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures or remedies, or engage in informal or formal action, as appropriate.

c. Anonymous Reporting

Individuals may submit reports of Prohibited Conduct anonymously. An individual may make a report without disclosing their name, identifying the Respondent, or requesting action. Depending on the level of information included about the conduct or the individuals involved, anonymous reporting may reduce the College's ability to respond or take appropriate action. Moreover, the College will generally not be able to take disciplinary action against an individual based solely on an anonymous report.

d. Public Awareness and Advocacy Events

Public awareness or advocacy events at which community members disclose incidents of Prohibited Conduct do not initiate the College's Title IX obligations, including its obligation to investigate reports of Prohibited Conduct. Such events may, however, inform the need for campus-wide educational and prevention efforts, and the College may implement broad community initiatives in response to such events where appropriate.

2. Response to Reports of Prohibited Conduct

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator will provide Complainant with an explanation of their rights under this Policy, the process for filing a Formal Complaint, and an overview of their options for resolution of the Formal Complaint and the Procedures associated with each resolution process. The Complainant will also be informed of the range of possible outcomes of the resolution process, including potential remedial actions and list of all possible sanctions that may be taken against the Respondent upon a finding of a violation of this Policy. The Complainant will also be advised of their right to request that the College refrain from initiating a resolution process and their right to file a report with The College Public Safety and state and local law enforcement.

The Complainant will be informed of the availability of supportive measures regardless of whether Complainant files a Formal Complaint. The Title IX Coordinator will consider the Complainant's requests for supportive measures in accordance with Section, IX of this Policy.

3. Advisors

The Complainant and Respondent have the right to have an advisor of their choosing present with them at all stages under this Policy and its Procedures. The advisor may be any person, including an attorney. The parties may be accompanied by their respective advisor at any meeting or proceeding related to the investigation or resolution of a report under this Policy. Advisors may not speak on behalf of the parties or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings or proceedings, with the exception that a party's advisor participating in a hearing under Appendix A will ask questions of the other party and witnesses. The College may establish additional restrictions, beyond the restrictions set forth in this section regarding the extent to which the advisor may participate in the proceedings.

An advisor should plan to make themselves reasonably available, and the College will not unduly delay the scheduling of meetings or proceedings based on the advisor's unavailability. ACPHS will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of Choice, and may offer the party the opportunity to obtain a different Advisor of Choice or utilize one provided by ACPHS.

If an advisor fails to comply with the Procedures set forth herein or established rules of decorum, the College reserves the right to exclude the advisor from further participation in the process. The Title IX Coordinator is responsible for interpreting and applying this provision.

In sexual misconduct cases involving students only, the Complainant and the Respondent may have no more than two people (i.e. a personal supporter, an attorney, a trained advocate, or an advocate supervised by an attorney) at any hearing, meeting, or interview during the investigation and hearing process. Support persons may not also be witnesses to the matter. The accompanying individual (s) are permitted to be present and to provide private advice and counsel to the student only, but is not permitted to participate in hearings, meetings, or interviews directly (for instance, the advisor is not permitted to address the investigators or hearing panelists). Disruptive supporters, attorneys, or advisors may be removed and prohibited from further participation in the investigation and hearing process.

4. Amnesty for Drug and Alcohol Use for Students

The health and safety of every student at The College is of utmost importance. The College recognizes that students who have been drinking or using drugs (whether such use is voluntary or involuntary) in violation of other College policies may be hesitant to report incidents due to fear of potential consequences for their own conduct. The College strongly encourages individuals to report such Prohibited Conduct. A Complainant, bystander, or other individual who in good faith reports Prohibited Conduct under this Policy to a College official or law enforcement will not be disciplined by the College for drug or alcohol use if such conduct violates other College policies or expectations of behavior.

5. Coordination with Law Enforcement

The College strongly encourages Complainants to pursue criminal action for incidents of sexual harassment, sexual violence, and dating and domestic violence, and stalking that may also be crimes under New York law. The College will assist a Complainant in making a criminal report and will cooperate with law enforcement agencies if a Complainant decides to pursue criminal action to the extent permitted by law.

Neither law enforcement's determination whether or not to prosecute a Respondent, nor the outcome of any criminal prosecution, are determinative of whether a violation of this Policy has occurred.

Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings. The College may not delay conducting its own investigation unless specifically requested by the law enforcement to do so.

In the event of such a specific request, the College will defer its investigation only during the time that law enforcement is gathering evidence, which should not exceed ten days absent extenuating circumstances. The College will nevertheless communicate with the Complainant and Respondent (if appropriate) regarding Title IX rights, procedural options, and the implementation of supportive measures to assure safety and well-being. The College will promptly resume fact-gathering as soon as it is informed that law enforcement has completed its initial investigation.

IX. SUPPORTIVE MEASURES

The College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College's education program or activity, including measures designed to protect the safety of all parties or the College's educational environment, or deter harassment, discrimination, or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice of a report or a Formal Complaint. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a Formal Complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant and Respondent to ensure that their wishes are taken into account with respect to the supportive measures that are offered. The College will maintain the privacy of the supportive measures, provided that privacy does not impair its ability to provide the supportive measures. The College will act to ensure as minimal an academic impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden the other party.

Supportive measures may include, but are not limited to:

- Referral to counseling, medical, or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties³
- Academic support, extensions of deadlines, or other course/program-related
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX & Compliance Director

³ When a no contact order has been issued as a supportive measure or sanction in response to a complaint of a pattern or repeated actions on the part of the Respondent (such as, for example, a complaint of stalking or repeated sexual harassment), violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

Review of Supportive Measures

Upon request to the Title IX Coordinator, a Complainant or Respondent will be afforded a reasonable and prompt review of any supportive measure that directly affects them and will be permitted to submit evidence in support of any changes requested. The Title IX Coordinator, or their designee, will conduct the review and will advise the parties of the determination within five business days of the submission of the request for review.

Emergency Removal

If after undertaking an individualized safety and risk analysis, the Title IX Coordinator, in consultation with the Vice President of Student Experiences or designee determines that the Respondent poses an immediate threat to the physical health or safety of any student or other individual in the College community, the College may remove the Respondent on an emergency basis. The length and nature of the removal will depend on the facts of the particular case. The College will notify the Respondent of the emergency removal. Both the Complainant and the Respondent will have an opportunity to challenge the decision and its terms, including by submitting evidence, immediately following the removal.

Administrative Leave

Where the respondent is an employee, existing provisions for interim action are applicable. ACPHS retains the authority to place a non-student employee Respondent on unpaid administrative leave during the Title IX Grievance Process, consistent with any employee processes or guidelines.

X. RESOLUTION PROCESS

1. Options for Report Resolution

Reports of Prohibited Conduct are generally resolved either through a support-based resolution of a report of Prohibited Conduct, an informal resolution of a Formal Complaint, or a formal Resolution of a Formal Complaint.

2. Initial Inquiry

When the Title IX Coordinator receives any report of Prohibited Conduct, the Title IX Coordinator will initiate an inquiry into the allegations. Information learned during the initial inquiry will inform the Title IX Coordinator's determination regarding the available supportive measures for the parties and available resolution processes.

3. Support-based Resolution

A Support-based resolution of a report of Prohibited Conduct occurs when the report does not result in the filing of a Formal Complaint. Support-based resolutions will include the offering and provision of supportive measures intended to restore equal access to the College's educational programs and activities and to preserve a safe and non-discriminatory environment for living, working, and learning. It may also include

additional, non-disciplinary steps intended to stop discriminatory conduct from occurring, prevent future acts of discriminatory conduct, and to remedy the effects of the discriminatory conduct.

4. Formal Complaints

A Formal Complaint is a document signed by the Complainant or the Title IX Coordinator alleging a violation of this Policy by a Respondent and requesting that the College initiate an informal or formal Resolution of the Formal Complaint pursuant to this Policy and its Procedures. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. For matters involving Title IX Prohibited Conduct, **the Complainant must be participating or attempting to participate in the College's educational program or activities at the time of the filing of the Formal Complaint.**

If the Complainant chooses not to file a Formal Complaint, the Title IX Coordinator has discretion to file a Formal Complaint. In determining whether to file a Formal Complaint, the Title IX Coordinator will consider the following:

- Whether the Respondent has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation in unlawful conduct by 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 Complainant is a minor;
- Whether the College possesses other means to obtain evidence such as security footage; and
- Whether available information reveals a pattern of perpetration at a given location or by a particular group.

If the Title IX Coordinator decides to file a Formal Complaint, The Title IX Coordinator will notify the Complainant of the College's intention to proceed with a Formal Complaint and will take immediate action as necessary to protect and assist the Complainant. The Title IX Coordinator will make reasonable efforts to protect the privacy of the Complainant. However, typically, the Complainant's identity would have to be disclosed as part of the College's investigation. The Complainant is not required to participate in any proceedings that follow. However, if the Complainant declines to participate in an investigation or the adjudicative process under this Policy and its Procedures, the College's ability to investigate meaningfully and respond to a report of prohibited conduct may be limited.

a. Consolidation of Formal Complaints

The Title IX Coordinator has the discretion to consolidate multiple reports into a single investigation if evidence relevant to one incident might be relevant to the others. Consolidation might involve multiple Complainants and a single Respondent, multiple Respondents, or conduct that is temporally or logically connected. In the event that the allegations under this Policy involve allegations of a violation of a separate policy, the College will have the right, within its sole discretion, to consolidate those other allegations within one investigation or hearing under this Policy and its accompanying Procedures.

b. Dismissal of Formal Complaints

After the filing of the Formal Complaint, or during the initial inquiry, investigation, or resolution process, it may become apparent that conduct alleged in a Formal Complaint does not meet the definition of Title IX Sexual Harassment as defined in section VI(1) of this Policy. In that case, in accordance with Title IX, the Title IX Coordinator must dismiss the Formal Complaint (or the allegations of Title IX Sexual Harassment, therein). If the conduct would still, as alleged, constitute Non-Title IX Prohibited Conduct as defined in section VI(2) of this Policy, the College will continue to address the allegations pursuant to this Policy and the resolution procedures set forth in the applicable Appendix. If the conduct, as alleged, does not constitute a violation of this Policy, the Formal Complaint will be dismissed in its entirety. If the conduct, as alleged, violates another College policy, the Title IX Coordinator must transfer the matter, and all information related to it, to the appropriate College office for assessment and potential further action.

The Title IX Coordinator must dismiss a Formal Complaint alleging Title IX Sexual Harassment where:

- The conduct alleged in the formal complaint would not constitute prohibited conduct as defined in section VI(1) of this Policy, or
- The conduct did not occur in the College's education program or activity, or
- The conduct did not occur against a person in the United States.

The Title IX Coordinator may dismiss a Formal Complaint where:

- The Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations therein, prior to resolution; or
- The Respondent is no longer enrolled in, or employed by, the College; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Upon any dismissal, the Title IX Coordinator will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. The parties may appeal the dismissal of the Formal Complaint on any of the bases and pursuant to the procedures set forth in Section XII Appeals, below.

5. Notice of Allegations

At the issuance of a Formal Complaint, the Title IX Coordinator will notify the Complainant and the Respondent, in writing, of the filing of the Formal Complaint and commencement of resolution process pursuant to this Policy and its Procedures, and will provide both parties with a copy of the Formal Complaint. Such notice will:

- identify the Complainant and the Respondent;
- specify the alleged prohibited conduct and its date, time, and location, to the extent known;
- specify the basis for jurisdiction over the Formal Complaint;
- specify the factual allegations pertaining to the prohibited conduct;
- specify any sanctions that may be imposed, including the College's transcript notation policy;

- specify which procedures will be used to resolve the Formal Complaint
- identify the investigator(s) or the facilitator of informal resolution;
- include information about the parties' respective rights and obligations under this Policy and the applicable procedures;
- inform the parties of their right to have an advisor of choice at all stages of the resolution process, whom may accompany the respective parties to meetings and proceedings;
- inform the parties of the range of available resources, including mental health and academic support resources;
- explain the prohibition against retaliation; and
- instruct the parties to preserve any potentially relevant evidence, whatever its form.

If, at any point prior to the resolution of the Formal Complaint, the Title IX Coordinator determines that there are additional allegations of Prohibited Conduct not included in the original notice that should be investigated, the Title IX Coordinator must provide the parties with an amended notice of additional allegations.

6. Informal Resolution

At any time after a Formal Complaint has been filed and before a hearing commences, the parties may seek to resolve a report of prohibited conduct through Informal Resolution, an administrative process. Participation in Informal Resolution is entirely voluntary; the Title IX Coordinator will neither pressure nor compel either party to participate in the process or to agree to any specific terms. In every case, the Title IX Coordinator has discretion to determine whether the matter is appropriate for Informal Resolution and to determine the appropriate terms.

Before the Title IX Coordinator approves the Informal Resolution process or the terms of any Informal Resolution, the Title IX Coordinator will determine that they have sufficient information about the matter to make these decisions. The parties are strongly encouraged, although not required, to consult with their advisors during the Informal Resolution process.

If the informal resolution process is terminated for any reason, the matter will be re-evaluated for resolution pursuant to the Formal Complaint resolution process under this Policy and its Procedures. For this reason, the investigator will not participate in Informal Resolution. The Title IX Coordinator will oversee the Informal Resolution process and have access to all College records in the matter, including any records or reports prepared during an investigation.

