



SUNY Potsdam Annual Security Report and Annual Fire Safety Report

2025 Report (statistical data for years 2024, 2023, 2022)



Published in compliance with the United States Code Section 1092 (f) the Jeanne Clery safety act and Campus Statistics Act and the Code of Federal Regulations.

This document is in full compliance with the 2025 Title IX updates.



On behalf of the campus community, welcome to SUNY Potsdam!

Our primary concern is the safety and well-being of our students, employees, and visitors. In the following pages, you will find a description of the College's dedication to safety and security and a statistical report of certain offenses in and around the campus.

No matter the time or day, the University Police Department (UPD) is available to provide services to the campus community. We promote safety and responsibility through education, training, interaction and when necessary, enforcement of local, state, and federal law.

While we have developed programs, procedures and strategies to protect all members of the campus, it is still necessary for each person to take simple precautions to ensure his or her personal safety and to call University Police or other designated reporters when they observe any suspicious or concerning activity.

The Student Right-to-Know and Campus Security Act was signed into law in November of 1990. Title II of this act was amended and renamed in 1998 as the Jeanne Clery Disclosure of Campus Security Policy and Campus Statistics Act. This law mandates that institutions receiving Title IV federal funds disseminate crime statistics for certain offenses that occurred on the campus, adjacent areas of the campus and specified campus-controlled property for the previous three calendar years. The purpose of this report is to provide our current and prospective students, faculty and staff with campus safety information including crime statistics and procedures to follow to report a crime. This report also complies with the Violence Against Women Act (VAWA) Re-authorization 2013. This document was compiled by University Police and is available on our website at: [Annual Reports & Statistics | SUNY Potsdam](#)

Note: The College will not retaliate nor allow any retaliation toward a person(s) who reports an alleged violation of the Campus Security Act.

The statistics in this report are compiled by the University Police Department by analyzing records from the University Police Department database, by reviewing referrals to Student Conduct and by requesting information from Campus Security Authorities and outside police agencies.

This publication is a part of an effort to ensure that you are informed about campus security, personal safety, and fire safety. It includes information on the role of University Police, emergencies/crimes, sexual assault, campus escort service, residence hall security, residence life, personal responsibility, drug/alcohol policies, fire safety policies, fire statistics, and how to access registered sex offender information at SUNY Potsdam. We hope that you read it carefully, retain it as an informational resource, and keep in mind that its purpose is to help foster a safe environment for you and others.

Preparation and Collection of Crime Statistics

University Police prepares this Annual Security Report to comply with the Clery Act. It is prepared in cooperation with local law enforcement agencies, and other campus offices including Environmental Health and Safety, Residence Life, Student Conduct, Student Health and Title IX offices. Campus crime, arrests, and referral statistics include those reported to University Police, those reported to Campus Security Authorities, and those reported to other law enforcement agencies which are tallied and included in this report. The report preparation team requests and shares information over the summer months and reviews policies, employee agreements and US Dept. of Education requirements before compiling this report.

Distribution

This report is posted online [Annual Reports & Statistics | SUNY Potsdam](#). Each year an e-mail notification is sent to all students, faculty, and staff that provides the web address to directly access this report. In addition, printed copies of the report are distributed to campus departments where employees do not have individual access to campus e-mail. A notification is also included in the College Catalog, prospective and accepted student information materials, and on the campus jobs website for prospective employees.

Hard copies are available upon request at University Police.

Reporting Locations

This law requires that campuses report specific criminal activities that occur on campus property and specific areas surrounding the campus as well as a few properties controlled by the campus within the community. Crimes and other hazards occur and exist within the community at large that fall beyond the reporting scope of this report. All students and employees are advised to exercise caution in all areas of the campus community and to contact University Police for information and programming on personal safety.

On Campus: includes all campus buildings, roadways and walkways.

On-Campus Student Housing: includes all residential halls and living spaces.

Non-Campus: includes buildings owned or rented by recognized student organizations (such as recognized Greek letter organizations) or those owned or rented by the College that are situated outside the primary campus area.

Public Property: includes streets, sidewalks, parking lots or green space immediately adjacent to and accessible from the campus.

General Campus Information

SUNY Potsdam enrolls a student population of about 2,400 students. The campus employs approximately 533 full-time and about 126 part-time employees. Approximately 900 students reside in our residence halls, while nearly 1500 reside off-campus.

University Police is available 24 hours a day, 365 days a year.

Daily Shift Logs of all University Police activity are available for review during business hours.

Crime/Fire Logs that list all reported crimes and fires are also available for review.

Standard Facility Access

Students and employees have access to academic, recreational, and administrative facilities during scheduled hours. Access to residence halls is limited to students and their guests according to our guest procedures (see Code of Student Conduct or inquire of your Resident Director or Resident Assistant). The campus is considered an “open campus” that allows pedestrian, bicycle, and vehicle traffic to travel through the campus without first reporting to a college official. However, the College retains the right to dismiss visitors from the campus when our policies have been violated.

Reporting Crimes

All members of the campus community are urged to promptly report criminal incidents, emergencies and suspicious activities. **The University Police phone number is (315) 267-2222.** Dialing 911 from a campus “landline” will connect the caller with University Police. Picking up any “red phone” located in most campus buildings or activating any of our “blue light” emergency phones strategically located throughout the campus, will immediately connect the caller with University Police. Police officers are immediately dispatched to the site of the emergency phone activation. All reports are classified, logged, and responded to promptly. Any incident, crime or emergency can also be reported directly by any person to the University Police office located in Van Housen Hall Extension, first floor. Reports can be made anonymously at the University Police webpage. The University police email is police@potsgdam.edu. The Potsdam Police Department can be reached at (315) 265-2121 or by dialing 911 to report any emergency or call for service within the Village of Potsdam.

University Police offers an anonymous witness form on our web page at:

<http://www.potsgdam.edu/studentlife/safety/index.cfm>.

This form allows for anonymous reporting of crimes and incidents of concern.

SUNY Potsdam has the RAVE Guardian Safety App available for free download to use on your smartphone. Students can call University Police in an emergency with the touch of a button on their smartphone, as well as sending in tips, texts, and photos to University Police. Students can also assign guardians to monitor their arrival. The App also provides a Call Directory and Online Resources.

Federal law also mandates that any official of the institution who is defined as “Campus Security Authority” is required to report criminal offenses. The definition of “Campus Security Authority”, according to the federal law, is as follows: “An official of an institution who has significant responsibility for student and campus activities, including but not limited to, student housing, student discipline, and campus judicial proceedings.”

At SUNY Potsdam, it has been determined that the following positions are examples of who meet the definition of a “Campus Security Authority”:

- Director of Student Conduct and Community Standards

- Dean of Students
- Athletic Director
- Assistant Athletic Director
- Coaches of Intercollegiate Athletic Teams
- Assistant Coaches of Intercollegiate Teams
- Faculty Advisors to Student Organizations, Clubs, Groups
- Residence Hall Directors
- Resident Assistants
- University Police Officers

Campus Security Authorities are required to report any allegations of Clery Act crimes to the University Police as soon as reasonably possible. Emails are sent out each year to Campus Security Authorities requesting any crime reports. Training for Campus Security Authorities is completed annually using an online training module.

Safety and Security Responsibility



University Police officers are appointed by the State University of New York as defined in the New York State Criminal Procedure Law. They have the authority to make arrests, conduct criminal investigations, issue uniform traffic tickets, execute warrants and issue summonses for parking. The officers also enforce any general, special or local law or charter, rule, regulation, judgment or order.

The University Police Department is the law enforcement agency for the campus. In 2016, the SUNY Potsdam University Police Department became a New York State Department of Criminal Justice accredited police agency. Re-accreditation was achieved in June of 2021. Officers are vested with full law enforcement

responsibilities. All officers must pass a rigorous selection process to be hired and then attend a New York State Department of Criminal Justice (DCJS) approved police academy for basic training certification. University Police Officers are highly trained officers who receive specialized instruction and in-service training in first aid, defensive tactics, legal updates, and other law enforcement topics.

The Department forwards crime incident information to the Division of Criminal Justice Services (DCJS) and the FBI through fingerprint submissions for state and national distribution. Crime reports and related information are entered into the Spectrum Justice System (SJS) for statistical and law enforcement purposes.

The University Police Department enjoys a proximity to and a working relationship with the Potsdam Village Police, the St. Lawrence County Sheriff's Office, New York State Police and other state and federal agencies such as the US Drug Enforcement Administration and Department of Homeland Security.

University Police are a proactive, energetic, and service-oriented police agency. We follow recognized community-oriented police practices and have a Memorandum of Understanding (MOU) with the Potsdam Police Department. This MOU provides for the ability of each Department to assist the other when necessary, including when violent crimes and missing persons are reported from the campus.

Additionally, the Chiefs of both Departments are frequently in contact on a variety of issues and joint projects. The Potsdam Police Department notifies the Office of Student Conduct daily whenever our students are involved in a crime or serious incidents.

Campus Safety Advisory Committee

The Campus Safety Advisory Committee is comprised of a cross section of faculty, staff and students at the College and is appointed by the President each year. The Committee is tasked with the following duties: 1. educating the campus community about personal safety and crime prevention, 2. reporting sexual assaults and assisting victims, 3. advising the President and Chief of Police on matters of campus security and public safety. Each semester the Committee conducts a "Campus Safety Walk," surveying areas of the campus that may need improvement or repair. Issues addressed include lighting, pathways and any other hazards or areas of concern. Committee members include staff from: Environmental Health and Safety, University Police, Residence Life, Physical Plant, Counseling Center, as well as student representatives.

Behavioral Evaluation Committee (BEC)

The BEC is a group of faculty and staff who meet to discuss and respond to students in apparent/potential distress and determine possibility of harm to self and/or others in campus community.

Security and Access

Security and access to on-campus facilities are controlled by key or card access. Staff and Students can also access card swipe doors using the CBORD Mobile ID phone app that is also part of the card access system. University Police, Physical Plant and Residence Life staff monitor access to the campus facilities. These security features may not be reflected at Greek letter organizations located off campus.

Residence halls are locked 24 hours per day. A special emphasis is placed on foot patrols by University Police and Residence Life staff in the residence halls. In addition, door viewers have been installed in most residence hall rooms to increase safety and security.

The campus has a video surveillance system that can be monitored at the University Police Dispatch Desk. The system has over 135 cameras on campus that are recorded and can be reviewed when incidents occur. The campus regularly reviews and adds cameras in areas it deems necessary for the safety and security of the campus community.

Other security considerations used in maintaining campus facilities include checking of campus lighting by University Police and Physical Plant personnel. The Grounds Department checks areas that may be potentially dangerous and takes corrective action.

University Police Officers provide 24-hour per day vehicle, bicycle, and foot patrols of campus properties. The public may attend cultural and recreational activities on campus, yet access is limited only to the facilities in which these public events are held. After evening classes/functions and during times when the campus is officially closed, campus buildings are locked and only faculty, staff, and students with proper identification are admitted. Campus employees with assigned offices are issued keys and are responsible for reporting missing and stolen keys.

University Police, Department of Environmental Health and Safety and the Physical Plant staff conduct regularly scheduled inspections of emergency phones and lighting throughout the campus. In addition, security cameras have been added to areas vulnerable to vandalism and continue to be added as facilities are renovated or areas of concern are identified. Most entrances to campus buildings have surveillance cameras that can be used to monitor who comes and goes from our campus buildings. University Police can access these cameras at any time.

The Potsdam Village Police monitor officially recognized student organizations within the Village of Potsdam.



Residence Life and Housing

The Residence Life staff is a team of individuals who work to provide a safe and secure environment in which resident students can live and learn. Residence halls are overseen by Residence Directors and Resident Assistants that are responsible for overall operation of the hall. The Residence Hall Directors have educational backgrounds related to counseling and/or student services. They have private offices and are available to assist students with their personal and academic concerns. The Residence Directors and Resident Assistants live in the residence halls so they are available

after hours should emergencies occur. Resident assistants are carefully selected students who are trained in mediation and intervention techniques. They work closely with the residents of their areas to develop a sense of community and to help students adjust to living in college residences.

How to Report

The College encourages prompt and accurate reporting of any crime including sex crimes, dating violence, domestic violence, sexual assault and stalking to University Police or external police agencies such as the Potsdam Police, when the victim of a crime elects to or is unable to make such a report. However, it can be difficult for a victim to come forward after such an event. The College provides several options for students who wish to maintain confidentiality while obtaining the support they need.

Levels of Confidentiality

Note: Not all campus employees are able to maintain the same level of confidentiality.

1. **Privileged Communications:** some employees are required to maintain nearly complete confidentiality; talking with them is sometimes called a “privileged communication”.
2. **No Personally Identifying Information:** other employees may talk to a victim in confidence and generally only report to the College that an incident occurred without revealing any personally identifying information. Disclosure to these employees will not trigger a college investigation into an incident against the victims’ wishes.
3. **Responsible Employees:** these employees are required to report all the details of an incident (including the identities of both the victim and accused) to the Title IX coordinator. A report to these employees constitutes a report to the College and generally obligates the College to investigate the incident and take appropriate steps to address the situation.

Privileged & Confidential Communications

Professional and Pastoral Counselors

Professional, licensed counselors, licensed health care providers and pastoral counselors who provide mental-health counseling to members of the school community (and including those who act in that role

under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without a victim's permission. The campus encourages professional counselors to inform persons they are counseling of voluntary, confidential reporting options. Following is the contact information for these individuals:

Professional & Pastoral Counselors
All Members of the Counseling Center, Van Housen Hall, (315) 267-2330
All Members of the Student Health Center, Van Housen Hall, (315) 267-2377

External Resources

SUNY Potsdam community members may contact local off campus organizations to seek support and resources. The counselors and advocates who work with these agencies will assist the victim/reporter in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health, or mental health services, and changes to living, working or course schedules, and offer confidentiality. A victim/reporter may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors and advocates will provide the victim with assistance if the victim wishes to do so. The following is contact information for these non-professional counselors and advocates:

Non-Professional Counselors and Advocates
Renewal House, 3 Chapel Street, Canton, NY 13617: (315) 379-9845
Citizens' advocates <u>Advocates</u> , 24-Hour Hotline: (315) 265-2422

Reporting to Employees

Under the 2020 Title IX regulations, SUNY Potsdam has determined that all employees are mandated reporters. When a victim tells an employee about an incident of sexual harassment, the victim has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. An employee must report to the Title IX coordinator all relevant details about the alleged sexual harassment shared by the victim, and the College will need to determine what happened, including the names of the victim and accused, any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident. To the extent possible, information reported to an employee will be shared only with the people responsible for handling the College's response to the report. An employee should not share information with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement. Before a victim reveals any information to an employee, the employee should ensure that the victim understands the employee's reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources. If the victim wants to tell the employee what happened but also maintain confidentiality, the employee should tell the victim that the College will consider the request but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the employee will also inform the coordinator of the victim's request for confidentiality. Employees will not pressure a victim to request confidentiality, but will honor and support the victim's wishes, including for the College to fully investigate an incident. By the same token, employees will not pressure a victim to make a full report if the victim is not ready to.

Requesting Confidentiality

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

Requests for Confidentiality
Title IX Coordinator 315-267-2225, Vice President, Chief Diversity Officer, (315) 267-3082

When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the accused will commit additional acts of sexual or other violence, such as:
 - whether there have been other sexual violence complaints about the same accused individual;
 - whether the accused has a history of arrests or records from a prior school indicating a history of violence;
 - whether the accused threatened further sexual violence or other violence against the victim or others;
 - whether the sexual violence was committed by multiple perpetrators;
 - whether the sexual violence was perpetrated with a weapon;
 - whether the victim is a minor;
 - whether the College possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
 - whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group

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

The College will also:

- Assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus (see portion of policy identifying these);
- Provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the

accused pending the outcome of an investigation) or adjustments for assignments or tests; and inform the victim of the right to report a crime to campus or local law enforcement – and provide the victim with assistance if the victim wishes to do so.

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

Other Confidential Avenues

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

Take Back the Night and other Public Awareness Events

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

Anonymous Reporting

Anonymous reports can be made in person, by phone, RAVE Guardian Safety App or by the University Police Anonymous Witness Form at our web page at:

<https://www.potsdam.edu/about/safety/police/incident-reporting/anonymous-reporting-form>

Crime Prevention Programming

Crime prevention programs on personal safety and theft prevention are hosted by several campus organizations and offices throughout the year. University Police officers present for new employee orientation programs; residence halls, student, and employee groups throughout the campus. We also distribute pamphlets on relevant topics; and ensure emergency equipment is operable. Some programs conducted by University Police and Health Educator include:

- University Police - Services and Overview: A description of the services provided by UPD.
- Operation ID: University Police Officers engrave valuables belonging to students with an identification number that can be traced nationally.
- Personal Safety/Basic Crime Prevention and Tips: This program offers techniques to be utilized to maximize safety in a variety of environments "situational awareness".
- Domestic Violence/Dating Violence: This program explains domestic and dating violence and indicators of relationships that could become violent.
- ABC Law/Alcohol: An explanation of the NYS Alcohol Beverage Control Law and the effects alcohol has on the human body.
- Orientation: University Police Officers discuss various important aspects of living on a college campus and in a new community. Safety measures and Emergency Notifications and Timely Alerts discussed.
- Sexual Assault Awareness and Prevention: University Police Officers discuss ways to maximize personal safety and avoid situations in which sexual assault could occur.

- Drug Identification and Awareness: This program helps students become aware of and identify illegal drugs.
- Drinking and Driving – Beer Goggles: This very popular program allows students to wear specially designed eyewear simulating the effects of alcohol on the human body.
- Alcohol/Drug Abuse Awareness: University Police Officers discuss the dangers of alcohol and drug use.
- Bicycle Safety and Security: University Police Officers explain New York State and local laws surrounding bicycle use.
- Campus Security Authority training: University Police/ Human Resources explain the obligations of crime reporting to specially designated campus employees.
- Citizens Response to Active Shooter Events: This program teaches citizens how to maximize their safety when dangerous events occur.
- Ride-Along program: Any student may spend a shift with a University Police Officer to observe the duties and role of a campus law enforcement officer.
- Credited Internship Program at University Police Department – 120 hours.

Incident Management Team (IMT)

The College has identified and trained several carefully selected members of the leadership staff to efficiently and appropriately respond to any emergency that could arise or affect the campus. Emergency communications procedures and protocols have been established and are practiced annually by this group known as the Incident Management Team (IMT). The composition of this group includes:

- Dean of Students
- Director of Environmental Health, Safety, and Emergency Management
- Chief of University Police and Lt's
- Vice President for Communications
- Vice President for Administration & Human Resources
- Director of Counseling and Student Health Services and staff
- Director of Physical Plant, Director of Facilities
- Director of Residence Life
- Vice President, Chief of Diversity Officer
- Provost
- Executive Director of PACES and staff
- College president and staff
- Dean, School of Science and Arts
- Dean, School of Education
- Associate Dean of Students/Director of Campus Life
- Coordinator of Academic Records
- Dean of Crane School of Music
- Computing & Technology staff
- Director of Public Relations

If there were a serious, immediate threat to the health and safety of the campus community, the emergency response protocol would be enacted. IMT members and all University Police staff have participated in training that includes completion of the National Incident Management System (NIMS) and FEMA's Incident Command System (ICS).

The Chief of University Police and Director of Environmental Health, Safety and Emergency Management (or their designees) determine the level of the emergency and the protocols to be followed. The campus community will be notified of an emergency by SUNY Potsdam RAVE Alert telephone and text messages, mass email, posters, our website, social media, and other methods. These notifications would be constructed by members of the IMT and our College Communications office. Notification to the greater community would be coordinated with University Police, the Potsdam Police, and members of the IMT. The College tests the SUNY Potsdam RAVE Alert system at least annually as well as our fire alarm systems, emergency evacuation plans and other systems. These tests may be announced or unannounced and all are documented in detail.

Evacuation Procedures

In the event of an emergency on or affecting the campus, the University will alert the campus in a timely manner utilizing a variety of methods as described below.

- Building Evacuation: Students, faculty and staff are trained to evacuate a building when a fire alarm is activated or when directed to do so by appropriate staff. Members of the campus community are trained to leave by the nearest, marked exit and to alert others to do the same. They are additionally trained not to use elevators, to assist others when possible, and to proceed to a designated assembly space. Further, return to a building is not permitted until authorized by University Police or campus official.
- Campus Evacuation: Evacuation of all or a portion of our campus will be announced by College Communications using RAVE Alert. All people will be directed where to relocate to.
- Evacuation of Disabled Students: University Police are notified of those members of the college community who would require assistance in evacuating a building. UPD Officers check exit corridors and stairwells for those who may need assistance. Anyone needing assistance evacuating is asked to call University Police as well.

Timely Warning and Emergency Notifications

What warrants a "timely warning" or "emergency notification"?

Timely Warnings shall be issued whenever a crime as defined in the Campus Security Act **that is considered to represent a serious or continuing threat to students and employees** is reported to UPD or a local police agency. Whenever a timely warning is sent it will be sent to the entire Campus Community.

Emergency Notifications shall be issued when a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurs on the campus. As appropriate, emergency notifications may be targeted at only a segment or segments of the campus community that are at risk. Emergency notifications will be issued without delay unless doing so would compromise efforts to assist a victim or to contain, respond to or otherwise mitigate the emergency. Additional information will be provided as it becomes available throughout the course of the event. Whenever a timely warning is sent it may be sent to the entire Campus Community or to the relevant population if technology allows

Who Decides? The Chief of University Police, the Dean of Students, Environmental Health, Safety, and Emergency manager or his or her designees and/or other campus and non-campus officials as appropriate (ex. IMT, VP of communication, director of Public Relations, Presidents Office, etc.), shall confirm the existence of a situation that may warrant a warning or notification and determine if a timely

warning or emergency notification is warranted and the extent of the notification as appropriate. In addition to criminal incidents, emergency notifications may be issued in situations such as, but not limited to:

1. Safety Related Issues

- An incident that occurs on our campus that affects the personal safety and security of our population;
- An incident that occurs near the campus that may potentially affect the personal safety and security of our student, faculty and staff population.

2. Health Related Issues

- A member of our population is diagnosed with a serious or life threatening communicable/infectious disease;
- Evidence of bioterrorism;
- A significant and dangerous weather event;
- A significant infrastructure failing such as a natural gas leak.

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

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

For Safety Related Issues

The means of communication will be chosen by the College Communications in conjunction with the Chief of University Police or their designee based upon the nature of the incident. Office of Campus Communications will send messages. Possible means of communication are:

- Email to all students and/or faculty/staff;
- Postings in the Barrington Student Union, Maxcy complex, Crane complex and residence halls, as applicable to the incident. At times, postings can be emailed as attachments to various offices as indicated below;
- Delivery of hard copy notification to all residence halls;
- Posting of notification on University Police Department website www.potsdam.edu/police as well as other campus websites;
- SUNY Potsdam RAVE Alert in the case of a critical campus-wide emergency;
- Post to the SUNY Potsdam website: www.potsdam.edu;
- Social Media outlets.

Students are encouraged to sign up for SUNY Potsdam RAVE Alert at: <http://www.potsdam.edu/studentlife/safety/ravealert> to receive emergency notifications.

For Health-Related Issues

The means of communication will be chosen by the Dean of Students in conjunction with the Director of Counseling and Student Health Services or their designees based upon the nature of the incident.

Possible means of communication are:

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

- Letters to faculty and staff, if appropriate;
- Posting of notification on the University website;
- Social Media outlets.

Tests or Drills will take place annually to test emergency notification procedures and will be documented by the Emergency Response Resources Group. An After-Action Review will be completed to show the necessary improvements needed and what improvements will be made.

Missing Student Notifications

Residential students are afforded an opportunity to register a Confidential Missing Person Contact through Residence Life upon check-in to their residence halls each year. This information can be modified at any time. The information is kept confidential and is only accessed by authorized campus officials and law enforcement in cases of missing person reports.

Whenever a member of the campus feels any student, faculty or staff member is missing, they are to immediately report this information to the University Police, Residence Life Staff or any staff member. *There is no time in which a person must remain missing in order for a report to be made or for University Police to begin their investigation.* University Police encourages immediate reporting. Certain investigatory steps are taken within the first 24 hours of receiving the report including notification of the student's missing person emergency contact; notification of the student's emergency contact person; notification of the Potsdam Police Department and other law enforcement agencies. In some cases, law enforcement agencies throughout the state, region, the country, and Canada may be notified by electronic means. If the missing student is under the age of 18 years and not emancipated, the campus is required to notify the custodial parent or guardian. The New York State Division of Criminal Justice Services hosts a Missing Child/College Student Alert program at <https://www.criminaljustice.ny.gov/missing/index.htm#/>

In some cases, this system may be activated to alert police agencies, the NYS Thruway, broadcast media, airports, bus terminals, train stations, border crossings, and other areas within minutes of data entry.

Note: All students are strongly urged to notify their Resident Assistant (RA) if they plan to make an unscheduled trip or outing. This will eliminate the University Police Department from receiving reports of missing persons.

Alcohol and Drugs

The use of alcoholic beverages, narcotics, and dangerous drugs is governed by the laws of the State of New York and college policy as detailed in the Student Community Rights and Responsibilities under Prohibited Conduct. Irresponsible and/or illegal possession of, use, or sale of alcohol, narcotic, or dangerous drugs, and/or the resulting inappropriate behavior is strictly prohibited.

There is no time in which a person must remain missing in order for a report to be made or for University Police to begin their investigation.

Commented [SA1]: Amnesty policy?

The College will address unlawful alcohol and drug possession with the premise that every alcohol and drug policy violation will be met with disciplinary action and education. There is a need to send both a consistent and strong message that illegal consumption of alcohol, alcohol abuse, as well as drug abuse, and the resulting behavior will not be tolerated.

The University Police Department is responsible for the enforcement of all federal, state, and local laws related to alcohol, narcotics, and dangerous drug violations that are reported. These reports receive immediate attention and are thoroughly investigated.

Campus Alcohol Regulations

Statement of Purpose

SUNY Potsdam recognizes that a responsible attitude towards the use of alcoholic beverages is a desirable goal and should be encouraged by College policy. These regulations are to act as guidelines to provide members of the College community with an opportunity to develop a realistic and reasoned approach to alcohol use. They presume adherence to New York State Law and respect for the rights of all others in the College community. It is important to note that college policy does not recognize misuse of alcoholic beverages as an excuse for misconduct of any kind.

The SUNY Potsdam Alcohol Regulations apply to all members of the College community and their guests. They are in effect for all campus buildings and the College grounds. They are meant to provide a framework through which responsible use of alcohol is a prime objective.

State and Local Alcohol Regulations

New York State Law

New York State has taken major steps to deal with alcohol abuse. The penalties for “Driving While Ability Impaired” and “Driving While Intoxicated” have increased substantially (including fines, suspension or revocation of license, imprisonment.) The best advice: If you drink, don’t drive.

It is a crime in New York State to purchase alcoholic beverages for, or to give alcohol to, a person under 21 years of age. The legislature has passed several bills to substantially increase penalties for these offenses.

Effective December 1985, the minimum legal age for purchase of alcoholic beverages became 21. The College must comply with State law.

Effective October 1989, a person under the age of 21 who presents an altered New York State driver’s license for the purpose of illegally purchasing an alcoholic beverage may be subject to a suspension of that driver’s license for up to 90 days and may also be required to apply to the Department of Motor Vehicles for a restricted use driver’s license following the suspension.

Effective November 1989, persons under the age of 21 who present falsified or fraudulently altered proofs of age for the purpose of purchasing or attempting to purchase alcoholic beverages are guilty of a violation.

Effective January 1990, persons under the age of 21 are prohibited from possessing any alcoholic beverage with intent to consume the beverage. Alcoholic beverages involved in alleged violations of this law may be seized by authorized law enforcement officials.

Civil Liability

General Obligations Law of New York State Section 11-100 provides for civil liability against any person knowingly causing intoxication of a person under 21 years of age by furnishing alcoholic beverages to that person or by aiding such a person in procuring alcoholic beverages. Section 11-100 (Dram Act) provides for civil liability against any person selling or procuring alcoholic beverages for an intoxicated person regardless of age.

Village of Potsdam

It is a violation in the Village of Potsdam to possess an open container that contains or has contained alcoholic beverages on a street, in a parking lot, on a highway, on a sidewalk, in other public places or in a motor vehicle. This applies equally to the campus premises.

General Regulations

- The College will not accept use of alcohol as an excuse for misconduct.
- The violation of New York State law and the ordinances of the Village of Potsdam regarding the use and possession of alcohol is a violation of SUNY Potsdam regulations. New York State law regarding DWI and DWAI is applicable to all College property and the violation of same on College property constitutes a violation of these regulations.
- Misconduct on College property resulting from the use of alcohol constitutes a violation of these regulations.
- Possession of any alcoholic beverage by a person under the age of 21 is expressly forbidden.
- Referrals of students with potential alcohol abuse issues to an appropriate campus program or the St. Lawrence Health Systems Substance Use Disorder Services (or other substance abuse treatment facility) may be a provision of any penalty or sanction for violation of these regulations.
- No vendor shall deliver, or cause to have delivered, alcoholic beverages to the campus except where such delivery is made to a College authorized representative or agent of a licensed vendor (i.e. PACES).
- Any violation(s) of these regulations shall be dealt with in accordance with Article VI.
- Alcoholic beverage restrictions are determined by the policy governing the type of area in which alcohol is to be involved (i.e. Thatcher Hall, residence hall room) rather than the type of event (i.e. party, function).

Regulation of Alcoholic Functions

Campus-wide Regulations

- Reasonable amounts of solid, substantial food and non-alcoholic beverages must be available.
- Availability of alcoholic beverages in PACES leased facilities will be authorized by the Director of Dining Services, or designee, in consultation with the appropriate building administrator. The duration of alcohol service at an event will be determined by the vendor (PACES) as part of their responsibility as a license holder.
- The College reserves the right to charge supervisory fees, cleaning and damage deposits for the use of College facilities. Fees are payable in advance.
- Outdoor functions must be approved by the Director of Student Life Facilities.

- The primary thrust of an activity should not be drinking alcoholic beverages. Advertising should promote a realistic activity and advertising will be limited to designated, controlled and appropriate places.
- The number of persons attending a function is limited to the legal limit of the area.

Residence Hall Regulations – see section on Residence Hall Living.

Application Procedure Sale and/or Service of Alcohol

The only group that may sell or serve alcohol on the College premises is PACES (by contract with the State University of New York). The only areas licensed for regular sale of alcoholic beverages are the Barrington Student Union, Thatcher Hall and the Student Union Patio. All other areas require that PACES purchase a one-day caterer's permit from the New York State Liquor Authority. The permit must be visible at the event and no event will be held without this permit. This requires a significant lead time (please check with the catering office for specifics.) The cost of this permit will be passed on to the sponsoring group. Failure to receive a permit may require the event to be moved to a licensed facility, if available.

Enforcement Procedures

College groups and individuals not in compliance with this policy may be charged under the College student conduct system.