The Title IX Coordinator will consult separately with both parties and recommend to the parties the terms of a potential Informal Resolution agreement. Such terms may include, but are not limited to, any sanctions or remedies that could be imposed as a result of a finding following a hearing under these proceedings.

Both parties must agree to the terms before an Informal Resolution agreement becomes effective. At any time before a written agreement is effective, the Complainant or the Respondent may withdraw from the Informal Resolution process, and the Title IX Coordinator may also, at their discretion, terminate the process.

If both parties are satisfied with the Title IX Coordinator's recommendation, the matter will be resolved with a written agreement. The Title IX Coordinator will provide each party, separately, with a copy of the proposed agreement for the party to review, sign, and return. If both parties return the signed written agreement to the Title IX Coordinator the terms of the agreement will become effective and the Title IX Coordinator will promptly notify both parties in writing that the agreement is final. Once the agreement is effective, the parties may not appeal the agreement and the Complainant may not seek to refile the Formal Complaint absent new allegations of misconduct. The parties are expected to honor and comply with the terms of the Informal Resolution. Noncompliance may be subject to proceedings under the other College policies, such as the student code of conduct or other employee policies.

If the process is terminated and the matter is resolved pursuant to the Formal Resolution process, neither the Title IX Coordinator nor the parties will disclose to the Investigator, Decision-maker, or Appellate reviewers either the fact that the parties had participated in the Informal Resolution process or any information learned during the process.

While the parties are exploring Informal Resolution, any pending investigation will pause, and the time spent pursuing resolution in this way will not count toward the investigation time limit.

Please note that informal resolution options are not applicable in instances of sexual assault or when the respondent is an employee of ACPHS and the complainant is a student of ACPHS.

Informal Resolution may take two forms: (1) Restorative Agreements, or (2) Negotiated Agreements.

a. Restorative Agreement

The purpose of a Restorative Agreement is for the parties to identify and agree on a set of remedies. Upon successful completion of those remedies, the Formal Complaint will be resolved and may not be refiled. Such remedies may include:

- Impact Letter;
- Apology Letter;
- Directed Study;
- Reflection Paper; or
- Other forms of restorative actions

In order for a resolution under this subsection to be reached, the Respondent need not accept responsibility.

b. Negotiated Agreement

As a necessary precondition of a Negotiated Resolution, the Respondent must accept responsibility for all or part of the alleged prohibited conduct. The parties will then have an opportunity to negotiate with the Title IX Coordinator what they believe the appropriate sanction should be. In support of their position, parties are encouraged to submit impact/mitigation information they believe the Title IX Coordinator should consider in evaluating any sanction.

The Title IX Coordinator has the discretion to propose other terms for the resolution that may be appropriate to address the prohibited conduct for which the Respondent has accepted responsibility.

If the Respondent agrees to a Negotiated Agreement under Informal Resolution that provides for a suspension, withdrawal, or dismissal (i.e., expulsion) from the College, there will be a transcript notation consistent with the College's policy.

7. Formal Resolutions

The Formal Resolution process is guided by provisions of this section of this Policy and by the Procedures accompanying this Policy. The applicable procedure is determined by the type of prohibited conduct alleged (Title IX Sexual Harassment or Non-Title IX Prohibited Conduct) and the identity of the Respondent. Upon receipt of a report or a Formal Complaint, the Title IX Coordinator will determine which procedure applies.

The Formal Resolution process is overseen by the Title IX Coordinator and will be conducted in a prompt and equitable manner, pursuant to the time frames set forth in Section XIII. Throughout the Formal Resolution process, all responsible personnel will maintain a commitment to impartiality.

a. Evidentiary Standard and Burden of Proof

The Respondent is presumed not responsible. A Respondent will be found responsible for violating this Policy only when such a finding is supported by the Preponderance of the Evidence. The College, not the parties, has the burden of proof and the burden of gathering evidence sufficient to reach a finding of responsibility.

b. Investigation and Adjudication Procedures

Appendix A outlines the procedures for the resolution of reports of Title IX Sexual Harassment in violation of this Policy.

Appendix B outlines the procedures for the resolution of reports of Non-Title IX Sexual Misconduct committed by students in violation of this Policy.

Resolution of reports of Non-Title IX Sexual Misconduct committed by employees in violation of this Policy will be through Human Resources or the applicable office or policy.

XI. SANCTIONS

Sanctions include (but are not limited to):

- College warning (except in cases of sexual assault/violence)
- Suspension/expulsion
- Probation

- Termination of employment
- Other steps to address the impact of harassment or discrimination on the Reporting Party, any witnesses, and the College community

XII. APPEALS

Both the Complainant and the Respondent may appeal the Title IX Coordinators dismissal of a Formal Complaint or any allegations therein or, the determination of responsibility following a hearing or, on the following grounds:

- 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 Title IX Coordinator, Investigator(s), or decision-maker(s) 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; or
- Sanction or remedies imposed are not commensurate with finding made.

A party may commence an appeal by submitting a written statement to the Title IX Coordinator within ten (10) business days of issuance of the final determination of responsibility or the dismissal of the Formal Complaint. The appeal statement must set forth:

- the determination(s) being appealed,
- the specific ground(s) for the appeal, and
- the facts supporting the grounds.

Although not required, the parties are encouraged refer to the investigative report and record, and the hearing record, in their appeal statement to support their appellate arguments. The appeal statement will be limited to 3500 words. Failure to submit an appeal within the ten (10) business days or any approved extension constitutes waiver of the right to appeal.

A copy of the appeal statement will be provided to the other party, who, within ten (10) business days may submit a written response to the Title IX Coordinator. The response should address both the specific ground(s) for appeal set forth in the appealing party's statement and the specific facts asserted by the appealing party. The response will be limited to 3500 words.

The Title IX Coordinator will submit the appeal and response, if any, to the appellate panel, which will be comprised of three individuals appointed by the Title IX Coordinator. The panel members/reviewer will not be the Title IX Coordinator, the investigator, or a Decision-maker.

The Appeal Panel will establish a reasonable schedule for issuing a written decision, typically no later than ten (10) business days after receipt of the non-appealing party's submission or the time for submission has expired.

The Appeal Panel may affirm the decision or sustain any of the above-specified grounds for appeal, in which case the Appeal Panel may:

- reverse a decision or finding;
- change a sanction or remedy;
- remand a decision to the Title IX Coordinator;
- remand a case to the original Decision Maker(s) for clarification or reconsideration consistent with the Appeal Panel's decision, if doing so would assist with a timely, practicable, and efficient resolution of the case;
- remand a case for a new hearing to either the original Decision Maker(s) or a newly composed Decision Maker(s); or
- remand a case for a new or additional investigation, followed by an adjudication consistent with these procedures, to either the original investigator or to a new investigator.

If the Appeal Panel reverses a finding of not responsible, the Appeal Panel must also determine the sanctions and remedies to be included in their written decision. If the Impact/Mitigation Statements have not previously been distributed, they would be distributed to both parties only upon a finding of responsibility, and, in that instance, when the Title IX Coordinator distributes the Appeal Panel's written decision to the parties.

If the Appeal Panel calls for the admission of new evidence, if possible, it will remand the case to the Decision-maker from which it originated for a new hearing or review. Upon remand from the Appeal Panel, as necessary and possible, a Decision-maker may remand a case to the investigator from which it originated for further investigation.

The decision of the Appeal Panel will be final and binding on all parties.

XIII. TIME FRAMES

The College seeks to resolve all reports of Prohibited Conduct pursuant to the following time frames

- Informal Resolution: The informal resolution process is typically completed within 30-60 calendar days.
- Formal Resolution: The formal resolution process is typically completed within 90-120 calendar days.

The Title IX Coordinator may extend the time frames for good cause. Good cause for extension may include the unavailability of the parties or their advisors, concurrent law enforcement investigation, the complexity of the allegations, or other extenuating circumstances. Any extension, and the reason(s) therefore, will be shared with the parties, in writing.

XIV. TRAINING

The Title IX Coordinator, Investigators, Decision-makers, Appellate Reviewers, and Facilitators of Informal Resolutions, shall, at a minimum, receive all training and education required pursuant to Title IX, the Violence Against Women Act, and New York State Law.

XV. RECORD KEEPING

The College will maintain the following records:

- Records of reports of Prohibited Conduct under this Policy and any actions taken in response to the reports, including the issuance of supportive measures and educational efforts;
- Records related to each Formal Resolution process;
- Records related to each Informal Resolution process;
- Materials used to train and educate the Title IX Coordinator, Investigators, Decisionmakers, Appellate Reviewers, and Facilitators of Informal Resolutions.

This information will be used by the Title IX Coordinator to monitor patterns and areas of concern. In general records will be kept for seven (7) years after the date the reported incident is resolved. Certain records may be retained longer in the College's sole discretion, including for active employees.

APPENDIX

Appendix A: Procedures for the Formal Resolution of Formal Complaints of Title IX

Sexual Harassment

I. SCOPE OF THESE PROCEDURES

The procedures set forth below will guide the investigation and adjudication of Formal Complaints of Title IX Sexual Harassment, as defined in Section VI(1).

II. INITIATION OF THE INVESTIGATION

An investigation under these procedures will be initiated at the Title IX Coordinator's direction after the filing of a Formal Complaint and the issuance of a Notice of Allegations to the parties.

III. THE INVESTIGATION

1. Overview of the Investigation

The investigation is a neutral fact-gathering process. During the investigation, the parties will have an equal opportunity to be heard, to submit evidence, to identify witnesses who have relevant information, including fact and expert witnesses, and to submit questions that they believe should be directed by the investigator to each other or to any witness. The investigators will also seek to obtain relevant evidence identified during the investigation, including relevant evidence that has not been offered by either party. The College may continue an investigation without the participation of any party.

2. The Investigator

Investigations will be conducted by one or more appropriately trained individuals appointed by the Title IX Coordinator. The Investigator(s) will be impartial and will conduct a prompt, thorough, and fair investigation. The Investigator(s) may be a College employee or an external party.

3. Evidence Collection

a. Testimonial Evidence Collection: Investigative Interviews

Testimony is evidence. Thus, throughout the investigation, the Investigator(s) will endeavor to interview the parties and other individuals (witnesses) who have information that is relevant or directly related to the allegations in the Formal Complaint, including fact and expert witnesses. The Investigator(s) will provide to everyone whose participation in an investigative interview is invited or expected written notice of the date, time, and location of the interview, and the parties will be given a sufficient time to prepare to participate.

If a party declines to participate in investigative interviews deemed necessary by the investigator, the party will forfeit the opportunity at the hearing to provide testimony at the hearing. If a witness declines to participate in

an investigative interview, they will not be permitted to provide testimony at the hearing. Employees that are fact witnesses (and not a complaining or responding party) are expected to cooperate and testify and may not refuse to participate, without otherwise being deemed insubordinate.

Investigative interviews may be conducted in person, or via telephone or video conference. Investigative interviews will be recorded. Following the investigative interview, the Investigator(s) will prepare a full written summary of the interview (“Interview Summary”). This summary will be shared with the interviewee and the interviewee will be provided five (5) business days to submit, in writing to the investigator, any corrections to, or comments about, or proposed changes to, the interview summary that the interviewee believes is necessary to ensure the accuracy of the interview summary. Submissions made by the interviewee will be attached to the original summary. The deadline for submitting a response may be extended for good cause, upon request to the Investigator(s). If no response is received from the interviewee, the summary prepared will be presumed accurate.

b. Non-Testimonial Evidence Collection

During the investigative interviews, the Investigator(s) will gather other available evidence and information that is directly related to the allegations in the Formal Complaint, including, without limitation, electronic and other records of communications between the parties or witnesses (via voicemail, text message, audio messages, email, or social media sites), photographs and videos, medical records (subject to required consent), and records generated by public safety or law enforcement.

c. Evidence Collection Logs

The Investigator(s) will maintain a log of all testimonial and non-testimonial evidence obtained and the source of such evidence. The Investigator(s) will also maintain a log of all testimonial and non-testimonial evidence offered or sought, but not obtained, and the reason such evidence was not obtained. These logs will be made a part of the evidence file.

4. Review of the Draft Investigative Report and Draft Evidence File

a. The Draft Evidence File

At the conclusion of the investigation, the Investigators will compile all of the evidence that is directly related to the allegations in the Formal Complaint, including the summaries of the statements the parties and witness, evidence that is both inculpatory and exculpatory, and evidence upon which the investigator does not intend to rely. This compilation of evidence will be referred to as the “Draft Evidence File.”

The Draft Evidence File will be intentionally organized to support comprehension, and will be divided into at least two sections. One section will include evidence obtained that the Investigator(s) deems relevant to the allegations in the Formal Complaint. The other section(s) will include evidence that the Investigator(s) do not deem relevant, but that is otherwise directly related to the allegations in the Formal Complaint.

b. The Draft Investigative Report

The Investigator(s) will also prepare a “Draft Investigative Report” that fairly summarizes the relevant evidence. The Draft Investigative Report will not include any findings.

c. Review and Opportunity to Respond

Upon completion, the Investigator(s) will share the Draft Evidence File and Draft Investigative Report with the parties and their advisors electronically, or by hard copy. The parties will then be afforded ten (10) business days to review the Draft Evidence File and Draft Investigative Report and to submit an optional written response, which may include responses to the evidence and requests that the Investigator(s) accept, seek, or obtain additional evidence or conduct follow up inquiries of the other party(ies) or witnesses. The parties' responses may also include challenges to the Investigator's assessment of relevance. Any responses submitted by the parties will be shared with the other party and made a part of the Final Evidence File.

d. Additional Evidence Collection

The Investigator(s) will consider the written responses of the parties, if any, and will determine in their sole discretion, whether further investigative steps are required. If additional investigative steps are taken that result in collection of additional evidence, such additional evidence will be included in the Draft Investigative File and incorporated, as appropriate, into the Draft Investigative Report. The new evidence and any changes to the Draft Investigative Report and will be shared with the parties and their advisors electronically, or by hard copy. The parties will be provided with a final opportunity to respond, in writing. The Investigator will determine the length of this review period, not to exceed a reasonable period of time.