Student Community Rights and Responsibilities – Prohibited Conduct (numbers from student code of conduct)

8. Alcohol

Consistent with New York State Law, individuals under the age of 21 years are prohibited from using, possessing, or distributing alcoholic beverages. Individuals over the age of 21 may use and possess alcohol as permitted by the law and College regulations. Open containers and public intoxication are prohibited. Students who are irresponsible in their use of alcohol or who provide alcohol to minors will be subject to this Code regardless of the students' age. This applies to both on campus and off-campus behavior.

10. Drugs

Consistent with the Drug-Free Schools and Communities Act Amendments of 1989 (Public Law 101-226), possessing, using, or distributing a controlled substance or dangerous drug, or any drug unlawful to possess, e.g. cannabis, except as expressly permitted by law is prohibited. Drug paraphernalia including, but not limited to bongs, water pipes, dab rigs, or hypodermic needles that are not specifically required for the administration of prescribed medications are not allowed on campus. Use of legal medication outside the parameters of the medical authorization is prohibited and prescriptions drugs on campus must have an authentic medical prescription. Students who are irresponsible in their use of cannabis or who provide cannabis to minors will be subject to this Code regardless of the student's age.

22. Greek Life Policies on Alcohol and Other Drugs

Greek Organizations and their members are required to follow the Greek Life Policies on Alcohol and Other Drugs, which can be found on page 66 of the Student Community Rights and Responsibilities. Additional information can be obtained by contacting the Office of Campus Life.

27. Violation of the Law

Violation of any local, state, or federal law and/or regulations established by the Board of Trustees of the State University of New York is prohibited.

Sanctions, Temporary and Administrative Directives and Transcript Notes

Failure to comply with sanctions and directives is a violation of College policy subject to additional conduct charges.

Sanctions

A sanction is a requirement or status that is imposed as a result of either accepting responsibility or being found responsible for violating the Student Code of Conduct, Student Community Rights and Responsibilities.

Sanctions are determined by the seriousness of the code violation and the total conduct record of the student and are not necessarily progressive. Each case is determined on its own merits. Student conduct outcomes are intended to find a balance between the interests of the individual student and of the community. For example, a student with no prior disciplinary record may be assigned a sanction commensurate with the offense up to and including removal from residence, suspension or dismissal. Sanctions may be enhanced in situations that have created an unsafe environment. An unsafe environment refers to a situation where individuals are exposed to hazards that could cause physical harm or illness, such as underage drinking/drug use, hazing, unsanitary conditions, overcrowding, etc. Failure to complete a sanction may result in a hold being placed on a student's transcript preventing the student from registering.

Verbal Conduct Warning

A verbal notice to a student that the behavior is counter to the expectations in the Student Code of Conduct. A Verbal Conduct Warning is issued for low-level behavior infractions. This is not considered a formal sanction, rather an understanding between the student conduct administrator and student with the expectation that the student modifies future behavior.

Written Conduct Warning

This is a lower-level sanction issued as a result of a formal Student Conduct Referral. This serves as a strong notice to a student that the behavior is counter to the expectations in the student code of conduct.

Disciplinary Probation

This is a higher-level sanction issued as a result of a formal Student Conduct Referral that does not compromise a student's housing or their status as a student. Disciplinary Probation generally lasts fifteen (15) weeks (while classes are in session) but may last as long as two semesters and includes all the restrictions of the Written Conduct Warning. This is an official notice that advises that the student may risk separation from the college if there are any further violations.

Terminal Disciplinary Probation

This is issued as a result of a formal Student Conduct Referral and is imposed for serious violations or a pattern of violations of the Student Code of Conduct. A student is placed on Terminal Disciplinary Probation for a specified period to include until Graduation based on the violation. Terminal Disciplinary Probation may last from one (1) to eight (8) semesters.

Having an active Terminal Disciplinary Probation status can affect your ability to hold positions with campus offices and/or organizations and other campus opportunities.

Removal from Residence

Students who have a serious violation of the community standards outlined in the Student Code of Conduct or the residence license, or because of a series of breaches of the community standards in the Residence Halls will be asked to leave campus residence either permanently or for a period of time. This sanction carries with it the penalty of forfeiting room and board charges for the semester in which the disciplinary action occurs. Depending on the nature of the incident, the student may also receive disciplinary probation as part of this sanction.

Deferred Suspension

This sanction is imposed when the hearing officer/board has found the student(s) responsible for a violation sufficient to warrant suspension but feels there are mitigating circumstances that warrant one final chance. Deferred suspension may last from one (1) to eight (8) semesters. Being found responsible for another violation during the period of deferred suspension, no matter how minor, will result in immediate suspension.

Disciplinary Suspension

A student who is suspended from the College is unable to register for and attend classes or to be present on College property for a prescribed period of time. Suspension is a severe sanction and the student forfeits tuition and fees along with room and board if a residential student and does not receive academic credit for the semester in which the suspension occurred. Students who are Disciplinarily Suspended and wish to return to the College must first meet with The Director of Student Conduct and Community Standards to assess their readiness for readmission. Students who are Disciplinarily Suspended with conditions and who wish to return to the College must meet with The Director of Student Conduct and Community Standards to verify the successful completion of the conditions. Disciplinary Suspension can last for one (1) to (4) semesters.

Deferred Disciplinary Dismissal

This sanction is imposed when the hearing officer/board has found the student(s) responsible for a violation sufficient to warrant dismissal but feels that there are mitigating circumstances that warrant one final chance. Being found responsible for another violation during the period of deferred dismissal, no matter how minor, will result in immediate dismissal. Deferred disciplinary dismissal may last from one (1) to eight (8) semesters.

Disciplinary Dismissal

A student who is dismissed (expelled) from the College is permanently separated from the community, prohibited from being on any property of the College, may never return to the institution, are ineligible to re-enroll and cannot earn a degree from the College. The student forfeits tuition and fees along with room and board if a residential student, as well as the academic credit for the semester in which the dismissal occurred.

Residence Hall or Campus Restriction

A student may be restricted from being present in any or all of the residences, buildings or grounds on campus if it is reasonably believed that the student poses a threat to the health or safety of the campus community.

A student may also be barred from the entire campus if the student conduct hearing officer/board reasonably believes the student poses a threat to the health, safety or well-being of the College community.

Other restrictions may be imposed such as denial of access to specified campus services or programs. These include, but are not limited to

- Ineligible to hold any office in any student organization recognized by the College or hold an elected or appointed office at the College,
- Ineligible to represent the College to anyone outside the College community at an official function or event
- Restriction from involvement or membership in activities or programs sponsored by the College such as SGA recognized groups or Campus Life recognized groups
- Restriction from possessing a particular item on campus (i.e. stereos, radios, bicycles, sporting items)
- Withdrawal of the privilege of operating a motor vehicle on-campus
- Restriction from hosting visitors or guests
- Restriction from serving as an approved driver for campus vehicles
- Loss of privileges such as use of a particular facility (i.e. specific dining facility, Maxcy Hall)

Restitution

If College property is damaged, the appropriate College department and/or personnel will make an assessment of the damage. The responsible student(s) may be billed as appropriate. Restitution for personal property cannot be resolved via the Student Conduct System.

Educational Programs & Services

Educational Programs & Services such as Alcohol Education Programs, Drug Education Programs, Community Service, By-Stander Intervention Programs, reflection or research papers, etc., may be used to supplement any other student conduct sanction. It is the sole responsibility of the student to bear any costs associated with these sanctions.

Temporary Directives

Temporary Suspension

The Director of Student Conduct & Community Standards or designee may take action immediately to suspend a student from the College and remove the student from campus when, in consultation with the Dean of Students, there is reasonable belief that the continued presence of such student would constitute a danger to the safety of persons or property. The Director of Student Conduct or designee may also temporarily suspend an organization and/or the activities of an organization for an interim period pending conduct charges and proceedings. The suspension is temporary pending the resolution of the student's or organization's Conduct Referral as outlined in the Student Conduct Procedures of the *Student Community Rights & Responsibilities*.

Temporary Removal from Residence or Reassignment

When the Director of Student Conduct & Community Standards or his/her designee, when in consultation with the Dean of Students and the Director of Residence Life, reasonably believes that the behavior of a resident student significantly detracts from the educational environment of the residence hall or constitutes a danger to the safety of other persons or property in the residence hall, the Director may temporarily reassign the student to another residential space or remove the student from campus housing and restrict the student from the buildings and grounds of the residential complexes. The removal is temporary pending the resolution of the student's Student Conduct Referral as outlined in the Student Conduct Procedures of the *Student Community Rights & Responsibilities*.

Administrative Directives

No Contact Order

A written directive prohibiting certain behaviors with a protected individual, either directly in person, by telephone, email, text message, or other electronic means of communication, or through a third party (other than an attorney). If the Accused/Respondent/Referred Party and a Protected Person observe each other in a public place, it is the responsibility of the Accused/Respondent/Referred Party to leave the area immediately and without directly contacting the protected person.

Cease & Desist

A written directive to both parties prohibiting contact with each other, either directly or through a third party or directive to prohibiting one or both parties from engaging in a specific behavior.

Residence Hall or Campus Restriction

A student may be restricted from being present in any or all of the residences, buildings or grounds on campus if it is reasonably believed that the student poses a threat to the health or safety of the campus community. Other restrictions may be imposed such as denial of access to specified campus services or programs. A student may also be barred from the entire campus if the Dean of Students, Director of Student Conduct or designee in consultation with the Dean of Students, reasonably believes the student poses a threat to the health, safety or well-being of the College community.

Transcript Notations

At the conclusion of the appeals process, a student who has been suspended or expelled for any violation of the Student Code of Conduct including but not limited to behavior that leads to the death or serious physical injury of another person, hazing, physical abuse, sexual misconduct, and, per New York State Education Law Article 129B, conduct that constitutes a crime of violence (including but not limited to sexual assault) as defined in the Clery Act will have a permanent notation placed on the student's official college transcript indicating the disciplinary suspension or expulsion. If a student withdraws from the institution while such a disciplinary matter is pending, a transcript notation will indicate that the student withdrew with student conduct charges pending.

The following transcript notations are used by SUNY Potsdam:

- Temporarily suspended (date) pending code of conduct hearing
- Withdrew with conduct charges pending (date)
- Suspended after a finding of responsibility for a code of conduct violation (date) to (date)
- Expelled after a finding of responsibility for a code of conduct violation (date)

Transcript notations for a student who is suspended or who chose to withdraw with a pending conduct investigation will remain on a transcript for a minimum of one year. After one year's time, a student may

request to have the transcript notation removed by filing an appeal with the Dean of Students or designee.

Transcript notations for students expelled are permanent and cannot be removed.

If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

Other disciplinary records maintained by the Office of Student Conduct and Community Standards are not reflected upon a student's academic transcript but are maintained in the Office of Student Conduct and Community Standards in accordance with college policy.

To file an appeal to have the transcript notation removed from an academic transcript a student must submit in writing to the Dean of Students or designee evidence of rehabilitation or other good cause for the transcript notation removal.

Students who withdrew from the College prior to resolution of the conduct process will need to fulfill the sanctions found in absentia before being permitted to appeal.

Appeal decisions will be provided in writing within thirty (30) calendar days of submission.

Federal Trafficking Penalties for Schedules I, II, III, IV, and V (except Marijuana, App. 2)

Schedule	Substance/ Quantity	Penalty	Substance/ Quantity	Penalty
II	Cocaine 500-4,999 grams mixture	First Offense: Not less than 5 yrs. and not more than 40 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine of not more than \$5 million if an individual, \$25 million if not an individual. Second Offense: Not less than 10 yrs. and not more than life. If death or serious bodily injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual.	Cocaine 5 kilograms or more mixture	First Offense: Not less than 10 yrs. and not more than life. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine of not more than \$10 million if an individual, \$50 million if not an individual. Second Offense: Not less than 20 yrs. and not more than life. If death or serious bodily injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual. 2 or More Prior Offenses: Life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.
II	Cocaine Base 28-279 grams mixture		Cocaine Base 280 grams or more mixture	
IV	Fentanyl 40-399 grams mixture		Fentanyl 400 grams or more mixture	
I	Fentanyl Analogue 10-99 grams mixture		Fentanyl Analogue 100 grams or more mixture	
I	Heroin 100-999 grams mixture		Heroin 1 kilogram or more mixture	
I	LSD 1-9 grams mixture		LSD 10 grams or more mixture	
II	Methamphetamine 5-49 grams pure or 50-499 grams mixture		Methamphetamine 50 grams or more pure or 500 grams or more mixture	
II	PCP 10-99 grams pure or 100-999 grams mixture		PCP 100 grams or more pure or 1 kilogram or more mixture	

Substance/Quantity	Penalty
Any Amount Of Other Schedule I & II Substances	First Offense: Not more than 20 yrs. If death or serious bodily injury, not less than 20 yrs. or more than Life. Fine \$1 million if an individual, \$5 million if not an individual.
Any Amount of Any Drug Product Containing Gamma Hydroxybutyric Acid	Second Offense: Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual.
Flunitrazepam (Schedule IV) 1 Gram	
Any Amount Of Other Schedule III Drugs	First Offense: Not more than 10 yrs. If death or serious bodily injury, not more than 15 yrs. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual. Second Offense: Not more than 20 yrs. If death or serious injury, not more than 30 yrs. Fine not more than \$1 million if an individual, \$5 million if not an individual.
Any Amount Of All Other Schedule IV Drugs (other than Flunitrazepam)	First Offense: Not more than 5 yrs. Fine not more than \$250,000 if an individual, \$1 million if not an individual. Second Offense: Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.
Flunitrazepam (Schedule IV) (Other than 1 gram or more)	First Offense: Not more than 5 yrs. Fine not more than \$250,000 if an individual, \$1 million if not an individual. Second Offense: Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.
Any Amount Of All Schedule V Drugs	First Offense: Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual. Second Offense: Not more than 4 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.

Substance / Schedule	Quantity	1st Offense	2nd Offense
Marijuana (Schedule I)	1,000 kg or more marijuana mixture; or 1,000 or more marijuana plants	Not less than 10 yrs. or more than life. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine not more than \$10 million if an individual, \$50 million if other than an individual.	Not less than 20 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.
Marijuana (Schedule I)	100 kg to 999 kg marijuana mixture; or 100 to 999 marijuana plants	Not less than 5 yrs. or more than 40 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine not more than \$5 million if an individual, \$25 million if other than an individual.	Not less than 10 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.
Marijuana (Schedule I)	More than 10 kgs hashish; 50 to 99 kg marijuana mixture More than 1 kg of hashish oil; 50 to 99 marijuana plants	Not more than 20 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine \$1 million if an individual, \$5 million if other than an individual.	Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if other than an individual.
Marijuana (Schedule I)	Less than 50 kilograms marijuana (but does not include 50 or more marijuana plants regardless of weight) 1 to 49 marijuana plants;	Not more than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual.	Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual.
Hashish (Schedule I)	10 kg or less		
Hashish Oil (Schedule I)	1 kg or less		

Health Risks

The following information on health risks is from the Centers for Disease Control and Prevention:

Alcohol

- Excessive alcohol use now causes **~178,000 deaths per year** in the U.S. (2020–2021) [monitoringthefuture.orgPBS+9NIAAA+9CDC+9](#), accounting for **~4 million years of potential life lost**, with lives shortened by an average of **24 years** [CDC](#).
- Alcohol-related deaths surged during the COVID-19 pandemic: from **~79,000 in 2019** to **99,017 in 2020**, then to **108,791 in 2021**, slightly easing to **105,415 in 2022** [NIAAA](#).
- In 2022, alcohol-impaired driving caused **13,524 deaths**—the highest since 2008 [NCDAS+15NIAAA+15PBS+15](#), while about **7.1%** of overdose deaths involved alcohol [National Institute on Drug Abuse+10NIAAA+10SAMHSA+10](#).
- From 2012–2022, nationwide alcohol death rates rose **70%**, reaching **13.53 per 100,000** by 2022 [KFF](#).
- Approximately **one in 8 deaths** among adults aged 20–64 is linked to excessive drinking [SAMHSA+15AAMC+15NIAAA+15](#).
- Globally, alcohol accounts for **~2.6 million deaths yearly**, about **4.7% of global deaths** [World Health Organization](#).

Moderate drinking guidelines (Dietary Guidelines for Americans):

Up to **1 drink/day for women**, **2 drinks/day for men**. No recommendation for those who don't drink to start.

Health risks arise both immediately (injuries, high-risk behavior, hospital emergencies) and with long-term use, including:

- Hypertension, heart disease, stroke, liver disease, digestive issues
- Multiple cancers: breast, liver, colon, mouth, throat, esophagus
- Cognitive decline, dementia, brain lesions—recent studies link heavy or even moderate drinking to **↑133% risk** of brain lesions and earlier death by **13 years** [The SunEatingWell+1New York Post+1](#).
- Mental health disorders: anxiety, depression
- Social/economic adversity: unemployment, lost productivity
- Alcohol use disorder and dependence

Marijuana

- ~10%** of users develop dependency; among those starting under 18, it's about **1 in 6** [Mayo Clinic+3National Institute on Drug Abuse+3NCDAS+3](#).
- Heavier THC concentrations today increase risks—higher potency means stronger effects on attention, memory, and learning. Methods like dabbing or edibles deliver **very high doses**.
- Smoking marijuana irritates lung tissue and blood vessels; contains many of the same carcinogens as tobacco and can lead to bronchitis and phlegm—these improve after quitting [National Institute on Drug Abuse](#).
- Heavy or frequent use can cause disorientation, anxiety, paranoia, temporary psychosis, and may be linked to schizophrenia [National Institute on Drug Abuse](#).
- Associations with depression, anxiety, and teen suicide risk exist—but causality is not definitive.

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MDMA

- Commonly taken in tablets or powder (often sold as “Molly”), but purity issues exist—may be contaminated with other stimulants (“bath salts”) [aafp.org+5National Institute on Drug Abuse+5NCDAS+5](#).
- Boosts dopamine (energy/reward), norepinephrine (heart rate/blood pressure), and serotonin (mood/trust/sexual arousal) [National Institute on Drug Abuse](#).
- Effects last 3–6 hours; post-use withdrawal can include irritability, depression, sleep issues, anxiety, poor appetite, low libido [National Institute on Drug Abuse](#).
- High doses may cause dangerous hyperthermia—leading to organ failure or death [National Institute on Drug Abuse](#).

Opioids

- Prescribed opioids are safe short-term but carry high addiction risk due to dopamine surge reinforcing use [Mayo Clinic](#).
- Misuse leads to common side effects: drowsiness, confusion, nausea, constipation, slowed breathing; risk of hypoxia, brain damage, coma, or death [Mayo ClinicSAMHSA](#).
- Withdrawal can occur within hours: symptoms include severe muscle/bone pain, vomiting, diarrhea, goosebumps, insomnia, strong cravings [SAMHSA](#).
- Overdoses often fatal—**naloxone (Narcan, EVZIO)** reverses overdose by blocking opioid receptors if administered quickly.

Date-Rape Drugs (Rohypnol, GHB, Ketamine)

- **(Rohypnol (flunitrazepam):** not U.S.-approved; causes sedation, amnesia, slow breathing/heart rate; risks amplified with alcohol; undetectable for 36–72 hrs
- **GHB:** CNS depressant (“liquid ecstasy”); effects include memory loss, nausea, slowed vitals, seizures, coma, especially risky with alcohol; leaves body in 6–12 hrs
- **Ketamine:** causes dissociation, hallucinations, sedation, memory loss, respiratory depression; long-term: bladder/kidney problems, depression, cognitive deficits

DFSA: Ethanol, benzodiazepines, GHB, and ketamine are frequently used to facilitate sexual assault; Rohypnol/GHB is detected in up to ~2% of suspected DFSA cases.

If suspected ingestion occurs, seek medical attention at a sexual assault care provider ASAP—request urine toxicology and save urine if delayed.

Opioid Abuse Education

- Educational programs are offered to students, residence life staff, and new employees to provide an overview of opioid abuse prevention and intervention.

Summary

Across alcohol and drugs, **excessive use leads to serious, often preventable physical, mental, and social harms.** Even “moderate” use may pose greater risk than previously thought, especially with long-term or heavy consumption. Staying informed and seeking help early can significantly reduce risks.

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St. Lawrence Health Systems – Alcohol and Other Drug Specialists

20 Cottage Street, Potsdam, NY 13676

Phone: [\(315\) 261-5405](tel:3152615405)

Hours: Monday - Thursday from 8:00am - 6:00pm, and Friday from 8:00am - 5:00pm

12 Elm Street, Potsdam, NY 13676 (bottom floor)

Phone: [\(315\) 261-5420](tel:3152615420)

Hours: Monday - Friday from 8:00am - 5:00pm

[Gouverneur Hospital](#), 77 W Barney Street, Gouverneur, NY 13642

Phone: [\(315\) 261-5407](tel:3152615407)

Hours: Monday - Thursday from 7:30am - 6:00pm, and Friday from 8:00am - 4:00pm

Programs Conducted by the University Police

- Domestic Violence/Dating Violence: This program explains domestic and dating violence and indicators of relationships that could become violent.
- ABC Law/Alcohol Awareness: An explanation of the NYS Alcohol Beverage Control Law and the effects alcohol has on the human body.
- Orientation – Provided for Students and Parents: University Police Officers discuss various important aspects of living on a college campus and in a new community. Safety services provided also discussed.
- Common Roadblocks Students Encounter: University Police Officers explain ways to maneuver around common obstacles facing college students.
- Drug Identification for Resident Assistants: This program is tailored for Resident Assistants to help them identify drugs.
- Drug Identification and Awareness: This program helps students become aware of and identify illegal drugs.
- Drinking and Driving – Beer Goggles: This very popular program allows students to wear specially designed eyewear simulating the effects of alcohol on the human body.



Other programs on alcohol and drugs are also provided on campus by the Potsdam Village Police, the New York State Police, Alcoholics Anonymous, Renewal House and the Potsdam Volunteer Rescue Squad. Programs are provided when requested and focus on the residence halls and student groups.

Sexual Assault Awareness and Prevention

College Policies and Regulations on Sex Offenses

What is the College's position on sexual assault?

The College encourages prompt reporting of any act of sexual misconduct by every member of the community. The College believes that the best approach to the complex problem of sexual assault is

prevention. The College puts forth considerable resources in the areas of sexual assault education; support services for the survivor; crime prevention and campus law enforcement. Furthermore, the College believes that all sexual assault incidents are very serious and are dealt with in a sensitive, private, and professional manner. The College makes every effort to identify the person responsible for sexual assault offenses and pursues criminal charges as well as campus disciplinary action.

Sexual assault is prohibited. Sexual assault is defined as forced, manipulated, or coerced sexual acts using verbal coercion, emotional or physical intimidation, threats, physical restraint and/or physical violence. It may include but is not limited to unwanted touching of another person's intimate areas (genitalia, buttocks, breasts), oral copulation or rape by a foreign object. It includes acts that occur when the survivor is intoxicated to the point of being unable to "provide consent" or in other words, make an informed decision. Intoxicating agents include alcohol and other drugs. Being unconscious, asleep and in some cases, simply remaining mute may also preclude a person from providing consent.

Code of Student Conduct, Rights and Responsibilities:

Prohibited Conduct (numbers from student code of conduct)

20. Threatening or Abusive Behavior

Intentionally or recklessly causing physical harm to any person or reasonable fear of such harm.

Students cannot justify such behavior as defensive if:

- A. The behavior is a physical response to verbal provocation;
- B. The student has the ability to leave the situation, but instead chooses to respond physically;
- C. In circumstances where such actions are punitive or retaliatory

13. Harassment

Engaging in behavior that is sufficiently severe, pervasive, or objectively offensive that it unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the College's education program and/or activities, and creates an academic environment that a reasonable person would find intimidating or hostile. Activity protected by the First Amendment will not constitute harassment. Harassment may include:

- A. directing unwanted conduct at an individual based on one or more of that person's protected characteristics or status, including age, color, race, disability, marital status, national/ethnic origin, religion, veteran's status, sex [including pregnancy], gender expression or gender identity, sexual orientation, political activities or genetic information; or
- B. subjecting a person or group of persons to unwanted physical contact or threat of such; or
- C. engaging in a course of conduct, including following the person without proper authority (e.g., stalking), under circumstances which would cause a reasonable person to fear for their safety or the safety of others or to suffer emotional distress.

28. Intimate Partner Violence

Intimate Partner Violence includes Dating Violence and Domestic Violence, both of which are further defined below. Intimate Partner Violence can occur in relationships of the same or different genders.

A. Dating Violence

As defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act, is any violence committed by a person:

- a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) the length of the relationship;
- (ii) the type of relationship; and
- (iii) the frequency of interaction between the persons involved in the relationship.

B. Domestic Violence

Any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or domestic violence laws of New York State, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shared a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of New York State.

31. Stalking

Intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for their personal safety or the safety of others or cause that person to suffer substantial emotional distress. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy or alarm the person. Stalking does not require direct contact between parties and can be accomplished in many ways, including through the use of electronic media such as internet, pagers, cell phones, or other similar devices.

11. Endangerment

Acting to create or contribute to dangerous or unsafe environments anywhere on or off campus. Reckless or intentional acts, which endanger, or put at risk, the welfare of oneself or others are prohibited.

30. Sexual Harassment

Sex-Based Harassment: sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

A. Quid pro quo harassment

An employee, agent or other person authorized by SUNY Potsdam's Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

B. Hostile environment harassment

Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from SUNY Potsdam's Education Program or Activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- a) the degree to which the conduct affected the Complainant's ability to access SUNY Potsdam's Education Program or Activity;
- b) the type, frequency, and duration of the conduct;
- c) the Parties' ages, roles within SUNY Potsdam's Education Program or Activity, previous interactions and other factors about each Party that may be relevant to evaluating the effects of the conduct;
- d) the location of the conduct and the context in which the conduct occurred; and
- e) other Sex-Based Harassment in SUNY Potsdam's Education Program or Activity.

29. Rape, Sexual Assault and Sexual Exploitation

Sexual Assault as defined in the Clery Act, meaning any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

A. Sexual Assault I

Sexual intercourse or any sexual penetration, however slight, of another person's oral, anal, or genital opening with any object (an object includes but is not limited to parts of a person's body) without the affirmative consent of the victim.

B. Sexual Assault II

The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation; or the forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

C. Sexual Exploitation

Non-consensual, abusive sexual behavior that does not otherwise constitute Sexual Assault I, Sexual Assault II or Sexual Harassment. Examples include but are not limited to: intentional, nonconsensual tampering with or removal of condoms or other methods of birth control and Sexually Transmitted Infection ("STI") prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the non-consenting party; nonconsensual video or audio taping of sexual activity; allowing others to watch consensual or nonconsensual sexual activity without the consent of a sexual partner; observing others engaged in dressing/undressing or in sexual acts without their knowledge or consent; trafficking people to be sold for sex; distribution of non-consensual pornography (revenge porn); and inducing incapacitation with the intent to sexually assault another person.

2025 – The Take it Down Act - [The TAKE IT DOWN Act: A Federal Law Prohibiting the Nonconsensual Publication of Intimate Images](#) | [Congress.gov](#) | [Library of Congress](#)

"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.

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, and a reasonable person knows or should have known that such person is incapacitated. Incapacitation 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.

What Should I do if I am Assaulted?

In order for survivors to obtain proper support and build a strong case against the offender, it is helpful to take the following measures:

- After getting to safety, report the assault immediately to University Police.
- Survivors may report to any outside police agency at any time and the college will assist them in the investigation.
- University Police will provide survivors with written notice of reporting options, remedies, and services.

Students' Bill of Rights

The State University of New York and SUNY Potsdam are committed to providing options, support and assistance to members of our community that are affected by sexual harassment, sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in College/University-wide and campus programs, activities, and employment. All victims/survivors of these crimes and violations, 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, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad. To view a complete list of all of the rights afforded to students in the *Student Bill of Rights*, please visit: <http://www.potsdam.edu/offices/hr/titleix/billofrights>

Title IX Coordinator

Lisa Hoover: titleix@potsdam.edu, 315-267- 2224

University Police: universitypolice@potsdam.edu, Van Housen Hall Extension, 315-267-2222

Anonymously at: <http://www.potsdam.edu/studentlife/safety/incidentreporting/witnessform.cfm>

Additional Reporting Locations

- Office of Student Conduct and Community Standards: Barrington Student Union, (315) 267-2579
- College Counseling Center: Van Housen Hall, (315) 267-2330
- Student Health Services: Van Housen Hall, (315) 267-2377
- Canton Potsdam Hospital: 50 Leroy Street, Potsdam, (315) 265-3300
- Potsdam Police Department: 38 Main Street, Potsdam, (315) 265-2121
- Renewal House: 3 Chapel St, Canton, (315) 379-9845

Evidence Preservation – for future criminal prosecution or campus student conduct action:

- Do not change clothes, shower, or clean up in any way.
- Do not throw anything away.
- Do not take any unnecessary medication.

- Inform the investigator of people who may have been nearby during the assault or who may have heard or seen anything before, during, or after the attack. It is very important you inform the police of whom you spoke with, emailed, or texted after the attack.
- Try to describe the attacker in detail: age, weight, height, race, eye and hair color, clothing, scars, tattoos, piercings, length of hair, if facial hair was present, jewelry worn, items they may have left, odors, exact wording they used, and any distinctive language or speech patterns.

Survivor Assistance

Please remember that the sexual assault is not your fault. It does not matter what you may have been wearing or how much you had to drink.

- Sexual Assault and Violence Response (SAVR) Resources: <https://www.suny.edu/violence-response/>
- Although it is never too late to report a sexual attack, reporting as soon as possible is very important.
- As a sexual assault survivor, you have the right to report the incident. Only you can make that decision. We want to ensure you receive the support you need to handle this crisis. We strongly encourage you to file a complaint. The College wants to handle this incident in the best way for you and in a manner that prevents further attacks. Studies show rapists are often repeat offenders and have an average of up to 6 victims. You can help stop the cycle of attacks.
- Survivors may be able to have their academic and living conditions changed.
- We have many resources dedicated to survivors of sexual attacks. Of course, first and foremost, we urge you to contact the University Police as soon as possible.
- The Counseling Center's highly trained staff is always available to help you.
- Wellness Advocates (WA's) are on call through the Counseling Center as well, should you prefer to speak with a peer. Their number is 315-261-8873.
- Resident Assistants and Resident Directors are also available, at all times, to help.
- Renewal House, a domestic violence and rape crisis organization, is available at 315-379-9845.
- Citizen Advocates, a 24-hour crisis outreach service, is also available at any time.

Counseling

Counselors are special people with enduring sensitivity, trained to respond to crisis situations. They can understand, support, advocate, listen, and clarify. The Counseling Center is located in Van Housen Hall: (315) 267-2330.

You do not bring your best skills to a crisis, but a counselor will bring his/hers. You can choose to talk to either a male or a female counselor, or not to speak to a counselor at all.

If you choose to speak with a counselor, they will try to help you sort through all of the important issues one step at a time, at a manageable pace, with you leading the way. Some of the issues a counselor may discuss with you:

- Obtaining immediate care for physical trauma.
- Gathering medical/legal evidence using a sexual assault nurse examiner (SANE Nurse).
- Prevention/treatment of STD/HIV.
- Prevention/treatment of pregnancy.
- Linking with your personal support system of family and friends.
- Legal assistance/reporting and prosecuting the offender if you choose to do so.