Any additional responses submitted will be shared with the other party and made a part of the Final Evidence File.

e. Prohibition of Evidence Not Offered During the Investigation

In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator(s) during the investigation or during this designated response and review period will not be considered in the determination of responsibility for a violation of the Policy, and will not be considered during the hearing process.

5. Final Investigative Report and Final Evidence File

At the conclusion of the fact gathering process and the review periods, as described in this Procedure, the Investigator(s) will prepare a Final Investigative File and Investigative Report. a. The Final

Investigative File

The Final Investigative File will include all of the evidence that is directly related to the allegations in the Formal Complaint, including the summaries of the statements the parties and witness, evidence that is both

inculpatory and exculpatory, and evidence upon which the College does not intend to rely. The Final Investigative File will also include any responses submitted by the parties during the evidence review period and a timeline of all procedural steps taken by the College from the time of the filing of the Formal Complaint to the conclusion of the investigation.

The Final Evidence File will be intentionally organized to support comprehension, and will be divided into at least two sections. One section will include evidence obtained that the Investigator(s) deems relevant to the allegations in the Formal Complaint. The other section(s) will include evidence that the Investigator(s) do not deem relevant, but that is otherwise directly related to the allegations in the Formal Complaint. The final section will include the procedural timeline.

b. The Final Investigative Report

The Final Investigative Report will be prepared by the Investigator(s) and will fairly summarize all of the relevant evidence obtained during the investigation. Relevance Determinations are generally guided by the principles set forth below in Section V of this Procedure.

c. Submission of the Final Investigative Report and Evidence File to the Parties

The Final Investigative Report and Evidence File will be simultaneously provided to the parties and their advisors in electronic format or hard copy, at least ten (10) business days prior to a hearing. The parties will have ten (10) business days to submit a written response to the Final Investigative Report and Evidence File.

The Final Investigative Report and Evidence File, and any written responses submitted by the parties will be provided to the Decision Maker(s).

IV. THE HEARING

1. Overview

Upon conclusion of the investigation, a hearing will be held to determine whether the Respondent is responsible for the alleged policy violations in the Formal Complaint. As set forth in Section of this Policy, the Respondent is presumed not responsible. A Respondent will be found responsible for violating this Policy only when such a finding is supported by the Preponderance of the Evidence.

The hearing is a private proceeding. The only people present will be the parties, their advisors, the Decision-maker(s), witnesses (when testifying), and any staff necessary for conducting the hearing.

2. Hearing Participants

a. Decision-makers

The College will designate the Decision-maker for the moderation of the hearing and determination of finding and sanction. This may take the form of a single decision-maker or a three-member panel at the Title IX

Coordinator's discretion. With a panel, one of the three members will be appointed as Chair by the Title IX Coordinator. The Decision-maker(s) may not be the Title IX Coordinator, a facilitator of informal resolution, or the investigator.

Upon receipt of the notice of the Decision-Maker or three-member panel, Parties will have three (3) business days to object to the appointment of a Decision-maker, on the basis of demonstrated bias or conflict of interest.

b. The Parties

The Parties are permitted to participate in the entirety of hearing, portions thereof, or they can decline to participate in the hearing entirely, and the Decision-maker(s) will not draw an adverse inference against a party based solely on their decision not to participate in all or some of the hearing proceedings.

In accordance with Section III(3)(a) of these procedures, if a party declined to participate in investigative interviews deemed necessary by the investigator, the party will not be permitted the opportunity to provide testimony at the hearing.

Nonetheless, if a party who has so declined to participate in investigative interviews later seeks to participate in a hearing, upon a finding that there was a compelling reason for the nonparticipation, the Hearing Chair, upon the Chair's discretion, may permit the party to participate. If the Hearing Chair permits the party to participate in the hearing, the Hearing Chair will first reschedule or adjourn the hearing for the investigator to interview the party and, as necessary, conduct any follow-up investigation and supplement and revise the evidence file and the investigative report.

c. Advisors

The parties have the right to have an advisor of their choice present at the hearing in accordance with Section X(2) of this Policy. If a party does not have an advisor of choice, the Title IX Coordinator will appoint an advisor to that party for the sole purpose of conducting cross examination of other party and witnesses. A party's advisor of choice or an advisor appointed by the Title IX Coordinator may participate in the hearing for the sole purpose of conducting cross examination in the absence of their advisee.

As set forth in Section X(2) of this Policy, Advisors may not speak on behalf of the parties or otherwise participate in, or in any manner delay or disrupt the hearing. If an advisor fails to comply with the procedures set forth herein or the established rules of decorum, the College reserves the right to exclude the advisor from further participation in the process. The Title IX Coordinator is responsible for interpreting and applying this provision.

d. Witnesses

The Decision-maker(s) will determine, in their sole discretion, which witnesses will be invited to provide testimony at the hearing. Witnesses who are invited to participate in the hearing will be permitted to attend the hearing only when providing testimony.

In accordance with Section III(3)(a) of these procedures, a witness who declined to participate in an investigative interview will not be permitted to provide testimony at the hearing.

However, if a witness who has so declined to participate in investigative interviews later seeks to participate in a hearing, upon a finding that there was a compelling reason for the nonparticipation, the Decision-maker(s), upon their discretion, may permit the party to participate. If the Decision-maker(s) permits the party to participate in the hearing, the Decision-maker(s) will first reschedule or adjourn the hearing for the investigator to interview the party and, as necessary, conduct any follow-up investigation and supplement and revise the evidence file and the investigative report.

e. Hearing Facilitators

The orderly administration of hearings will be supported by Hearing Facilitators, who are individuals either internal or external to the College and appointed by the Title IX Coordinator.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role.

3. Notice of Hearing

The Title IX Coordinator will notify the parties in writing of the date, time, and location/format of the hearing. The notice will include the charges at issue; a brief summary of the alleged prohibited conduct; and the applicable procedures under this Policy. All efforts will be made to provide the Notice of Hearing no later than five (5) business days prior to the hearing and to schedule the hearing as soon as practicable.

Either party may request to have a hearing rescheduled. The request may be granted at the discretion of the Title IX Coordinator. Absent extenuating circumstances, requests to reschedule must be submitted at least three (3) business days prior to the hearing. A request to reschedule a hearing must be supported by a compelling reason. Given the number of individuals involved in a hearing, and the attendant difficulty of scheduling and rescheduling them in a timely manner, it may not be possible to accommodate all scheduling requests. The Title IX Coordinator may also reschedule a hearing, without a request by the parties, when there is reasonable cause to do so.

4. Hearing Format

The hearing will be live and will provide the parties an opportunity to address the Decisionmaker(s) in person. Participants may be physically present in the same geographic location, or at the College's discretion, some or all of the hearing may be conducted remotely, using virtual platforms (i.e., video conferencing). Upon request to the Title IX Coordinator, a party may participate in the hearing remotely. Such requests for remote participation should be made at least two (2) days in advance of the scheduled hearing.

5. Pre-Hearing Conferences

At least three (3) days prior to the hearing, the Title IX Coordinator and the Decision-maker(s) will meet with the parties and their advisors, separately, for the purposes of conducting a prehearing conference. At the pre-hearing conference, the Decision-maker(s) will review these procedures, the Rules of Decorum, and the proposed hearing schedule and the parties will be permitted to ask questions.

The Decision-maker(s) will not discuss matters of evidence of evidentiary issues with the parties during the pre-hearing conference.

6. Impact Mitigation Statements

The parties will be permitted, but not required, to prepare a written Impact/Mitigation Statement relevant to any sanctions. The parties may submit the statement up until the start of a hearing. The statements are distributed to the Decision-maker(s) and the parties only if the Decision-maker(s) finds the Respondent responsible. The Title IX Coordinator will provide the Impact/Mitigation Statements to the parties with a copy of the Decision Maker(s)'s written decision.

7. Hearing Procedures

Typically, the format of the hearing will be as follows:

a. Opening Instructions

The hearing will begin with opening instructions by the Hearing Chair. The parties will be afforded the opportunity to ask questions about the format of the hearing and these procedures at the conclusion of the Chair's opening instructions.

b. Testimony

The Decision-maker(s) will determine the order of testimony. The Decision-maker(s) will question the party or witness first, followed by cross examination of a party by the other party's advisor. In the case of witness testimony, the Decision-maker(s) will question the witness first, followed by cross examination of the witness, first by Complainant's advisor and next, by the Respondent's advisor.

During cross examination, the party's advisor will be permitted to ask the opposing parties and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Before a Complainant, Respondent, or witness responds to a question by a party's advisor, the Decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

The Decision-maker(s) retain authority to ask questions at any time during testimony, including during cross examination by the advisors.

c. Closing Remarks by the Hearing Chair

At the conclusion of testimony, the Hearing Chair will conclude the proceedings with brief closing remarks.

8. Determination Regarding Responsibility and Notice of Outcome

The Decision-maker(s) will determine whether Respondent is responsible of the alleged violation(s) of the Policy by a majority vote based upon a preponderance of the evidence standard. The Decision-maker(s) retains discretion regarding the weight or credibility to assign the evidence. If the Decision-maker(s) make a finding of responsibility, the Decision-maker(s) will (determine the appropriate sanctions and remedies, in accordance with Section XX of this Policy by a majority vote/Refer the matter to XX for a determination of sanction and remedy).

In matters where a finding of responsibility is made, the Decision-maker(s) will consider the Impact/Mitigation statements of the parties prior to determining sanction.

The Decision-maker(s) will issue a written determination of findings that will include the procedural steps taken during the investigation, the specific prohibited conduct for which the Respondent was found responsible and not responsible with identification of the allegations potentially constituting Title IX sexual harassment, the findings of fact and the rationale for the Decision Maker(s)'s determinations regarding both responsibility and sanctions, 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, sanctions and remedies if the Respondent is found responsible, and, instructions and time limits for appeals.

The decision may incorporate and reference any portions of the proceedings, including the evidence file and investigative report, as the Decision-maker(s) deems appropriate. Both the Complainant and the Respondent will be simultaneously provided with a notice of outcome and the Decision-maker(s) written determination.

9. Hearing Record

An audio recording will be made of all hearings, but not of deliberations. The parties may listen to the audio recording of the hearing. Access will be facilitated in a manner deemed appropriate by the Title IX Coordinator.

Individuals appearing before the Decision-maker(s), whether as a party or witness, are prohibited from recording any portion of the hearing. The Decision-maker(s) members are also prohibited from recording any portion of the hearing.

The Decision-maker(s) has access to the hearing record. The hearing record will include: the audio recording and written transcript of the hearing, the Decision-maker(s)'s final determination, the final evidence file and investigative report, and if there is a determination of responsibility, the parties' Impact/Mitigation Statements, and information concerning the Respondent's prior misconduct.

V. EVIDENTIARY CONSIDERATIONS

1. Relevance

Determinations regarding relevance of any proffered evidence will be subject to the following requirements:

a. Prior Sexual History of Complainant

Evidence and questions about the Complainant's sexual predisposition or prior sexual behavior are considered irrelevant unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. In this section, "prior" means prior to the conclusion of the grievance procedures.

b. Prior or Subsequent Conduct

Prior or subsequent conduct of a Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of conduct prohibited by this policy by a Respondent, either before or after the incident in question, regardless of whether there has been a finding of a Policy violation, may be deemed relevant to a determination of responsibility.

c. Mental Health Condition, Treatment or Diagnosis

Generally, during both the investigation and any hearing to determine responsibility, evidence of the party's mental health diagnosis or treatment is irrelevant.

d. Privilege

The investigator(s) and Decision-maker(s) will not allow or rely upon, or otherwise permit questions or evidence that is protected by a legally recognized privilege, unless the person holding such privilege has waived the privilege.

2. Newly Offered Evidence

If, after the issuance of the final evidence file and investigative report and prior to the issuance of the Decision-maker(s) decision, including at the hearing, a party or the investigator seek to present a witness or introduce evidence not offered prior to the hearing and not disclosed to the investigator, the Decision-maker(s) may grant admission of the evidence such request upon a showing that the witness or evidence is relevant, material, newly discovered, and could not have been discovered during the investigation with due diligence.

Where Decision-maker(s) permit a party to introduce a newly discovered witness or evidence, the Decision-maker(s) will reschedule or adjourn the hearing for the investigator to investigate the newly discovered witness or evidence and, if appropriate to amend the final evidence file and investigative report.

Appendix B: Procedures for the Formal Resolution of Formal Complaints of Non-Title IX Prohibited Conduct by Students

I. SCOPE OF THESE PROCEDURES

The procedures set forth below will guide the investigation and adjudication of Formal Complaints of Non-Title IX Prohibited Conduct, as defined in Section VI(2) of the Policy, where the Respondent is a student.