- Help dealing with any long-term effects of assault, including anxiety, depression, fear and how to handle family members and friends.

Medical Care

If you have been sexually assaulted, it is important to make sure you protect your physical health as well as your mental health. SUNY Potsdam Student Health Services (Van Housen Hall: (315) 267-2377) is ready to help you get the medical care you need after a sexual assault, but there are other options for you as well. You could see your regular doctor or go to the nearest emergency department, Canton-Potsdam Hospital, 50 Leroy Street, Potsdam: (315) 265-3300. Please keep in mind that many treatments are time dependent. The sooner you obtain medical care, the more effective the treatment can be.

Visiting a health care provider can ensure your safety by providing you with the following:

- Treatment for any physical trauma that occurred during the assault.
- Screening for and prescription medications to prevent sexually transmitted infection including HIV.
- Prescription medications to prevent pregnancy.
- Collecting physical evidence that may help you in court or making arrangements for a sexual assault nurse (SANE) to do the same.
- Helping you get any counseling and support you may need.

Programming for Preventing of Sexual Assault/Awareness on our Campus

- Personal Safety/Basic Crime Prevention and Tips: This program offers techniques to be utilized in order to maximize safety in a variety of environments.
- Title IX training at all Orientation Sessions, for all new incoming students and staff. Training provided in person by Title IX Coordinator as well as online training programs as part of student registration and employee training through Human Resources. Ongoing annual trainings for students and staff is also provided by Title IX as well as our Health Educator.
- Student Groups Title IX training, ex. Athletics, Greek organizations, student government etc.
- Domestic Violence/Dating Violence: This program explains domestic and dating violence and indicators of relationships that could become violent.
- Alcohol Awareness: An explanation of the NYS Alcohol Beverage Control Law and the effects alcohol has on the human body.
- Orientation – Provided for Students and Parents: University Police Officers discuss various important aspects of living on a college campus and in a new community.
- University Police Safety Escorts: Officers will escort anyone who feels they are not safe.
- Sexual Assault Prevention: University Police Officers discuss ways to maximize personal safety and avoid situations in which sexual assault could occur.
- Safer Sex Programs: Health educators explain safe sex practices.

Recommended Sexual Assault Prevention Measures

Before we suggest ways to protect yourself from attack, it is helpful to examine and be aware of myths surrounding sexual assaults.

Myth #1: The motivating force behind sexual assault is only sexual desire.

Sexual assault is about power and control, humiliation, and degradation.

Myth #2: Sexual assaults are perpetrated mostly by strangers outdoors and at night in deserted areas like parking lots, behind bushes and back alleys.

In fact, this is **atypical** of most rapes and sexual attacks, particularly on college campuses. In **most** cases, sexual assault survivors knew their attacker prior to the assault and in some cases, the perpetrator was a boyfriend or girlfriend. Many sexual assaults occur in the context of a date, while others are committed by neighbors, relatives, and other acquaintances. Almost half of all reported rapes occur in a home, many times the survivor's home.

Myth #3: Physical assault is always involved with sexual assault. The survivors will have bruises and apparent injuries on their body if they were truly sexually assaulted. Most sexual assaults do not involve a high level of physical violence. Psychological strategies like intimidation, pressuring, emotional blackmail, and the use of threats are the most common techniques used by perpetrators. Most offenders utilize physical force after psychological strategies have failed. Many survivors do not present with bruises, cuts, or torn clothing. They may not look "battered".

Myth #4: You can tell simply from another person's actions or way of dressing that she or he wants to have sex with you. One can never assume someone wants to have sex based on his/her appearance (appearance does not imply or take the place of verbalized consent).

Myth #5: Some people ask to be raped or sexually assaulted and are at fault for whatever happens. People may make poor judgments and even dangerous decisions, but no one ever **asks** or **deserves** to be sexually assaulted. Sexual assault has nothing to do with appearance or the victim's reputation. **It is never the survivor's fault!**

Myth #6: Women make up accusations of sexual assault to get revenge against a person. Sexual assault is severely under-reported and false complaints make up a small portion of reports.

Myth #7: Rapists are severely disturbed. Generally, rapists test in the normal range on most psychological instruments. Rapists look like most other people and often have jobs, families, and otherwise normal lives.

Helping Protect Others – Bystander Interventions

- Respect your partner's decisions. Don't pressure them to go beyond the limits they have set. Listen carefully to your partner and ask for clarification if your partner seems unclear or is giving you a mixed message. If you're not sure your partner wants to engage in a sexual act, ask them!
- Respect the person when he or she says, "no" to sexual activity and comply. **Not hearing the word "no" does not mean "yes" or imply consent has been given.** Be absolutely certain you are not going beyond your partner's limits. Once again, asking your partner if they want to have sex is a great way to show them respect and to clarify what they want.
- **If you see someone in a vulnerable position, find a safe way to help.** Don't ignore what you think is a dangerous situation or presume someone else will take care of the problem.
- Alcohol and drugs diminish the ability to make clear and good decisions. **Having sexual contact with someone too intoxicated by any substance to make a good decision is a crime.**
- Be careful in groups. Resist pressure from friends to participate in or be subjected to any act with which you are not comfortable.

- Never make assumptions about a person's behavior. **Never assume a person wants to have sex because they drink heavily, dress in a certain manner or agree to go back to your room.**
- **Previous consent does not imply current consent.**

How To Protect Yourself Against Sexual Attack

SUNY Potsdam has experienced a relatively low incident of sexual assaults. However, it is important not to develop a false sense of security. Knowledge and awareness help make safe decisions.

- Most rapes on or near college campuses are committed by acquaintances or during some type of date. Although "stranger crimes" can occur, they are very rare on campus and within the community.
- **Students are at the highest risk of unwanted sexual contact during their first few weeks on campus or during their first few weeks living off-campus.**
- Determine what you want, and what you don't want, and communicate your personal limits clearly. No one should pressure you into unwanted sexual activity. If you are uncertain about what you want, tell your partner to respect your feelings.
- Know that you have the right to say, "No" at any time and the right to defend yourself against an attacker.
- **Trust your intuition. If you feel uncomfortable leaving or entering a Residence Hall, go to the most public space. Never feel you have to hold the door for others to enter a secure Residence Hall. If you feel something is wrong, it likely is. Remove yourself from the situation and get to a safe space as quickly as possible.**
- Be careful with alcohol and drugs. Some people think that a drunk or stoned companion has automatically consented to sex. This is not true. Investigations show alcohol use and abuse is often a component of sexual assault cases.
- Attend parties with friends you can trust. Agree to "**look out for one another**". Always try to leave with a group rather than alone or with someone you don't know well.
- If you find yourself alone and uncomfortable on campus, call University Police at 315-267-2222. If you are off campus and alone and uncomfortable, and feel your safety is compromised call 911.
- Look for danger signals in a dating relationship. If your partner restricts your activities, isolates you from friends or displays jealous behavior, he or she may become dangerous.
- Talk with your friends about the problem of dating violence. Become conversant with techniques to disrupt degrading jokes about violence and sexuality (Bystander Awareness Training offered by Student Affairs).
- Be alert. Walk with confidence and look others in the eye.
- Carry your car or house/room keys in your hand as you leave or are walking toward your destination.

Safety in the Residence Halls and In Your Apartment

- Do not let strangers in the exterior doors.
- Keep your doors locked at all times. If off-campus, windows should be locked as well.
- Do not open your locked door for anyone until you know who they are and decide you want them in your living space. Use your door viewer.

- Ask for identification from the repairpersons or service persons who come to your door before allowing entry.
- Report lost keys and ID cards immediately to Residence Life staff.
- Report suspicious persons to Residence Life staff or University Police immediately.
- Do not “prop” open outside doors.
- Remember: Always keep your door locked, even when using the bathroom or visiting friends on your floor. Keep it locked.

Sex Offender Information

Individuals convicted of sex offenses throughout the country may be designated as “sex offenders” and some may be required to register with law enforcement agencies. In New York State, there are three categories or levels of sex offenders. They are Level One, Level Two and Level Three. Level Three offenders are considered to have committed the most serious sexual offenses and to pose the greatest threat of re-offending while Level One offenders are considered to have committed the least serious of offenses and are least likely to re-offend.

The State of New York Division of Criminal Justice Services and the St. Lawrence County Sheriff’s Office maintain an on-line service, listing offenders in the State and in our area. The web addresses are as follows: <http://www.criminaljustice.ny.gov> and [Sex Offender Watch | St. Lawrence County \(stlawco.gov\)](http://SexOffenderWatch.StLawrenceCounty.org)

Additionally, the University Police will assist any member of the campus in locating these sites and information related to the Sex Offender Registry in New York State.

Non-Discrimination Notice

Pursuant to the State University of New York policy, SUNY Potsdam is committed to fostering a diverse community of outstanding faculty, staff, and students, as well as ensuring equal educational opportunity, employment, and access to services, programs, and activities, without regard to an individual’s race, color, national origin, religion, creed, age, disability, sex, gender identity, gender expression, sexual orientation, marital status, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. Employees, students, applicants, or other members of the campus community (including, but not limited to, vendors, visitors, and guests) may not be subjected to harassment that is prohibited by law or treated adversely or retaliated against based upon a protected characteristic.

The University’s policy is in accordance with federal and state laws and regulations prohibiting discrimination and harassment. These laws include the American with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the New York State Human Rights Law. These laws prohibit discrimination and harassment, including sexual harassment and sexual violence.

SUNY Potsdam does not discriminate on the basis of sex and prohibits sex discrimination in any Education Program or Activity that it operates, as required by Title IX, including in admission and employment.

Inquiries regarding the application of Title IX and other laws, regulations, and policies prohibiting sex discrimination or regarding the application of ADA may be directed to Title IX Coordinator Jacqueline Richardson-Melecio or designee at (315) 267-3082 or by email at titleIX@potsdam.edu.

Inquiries about other types of discrimination may be directed to Chief Diversity Officer Dr. Jacqueline Richardson-Melecio or designee at 315-267-3082 or by email at richarjv@potsdam.edu or dei@potsdam.edu.

Inquiries may also be directed to the United States Department of Education's Office of Civil Rights, 32 Old Slip 26th Floor, New York, NY 10005-2500; Tel.(646) 428-3800; email OCR.NewYork@ed.gov.

Grievance Procedure for Sex-Based Harassment Complaints for Students Including NYS 129B Requirements

Effective Date and Changes to Procedure Based on Court Rulings and Legal Challenges or Changes in Law or Regulation

This Grievance Procedure applies to incidents that occur on or after August 1, 2024. Any incidents reported under this Grievance Procedure that occurred on or before July 31, 2024 will be processed through the institution's Grievance Policy for Addressing Formal Complaints of Sexual Harassment Under Title IX Regulations (2020 Grievance Policy).

Should any portion of the 2024 Title IX Final Rule (89 Fed. Reg. 33474 (Apr. 29, 2024)), be stayed or held invalid by a court of law, or if the 2024 Title IX Final Rule is withdrawn or modified to not require elements of this Procedure, the Procedure in its entirety, or the invalidated elements of this Procedure, they will be deemed revoked as of the publication date of the opinion or order from the Court and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by the date of the opinion or order publication by the Court. If this Procedure is revoked in this manner, any conduct covered under this Procedure shall be investigated and adjudicated under the previous 2020 Title IX Grievance Policy and/or Student Community Rights and Responsibilities ([Student Community Rights and Responsibilities | SUNY Potsdam](#)) and for faculty or staff defined within the policies and procedures found the Human Resources policies and procedures website (<https://www.potsdam.edu/about/offices/hr/policies-and-procedures>). SUNY Potsdam will update this Procedure as soon as practicable to reflect any court rulings or changes that invalidate parts of the Procedure, if applicable.

Scope of Procedure

Sex-Based Harassment is considered discrimination on the basis of sex if it includes harassment due to actual or perceived sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity.

Jurisdiction of Procedure

SUNY Potsdam's Title IX Coordinator or designee will determine if this Grievance Procedure applies to a Complaint. This Grievance Procedure will apply when the following elements are met, in the reasonable determination of the Title IX Coordinator or designee:

- The conduct alleged occurred on or after August 1, 2024;

- The conduct alleged occurred in the United States, except for cases of sexual assault, domestic violence, dating violence and stalking, in which case, if such occurred off campus or during study abroad, will be subject to the jurisdiction of this Grievance Procedure;
- The conduct alleged occurred in SUNY Potsdam's Education Program or Activity; and
- The conduct alleged, if true, would constitute Sex-Based Harassment as defined in this Grievance Procedure.

NOTE: SUNY Potsdam has an obligation to address a sex-based hostile environment under its Education Program or Activity, even when some conduct alleged to be contributing to the Hostile Environment occurred outside SUNY Potsdam's Education Program or Activity, or outside of the United States. SUNY Potsdam's Title IX Coordinator or designee will work with all Complainants to assess such complaints that may fall under these criteria, and direct to appropriate SUNY Potsdam Policies and Procedures that may apply if this Grievance Procedure does not. SUNY Potsdam will communicate all such decisions in writing to the Complainant. Any such dismissals shall be subject to appropriate appeal rights under this Grievance Procedure as outlined in the Dismissals section below.

Conduct that occurs under SUNY Potsdam's Education Program or Activity includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by SUNY Potsdam and conduct that is subject to SUNY Potsdam's disciplinary authority under the Student Community Rights and Responsibilities (Student Code of Conduct).

If all elements of jurisdiction are met, SUNY Potsdam will investigate the allegations according to this Grievance Procedure as appropriate, unless informal resolution is pursued or there are grounds for dismissal of the complaint.

Non-Discrimination in Application

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, race, color, national origin, religion, creed, age, disability, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, criminal conviction, or other protected classes covered by applicable federal, state, or local law.

All requirements and protections are equitably provided to individuals regardless of such protected status(es) or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the U.S. Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>. Individuals may also file complaints with the New York State Division of Human Rights (DHR), using contact information available at <https://dhr.ny.gov/complaint>.

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 or Complainant, 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.

Definitions

Accused means a person accused of a violation who has not yet entered an institution's judicial or conduct process.

Admission means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an Education Program or Activity operated by SUNY Potsdam.

Bystander means a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of the rules or policies of an institution.

Code of conduct means the written policies adopted by an institution governing student behavior, rights, and responsibilities while such student is matriculated in the institution.

Consent means 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. Incapacitation 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" and "affirmative consent" may be used interchangeably under this Grievance Procedure.

Complainant means:

- a student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment as defined in these procedures and who was participating or attempting to participate in SUNY Potsdam's Education Program or Activity; or
- a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment under this grievance procedure and who was participating or attempting to participate in SUNY Potsdam's Education Program or Activity at the time of the alleged Sex-Based Harassment.

A Complainant may also be referred to as a Reporting Individual in this Grievance Procedure, in alignment with New York State Education Law Article 129-B.

Complaint means an oral or written request to SUNY Potsdam that objectively can be understood as a request for SUNY Potsdam to investigate and make a determination about alleged Sex-Based Harassment at the institution.

Confidential Employee means:

- an employee of SUNY Potsdam whose communications are privileged under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;
- an employee of SUNY Potsdam whom the recipient has designated as confidential for the purpose of providing services to persons related to Sex-Based Harassment. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about Sex-Based Harassment in connection with providing those services; or
- an employee of SUNY Potsdam who is conducting an Institutional Review Board approved human-subjects research study designed to gather information about Sex-Based Harassment. The employee's confidential status is only with respect to information received while conducting the study.

Disciplinary Sanctions means consequences imposed on a Respondent following a determination under this grievance procedure that the Respondent violated SUNY Potsdam's prohibition Sex-Based Harassment.

Education Program or Activity means any academic, extracurricular, research, occupational training or other Education Program or Activity operated by SUNY Potsdam that receives Federal financial assistance.

Party means Complainant or Respondent.

Peer Retaliation means Retaliation by a Student against another Student.

Relevant means related to the allegations of Sex-Based Harassment under investigation as part of this Grievance Procedure. Questions are relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.

Remedies means measures provided, as appropriate, to a Complainant or any other person SUNY Potsdam identifies as having had their equal access to SUNY Potsdam's Education Program or Activity limited or denied by Sex-Based Harassment. These measures are provided to restore or preserve that person's access to SUNY Potsdam's Education Program or Activity after determines that Sex-Based Harassment occurred.

Respondent means a person who is alleged to have violated SUNY Potsdam's prohibition on Sex-Based Harassment.

Retaliation means intimidation, threats, coercion, or discrimination by any person by SUNY Potsdam, a Student, or an employee or other person authorized by SUNY Potsdam to provide aid, benefit, or service under SUNY Potsdam's Education Program or Activity, for the purpose of interfering with any right or privileged secured by Title IX, or because the person has reported information, made a complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this grievance procedure including an informal resolution process.

Sex-Based Harassment means sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

- Quid pro quo harassment. An employee, agent or other person authorized by SUNY Potsdam's Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- Hostile Environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from SUNY Potsdam's Education Program or Activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following: (i) the degree to which the conduct affected the Complainant's ability to access SUNY Potsdam's Education Program or Activity; (ii) the type, frequency, and duration of the conduct; (iii) the Parties' ages, roles within SUNY Potsdam's Education Program or Activity, previous interactions and other factors about each Party that may be relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other Sex-Based Harassment in SUNY Potsdam's Education Program or Activity;
- Sexual Assault (as defined in the Clery Act, 20 U.S.C. 1092(f)) means any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent;
- Dating Violence (as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.
- Domestic Violence means any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or domestic violence laws of New York State or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shared a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of New York State or

- **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.

Student means a person who has gained Admission.

Supportive Measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to: (1) restore or preserve that Party's access to SUNY Potsdam's Education Program or Activity, including measures that are designed to protect the safety of the Parties or SUNY Potsdam's educational environment; or (2) provide support during SUNY Potsdam's grievance procedures for Sex-Based Harassment or during the informal resolution process.

Disability Accommodations

Generally

This procedure does not alter any institutional obligations under applicable federal, state, and/or local disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, among others. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator or designee at any point before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedures. The Title IX Coordinator or designee will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

Requests for Reasonable Accommodations During the Title IX Grievance Procedure

If the Complainant or Respondent discloses a disability, the Title IX Coordinator or designee may consult, as appropriate, with the Office of Accommodative Services to provide support to students with disabilities to determine how to comply with applicable law including, without limitation, Section 504 of the Rehabilitation Act of 1973 in the implementation of any Supportive Measures, or any other reasonable accommodations requested during the Grievance Procedure.

Policy for Alcohol and/or Drug Use Amnesty

The health and safety of every student at SUNY Potsdam is of utmost importance. SUNY Potsdam 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. SUNY Potsdam 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 SUNY Potsdam's officials or law enforcement will not be subject to SUNY Potsdam's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

Basic Requirements of the Grievance Procedure

SUNY Potsdam is required to:

- Treat Complainants and Respondents equitably;

- Ensure that any person designated by SUNY Potsdam as a Title IX Coordinator or designee, investigator, or decisionmaker does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent;
- Establish reasonably prompt timeframes for the major stages of this Grievance Procedure, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay;
- Ensure that reasonable steps to protect the privacy of the Parties and witnesses during the pendency of the Grievance Procedure are taken, provided that the steps do not restrict the abilities of the Parties to obtain and present evidence, including by speaking to witnesses (as long as such does not result in Retaliation), consult with their family members, confidential resources, or advisors, or otherwise prepare for or participate in this Grievance Procedure;
- Ensure an objective evaluation of all evidence that is relevant and not otherwise impermissible under this Procedure, including both inculpatory and exculpatory evidence, and provide that credibility determinations must not be based on a person's status as a Complainant, Respondent or Witness;
- Exclude impermissible evidence from consideration as defined in the Grievance Procedure; and
- Clearly articulate principles for how SUNY Potsdam will determine which policies and procedures apply if not all such complaints are handled under this institutional Grievance Procedure.

Per New York State Law, SUNY Potsdam is also required to additionally ensure that Complainants are advised of their right to:

- Notify University Police, local law enforcement, and/or state police;
- Have 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 Complainant to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated New York Penal Law should be addressed to law enforcement or to the district attorney, who shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the Complainant of other reporting options;
- Disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for Complainants;
- Disclose confidentially the incident and obtain services from the state or local government;
- Disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;
- File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate institution representatives for information and assistance, ensure that Complainants know that reports shall be investigated in accordance with this Grievance Procedure and/or any other institutional policies that may be applicable, and ensure that a Complainant's identity will remain private at all times if said Complainant wishes to maintain privacy;
- Disclose, if the accused is an employee of SUNY Potsdam, the incident to SUNY Potsdam's Human Resources Department or the right to request that a confidential or private employee assist in reporting to the appropriate representative for the Human Resources Department, at

which point, such referral shall be handled according to the appropriate policies and procedures related to employee complaints;

- Receive assistance from appropriate SUNY Potsdam representatives in initiating legal proceedings in family court or civil court; and
- Withdraw a complaint or involvement from SUNY Potsdam's Grievance Procedure at any time.

Reporting Sex-Based Harassment Occurring Between Students to the Institution

Non-Confidential Reports

Any person may report sex discrimination, including Sex-Based Harassment (whether or not the person reporting is the person alleged to be the victim of the conduct that may constitute sex discrimination or Sex-Based Harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator or designee, or by any other means that results in the Title IX Coordinator or designee receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator at SUNY Potsdam:

Name: Lisa Hoover

Title: Title IX Coordinator/ ADA Compliance Officer

Office Address: Sisson Hall 244

Email Address: titleix@potsdam.edu

Telephone Number: 315-267-2224

Confidential Reports

The following officials at SUNY Potsdam will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited by Title IX:

- Title IX Coordinator or designee(s);
- Officials with Authority to institute corrective measures under Title IX;
- All other employees at SUNY Potsdam that are not designated as confidential resources

The following officials at SUNY Potsdam and partner agency may provide confidentiality:

- College Counseling Center Staff
- Student Health Services Staff
- Renewal House Campus Advocate

There are other confidential options available for crisis intervention, resources and referrals, but these are not reporting mechanisms to the institution, meaning that disclosure on a call to one of these hotlines does not provide any information to SUNY Potsdam.

Complainants are encouraged to additionally contact a campus confidential or private resource so that SUNY Potsdam can take appropriate action in these cases. Some resources for confidential disclosure **NOT** to the institution are:

- The New York State Office for the Prevention of Domestic Violence hotlines:
<http://www.opdv.ny.gov/help/dvhotlines.html>.

- Legal Momentum: <https://www.legalmomentum.org/>;
- NYSCASA: <https://nyscasa.org>;
- NYSCADV: <http://www.nyscadv.org/>;
- Pandora's Project: <https://pandys.org/>;
- GLBTQ Domestic Violence Project: <http://glbtqdv.org>. HYPERLINK
"<https://www.theglbtproject.org/>" [LGBT Advocacy for and help with Domestic Violence & Substance Abuse - The GLBT Project - New York](https://www.theglbtproject.org/) ;
- RAINN: ; and Safe Horizons: <http://www.safehorizon.org/>. rainn.org/get-help; and Safe Horizons: <http://www.safehorizon.org/>.

Commented [MM3]: I can't find this exact thing. Should it be this (similar)? [LGBT Advocacy for and help with Domestic Violence & Substance Abuse - The GLBT Project - New York](https://www.theglbtproject.org/)

Privacy vs. Confidentiality

References made to confidentiality refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to privacy mean SUNY Potsdam offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. SUNY Potsdam will limit the disclosure as much as practicable, even if the Title IX Coordinator or designee determines that the request for confidentiality cannot be honored.

At the First Instance of Disclosure of a Report

SUNY Potsdam shall ensure that, at a minimum, at the first instance of disclosure by a Complainant to a SUNY Potsdam representative, the following information shall be presented to the Complainant: "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."

Supportive and Interim Measures

Providing Supportive Measures

Complainants who report allegations of Sex-Based Harassment have the right to receive supportive measures from SUNY Potsdam regardless of whether they file a complaint. Supportive measures are non-disciplinary and non-punitive. Supportive measures may vary depending upon what is reasonably available at SUNY Potsdam.

As appropriate, supportive measures may include without limitation:

- Counseling services;
- Extensions of deadlines or other course-related adjustments;
- Modifications of work or class schedules;
- Campus escort services, as available;
- Restrictions on contact applied to one or more Parties (no contact orders);
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative;
- Leaves of absence;
- Increased security and monitoring of certain areas of the campus;

- Training and education programs related to Sex-Based Harassment;
- Assistance by SUNY Potsdam's police or security forces, if applicable, or other officials in obtaining an order of protection or, if outside of New York state, an equivalent protective or restraining order.

Supportive measures must not unreasonably burden either Party and must be designed to protect the safety of the Parties or SUNY Potsdam's educational environment, or to provide support during SUNY Potsdam's Sex-Based Harassment grievance procedures under this policy or during informal resolution under this procedure.

SUNY Potsdam may modify or terminate supportive measures at the conclusion of the grievance procedures or at the conclusion of the informal resolution process or may continue them beyond that point within SUNY Potsdam's discretion.

SUNY Potsdam will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one Party of supportive measures provided to another Party, unless necessary to provide the supportive measure or restore or preserve a Party's access to SUNY Potsdam's Education Program or Activity, or there is an exception that applies, such as:

- SUNY Potsdam has obtained prior written consent from a person with the legal right to consent to the disclosure;
- When the information is disclosed to an appropriate third Party with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- To carry out the purpose of the policy when it is necessary to address conduct that reasonably may constitute Sex-Based Harassment under Title IX in SUNY Potsdam's Education Program or Activity;
- As required by Federal law, federal regulations, or the terms and conditions of a federal award; or
- To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, or its implementing regulations, 34 CFR Part 99).

Note on Orders of Protection and their equivalent:

SUNY Potsdam must provide a copy of the order of protection or equivalent when it is received by SUNY Potsdam, and Parties shall have the opportunity to meet or speak with the Title IX Coordinator or designee, who can explain the order and answer questions about it, including information from the order about the Accused's/Respondent's responsibility to stay away from the protected person or persons. Parties are entitled to an explanation of the consequences for violating these orders, including without limitation, arrest, additional conduct charges, and interim suspension or emergency removal, as applicable. A Complainant is also entitled to receive assistance from University Police in effecting an arrest when an individual violates an order of protection or call on and assist local law enforcement in effecting an arrest for violating such order, in accordance with limits on current law enforcement jurisdiction and procedures.

Process for Review of Supportive Measures

SUNY Potsdam provides for a Complainant or Respondent to seek modification or reversal of SUNY Potsdam's decision to provide, deny, modify or terminate a supportive measure. Grounds for challenge of supportive measures include, but are not limited to:

- Whether a supportive measure is reasonably burdensome;
- Whether a supportive measure is reasonably available;
- Whether a supportive measure is being imposed for punitive or disciplinary reasons;
- Whether the supportive measure is being imposed without fee or charge; and
- Whether the supportive measure is effective in meeting the purposes for which it is intended, including to restore or preserve access to the Education Program or Activity, provide safety, or provide support during the Grievance Procedure.

Request for a modification or reversal of a supportive measure must be timely and should be submitted within 3 business days. SUNY Potsdam will conduct a fact specific inquiry into timeliness.

This review will be conducted by an impartial employee of SUNY Potsdam who did not make the challenged decision on the original supportive measure request. The impartial employee of SUNY Potsdam who makes this determination will have the authority to modify or reverse the decision if that impartial employee determines that the decision to provide, deny, modify or terminate the supportive measure was inconsistent with the procedures as outlined above for providing supportive measures in accordance with the Title IX regulations.

Parties are only allowed to challenge their own individual supportive measures. Challenges by one Party will not be heard to supportive measures afforded to the opposite Party, unless that supportive measure directly impacts the Party making such challenge (i.e., two-way no contact orders).

Emergency Removal

SUNY Potsdam retains the authority to remove a Respondent from all or part of SUNY Potsdam's Education Program or Activity on an emergency basis, where SUNY Potsdam (1) undertakes an individualized safety and risk analysis, and (2) determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of Sex-Based Harassment justifies removal.

The Director of Student Conduct & Community Standards or designee may take action immediately to suspend a student from the College and remove the student from campus, when there is reasonable belief that the continued presence of such student would constitute a danger to the safety of persons or property. If SUNY Potsdam determines such removal is necessary, the respondent will be provided notice and an opportunity to challenge the decision immediately following the removal. Any appeal must be made to the Dean of Students or designee.

The decisionmaker who hears a challenge to an emergency removal must not be involved in any decision regarding responsibility or appeal of a determination.

Emergency removals will not be considered relevant evidence that can be considered in reaching a determination of whether Sex-Based Harassment occurred.

Administrative Leave

SUNY Potsdam retains the authority to place a non-student employee Respondent on administrative leave during the Grievance Procedure, consistent with relevant employee handbook/collective bargaining agreements etc.

Note on student employees: when a Complainant or Respondent is both a student and an employee of SUNY Potsdam, SUNY Potsdam must make a fact-specific inquiry to determine whether this procedure applies to that student employee. SUNY Potsdam will consider if the Complainant or Respondent's primary relationship with SUNY Potsdam is to receive an education and whether the alleged Sex-Based Harassment occurred while the Party was performing employment-related work.

Grievance Policy for Addressing Formal Complaints of Sexual Harassment Under the Title IX Regulations

Section 1: Introduction

What is the purpose of the Title IX Grievance Policy?

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Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access our educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 that:

- Defines the meaning of "sexual harassment" (including forms of sex-based violence)
- Addresses how this institution must respond to reports of misconduct falling within that definition of sexual harassment, and
- Mandates a grievance process that this institution must follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment.

See, 85 Fed. Reg. 30026 (May 19, 2020). The full text of the Final Rule and its extensive Preamble are available here: <http://bit.ly/TitleIXReg>

Based on the Final Rule, SUNY Potsdam will implement the following Title IX Grievance Policy, effective August 14, 2020.

How does the Title IX Grievance Policy impact other campus disciplinary policies?

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In recent years, "Title IX" cases have become a shorthand for any campus disciplinary process involving sex discrimination, including those arising from sexual harassment and sexual assault. But under the Final Rule, SUNY Potsdam must narrow both the geographic scope of its authority to act under Title IX and the types of "sexual harassment" that it must subject to its Title IX investigation and adjudication process. Only incidents falling within the Final Rule's definition of sexual harassment will be investigated and, if appropriate, brought to a live hearing through the Title IX Grievance Policy defined below.

SUNY Potsdam remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule.

Specifically, our campus has a **Code of Conduct (*Student Community Rights and Responsibilities*)** that defines certain behavior as a violation of campus policy, including **sections addressing Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and related sex-based offenses.**

To the extent that alleged misconduct falls outside the Title IX Grievance Policy, or misconduct falling outside the Title IX Grievance Policy is discovered in the course of investigating covered Title IX misconduct, the institution retains authority to investigate and adjudicate the allegations under the policies and procedures defined within *the Student Community Rights and Responsibilities* through a separate grievance proceeding (<https://www.potsdam.edu/current/student-conduct-community-standards/student-community-rights-and-responsibilities>).