II. INITIATION OF THE INVESTIGATION

An investigation under these procedures will be initiated at the Title IX Coordinator's direction after the filing of a Formal Complaint and the issuance of a Notice of Allegations to the parties.

III. THE INVESTIGATION

1. Overview of the Investigation

The investigation is a neutral fact-gathering process. During the investigation, the parties will have an equal opportunity to be heard, to submit evidence, to identify witnesses who have relevant information, including fact and expert witnesses, and to submit questions that they believe should be directed by the investigator to each other or to any witness. The investigators will also seek to obtain relevant evidence identified during the investigation, including relevant evidence that has not been offered by either party. The College may continue an investigation without the participation of any party.

2. The Investigator

Investigations will be conducted by one or more appropriately trained individuals appointed by the Title IX Coordinator. The Investigator(s) will be impartial and will conduct a prompt, thorough, and fair investigation. The Investigator(s) may be a College employee or an external party.

3. Evidence Collection

a. Testimonial Evidence Collection: Investigative Interviews

Testimony is evidence. Thus, throughout the investigation, the Investigator(s) will endeavor to interview the parties and other individuals (witnesses) who have information that is relevant or directly related to the allegations in the Formal Complaint, including fact and expert witnesses. The Investigator(s) will provide to everyone whose participation in an investigative interview is invited or expected written notice of the date, time, and location of the interview, and the parties will be given a sufficient time to prepare to participate.

If a party declines to participate in investigative interviews deemed necessary by the investigator, the party will forfeit the opportunity at the hearing to provide testimony at the hearing. If a witness declines to participate in an investigative interview, they will not be permitted to provide testimony at the hearing. Employees that are fact witnesses (and not a complaining or responding party) are expected to cooperate and testify and may not refuse to participate, without otherwise being deemed insubordinate.

Investigative interviews may be conducted in person, or via telephone or video conference. Investigative interviews will be recorded. The recording or transcript will be available in the evidence file in an appendix. Following the investigative interview, the Investigator(s) will prepare a full written summary of the interview (“Interview Summary”). This summary will be shared with the interviewee and the interviewee will be provided five (5) business days to submit, in writing to the investigator, any corrections to, or comments about, or proposed changes to, the interview summary that the interviewee believes is necessary to ensure the accuracy of the interview summary. Submissions made by the interviewee will be attached to the original summary. The deadline for submitting a response may be extended for good cause, upon request to the Investigator(s). If no response is received from the interviewee, the summary prepared will be presumed accurate.

b. Non-Testimonial Evidence Collection

During the investigative interviews, the Investigator(s) will gather other available evidence and information that is directly related to the allegations in the Formal Complaint, including, without limitation, electronic and other records of communications between the parties or witnesses (via voicemail, text message, audio messages, email, or social media sites), photographs and videos, medical records (subject to required consent), and records generated by public safety or law enforcement.

c. Evidence Collection Logs

The Investigator(s) will maintain a log of all testimonial and non-testimonial evidence obtained and the source of such evidence. The Investigator(s) will also maintain a log of all testimonial and non-testimonial evidence offered or sought, but not obtained, and the reason such evidence was not obtained. These logs will be made a part of the evidence file.

4. Review of the Draft Investigative Report and Draft Evidence File

a. The Draft Evidence File

At the conclusion of the investigation, the Investigators will compile all of the evidence that is directly related to the allegations in the Formal Complaint, including the summaries of the statements the parties and witness, evidence that is both inculpatory and exculpatory, and evidence upon which the investigator does not intend to rely. This compilation of evidence will be referred to as the “Draft Evidence File.”

The Draft Evidence File will be intentionally organized to support comprehension, and will be divided into at least two sections. One section will include evidence obtained that the Investigator(s) deems relevant to the allegations in the Formal Complaint. The other section(s) will include evidence that the Investigator(s) do not deem relevant, but that is otherwise directly related to the allegations in the Formal Complaint.

b. The Draft Investigative Report

The Investigator(s) will also prepare a “Draft Investigative Report” that fairly summarizes the relevant evidence. The Draft Investigative Report will not include any findings.

c. Review and Opportunity to Respond

Upon completion, the Investigator(s) will share the Draft Evidence File and Draft Investigative Report with the parties and their advisors electronically, or by hard copy. The parties will then be afforded ten (10) business days to review the Draft Evidence File and Draft Investigative Report and to submit an optional written response, which may include responses to the evidence and requests that the Investigator(s) accept, seek, or obtain additional evidence or conduct follow up inquiries of the other party(ies) or witnesses. The parties' responses may also include challenges to the Investigator's assessment of relevance. Any responses submitted by the parties will be shared with the other party and made a part of the Final Evidence File.

d. Additional Evidence Collection

The Investigator(s) will consider the written responses of the parties, if any, and will determine in their sole discretion, whether further investigative steps are required. If additional investigative steps are taken that result in collection of additional evidence, such additional evidence will be included in the Draft Investigative File and incorporated, as appropriate, into the Draft Investigative Report. The new evidence and any changes to the Draft Investigative Report and will be shared with the parties and their advisors electronically, or by hard copy. The parties will be provided with a final opportunity to respond, in writing. The Investigator will determine the length of this review period.

Any additional responses submitted will be shared with the other party and made a part of the Final Evidence File.

e. Prohibition of Evidence Not Offered During the Investigation

In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator(s) during the investigation or during this designated response and review period will not be considered in the determination of responsibility for a violation of the Policy, and will not be considered during the hearing process.

5. Final Investigative Report and Final Evidence File

At the conclusion of the fact gathering process and the review periods, as described in this Procedure, the Investigator(s) will prepare a Final Investigative File and Investigative Report. d. The Final

Investigative File

The Final Investigative File will include all of the evidence that is directly related to the allegations in the Formal Complaint, including the summaries of the statements the parties and witness, evidence that is both inculpatory and exculpatory, and evidence upon which the College does not intend to rely. The Final Investigative File will also include any responses submitted by the parties during the evidence review period and a timeline of all procedural steps taken by the College from the time of the filing of the Formal Complaint to the conclusion of the investigation.

The Final Evidence File will be intentionally organized to support comprehension, and will be divided into at least two sections. One section will include evidence obtained that the Investigator(s) deems relevant to the allegations in the Formal Complaint. The other section(s) will include evidence that the Investigator(s) do not deem relevant, but that is otherwise directly related to the allegations in the Formal Complaint. The final section will include the procedural timeline.

e. The Final Investigative Report

The Final Investigative Report will be prepared by the Investigator(s) and will fairly summarize all of the relevant evidence obtained during the investigation. Relevance Determinations are generally guided by the principles set forth below in Section V of this Procedure.

f. Submission of the Final Investigative Report and Evidence File to the Parties

The Final Investigative Report and Evidence File will be simultaneously provided to the parties and their advisors in electronic format or hard copy, at least ten (10) business days prior to a hearing. The parties will have ten (10) business days to submit a written response to the Final Investigative Report and Evidence File.

The Final Investigative Report and Evidence File, and any written responses submitted by the parties will be provided to the Decision Maker(s).

IV. THE HEARING

1. Overview

Upon conclusion of the investigation, a hearing will be held to determine whether the Respondent is responsible for the alleged policy violations in the Formal Complaint. As set forth in Section X of this Policy, the Respondent is presumed not responsible. A Respondent will be found responsible for violating this Policy only when such a finding is supported by the Preponderance of the Evidence.

The hearing is a private proceeding. The only people present will be the parties, their advisors, the Decision-maker(s), witnesses (when testifying), and any staff necessary for conducting the hearing.

2. Hearing Participants

f. Decision-makers

The College will designate the Decision-maker for the moderation of the hearing and determination of finding and sanction. This may take the form of a single decision-maker or a three-member panel at the Title IX Coordinator's discretion. With a panel, one of the three members will be appointed as Chair by the Title IX Coordinator. The Decision-maker(s) may not be the Title IX Coordinator, a facilitator of informal resolution, or the investigator.

Upon receipt of the notice of the Decision-Maker or three-member panel, Parties will have three (3) business days to object to the appointment of a Decision-maker, on the basis of demonstrated bias or conflict of interest.

g. The Parties

The Parties are permitted to participate in the entirety of hearing, portions thereof, or they can decline to participate in the hearing entirely, and the Decision-maker(s) will not draw an adverse inference against a party based solely on their decision not to participate in all or some of the hearing proceedings.

In accordance with Section III(3)(a) of these procedures, if a party declined to participate in investigative interviews deemed necessary by the investigator, the party will not be permitted the opportunity to provide testimony at the hearing.

Nonetheless, if a party who has so declined to participate in investigative interviews later seeks to participate in a hearing, upon a finding that there was a compelling reason for the nonparticipation, the Hearing Chair, upon the Chair's discretion, may permit the party to participate. If the Hearing Chair permits the party to participate in the hearing, the Hearing Chair will first reschedule or adjourn the hearing for the investigator to interview the party and, as necessary, conduct any follow-up investigation and supplement and revise the evidence file and the investigative report.

h. Advisors

The parties have the right to have an advisor of their choice present at the hearing in accordance with Section X(2) of this Policy. If a party does not have an advisor of choice, the Title IX Coordinator will appoint an advisor to that party for the sole purpose of conducting cross examination of other party and witnesses. A party's advisor of choice or an advisor appointed by the Title IX Coordinator may participate in the hearing for the sole purpose of conducting cross examination in the absence of their advisee.

As set forth in Section X(2) of this Policy, Advisors may not speak on behalf of the parties or otherwise participate in, or in any manner delay or disrupt the hearing. If an advisor fails to comply with the procedures set forth herein or the established rules of decorum, the College reserves the right to exclude the advisor from further participation in the process. The Title IX Coordinator is responsible for interpreting and applying this provision.

i. Witnesses

The Decision-maker(s) will determine, in their sole discretion, which witnesses will be invited to provide testimony at the hearing. Witnesses who are invited to participate in the hearing will be permitted to attend the hearing only when providing testimony.

In accordance with Section III(3)(a) of these procedures, a witness who declined to participate in an investigative interview will not be permitted to provide testimony at the hearing.

However, if a witness who has so declined to participate in investigative interviews later seeks to participate in a hearing, upon a finding that there was a compelling reason for the nonparticipation, the Decision-maker(s), upon their discretion, may permit the party to participate. If the Decision-maker(s) permits the party to participate in the hearing, the Decision-maker(s) will first reschedule or adjourn the hearing for the investigator to interview the party and, as necessary, conduct any follow-up investigation and supplement and revise the evidence file and the investigative report.

j. Hearing Facilitators

The orderly administration of hearings will be supported by Hearing Facilitators, who are individuals either internal or external to the College and appointed by the Title IX Coordinator.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role.

3. Notice of Hearing

The Title IX Coordinator will notify the parties in writing of the date, time, and location/format of the hearing. The notice will include the charges at issue; a brief summary of the alleged prohibited conduct; and the applicable procedures under this Policy. All efforts will be made to provide the Notice of Hearing no later than five (5) business days prior to the hearing and to schedule the hearing as soon as practicable.

Either party may request to have a hearing rescheduled. The request may be granted at the discretion of the Title IX Coordinator. Absent extenuating circumstances, requests to reschedule must be submitted at least three (3) business days prior to the hearing. A request to reschedule a hearing must be supported by a compelling reason. Given the number of individuals involved in a hearing, and the attendant difficulty of scheduling and rescheduling them in a timely manner, it may not be possible to accommodate all scheduling requests. The Title IX Coordinator may also reschedule a hearing, without a request by the parties, when there is reasonable cause to do so.

4. Hearing Format

The hearing will be live and will provide the parties an opportunity to address the Decisionmaker(s) in person. Participants may be physically present in the same geographic location, or at the College's discretion, some or all of the hearing may be conducted remotely, using virtual platforms (i.e., video conferencing). Upon request to the Title IX Coordinator, a party may participate in the hearing remotely. Such requests for remote participation should be made at least two (2) days in advance of the scheduled hearing.

5. Pre-Hearing Conferences

At least three (3) days prior to the hearing, the Title IX Coordinator and the Decision-maker(s) will meet with the parties and their advisors, separately, for the purposes of conducting a prehearing conference. At the pre-

hearing conference, the Decision-maker(s) will review these procedures, the Rules of Decorum, and the proposed hearing schedule and the parties will be permitted to ask questions.

The Decision-maker(s) will not discuss matters of evidence of evidentiary issues with the parties during the pre-hearing conference.

6. Impact Mitigation Statements

The parties will be permitted, but not required, to prepare a written Impact/Mitigation Statement relevant to any sanctions. The parties may submit the statement up until the start of a hearing. The statements are distributed to the Decision-maker(s) and the parties only if the Decision-maker(s) finds the Respondent responsible. The Title IX Coordinator will provide the Impact/Mitigation Statements to the parties with a copy of the Decision Maker(s)'s written decision.

7. Hearing Procedures

Typically, the format of the hearing will be as follows:

d. Opening Instructions

The hearing will begin with opening instructions by the Hearing Chair. The parties will be afforded the opportunity to ask questions about the format of the hearing and these procedures at the conclusion of the Chair's opening instructions.

e. Testimony

The Decision-maker(s) will determine the order of testimony. The Decision-maker(s) will question the party or witness first, followed by cross examination of a party by the other party's advisor. In the case of witness testimony, the Decision-maker(s) will question the witness first, followed by cross examination of the witness, first by Complainant's advisor and next, by the Respondent's advisor.