The elements established in the Title IX Grievance Policy under the Final Rule have no effect and are not transferable to any other policy of the College for any violation of the Code of Conduct, employment policies, or any civil rights violation except as narrowly defined in this Policy. This Policy does not set a precedent for other policies or processes of the College and may not be cited for or against any right or aspect of any other policy or process.

How does the Title IX Grievance Policy impact the handling of complaints?-

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Our existing Title IX office and reporting structure remains in place. What has changed is the way our Title IX office will handle different types of reports arising from sexual misconduct, as detailed in full throughout Section 2.

Section 2: The Title IX Grievance Policy General Rules of Application Effective Date-

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This Title IX Grievance Policy will become effective on August 14, 2020 and will only apply to formal complaints of sexual harassment brought on or after August 14, 2020. Complaints brought prior to August 14, 2020 will be investigated and adjudicated according to the Title IX Grievance Policy if a case is not complete by that date.

Revocation by Operation of Law-

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Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require the elements of this policy, this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Grievance Policy be revoked in this manner, any conduct covered under the Title IX Grievance Policy shall be investigated and adjudicated under the existing Code of Conduct.

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Non-Discrimination in Application-

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The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

Definitions

Covered Sexual Harassment-

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For the purposes of this Title IX Grievance Policy, "covered sexual harassment" includes any conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity;
3. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;
4. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
5. Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any 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 New York State's domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of New York.
6. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to---
A. fear for their safety or the safety of others; or
A.B. ~~(B)~~ suffer substantial emotional distress.

Note that conduct that does not meet one or more of these criteria may still be prohibited under the code of conduct (*Student Community Rights and Responsibilities*).

Consent-

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For the purposes of this Title IX Grievance Policy, “consent” means affirmative consent, which 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.

~~A.~~ 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.

~~A.~~ -

B. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.

~~C.~~ Consent may be initially given but withdrawn at any time.

~~C.~~ -

~~D.~~ Consent cannot be given when a person is incapacitated, and a reasonable person knows or should have known that such person is incapacitated. Incapacitation 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.

~~D.~~ -

~~E.~~ Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.-

~~E.~~ -

F. When consent is withdrawn or can no longer be given, sexual activity must stop.

(See Affirmative Consent definition in *Student Community Rights and Responsibilities*).

Education Program or Activity-

For the purposes of this Title IX Grievance Policy, SUNY Potsdam’s “education program or activity” includes:

- Any on-campus premises.
- Any off-campus premises that SUNY Potsdam has substantial control over. This includes buildings or property owned or controlled by a recognized student organization.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of SUNY -Potsdam’s programs and activities over which SUNY Potsdam has substantial control.

~~E.~~ -

Formal Complaint-

For the purposes of this Title IX Grievance Policy, “formal complaint” means a document – including an electronic submission - filed by a complainant with a signature or other indication that the

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complainant is the person filing the formal complaint, or signed by the Title IX Coordinator, alleging sexual harassment against a respondent about conduct within SUNY Potsdam's education program or activity and requesting initiation of the procedures consistent with the Title IX Grievance Policy to investigate the allegation of sexual harassment.

Complainant-

For the purposes of this Title IX Grievance Policy, Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy.

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Relevant Evidence and Questions-

"Relevant" evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.

"Relevant" evidence and questions do not include the following types of evidence and questions, which are deemed "irrelevant" at all stages of the Title IX Grievance Process:

- Evidence and questions about the complainant's sexual predisposition or prior sexual behavior unless:
 - They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
 - They concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. 34 C.F.R. §106.45(6)(i).
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege.
- Any party's medical, psychological, and similar records unless the party has given voluntary, written consent. 85 Fed. Reg. 30026, 30294 (May 19, 2020).

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Respondent-

For the purposes of this Title IX Grievance policy, Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this policy.

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Privacy vs. Confidentiality-

Consistent with *Student Community Rights and Responsibilities* references made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to *privacy* mean SUNY Potsdam

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offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. SUNY Potsdam will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

Disability Accommodations-

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This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

Making a Report Regarding Covered Sexual Harassment to the Institution-

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Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator:

Name: Lisa Hoover
Title: Title IX Coordinator/ADA Compliance Officer
Office Address: Sisson 244
Email Address: hoooverla@potsdam.edu
Telephone Number: (315) 267-2224-

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

Confidential Reporting-

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The following Officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this policy:

- Title IX Coordinator or designee
- University Police
- Other mandatory faculty/staff reporters
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The following Officials may provide confidentiality:

- College Counseling Center Counselors
- Student Health Services providers

- Renewal House Campus Advocate
- Employee Assistance Program

Non-Investigatory Measures Available Under the Title IX Grievance Policy

Supportive Measures-

Complainants (as defined above), who report allegations that could constitute covered sexual harassment under this policy, have the right to receive supportive measures [identified below] from SUNY Potsdam regardless of whether they desire to file a complaint, as appropriate. Supportive measures are non-disciplinary and non-punitive.

As appropriate, supportive measures may include, but not be limited to:

- Counseling services
- Health services
- Safe housing or room change
- Classroom relocation
- Job assignment relocation
- Academic Support Services (tutoring, contacting Student Success Center and/or instructors, etc.)
- Safety escort by University Police
- Restrictions on contact between the parties (No Contact Orders)

See 85 Fed. Reg. 30401.

Emergency Removal-

SUNY Potsdam retains the authority to remove a respondent from SUNY Potsdam's program or activity on an emergency basis, where the College (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal. The Director of Student Conduct & Community Standards or designee may take action immediately to suspend a student from the College and remove the student from campus, when there is reasonable belief that the continued presence of such student would constitute a danger to the safety of persons or property. If SUNY Potsdam determines such removal is necessary, the respondent will be provided notice and an opportunity to challenge the decision immediately following the removal. Any appeal must be made to the Chief Student Affairs Officer or designee.

The Title IX Grievance Process

Filing a Formal Complaint

The time frame for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) school days after the filing of the Formal Complaint, provided that the Process may be extended

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for a good reason, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of SUNY Potsdam, including as an employee. For complainants who do not meet this criteria, the College will utilize existing policy in [Student Community Rights and Responsibilities](#).

If a complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. SUNY Potsdam will inform the complainant of this decision in writing, and the complainant need not participate in the process further but will receive all notices issued under this Policy and Process.

Nothing in the Title IX Grievance Policy or *Student Community Rights and Responsibilities* prevents a complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

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Informal Resolution-

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A complainant who files a Formal Complaint may elect, at any time, to address the matter through the Institution's Informal Resolution Process. All Parties to a Formal Complaint must agree to enter the Informal Resolution Process through an informed written consent. Information about this Process is available here: <https://www.potsdam.edu/sites/default/files/inline-files/Potsdam-Informal-Resolution-Policy.pdf>

Multi-Party Situations-

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The institution may consolidate Formal Complaints alleging covered sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of covered sexual harassment arise out of the same facts or circumstances.

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Determining Jurisdiction

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The Title IX Coordinator or another appropriate official without a conflict of interest or bias will determine if the Title IX Grievance Process should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in SUNY Potsdam's education program or activity; and

4. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

4. -

If all of the elements are met, SUNY Potsdam will investigate the allegations according to the Grievance Process.

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Allegations Potentially Falling Under Two Policies-

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If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied to investigation and adjudication of only the allegations that constitute covered sexual harassment.

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Mandatory Dismissal-

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If any one of these elements are not met, the Title IX Coordinator or designee will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Policy. Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

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Discretionary Dismissal-

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The Title IX Coordinator or designee may dismiss a Formal Complaint brought under the Title IX Grievance Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- The respondent is no longer enrolled or employed by SUNY Potsdam; or,
- If specific circumstances prevent SUNY Potsdam from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

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Any party may appeal a dismissal determination using the process set forth in "Appeals," below.

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Notice of Dismissal-

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Upon reaching a decision that the Formal Complaint will be dismissed, the institution will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties through their institutional email accounts. It is the responsibility of parties to maintain and regularly check their email accounts.

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Notice of Removal-

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Upon dismissal for the purposes of Title IX, SUNY Potsdam retains discretion to utilize the *Student Community Rights and Responsibilities* to determine if a violation of the Code of Conduct has occurred. If so, SUNY Potsdam will promptly send written notice of the dismissal of the Formal Complaint under the Title IX Grievance Process and removal of the allegations to the conduct process.

Notice of Allegations-

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The Title IX Coordinator will draft and provide the Notice of Allegations to any party to the allegations of sexual harassment. Such notice will occur as soon as practicable after the institution receives a Formal Complaint of the allegations, if there are no extenuating circumstances.

The parties will be notified by their institutional email accounts if they are a student or employee, and by other reasonable means if they are neither.

The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator or designee may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above and will issue a Notice of Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.

Contents of Notice-

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The Notice of Allegations will include the following:

- Notice of the SUNY Potsdam's Title IX Grievance Process including any informal resolution process and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, as required under 34 C.F.R. § 106.45(b)(5)(iv);
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source, as required under 34 C.F.R. § 106.45(b)(5)(vi);

- The Student Community Rights and Responsibilities specifically prohibits knowingly making false statements or knowingly submitting false information during the grievance process (Prohibited Conduct 28).

Ongoing Notice

If, in the course of an investigation, the College decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise covered "sexual harassment" falling within the Title IX Grievance Policy, the College will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means.

The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

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Advisor of Choice and Participation of Advisor of Choice

SUNY Potsdam will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally.

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SUNY Potsdam has a long-standing practice of requiring students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process as per standard policy and practice of SUNY Potsdam.

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SUNY Potsdam will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for all parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

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SUNY Potsdam's obligations to investigate and adjudicate in a prompt time frame under Title IX —and other college policies apply to matters governed under this Policy, and SUNY Potsdam cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice.

The determination of what is reasonable shall be made by the Title IX Coordinator or designee. SUNY Potsdam 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 SUNY Potsdam.

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Notice of Meetings and Interviews

SUNY Potsdam will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

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Delays

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Each party may request a one-time delay in the Grievance Process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator, Director of Student Conduct and Community Standards, or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties.

For example, a request to take a five day pause made an hour before a hearing for which multiple parties and their advisors have traveled to and prepared for shall generally not be granted, while a request for a five day pause in the middle of investigation interviews to allow a party to obtain certain documentary evidence shall generally be granted.

The Title IX Coordinator, Director of Student Conduct and Community Standards, or designee shall have sole judgment to grant further pauses in the Process.

Investigation

General Rules of Investigations-

-
The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will perform an investigation under a reasonably prompt time frame of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations.

SUNY Potsdam and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of this Policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from SUNY Potsdam and does not indicate responsibility.

SUNY Potsdam cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. SUNY Potsdam will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

Inspection and Review of Evidence-

-
Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

1. Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility;

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2. Inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

The institution will send the evidence made available for each party and each party's advisor, if any, to inspect and review through an electronic format or a hard copy. The Institution is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The parties will have ten (10) school days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing the Investigative Report. Parties may request a one-time, reasonable extension for approval by Title IX Coordinator or designee.

The institution will provide the parties up to ten (10) days to provide a response, after which the investigator will not be required to accept a late submission. Investigator has 10 days to generate a report or, alternatively, may provide the parties with written notice extending the investigation for 10 days and explaining the reason for the extension.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The parties and their advisors will not disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

The parties and their advisors will not photograph or otherwise copy the evidence. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

Inclusion of Evidence Not Directly Related to the Allegations

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report.

Investigative Report

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence and provide that Report to the parties at least ten (10) business/calendar/school days prior to the hearing in an electronic format or a hard copy for each party's review and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

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The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant. See, 85 Fed. Reg. 30026, 30304 (May 19, 2020).

Hearing

General Rules of Hearings-

SUNY Potsdam will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing unless otherwise resolved through an informal resolution process.

The live hearing may be conducted with all parties physically present in the same geographic location, or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through videoconferencing software such as Microsoft Teams or Zoom. This technology will enable participants simultaneously to see and hear each other. At its discretion, SUNY Potsdam may delay or adjourn a hearing based on technological errors not within a party's control.

All proceedings will be recorded through audio recording. That recording or transcript will be made available to the parties for inspection and review.

Prior to obtaining access to any evidence, the parties and their advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

Continuances or Granting Extensions-

SUNY Potsdam may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, SUNY Potsdam will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

Participants in the live hearing-

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

Complainant and Respondent (The Parties)

- The parties cannot waive the right to a live hearing.
- The institution may still proceed with the live hearing in the absence of a party, and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a "statement" by that party. 85 Fed. Reg. 30026, 30361 (May 19, 2020).
 - For example, a verbal or written statement constituting part or all of the sexual harassment itself is not a "prior statement" that must be excluded if the maker of the statement does not submit to cross-examination about that statement. In other words, a prior statement

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would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint.

- SUNY Potsdam will not threaten, coerce, intimidate, or discriminate against the party in an attempt to secure the party's participation. See 34 C.F.R. § 106.71; see also 85 Fed. Reg. 30026, 30216 (May 19, 2020).
- If a party does not submit to cross-examination, the decision-maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a "statement" by that party.
- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions. See 34 C.F.R. §106.45(b)(6)(i).
- The parties shall be subject to the institution's Rules of Decorum.

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The Decision-maker

- The hearing body will consist of one student and two faculty and staff. Every effort will be made to include at least one faculty.
- No member of the hearing body will also have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case, nor may any member of the hearing body serve on the appeals body in the case.
- No member of the hearing body will have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
- The parties will have an opportunity to raise any objections regarding a decision-maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

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Advisor of choice

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
- The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- In addition to selecting an advisor to conduct cross-examination, the parties may select an advisor who may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the institution will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The advisor is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The advisor is not prohibited from being a witness in the matter.

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- If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf. 85 Fed. Reg. 30026, 30340 (May 19, 2020).
- If neither a party nor their advisor appear at the hearing, SUNY Potsdam will provide an advisor to appear on behalf of the non-appearing party. See, 85 Fed. Reg. 30026, 30339-40 (May 19, 2020).
- Advisors shall be subject to the institution's Rules of Decorum and may be removed upon violation of those Rules.

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Witnesses

- Witnesses cannot be compelled to participate in the live hearing and have the right not to participate in the hearing free from retaliation. See, 85 Fed. Reg. 30026, 30360 (May 19, 2020).
- If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing. 85 Fed. Reg. 30026, 30347 (May 19, 2020).
- Witnesses shall be subject to the institution's Rules of Decorum.

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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. Rules of decorum prohibit any party advisor or decision-maker from questioning witnesses in an abusive, intimidating, or disrespectful manner. 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.

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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.

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 misname or mis-gender 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-makers.
4. While an advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
- 4.5. 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 Chair of the Student Conduct Hearing Board.
- 5.6. 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

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knowledge or understand a fact; they may not include accusations within the text of the question.

~~6.7.~~ The advisor may not ask repetitive questions. This includes questions that have already been asked by the Student Conduct Hearing Board, and/or the advisor in cross-examination. When the Student Conduct Hearing Board determines a question has been “asked and answered” or is otherwise not relevant, the advisor must move on.

~~7.8.~~ 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.

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The Student Conduct Hearing Board shall have sole discretion to determine if the Rules of Decorum have been violated. The Student Conduct Hearing Board will notify the offending person of any violation of the Rules.

Upon a second or further violation of the Rules, the Student Conduct Hearing Board 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 Student Conduct Hearing Board 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 Student Conduct Hearing 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, Director of Student Conduct, or a designee of either and presented to the Chief Student Affairs Officer. The Advisor accused may provide an explanation or alternative evidence in writing for consideration by the Chief Student Affairs Officer. Such evidence or explanation is due within fifteen (15) calendar days of receipt of a notice of a charge of re-disclosure or improper access to records. There shall be no right to a live hearing, oral testimony, or cross-examination. The Chief Student Affairs Officer 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 Chief Student Affairs Officer 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-

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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).