During cross examination, the party's advisor will be permitted to ask the opposing parties and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Before a Complainant, Respondent, or witness responds to a question by a party's advisor, the Decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

The Decision-maker(s) retain authority to ask questions at any time during testimony, including during cross examination by the advisors.

f. Closing Remarks by the Hearing Chair

At the conclusion of testimony, the Hearing Chair will conclude the proceedings with brief closing remarks.

8. Determination Regarding Responsibility and Notice of Outcome

The Decision-maker(s) will determine whether Respondent is responsible of the alleged violation(s) of the Policy by a majority vote based upon a preponderance of the evidence standard. The Decision-maker(s) retains discretion regarding the weight or credibility to assign the evidence. If the Decision-maker(s) make a finding of responsibility, the Decision-maker(s) will (determine the appropriate sanctions and remedies, in accordance with Section XX of this Policy by a majority vote/Refer the matter to XX for a determination of sanction and remedy).

In matters where a finding of responsibility is made, the Decision-maker(s) will consider the Impact/Mitigation statements of the parties prior to determining sanction.

The Decision-maker(s) will issue a written determination of findings that will include the procedural steps taken during the investigation, the specific prohibited conduct for which the Respondent was found responsible and not responsible with identification of the allegations potentially constituting Title IX sexual harassment, the findings of fact and the rationale for the Decision Maker(s)'s determinations regarding both responsibility and sanctions, 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, sanctions and remedies if the Respondent is found responsible, and, instructions and time limits for appeals.

The decision may incorporate and reference any portions of the proceedings, including the evidence file and investigative report, as the Decision-maker(s) deems appropriate. Both the Complainant and the Respondent will be simultaneously provided with a notice of outcome and the Decision-maker(s) written determination.

9. Hearing Record

An audio recording will be made of all hearings, but not of deliberations. The parties may listen to the audio recording of the hearing. Access will be facilitated in a manner deemed appropriate by the Title IX Coordinator.

Individuals appearing before the Decision-maker(s), whether as a party or witness, are prohibited from recording any portion of the hearing. The Decision-maker(s) members are also prohibited from recording any portion of the hearing.

The Decision-maker(s) has access to the hearing record. The hearing record will include: the audio recording and written transcript of the hearing, the Decision-maker(s)'s final determination, the final evidence file and investigative report, and if there is a determination of responsibility, the parties' Impact/Mitigation Statements, and information concerning the Respondent's prior misconduct.

V. EVIDENTIARY CONSIDERATIONS

1. Relevance

Determinations regarding relevance of any proffered evidence will be subject to the following requirements:

e. Prior Sexual History of Complainant

Evidence and questions about the Complainant's sexual predisposition or prior sexual behavior are considered irrelevant unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

f. Prior or Subsequent Conduct

Prior or subsequent conduct of a Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of conduct prohibited by this policy by a Respondent, either before or after the incident in question, regardless of whether there has been a finding of a Policy violation, may be deemed relevant to a determination of responsibility.

g. Mental Health Condition, Treatment or Diagnosis

Generally, during both the investigation and any hearing to determine responsibility, evidence of the party's mental health diagnosis or treatment is irrelevant.

h. Privilege

The investigator(s) and Decision-maker(s) will not allow or rely upon, or otherwise permit questions or evidence that is protected by a legally recognized privilege, unless the person holding such privilege has waived the privilege.

2. Newly Offered Evidence

If, after the issuance of the final evidence file and investigative report and prior to the issuance of the Decision-maker(s) decision, including at the hearing, a party or the investigator seek to present a witness or introduce evidence not offered prior to the hearing and not disclosed to the investigator, the Decision-maker(s) may grant admission of the evidence such request upon a showing that the witness or evidence is relevant, material, newly discovered, and could not have been discovered during the investigation with due diligence.

Where Decision-maker(s) permit a party to introduce a newly discovered witness or evidence, the Decision-maker(s) will reschedule or adjourn the hearing for the investigator to investigate the newly discovered witness or evidence and, if appropriate to amend the final evidence file and investigative report.

C: Resources for Confidential Reporting

On Campus Confidential Resources:

1. The College Counseling Services: 518-210-5298
<http://www.acphs.edu/albany-campus/health-safety/counseling-services>

Off Campus Confidential Resources for Students, Faculty, and Staff:

1. [Albany County Crime Victims and Sexual Violence Center](#): 518-447-7716
2. [Equinox Domestic Violence Services](#): 518-432-7865
3. [The Legal Project Campus Violence Connection](#): 518-435-1770

Outside ACPHS (Vermont):

1. Vermont Statewide Sexual Violence Hotline: 800-489-7273
2. Counseling, UVM Fanny Allen Campus, Colchester, 802-847-2827

Anonymous reporting to Confidential Hotlines provided by New York and Vermont State agencies and not-for-profit entities:

- New York State Domestic and Sexual Violence Hotline: 1-800-942-6906.
- Equinox Hotline: 518-432-7865.
- Unity House Hotline: 518-272-2370.
- Vermont Statewide Sexual Violence Hotline: 1-800-489-7273
- STEPS to End Domestic Violence (VT): 802-654-1996
- HOPE Works (VT): 802-863-1236
- The National Domestic Violence Hotline: 1-800-799-7233
- The National Sexual Assault Hotline: 1-800-656-4673
- Safe Horizon Hotlines: 800-621-4673 (domestic violence), 866-689-4357 (victims of other crimes), 1-212-227-3000 (rape & sexual assault victims)

Appendix D: New York State Student Bill of Rights

All students have the right to:

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

Appendix E: Additional Rights Regarding a Report of Sexual Misconduct

Anyone reporting an incident of sexual assault, domestic or dating violence, or stalking has the right to:

- Notify campus security authorities, as identified in the annual Campus Safety Report, local law enforcement, or the New York State Police;
- Emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual and who can provide information, including:
 - Options to proceed, including the right to report to College officials, local law enforcement, and/or the New York State Police, or choose not to report; to report the incident to the College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College;
 - Where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible;
 - That the criminal justice process utilizes different standards of proof and evidence than the College's misconduct procedures and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney;
 - Whether the person they are reporting to is authorized to offer confidentiality or privacy; and
 - Any other reporting options.
- Disclose the incident confidentially to College representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for Complainants.
- Disclose the incident confidentially and obtain services from the state or local government.
- File a report of sexual assault, domestic violence, dating violence, and/or stalking and consult with the Title IX Coordinator and other appropriate College personnel for information and assistance. Reports shall be investigated in accordance with College policy. A Complainant's identity shall remain private if that is what the Complainant wishes. However, privacy is not the same as confidentiality and private information can be shared as necessary to implement and fulfill the College's obligations under the law and its policies and procedures.
- If the accused is a College employee, disclose the incident to Human Resources or request a confidential or private employee assist in reporting to Human Resources.
- Receive assistance from appropriate College representatives if interested in initiating legal proceedings in family court or civil court. Such assistance consists of facilitation in

contacting appropriate local agencies who can provide direct assistance with court proceedings.

- Withdraw a complaint or involvement from the College process at any time, with the understanding that in appropriate cases, the College may nonetheless be required to continue investigating and appropriately resolving cases even if the reporting individual does not wish the case to continue.
- Reporting Individuals will be protected from retaliation for reporting an incident.

Appendix

Appendix F: Advisor Roles and Responsibilities

Assistance in Securing an Advisor

ACPHS can provide assign an advisor for the purposes of cross-examination in the Title IX Formal resolution process but if a party would like to secure their own Advisor there are resources listed below.

For representation, Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>)
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>]

Advisor's Role in Meetings and Interviews

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. The Advisor's role is limited to supporting and consulting with their advisee.

Advisors in Hearings/ACPHS-Appointed Advisor

Under U.S. Department of Education Title IX regulations a form of indirect questioning is required during the hearing, but must be conducted by the parties' Advisor. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, ACPHS will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

Except with respect to questioning, the Advisor's role is limited to consulting with their advisee, and the Advisor may not present evidence, address the Hearing Officer during the hearing, object to any aspect of the proceeding, or disrupt the hearing in any way, and any consultation with the advisee while the hearing is in progress must be done in a quiet nondisruptive manner or in writing. The Advisor may consult with the advisee

verbally outside the hearing during breaks, when such breaks are granted. An Advisor's questioning of the other party and any witnesses must be conducted in a respectful, nonintimidating and non-abusive manner. If the Hearing Officer determines that an Advisor is not adhering to these or other ground rules, the advisor may be required to leave the hearing, and the hearing will proceed without an opportunity for the party to obtain a replacement advisor; provided, however, that the College will assign an Advisor of the College's choosing, without charge, for the purpose of conducting questioning on behalf of the party.

Advisor Violations of ACPHS Policy

All Advisors are subject to the same ACPHS policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. [Advisors should not address Recipient officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding, during crossexamination].

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

Sharing Information with the Advisor

ACPHS expects that the parties may wish to have ACPHS share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

ACPHS also provides a consent form that authorizes the ACPHS to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before ACPHS is able to share records with an Advisor.

If a party requests that all communication be made through their Advisor, ACPHS will not comply with that request.

Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by ACPHS. ACPHS may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the Recipient's privacy expectations.

Expectations of an Advisor's Availability

ACPHS generally expects an Advisor to adjust their schedule to allow them to attend ACPHS meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

ACPHS may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

RULES OF DECORUM FOR ADVISORS

Purpose of the Rules of Decorum

Title IX hearings are not civil or criminal proceedings, and are not designed to mimic formal trial proceedings. They are primarily educational in nature, and the U.S. Department of Education, writing about Title IX in the Final Rule "purposefully designed these final regulations to allow recipients to retain flexibility to adopt rules of decorum that prohibit any party advisor or decision-maker from questioning witnesses in an abusive, intimidating, or disrespectful manner."

85 Fed. Reg. 30026, 30319 (May 19, 2020). The Department has determined that institutions “are in a better position than the Department to craft rules of decorum best suited to their educational environment” and build a hearing process that will reassure the parties that the institution “is not throwing a party to the proverbial wolves.” Id.

To achieve this purpose, institutions may provide for reasonable rules of order and decorum, which may be enforced through the removal of an advisor who refuses to comply with the rules. Id., at 30320. As the Department explains, the removal process “incentivizes a party to work with an advisor of choice in a manner that complies with a recipient’s rules that govern the conduct of a hearing, and incentivizes colleges and universities to appoint advisors who also will comply with such rules, so that hearings are conducted with respect for all participants.” Id. At base, these Rules of Decorum require that all parties, advisors of choice, and institutional staff treat others who are engaged in the process with respect.

The rules and standards apply equally to all Parties and their Advisors regardless of sex, gender, or other protected class, and regardless of whether they are in the role of Complainant or Respondent.

Rules of Decorum

The following Rules of Decorum are to be observed in the hearing and applied equally to all Parties (meaning the complainant and respondent) and Advisors:

1. Questions must be conveyed in a neutral tone.
2. Parties and Advisors will refer to other Parties, Witnesses, Advisors, and institutional staff using the name and gender used by the person and shall not intentionally mis-name or misgender that person in communication or questioning.
3. No Party may act abusively or disrespectfully during the hearing toward any other Party or to Witnesses, Advisors, or Decision-maker.
4. While an Advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
5. The Advisor may not yell, scream, badger, or physically “lean in” to a party or witness’s personal space. Advisors may not approach the other party or witnesses without obtaining permission from the Decision-maker/Chair.
6. The Advisor may not use profanity or make irrelevant *ad hominem* attacks upon a party or witness. Questions are meant to be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the question.
7. The Advisor may not ask repetitive questions. This includes questions that have already been asked by the Decision-maker, the Advisor in cross-examination, or the party or advisor in direct testimony. When the Decision-maker determines a question has been “asked and answered” or is otherwise not relevant, the advisor must move on.

8. Parties and Advisors may take no action at the hearing that a reasonable person in the shoes of the affected party would see as intended to intimidate that person (whether party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.

Warning and Removal Process

The Decision-maker shall have sole discretion to determine if the Rules of Decorum have been violated. The Decision-maker will notify the offending person of any violation of the Rules.

Upon a second or further violation of the Rules, the [decision-maker] shall have discretion to remove the offending person or allow them to continue participating in the hearing or other part of the process.

Where the Decision-maker removes a party's advisor, the party may select a different Advisor of their choice, or accept an Advisor provided by the institution for the limited purpose of cross-examination at the hearing. Reasonable delays, including the temporary adjournment of the hearing, may be anticipated should an advisor be removed. A Party cannot serve as their own Advisor in this circumstance.

The Decision-maker shall document any decision to remove an Advisor in the written determination regarding responsibility.

For flagrant, multiple, or continual violations of this Rule, in one or more proceedings, Advisors may be prohibited from participating in future proceedings at the institution in the Advisor role on a temporary or permanent basis. Evidence of violation(s) of this agreement will be gathered by the Title IX Coordinator, or a designee of either and presented to the Vice President for Student Experiences for cases involving students/ Director of Human Resources for cases involving employees. The Advisor accused may provide an explanation or alternative evidence in writing for consideration by the Vice President for Student Experiences for cases involving students/ Director of Human Resources for cases involving employees. Such evidence or explanation is due within fifteen (15) calendar days of receipt of a notice of a charge of redisclosure or improper access to records. There shall be no right to a live hearing, oral testimony, or cross-examination. The Vice President for Student Experiences for cases involving students/Director of Human Resources for cases involving employees shall consider the evidence under a preponderance of the evidence standard and issue a finding in writing and, if the finding is Responsible, shall include a Sanction. The finding shall be issued in writing to all Parties and Advisors (if there is a current case pending) within thirty (30) days unless extended for good cause. There is no appeal of this finding. In the event that an Advisor is barred permanently or for a term from serving in the role as Advisor in the future, they may request a review of that bar from the Vice President for Student Experiences for cases involving students/Director of Human Resources for cases involving employees no earlier than three-hundred and sixty-five (365) days after the date of the findings letter.

Relevant Questions Asked in Violation of the Rules of Decorum

Where an advisor asks a relevant question in a manner that violates the Rules, such as yelling, screaming, badgering, or leaning-in to the witness or party's personal space, the question may not be deemed irrelevant by the decision-maker simply because of the manner it was delivered. Under that circumstance, the decision-maker will notify the advisor of the violation of the Rules, and, if the question is relevant, will allow the question to be re-asked in a respectful, non-abusive manner by the advisor (or a replacement advisor, should the advisor be removed for violation of the Rules). See, 85 Fed. Reg. 30331.

Appendix G: Possible Sanctions For Students And Employees

Student Sanctions – common sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any ACPHS policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling:* A mandate to meet with and engage in either ACPHS-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation:* A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at ACPHS, a notation of this suspension is put on their transcript.
- *Expulsion:* Permanent termination of student status and revocation of rights to be on campus for any reason or to attend ACPHS-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma:* ACPHS may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree:* ACPHS reserves the right to revoke a degree previously awarded from ACPHS for fraud, misrepresentation, and/or other violation of ACPHS policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions:* Deactivation, loss of recognition, loss of some or all privileges (including ACPHS registration) for a specified period of time.
- *Other Actions:* In addition to or in place of the above sanctions, ACPHS may assign any other sanctions as deemed appropriate.

Employee Sanctions – responsive actions for an employee who has engaged in harassment and/or retaliation:

- Warning – Verbal or Written
- Performance Improvement Plan/Management Process
- Enhanced supervision, observation, or review
- Required Counseling
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Delay of tenure track progress
- Assignment to new supervisor
- Restriction of stipends, research, and/or professional development resources
- Suspension with pay
- Suspension without pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions may assign any other responsive actions as deemed appropriate.

Appendix H: Penal Law of the State of New York

Sexual Assault and the Law

Albany College of Pharmacy and Health Sciences has programs in place to protect all members of the ACPHS community from sexual assault. NYS Law contains the following legal provisions defining the crimes related to sexual assault:

Section 130.20 – Sexual Misconduct

This offense includes sexual intercourse without consent, oral or anal sexual conduct without consent or engaging in sexual intercourse with an animal or a dead body. The penalty for violation of this section includes imprisonment for a definite period to be fixed by the court up to one year.

Section 130.25/.30/.35 – Rape

This series of offenses includes sexual intercourse with a person incapable of consent because of the use of forcible compulsion or because the person is incapable of consent due to a mental defect, mental incapacity, or physical helplessness. This series of offenses further includes sexual intercourse with a person under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed four years up to imprisonment for a period not to exceed 25 years.

Section 130.40/.45/.50 – Criminal Sexual Act

This series of offenses includes oral or anal sexual conduct with a person incapable of consent because of the use of forcible compulsion or because the person is incapable of consent due to a mental defect, mental incapacity, or physical helplessness. This series of offenses further includes oral or anal sexual conduct with a person under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed 25 years.

Section 130.52 – Forcible Touching

This offense involves the forcible touching of the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. Forcible touching includes the squeezing, grabbing, or pinching of such other person's sexual or other intimate parts. The penalty for violation of this section includes imprisonment for a period of up to one year in jail.

Section 130.55/.60/.65 – Sexual Abuse

This series of offenses includes sexual contact with a person by forcible compulsion, or with a person who is incapable of consent due to physical helplessness, or due to the person being under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed three months up to imprisonment for a period not to exceed seven years.

Section 130.65-a/.66/.67/.70 – Aggravated Sexual Abuse

This series of offenses occurs when a person inserts a finger or a foreign object in the vagina, urethra, penis or rectum of another person by forcible compulsion, when the other person is incapable of consent by reason of being physically helpless, or when the other person is under the age of consent. The level of this offense is enhanced if the insertion of a finger or foreign object causes injury to the other person. The penalties for violation of these sections range from imprisonment for a period not to exceed seven years up to imprisonment for a period not to exceed 25 years.

Title IX Glossary

1. "Accused" shall mean a person accused of a violation who has not yet entered an Institution's judicial or conduct process.
2. "Affirmative Consent" is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.
3. "Bystander" shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of an institution.
4. "Code of Conduct" shall mean the written policies adopted by an Institution governing student behavior, rights, and responsibilities while such student is matriculated in the Institution.
5. "Confidentiality" may be offered by an individual who 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 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers and pastoral counselors are examples of institution employees who may offer confidentiality.
6. "Domestic violence", "dating violence", "stalking" shall be defined by interpersonal Violence(Intimate Partner, Dating or Domestic). See definition 8.
7. "Interpersonal violence" shall encompass the terms intimate partner violence, dating violence, or domestic violence. No person shall engage in a violent act or pattern of coercive behavior that serves to exercise control and power in an intimate relationship. The coercive and abusive behaviors can be physical, sexual, psychological, verbal, financial and/or emotional in nature.
8. "Institution" shall mean any college or university chartered by the regents or incorporated by special act of the legislature that maintains a campus in New York.

9. "No contact order" shall mean an administrative directive to both the reporting individual and accused or respondent to refrain from direct contact whether in person or through other means. This includes all contact made which can be considered verbal, nonverbal, physical, written, or via telecommunications devices, including electronic mail and text messages. In addition, this request extends to all action, which may occur as a result of third parties acting on the student's behalf.
10. "Privacy" may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate Institution officials. Institutions may substitute another relevant term having the same meaning, as appropriate to the policies of the Institution.
11. "Respondent" shall mean a person accused of a violation who has entered an Institution's judicial or conduct process.
12. "Retaliation" is an adverse action taken against an individual as a result of complaining about unlawful discrimination or harassment, exercising a legal right, and/or participating in a complaint investigation as a third-party witness.
13. "Reporting Individual" shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report of a violation.
14. "Sexual activity" shall have the same meaning as "sexual act" and "sexual contact" as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3).
15. "Title IX Coordinator" shall mean the Title IX Coordinator and/or his or her designee or designees.

Public Awareness and Advocacy Events

As part of ACPHS's public awareness campaign, ACPHS may from time-to-time schedule primary prevention, public awareness, and advocacy programs for students and employees, which include the following:

- RAD (Rape Aggression Defense) Training for Women
- Title IX training - including training on roles as mandated reporters
- Training on how to appropriately respond to victims of sexual assault
- In Her Shoes- domestic violence empathy exercise
- Active Bystander training
- Healthy Relationship trainings
- It's On Us
- Teal Tuesday's
- Title IX Monthly Information Sessions

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

Sexual Offender Registry

The federal Campus Sex Crimes Prevention Act enacted in 2000 went into effect October 28, 2002. The law requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders required to register in a State to provide notice, as required under state law, of each institution of higher education in that State at which the person is employed, carries on a vocation, or is a student. The New York State sex offender registry may be accessed at: www.criminaljustice.state.ny.us/nsor/index.htm.

The Vermont sex offender registry may be accessed at: http://vcic.vermont.gov/sex_offender.

In addition, the City of Albany maintains a sex offender registry that may be accessed by “Entities of Vulnerable Population.” The University Heights Association’s Office of Public Safety (which provides Public Safety services for ACPHS) has been declared such an entity and the registry may be accessed through the Director of Public Safety.

Memoranda of Understanding

The Albany College of Pharmacy and Health Sciences has Memoranda of Understanding in place with a number of agencies intended to facilitate the investigation of violent crimes and missing persons, to provide advocacy for victims of sexual assault and interpersonal violence and to safeguard the legal rights of students. Those agencies include the Albany Police Department, Albany Medical Center, St. Peter’s Health Partners, Equinox, Inc., Albany County Crime Victim and Sexual Violence Center and The Legal Project.

Climate Surveys

Commencing during the 2016 - 2017 school year, ACPHS will conduct a biannual anonymous survey of students to examine (1) the prevalence and incidence of sexual assault, relationship violence, and stalking, (2) the perceptions of the campus climate, (3) the general awareness and knowledge of students about the provisions of the New York Enough is Enough law, and (4) student experience with and knowledge of reporting and college adjudicatory processes. Participation in such climate survey shall be voluntary but is encouraged.

The climate survey will be developed using standard and commonly recognized research methods, and includes questions covering the following topics:

1. the Title IX Coordinator’s role;
2. campus policies and procedures addressing sexual assault;
3. how and where to report domestic violence, dating violence, stalking or sexual assault as a victim, survivor or witness;
4. the availability of resources on and off campus, such as counseling, health and academic assistance;
5. the prevalence of victimization and perpetration of domestic violence, dating violence, stalking, or sexual assault on and off campus during a set time period;
6. bystander attitudes and behavior;

7. whether reporting individuals disclosed to the institution and/or law enforcement, experiences with reporting and institution processes, and reasons why they did or did not report;
8. the general awareness of the difference, if any, between the institution's policies and the penal law; and
9. general awareness of the definition of affirmative consent.

ACPHS will take steps to ensure that answers to climate assessments remain anonymous and that no individual is identified. ACPHS will publish an executive summary of the climate assessment survey results on ACPHS website, provided that no personally identifiable information or information which can reasonably lead a reader to identify an individual is shared.

Annual Reporting

Reports of certain crimes occurring in specific geographic locations are included in ACPHS' Annual Security Report (ASFSR), in an anonymous manner that identifies neither the specifics of the crime nor the identity of the reporting individual.

ACPHS is obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. A reporting individual shall not be identified in a timely warning.

FERPA allows ACPHS 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, however, ACPHS 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.

Effective July 7, 2016, ACPHS will annually report the following information about reports of domestic violence, dating violence, stalking and sexual assault to the New York State Education Department:

1. The number of such incidents that were reported to the Title IX Coordinator.
2. The number of reporting individuals who sought ACPHS's judicial or conduct process.
3. The number of cases processed through ACPHS's judicial or conduct process.
4. The number of respondents who were found responsible through ACPHS's judicial or conduct process.
5. The number of respondents who were found not responsible through ACPHS's judicial or conduct process.
6. A description of the final sanctions imposed by ACPHS for each incident for which a respondent was found responsible through ACPHS's judicial or conduct process.
7. The number of cases in ACPHS's judicial or conduct process that were closed prior to a final determination after the respondent withdrew from ACPHS and declined to complete the disciplinary process.

8. The number of cases in ACPHS's judicial or conduct process that were closed because the complaint was withdrawn by the reporting individual prior to a final determination.

New York State Laws Preventing Sexual Assault

Article 130 of the New York State Penal defines and prohibits sexual assault in New York State. It is included here.

S 130.00 Sex offenses; definitions of terms.

The following definitions are applicable to this article:

1. "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight.
2. (a) "Oral sexual conduct" means conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina.
(b) "Anal sexual conduct" means conduct between persons consisting of contact between the penis and anus.
3. "Sexual contact" means any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed.
4. For the purposes of this article "married" means the existence of the relationship between the actor and the victim as spouses which is recognized by law at the time the actor commits an offense proscribed by this article against the victim.
5. "Mentally disabled" means that a person suffers from a mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct.
6. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent.
7. "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.
8. "Forcible compulsion" means to compel by either:
 - a. use of physical force; or
 - b. a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped.
9. "Foreign object" means any instrument or article which, when inserted in the vagina, urethra, penis, rectum or anus, is capable of causing physical injury.
10. "Sexual conduct" means sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact.
11. "Aggravated sexual contact" means inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis, rectum, or anus of a child, thereby causing physical injury to such child.
12. "Health care provider" means any person who is, or is required to be, licensed or registered or holds himself or herself out to be licensed or registered, or provides services as if he or she were licensed or

registered in the profession of medicine, chiropractic, dentistry or podiatry under any of the following: article one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, or one hundred fortyone of the education law.

13. "Mental health care provider" shall mean a licensed physician, licensed psychologist, registered professional nurse, licensed clinical social worker or a licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker.

S 130.05 Sex offenses; lack of consent.

1. Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.
2. Lack of consent results from:
 - (a) Forcible compulsion; or
 - (b) Incapacity to consent; or
 - (c) Where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct; or
 - (d) Where the offense charged is rape in the third degree as defined in subdivision three of section [130.25](#), or criminal sexual act in the third degree as defined in subdivision three of section [130.40](#), in addition to forcible compulsion, circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances.
3. A person is deemed incapable of consent when he or she is:
 - (a) less than seventeen years old; or
 - (b) mentally disabled; or
 - (c) mentally incapacitated; or
 - (d) physically helpless; or
 - (e) committed to the care and custody or supervision of the state department of corrections and community supervision of a hospital, as such term is defined in subdivision two of section four hundred of the Correction Law, and the actor is an employee who knows or reasonably should know that such person is committed to the care and custody or supervision of such department or hospital. For purposes of this paragraph, "employee" means (i) an employee of the state Department of Corrections and Community Supervision who, as part of his or her employment, performs duties:
 - (A) in a state correctional facility in which the victim is confined at the time of the offense consisting of providing custody, medical or mental health services, counseling services, educational programs, vocational training, institutional parole services or direct supervision to inmates; or
 - (B) of supervising persons released on community supervision and supervises the victim at the time of the offense, or has supervised the victim and the victim is still under community supervision at the time of the offense; or

- (ii) an employee of the office of mental health who, as part of his or her employment, performs duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the Correction Law in which the inmate is confined at the time of the offense, consisting of providing custody, medical or mental health services, or direct supervision to such inmates; or
- (iii) a person, including a volunteer, providing direct services to inmates in a state correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the state Department of Corrections and Community Supervision or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or
- (f) committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state department of corrections and community supervision or a local health, education or probation agency, providing direct services to inmates in the local correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the local correctional department or, in the case of such a volunteer or government employee, a written agreement with such department, provided that such person received written notice concerning the provisions of this paragraph; or
- (g) committed to or placed with the Office of Children and Family Services and in residential care, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to or placed with such office of children and family services and in residential care. For purposes of this paragraph, "employee" means an employee of the Office of Children and Family Services or of a residential facility in which such person is committed to or placed at the time of the offense who, as part of his or her employment, performs duties consisting of providing custody, medical or mental health services, counseling services, educational services, vocational training, or direct supervision to persons committed to or placed in a residential facility operated by the Office of Children and Family Services; or
- (h) a client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree as defined in section [130.25](#), criminal sexual act in the third degree as defined in section [130.40](#), aggravated sexual abuse in the fourth degree as defined in section [130.65-a](#), or sexual abuse in the third degree as defined in section [130.55](#), and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination; or a resident or inpatient of a residential facility operated, licensed or certified by
 - (i) the Office of Mental Health;
 - (ii) the Office for People With Developmental Disabilities; or
 - (iii) the Office of Alcoholism and Substance Abuse Services, and the actor is an employee of the facility not married to such resident or inpatient. For purposes of this paragraph, "employee" means either: an employee of the agency operating the residential facility, who knows or reasonably should know that such person is a resident or inpatient of such facility and who provides direct care services, case management services, medical or other clinical services, rehabilitative services or direct supervision of the residents in the facility in which the resident resides; or an officer or other employee,

consultant, contractor or volunteer of the residential facility, who knows or reasonably should know that the person is a resident of such facility and who is in direct contact with residents or inpatients; provided, however, that the provisions of this paragraph shall only apply to a consultant, contractor or volunteer providing services pursuant to a contractual arrangement with the agency operating the residential facility or, in the case of a volunteer, a written agreement with such facility, provided that the person received written notice concerning the provisions of this paragraph; provided further, however, "employee" shall not include a person with a developmental disability who is or was receiving services and is also an employee of a service provider and who has sexual contact with another service recipient who is a consenting adult who has consented to such contact.

S 130.10 Sex offenses; limitation; defenses.

1. In any prosecution under this article in which the victim's lack of consent is based solely upon his or her incapacity to consent because he or she was mentally disabled, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he or she engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.
2. Conduct performed for a valid medical or mental health care purpose shall not constitute a violation of any section of this article in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section [130.05](#) of this article.
3. In any prosecution for the crime of rape in the third degree as defined in section [130.25](#), criminal sexual act in the third degree as defined in section [130.40](#), aggravated sexual abuse in the fourth degree as defined in section [130.65-a](#), or sexual abuse in the third degree as defined in section [130.55](#) in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section [130.05](#) of this article it shall be an affirmative defense that the client or patient consented to such conduct charged after having been expressly advised by the health care or mental health care provider that such conduct was not performed for a valid medical purpose.
4. In any prosecution under this article in which the victim's lack of consent is based solely on his or her incapacity to consent because he or she was less than seventeen years old, mentally disabled, a client or patient and the actor is a health care provider, or committed to the care and custody or supervision of the state Department of Corrections and Community Supervision or a hospital and the actor is an employee, it shall be a defense that the defendant was married to the victim as defined in subdivision four of section [130.00](#) of this article.

S 130.16 Sex offenses; corroboration.

A person shall not be convicted of any offense defined in this article of which lack of consent is an element that results solely from incapacity to consent because of the victim's mental defect, or mental incapacity, or an attempt to commit the same, solely on the testimony of the victim, unsupported by other evidence tending to:

- (a) Establish that an attempt was made to engage the victim in sexual intercourse, oral sexual conduct, anal sexual conduct, or sexual contact, as the case may be, at the time of the occurrence; and
- (b) Connect the defendant with the commission of the offense or attempted offense.

S 130.20 Sexual misconduct.

A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person without such person's consent; or
2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or
3. He or she engages in sexual conduct with an animal or a dead human body. Sexual misconduct is a class A misdemeanor.

S 130.25 Rape in the third degree.

A person is guilty of rape in the third degree when:

1. He or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;
2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old; or
3. He or she engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent. Rape in the third degree is a class E felony.

S 130.30 Rape in the second degree.

A person is guilty of rape in the second degree when:

1. being eighteen years old or more, he or she engages in sexual intercourse with another person less than fifteen years old; or
2. he or she engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of rape in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act. Rape in the second degree is a class D felony.

S 130.35 Rape in the first degree.

A person is guilty of rape in the first degree when he or she engages in sexual intercourse with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or

4. Who is less than thirteen years old and the actor is eighteen years old or more. Rape in the first degree is a class B felony.

S 130.40 Criminal sexual act in the third degree.

A person is guilty of criminal sexual act in the third degree when:

1. He or she engages in oral sexual conduct or anal sexual conduct with a person who is incapable of consent by reason of some factor other than being less than seventeen years old;
 2. Being twenty-one years old or more, he or she engages in oral sexual conduct or anal sexual conduct with a person less than seventeen years old; or
 3. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.
- Criminal sexual act in the third degree is a class E felony.

S 130.45 Criminal sexual act in the second degree.

A person is guilty of criminal sexual act in the second degree when:

1. being eighteen years old or more, he or she engages in oral sexual conduct or anal sexual conduct with another person less than fifteen years old; or
2. he or she engages in oral sexual conduct or anal sexual conduct with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of criminal sexual act in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Criminal sexual act in the second degree is a class D felony.

S 130.50 Criminal sexual act in the first degree.

A person is guilty of criminal sexual act in the first degree when he or she engages in oral sexual conduct or anal sexual conduct with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

Criminal sexual act in the first degree is a class B felony.

S 130.52 Forcible touching.

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such

person; or for the purpose of gratifying the actor's sexual desire. For the purposes of this section, forcible touching includes squeezing, grabbing or pinching. Forcible touching is a class A misdemeanor.

S 130.53 Persistent sexual abuse.

A person is guilty of persistent sexual abuse when he or she commits the crime of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree, as defined in section 130.55 of this article, or sexual abuse in the second degree, as defined in section 130.60 of this article, and, within the previous ten year period, excluding any time during which such person was incarcerated for any reason, has been convicted two or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree as defined in section 130.55 of this article, sexual abuse in the second degree, as defined in section 130.60 of this article, or any offense defined in this article, of which the commission or attempted commission thereof is a felony.

Persistent sexual abuse is a class E felony.

130.55 Sexual abuse in the third degree.

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that:

- (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and
- (b) such other person was more than fourteen years old, and
- (c) the defendant was less than five years older than such other person.

Sexual abuse in the third degree is a class B misdemeanor.

S 130.60 Sexual abuse in the second degree.

A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old; or 2. Less than fourteen years old.

Sexual abuse in the second degree is a class A misdemeanor.

S 130.65 Sexual abuse in the first degree.

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old; or

4. When the other person is less than thirteen years old and the actor is twenty-one years old or older. Sexual abuse in the first degree is a class D felony.

S 130.65-a Aggravated sexual abuse in the fourth degree.

1. A person is guilty of aggravated sexual abuse in the fourth degree when:

- (a) He or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person and the other person is incapable of consent by reason of some factor other than being less than seventeen years old; or
- (b) He or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than seventeen years old.

Conduct performed for a valid medical purpose does not violate the provisions of this section. Aggravated sexual abuse in the fourth degree is a class E felony.

S 130.66 Aggravated sexual abuse in the third degree.

- 1. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person:
 - (a) By forcible compulsion; or
 - (b) When the other person is incapable of consent by reason of being physically helpless; or(c)
When the other person is less than eleven years old.
- 2. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.
- 3. Conduct performed for a valid medical purpose does not violate the provisions of this section. Aggravated sexual abuse in the third degree is a class D felony.

S 130.67 Aggravated sexual abuse in the second degree.

1. A person is guilty of aggravated sexual abuse in the second degree when he or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person: (a) By forcible compulsion; or

- (b) When the other person is incapable of consent by reason of being physically helpless; or
- (c) When the other person is less than eleven years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section. Aggravated sexual abuse in the second degree is a class C felony.

S 130.70 Aggravated sexual abuse in the first degree.

- 1. A person is guilty of aggravated sexual abuse in the first degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:

- (a) By forcible compulsion; or
 - (b) When the other person is incapable of consent by reason of being physically helpless; or(c)
When the other person is less than eleven years old.
2. Conduct performed for a valid medical purpose does not violate the provisions of this section. Aggravated sexual abuse in the first degree is a class B felony.

S 130.75 Course of sexual conduct against a child in the first degree.

1. A person is guilty of course of sexual conduct against a child in the first degree when, over a period of time not less than three months in duration:
- (a) he or she engages in two or more acts of sexual conduct, which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than eleven years old; or
 - (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct, which include at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than thirteen years old.
2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section. Course of sexual conduct against a child in the first degree is a class B felony.

S 130.80 Course of sexual conduct against a child in the second degree.

1. A person is guilty of course of sexual conduct against a child in the second degree when, over a period of time not less than three months in duration:
- (a) he or she engages in two or more acts of sexual conduct with a child less than eleven years old; or
 - (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct with a child less than thirteen years old.
2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.
- Course of sexual conduct against a child in the second degree is a class D felony.

S 130.85 Female genital mutilation.

1. A person is guilty of female genital mutilation when:
- (a) a person knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not reached eighteen years of age; or
 - (b) being a parent, guardian or other person legally responsible and charged with the care or custody of a child less than eighteen years old, he or she knowingly consents to the circumcision, excision or infibulation of whole or part of such child`s labia majora or labia minora or clitoris.
2. Such circumcision, excision, or infibulation is not a violation of this section if such act is:

- (a) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or
 - (b) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.
3. For the purposes of paragraph (a) of subdivision two of this section, no account shall be taken of the effect on the person on whom such procedure is to be performed of any belief on the part of that or any other person that such procedure is required as a matter of custom or ritual. Female genital mutilation is a class E felony.

S 130.90 Facilitating a sex offense with a controlled substance.

A person is guilty of facilitating a sex offense with a controlled substance when he or she:

1. knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administer such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and
2. commits or attempts to commit such conduct constituting a felony defined in this article. Facilitating a sex offense with a controlled substance is a class D felony.

S 130.91 Sexually motivated felony.

1. A person commits a sexually motivated felony when he or she commits a specified offense for the purpose, in whole or substantial part, of his or her own direct sexual gratification.
2. A "specified offense" is a felony offense defined by any of the following provisions of this chapter: assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10, gang assault in the second degree as defined in section 120.06, gang assault in the first degree as defined in section 120.07, stalking in the first degree as defined in section 120.60, strangulation in the second degree as defined in section 121.12, strangulation in the first degree as defined in section 121.13, manslaughter in the second degree as defined in subdivision one of section 125.15, manslaughter in the first degree as defined in section 125.20, murder in the second degree as defined in section 125.25, aggravated murder as defined in section 125.26, murder in the first degree as defined in section 125.27, kidnapping in the second degree as defined in section 135.20, kidnapping in the first degree as defined in section 135.25, burglary in the third degree as defined in section 140.20, burglary in the second degree as defined in section 140.25, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, arson in the first degree as defined in section 150.20, robbery in the third degree as defined in section 160.05, robbery in the second degree as defined in section 160.10, robbery in the first degree as defined in section 160.15, promoting prostitution in the second degree as defined in section 230.30, promoting prostitution in the first degree as defined in section 230.32, compelling prostitution as defined in section 230.33, disseminating indecent material to minors in the first degree as defined in section 235.22, use of a child in a sexual performance as defined in section 263.05, promoting an obscene sexual

performance by a child as defined in section 263.10, promoting a sexual performance by a child as defined in section 263.15, or any felony attempt or conspiracy to commit any of the foregoing offenses.

S 130.92 Sentencing.

1. When a person is convicted of a sexually motivated felony pursuant to this article, and the specified felony is a violent felony offense, as defined in section [70.02](#) of this chapter, the sexually motivated felony shall be deemed a violent felony offense.
2. When a person is convicted of a sexually motivated felony pursuant to this article, the sexually motivated felony shall be deemed to be the same offense level as the specified offense the defendant committed.
3. Persons convicted of a sexually motivated felony as defined in section 130.91 of this article, must be sentenced in accordance with the provisions of section [70.80](#) of this chapter.

S 130.95 Predatory sexual assault.

A person is guilty of predatory sexual assault when he or she commits the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and when:

1. In the course of the commission of the crime or the immediate flight therefrom, he or she:
 - (a) Causes serious physical injury to the victim of such crime; or
 - (b) Uses or threatens the immediate use of a dangerous instrument; or
2. He or she has engaged in conduct constituting the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, against one or more additional persons; or
3. He or she has previously been subjected to a conviction for a felony defined in this article, incest as defined in section [255.25](#) of this chapter or use of a child in a sexual performance as defined in section [263.05](#) of this chapter.

Predatory sexual assault is a class A-II felony.

S 130.96 Predatory sexual assault against a child.

A person is guilty of predatory sexual assault against a child when, being eighteen years old or more, he or she commits the crime of [rape in the first degree](#), [criminal sexual act in the first degree](#), [aggravated sexual abuse in the first degree](#), or [course of sexual conduct against a child in the first degree](#), as defined in this article, and the victim is less than thirteen years old.

Predatory sexual assault against a child is a class A-II felony.

Sex Offender Registry and Access to Related Information

The federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, went into effect October 28, 2002. The law requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. It requires sex offenders already required to register in a State to provide notice, as required under state law, of each institution of higher education in that State at which the person is employed, carries on a

vocation, or is a student. The New York State sex offender registry may be accessed at [New York State Sex Offender Registry](#). In addition, the City of Albany maintains a sex offender registry that may be accessed by "Entities of Vulnerable Population". The UHA Office of Public Safety has been so declared and the registry may be accessed through the Director of Public Safety.

Alcohol and Drug Policy

The Drug Free Schools and Communities Act of 1989 requires that institutions of higher education receiving certain funding adopt and implement a drug and alcohol abuse prevention program to prevent the unlawful possession, use or distribution of illicit drugs and alcohol by all students and employees on school premises or as part of any of its activities. It is distributed annually to all students and employees and is subject to biannual review in December of even numbered years.

The Albany College of Pharmacy and Health Sciences strongly encourages self-reporting of nicotine, alcohol and other drug abuse. Resources exist to assist and support individuals that have recognized this issue and have come forward seeking help. The College provides clinical services through the Counseling Center to address the mental health issues that typically underlie substance use and abuse, as well as recommending and coordinating services with licensed substance abuse treatment centers throughout the Capital District. Additionally, the College supports the Initiative on Substance Abuse Prevention (ISAP) Committee, which has the mission of providing educational and preventive outreach throughout the ACPHS Community. Initiatives include the annual Substance Abuse Awareness Week as well as providing workshops and having information available for groups and individuals in a variety of formats. The College provides the broadest level of confidentiality allowed. Individuals seeking voluntary assistance prior to allegations of policy violation may be subject to alternative steps and sanctions than those in place for persons who are alleged to be in violation of the policy.

If an ACPHS student is alleged to be in violation of these policies, in accordance with the Student Disciplinary Code they may be required to meet with the Director of Counseling Services (or other licensed professional) for an assessment. Based upon that assessment, the Director of Counseling Services (or designee) can recommend additional interventions/evaluations to be completed by an approved licensed agency at the individual's expense. Additional action may be required when allegations involve illegal or controlled substances. All ACPHS students are informed that if allegations are made against them indicating that they are using illegal substances, then pursuant to the Student Disciplinary Code they may be required to meet with the Director of Counseling Services and may be required to complete a substance abuse assessment with appropriate followup administered by an approved licensed agency at the student's expense.

Note: These steps represent those taken following an allegation of illegal substance use and do not necessarily apply to individuals who are voluntarily seeking services prior to an allegation or policy violation.

Missing Persons

ACPHS, in partnership with the University Heights Association's Office of Public Safety, has a comprehensive policy in place for the investigation of missing persons. Although primarily intended as a safety net for resident students, it may also be used to investigate the disappearance of any student, staff member or faculty member who disappears from campus. It can also be used to assist local law enforcement agencies who are investigating the disappearance of a community member from some off-campus location.

Key elements of the plan include:

- Resident students may identify a confidential emergency contact person who would be notified in the event of a disappearance.
- The confidential emergency contact person and the Albany Police Department must be notified no longer than twenty-four hours after a person is thought to be missing.
- Circumstances such as the possibility of foul play or mental health concerns require the immediate notification of the emergency contact person and the Albany Police Department.

A Memorandum of Understanding is in place between the University Heights Association's Office of Public Safety and the Albany Police Department that clearly sets responsibilities in such an investigation and requires a complete and timely exchange of information between the agencies.

In addition to Public Safety, those who suspect a member of the community to be missing may report that information to:

Vice President of Student Experiences
Director of Residence Life

John Felio
Alison Buckley

Fire Safety at Albany College of Pharmacy and Health Sciences

In partnership with the New York State Office of Fire Prevention and Control and the University Heights

Association's Office of Public Safety, the Albany College of Pharmacy and Health Sciences has a comprehensive fire safety program. UHA employs a Fire Safety Officer who is responsible for training, fire safety system maintenance, and liaison with public sector agencies. Annual inspections conducted by the OFPC are thorough and intensive and result in the certification of our facilities as completely compliant with state and local fire codes. Training programs for students, faculty and staff are available through UHA Public Safety. Resident Assistants and Directors attend mandatory fire safety training at the beginning of academic each year. Policies are in place, in student and employee handbooks, that prevent sources of fire. Evacuation policies are practiced regularly through fire drills.

Fire safety systems for ACPHS residence halls are as follows:

- South Hall has extensive emergency lighting and exit signage throughout the building. It has heat detectors and smoke detectors in each room, as well as in common areas, that trigger audible alarms and strobe lighting when activated. The alarms are monitored by a private sector alarm monitoring company who reports the activation of a fire alarm to the Albany Fire Department and UHA Public Safety. South Hall does not have a sprinkler system.
- Notre Dame Residence Hall has extensive emergency lighting and exit signage throughout the building. It has heat detectors and smoke detectors in each room, as well as in common areas, that trigger audible alarms and strobe lighting when activated. The alarms are monitored by a private sector alarm monitoring company who reports the activation of a fire

alarm to the Albany Fire Department and UHA Public Safety. The building also has a sprinkler system with heads in each room as well as throughout common areas.

- Holland Suites has extensive emergency lighting and exit signage throughout the building. It has heat detectors and smoke detectors in each room, as well as in common areas, that trigger audible alarms and strobe lighting when activated. The alarms are monitored by a private sector alarm monitoring company who reports the activation of a fire alarm to the Albany Fire Department and UHA Public Safety. The building also has a sprinkler system with heads in each room as well as throughout common areas.
- Princeton Suites has extensive emergency lighting and exit signage throughout the building. It has heat detectors and smoke detectors in each room, as well as in common areas, that trigger audible alarms and strobe lighting when activated. The alarms are monitored by a private sector alarm monitoring company who reports the activation of a fire alarm to the Albany Fire Department and UHA Public Safety. The building also has a sprinkler system with heads in each room as well as throughout common areas.

Fire safety related incidents for ACPHS residence halls for the years 2020, 2021 and 2022 are as follows:

**Fire Statistics 2020-2022
Albany Campus**

Residence	Year	Fires	Injuries	Deaths	Value Property Damaged	Fire Drills	Malicious False Alarms
Notre Dame	2020	0	0	0	0	4	0
	2021	0	0	0	0	4	0
	2022	0	0	0	0	4	0
South Hall	2020	0	0	0	0	4	0
	2021	0	0	0	0	4	0
	2022	0	0	0	0	4	0
Holland Suites	2020	0	0	0	0	4	0
	2021	0	0	0	0	4	0
	2022	0	0	0	0	4	0
Princeton Suites	2020	0	0	0	0	4	0
	2021	0	0	0	0	4	0
	2022	0	0	0	0	4	0

Campus Crime Statistics

The Clery Act requires that the institution collect and distribute statistical data concerning certain specified crimes on campus. It also requires that those crimes be further reported according to where the incidents occur. There are four categories for location of criminal activity, defined as follows:

- “campus” means any building or property controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls and, property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).
- “non-campus building or property” means any building or property controlled by a student organization recognized by the institution, and any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.
- “public property” means all public property, all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or

- parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.
- “residence hall” means residential facilities for students on campus.

**Albany College of Pharmacy and Health Sciences
Crime Statistics
2020-2022**

Offense	Year	On Campus Property	Non Campus Property	Public Property	Total	Residential Facilities	Unfounded
Murder/Non-Negligent Manslaughter	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Negligent Manslaughter	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Rape	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Fondling	2020	0	0	0	0	0	0
	2021	1	0	0	1	1	0
	2022	0	0	0	0	0	0
Incest	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Statutory Rape	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Robbery	2020	0	0	0	0	0	0
	2021	1	0	0	1	0	0
	2022	0	0	0	0	0	0
Aggravated Assault	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Burglary	2020	1	0	0	1	0	0
	2021	1	1	0	2	0	0
	2022	1	1	0	2	0	0
Motor Vehicle Theft	2020	0	0	0	0	0	0

	2021	0	1	0	1		0	0
	2022	0	1	0	1		0	0
Arson	2020	0	0	0	0		0	0
	2021	0	0	0	0		0	0
	2022	0	0	0	0		0	0

**Albany College of Pharmacy and Health Sciences
Interpersonal Violence
2020-2022**

	Year	On Campus	Non Campus	Public Property	Total		Residential Facility*
Domestic Violence	2020	0	0	0	0		0
	2021	0	0	0	0		0
	2022	1	0	0	1		1
Dating Violence	2020	0	0	0	0		0
	2021	0	0	0	0		0
	2022	0	0	0	0		0
Stalking	2020	0	0	0	0		0
	2021	2	0	0	2		2
	2022	0	0	0	0		0

*Crimes reported in the Residence Halls are also included in the On Campus category

**Albany College of Pharmacy and Health Sciences
Arrests and Referrals
2020-2022**

Violation	Year	On Campus	Non Campus	Public Property	Total	Residential Facility*
Weapons: Carrying, possessing, etc. Violation	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
Drug Law Violations	2020	4	0	0	4	4
	2021	10	0	0	10	10
	2022	3	0	0	3	3
Liquor Law Violations	2020	29	0	0	29	29
	2021	7	0	0	7	7
	2022	7	0	0	7	7
Liquor Law Arrests	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
Drug Law Arrests	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0

*Crimes reported in the Residence Halls are also included in the On-Campus category

Hate Crime

Certain crimes that single out an individual because of actual or perceived race, gender, gender identity, religion, sexual orientation, ethnicity, nationality, or disability are to be reported according to the category of prejudice. Those crimes include all the crimes enumerated above in the “Crime Statistics” section of this report, as well as the crimes of larceny-theft, simple assault, intimidation, destruction/damage/vandalism to property and any other crime involving bodily injury.

**The Albany College of Pharmacy and Health Sciences reported one incident of hate crime in 2020.
The Albany College of Pharmacy and Health Sciences reported no incidents of hate crime in 2021.
The Albany College of Pharmacy and Health Sciences reported no incidents of hate crime in 2022.**

Vermont Campus Fire and Crime Statistics

The Clery Act requires all colleges to report on fires occurring in on-campus or off campus residence halls owned or controlled by the institution.

Presently, there are no residence halls located on or off campus at ACPHS-VT. Crime statistics for the Vermont Campus during the years 2020, 2021 and 2022 are denoted below:

Albany College of Pharmacy and Health Sciences Crime Statistics Vermont Campus 2020-2022

Offense	Year	On Campus Property	Non Campus Property	Public Property	Total	Residential Facilities	Unfounded
Murder/Non-Negligent Manslaughter	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Negligent Manslaughter	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Rape	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Fondling	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Incest	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Statutory Rape	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Robbery	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Aggravated Assault	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0

Burglary	2020	0	0	0	0		0	0
	2021	0	0	0	0		0	0
	2022	0	0	0	0		0	0
Motor Vehicle Theft	2020	0	0	0	0		0	0
	2021	0	0	0	0		0	0
	2022	0	0	0	0		0	0
Arson	2020	0	0	0	0		0	0
	2021	0	0	0	0		0	0
	2022	0	0	0	0		0	0

**Albany College of Pharmacy and Health Sciences
Interpersonal Violence
Vermont Campus
2020-2022**

	Year	On Campus	Non Campus	Public Property	Total	Residential Facility*
Domestic Violence	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
Dating Violence	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
Stalking	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0

*There are no residential facilities on the VT campus

Appendix

**Albany College of Pharmacy and Health Sciences
Arrests and Referrals
Vermont Campus
2020-2022**

Violation	Year	On Campus	Non Campus	Public Property	Total	Residential Facility*
Weapons: Carrying, possessing, etc. Violation	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
Drug Law Violations	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
Liquor Law Violations	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
Liquor Law Arrests	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
Drug Law Arrests	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0

*There are no residential facilities on the VT campus

Hate Crime

Certain crimes that single out an individual because of actual or perceived race, gender, gender identity, religion, sexual orientation, ethnicity, nationality, or disability are to be reported according to the category of prejudice. Those crimes include all of the crimes enumerated above in the "Crime Statistics" section of this report, as well as the crimes of larceny-theft, simple assault, intimidation, destruction/damage/vandalism to property and any other crime involving bodily injury.

The Vermont Campus of the Albany College of Pharmacy and Health Sciences had no reported hate crime in 2020, 2021, or 2022.

Preparation of this report

This report is presented on an annual basis and is available by October 1. It is prepared by the Director of Public Safety utilizing incident reports generated during the year, as well as information provided by Campus Security Authorities and the Albany Police Department. It is available in hard copy as well as on the Web at Annual Security and Fire Safety Report. The statistical portion of the report is also available at the U.S. Department of Education's Campus Crime Survey on their website.