Hearing Procedures-

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For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- The Chair of the Student Conduct Hearing Board will open and establish rules and expectations for the hearing;
- The Parties will each be given the opportunity to provide opening statements;
- Members of the Student Conduct Hearing Board will ask questions of the Parties and Witnesses;
- Parties will be given the opportunity for live cross-examination after the Student Conduct Hearing Board conducts its initial round of questioning; During the Parties' cross-examination, the Student Conduct Hearing Board will have the authority to pause cross-examination at any time for the purposes of asking the Student Conduct Hearing Board's own follow up questions; and any time necessary in order to enforce the established rules of decorum.
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Student Conduct Hearing Board. A Party's waiver of cross-examination does not eliminate the ability of the Student Conduct Hearing Board to use statements made by the Party.

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Live Cross-Examination Procedure-

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Each party's advisor will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

Before any cross-examination question is answered, the Student Conduct Hearing Board will determine if the question is relevant. [Link to Relevance Policy: <https://www.potsdam.edu/sites/default/files/inline-files/Relevance%20Policy.pdf>]. Cross-examination questions that are duplicative of those already asked, including by Student Conduct Hearing Board may be deemed irrelevant if they have been asked and answered.

Review of Transcript/Recording-

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The recording of the hearing will be available for review by the parties within two (2) school days unless there are any extenuating circumstances. The recording of the hearing will not be provided to parties or advisors of choice. An official audio recording will be made of the proceedings. This recording is the property of the College and will not be duplicated or released. Participants are prohibited from

making their own recording during the hearing (including but not limited to audio, photographic and/or written recording). The Referred Party and Referring Party may submit a written request to the Director of Student Conduct and Community Standards for permission to listen to the official audio recording in a supervised location on campus. An official written transcript can be provided by the College at the requesting party's expense.

Determination Regarding Responsibility

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Standard of Proof-

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SUNY Potsdam uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determines whether it is more likely than not that a violation of the Policy occurred.

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General Considerations for Evaluating Testimony and Evidence

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While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision-maker.

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Decision-makers shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a complainant, respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

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Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

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Still, credibility judgments should not rest on whether a party or witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

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Decision-makers will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

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Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

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The Final Rule requires that SUNY Potsdam allow parties to call "expert witnesses" for direct and cross examination. SUNY Potsdam does not provide for expert witnesses in other proceedings. While the expert witness will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness

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testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.

The Final Rule requires that SUNY Potsdam allow parties to call character witnesses to testify. SUNY Potsdam does not provide for character witnesses in other proceedings. While the character witnesses will be allowed to testify and be cross examined as required -

- by the Final Rule, the decision-maker will be instructed to afford very low weight to any non-factual character testimony of any witness.

The Final Rule requires that SUNY Potsdam admit and allow testimony regarding polygraph tests ("lie detector tests") and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed -to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

Where a party or witness' conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, -the Student Conduct Hearing Board may draw an adverse inference as to that party or witness' credibility.

Components of the Determination Regarding Responsibility

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institution email account, or other reasonable means as necessary. The Determination will include:

1. Identification of the allegations potentially constituting covered sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section of the Student Community Rights and Responsibilities, if any, the respondent has or has not violated.
5. For each allegation:
 - a. A statement of, and rationale for, a determination regarding responsibility;
 - b. A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the respondent; and
 - c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
6. The recipient's procedures and the permitted reasons for the complainant and respondent to appeal (described below in "Appeal").

Timeline of Determination Regarding Responsibility

- If there are no extenuating circumstances, the determination regarding responsibility will be issued by SUNY Potsdam within ten (10) school of the completion of the hearing.

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Finality

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in “Appeals” below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

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Appeals

Each party may appeal:

1. The dismissal of a formal complaint or any included allegations and/or
2. A determination regarding responsibility. To appeal, a party must submit their written appeal within seven (7) calendar days of being notified of the decision, indicating the grounds for the appeal.

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The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution’s own procedures);
- 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 an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
- A sanction imposed as a result of the original student conduct hearing that is disproportionate with the outcome of the matter.

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The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

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If a party appeals, the institution will, as soon as practicable, notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

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Appeals may be no longer than (two thousand five hundred (2,500) words or five (5) pages (including attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

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Appeals will be decided by an Appeal Board, who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decision maker in the same matter.

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Outcome of appeal will be provided in writing simultaneously to both parties and include rationale for the decision.

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Retaliation

SUNY Potsdam will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under this Title IX Grievance Policy.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Title IX Grievance Policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment.

Complaints alleging retaliation may be filed according to the Sexual Harassment Response and Prevention Policy.

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Student Conduct Process in Cases Involving Sexual Misconduct (Non-Title IX)

Victims/Survivors/Reporting Individuals have the right to request that student conduct charges be filed against the Accused/Respondent. Conduct proceedings are governed by the procedures set forth in the Community Rights & Responsibilities as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.

Throughout conduct proceedings, both parties of the complaint will have:

- The same opportunity to be accompanied by an advisor of their choice who may assist and advise the parties throughout the conduct process and any related hearings or meetings. Advisors may not address the Student Conduct Hearing Board during a disciplinary hearing but may speak privately with the advisee during the proceedings. Participation of the advisor in any proceedings is governed by federal law and the SUNY Potsdam Student Code of Conduct.
- The right to a prompt response to any complaint. SUNY Potsdam will conduct timely reviews of all complaints of sexual misconduct. Absent extenuating circumstances, review and resolution is expected to take place within sixty (60) calendar days from receipt of the complaint. All deadlines and time requirements detailed below may be extended for good cause as determined by the Title IX Coordinator or the Chief Student Affairs Officer, or a designee of either of those individuals. Both parties will be notified in writing of the delay, the reason for

delay, and provide the date of the new deadline or event. Extensions requested by one party will not be longer than five (5) business/school days. With respect to timing, parties should take notice of the following:

- The preliminary review of all complaints, including any necessary interviews to be conducted and any necessary interim measures to be put in place, will usually be completed within seven (7) days of receipt of the complaint.
- The subsequent, comprehensive review and investigation of the complaint, including interviews with all involved parties and gathering of evidence, will usually be completed within forty (40) days of receipt of the complaint.
- Results of the complaint, via either a formal hearing or waiver of hearing will typically be issued within sixty (60) days of receipt of the complaint, or, if longer, within a prompt and timely manner.
- Appeals for cases of sexual misconduct will be conducted as per the procedures described in "Appeals of Cases of Sexual Misconduct".
- The right to have their complaint investigated and adjudicated in an impartial and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the Respondent, including the right to a presumption that the Respondent is, "not responsible" until a finding of responsibility is made and other issues related to sexual assault, domestic violence, dating violence, and stalking.
- The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
- The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Accused individuals will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions.
- The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten (10) days except when law enforcement specifically requests and justifies a longer delay.
- The right to offer evidence during an investigation and to review available relevant evidence in the case file (or otherwise held by SUNY Potsdam).
- The right to present evidence and testimony at a hearing, where appropriate.
- The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing, or testifying with a room partition.
- The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in college disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
- The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present
- The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.

- The right to written or electronic notice about the sanction(s) that may be imposed on the Accused/Respondent based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
- Access to at least one level of appeal of a determination before a panel that is fair and impartial and does not include individuals with a conflict of interest.
- The right to have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five (5) years.
- The right to choose whether to disclose or discuss the outcome of a conduct hearing.
- The right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.
- Evidence to be presented by either party during any hearing on the charges must be submitted to the Director of Student Conduct and Community Standards at least two (2) business days in advance of the scheduled hearing. This evidence will be shared with the opposing party. The Student Conduct Hearing Board may exclude evidence that has not been shared or adjourn the hearing to afford all parties the opportunity to review evidence to be presented during the hearing. The Director of Student Conduct and Community Standards or the Student Conduct Hearing Board will make the final decision related to the admissibility of all evidence.

Temporary and Administrative Directives

When the Accused/Respondent is a student, the College may issue a “No Contact Order” meaning that continuing to contact the protected individual, either directly in person, by telephone, email, text message, or other electronic means of communication, or through a third party (other than an attorney), is a violation of College policy subject to additional conduct charges; if both parties of the complaint observe each other in a public place, it is the responsibility of the Accused/Respondent to leave the area immediately and without directly contacting the protected person. Additional information can be found at: <https://www.potsdam.edu/about/safety/title-ix/no-contact-orders>

When the Accused/Respondent is a student and presents a continuing threat to the health and safety of the community, they may be subject to a temporary suspension pending the outcome of the student conduct process.

Both parties in the complaint shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any Administrative Directives and/or Temporary Directives. Both parties in the complaint shall be allowed to submit evidence in support of their request.

The request for review must be submitted in writing to the Director of Student Conduct and Community Standards (by email: StudentConduct@potsdam.edu or in person to the Student Conduct Office) within two (2) calendar days of the imposition of Temporary and/or Administrative Directives.

The College may establish an appropriate schedule for the Accused/Respondent to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the Victim/Survivor/Reporting Individual.

A Plain Language Explanation of Distinctions Between the New York State Penal Law and the College Disciplinary Processes

	Criminal Justice System	College/University Disciplinary System	Formatted: Font: (Default) +Body (Calibri), 11 pt
Goals.	Public safety, deterrence, and punishment.	Education; safety; safe and supportive campus environment.	Formatted: Font: (Default) +Body (Calibri), 11 pt
Governing Law.	New York State Penal Code; New York State Rules of Criminal Procedure (or another state's rules if the crime took place there), Federal Criminal Law, and Rules of Evidence.	Title IX; The Clery Act as amended by the Violence Against Women Act; NYS Education Law sections 129-A and 129-B. More specific rules govern particular colleges and universities.	Formatted: Font: (Default) +Body (Calibri), 11 pt
How to report and whether there must be action once a report is made.	Crimes involving sexual violence may be reported to campus police (if the campus has police officers), the local police agency, or to the New York State Police. Certain crimes may also be reported to federal law enforcement agents. Once a report is made, the decision whether to investigate is made by the police/law enforcement agency, often in consultation with a District Attorney or other prosecuting agency. An investigation may be conducted without the consent or participation of a reporting individual. The ultimate decision of whether to initiate a criminal prosecution is initially made by a prosecutor. In cases involving felony charges, the final charging decision is made by a Grand Jury.	Victims may disclose sexual violence to various college employees who are designated confidential resources or to others who will try to ensure privacy to the extent consistent with the institution's obligation to provide a safe educational environment. Disclosures made to a confidential resource will not trigger an investigation. When a report is made to the Title IX Coordinator (TIXC) or another Non-Confidential resource, the TIXC will determine whether an investigation is necessary by weighing a request for confidentiality by the reporting individual against the continuing safety of that person and the safety and best interests of the campus community.	Formatted: Font: (Default) +Body (Calibri), 11 pt
Who investigates?	Police or other law enforcement officials.	Investigators employed or retained by the college or university; these individuals may work for different departments within the institution, including, but not limited to, the police/public safety department, student affairs and academic affairs.	Formatted: Font: (Default) +Body (Calibri), 11 pt
Procedures	See Governing Law. Procedures established by police departments, prosecutors' offices, etc.	College/University policies and Bylaws, which generally incorporate requirements of Governing Law. Collective bargaining agreements may impact some procedures.	Formatted: Font: (Default) +Body (Calibri), 11 pt
Standard of Evidence.	Crimes must be proven "Beyond a Reasonable Doubt"	A violation of disciplinary rules must be found by a "Preponderance of the Evidence" (more likely than not)	Formatted: Font: (Default) +Body (Calibri), 11 pt

Confidentiality.	Law enforcement agencies offer some confidential assistance, but a criminal charge and trial must be public.	Colleges and universities offer confidential resources, but a disciplinary proceeding requires that relevant information be shared with those involved.	Formatted: Font: (Default) +Body (Calibri), 11 pt
Privacy.	Criminal trials must be public.	Disciplinary proceedings are kept as private as possible, but information must be shared with certain individuals within the college, the parties, and pursuant to law.	Formatted: Font: (Default) +Body (Calibri), 11 pt
Who are the parties?	The prosecution and defendant. The victim/survivor is <u>not</u> a party, but often the critical witness for the prosecution.	Varies by school—some consider the institution and the respondent to be parties, and confer on the reporting individual certain rights to participate, as the law provides. Otherwise, reporting individual and accused/respondent.	Formatted: Font: (Default) +Body (Calibri), 11 pt
Participation in the process.	In limited circumstances, a criminal prosecution can proceed without the participation or cooperation of the reporting individual, but without a reporting individual's participation, it is generally more difficult to prove a crime beyond a reasonable doubt.	Reporting students cannot be required to participate in the college process. However, a college will be limited in its ability to respond if a reporting individual does not participate.	Formatted: Font: (Default) +Body (Calibri), 11 pt
Who initiates the proceedings?	A prosecutor, acting on behalf of the state (or the United States in federal cases).	The college or university initiates proceedings. While rules vary from school to school, they most provide an active role for the reporting individual.	Formatted: Font: (Default) +Body (Calibri), 11 pt
Testimony.	In a court, testimony is generally public. Other parties are, through counsel, entitled to cross-examine witnesses.	The rules are established by individual colleges and universities, but some institutions provide for alternative approaches that permit students to testify without having other parties in the room and/or to ask cross-examination questions only through the disciplinary panel, investigator, or representative of the reporting individual and/or respondent.	Formatted: Font: (Default) +Body (Calibri), 11 pt
Role of attorneys.	Both the state and the defendant are represented by counsel; counsel may question witnesses.	Varies by school. Many permit the parties to be advised by attorneys but some limit the attorney's' roles to quietly speaking with their clients or passing notes.	Formatted: Font: (Default) +Body (Calibri), 11 pt
Mental Health and Sexual History.	In New York, a reporting individual's prior sexual and mental health history is generally, but not always, inadmissible in a criminal case. There are limited circumstances under which directly	Generally not admissible, but subject to quite limited exceptions. Education Law 129-b permits parties to exclude information about their prior sexual history with persons other than the other party and also to exclude evidence of their own	Formatted: Font: (Default) +Body (Calibri), 11 pt

	relevant evidence of that kind may be admitted.	mental health history in the fact finding phase of the disciplinary process.
Possible Results.	If a prosecution takes place, the defendant may • plead guilty or “no contest” • have the case dismissed by the judge (on legal grounds) • be found “guilty” or “not guilty” by a judge or jury	In cases that do not involve sexual assault, some schools permit mediation or similar procedures if parties agree. If there is a formal proceeding, the respondent may be found “responsible” or “not responsible” for violations of the institution’s rules. Respondents may also accept responsibility before a finding by an adjudicator.
Sanctions.	An individual found guilty may be fined, imprisoned, or both. In some courts, alternative sanctions are sometimes used.	An individual found responsible for violating college policy may be given a range of sanctions (depending on the severity of the conduct and other factors, such as prior judicial history), ranging from a warning to suspension or expulsion from the institution.

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Definition of Offenses

Offenses in Campus Crime Reporting use the Federal Uniform Crime Reporting Part 1 Offenses and their related definitions and classifications. These offenses are:

Arson – Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.
A Class C, B, or A felony.

Criminal Homicide - Manslaughter by Negligence – The killing of another person through gross negligence. A Class E felony.

Criminal Homicide - Murder and Non-negligent Manslaughter – The willful (non-negligent) killing of one human being by another. A Class A felony.

Robbery – The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
All robberies are felonies.

Aggravated Assault – An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault is usually accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)
A Class B felony.

Burglary – The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with

intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

A Class C or B felony.

Motor Vehicle Theft – The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned, including joyriding.)

These are felonies.

Weapon Law Violations – The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned.

Are misdemeanors or felonies.

Drug Abuse Violations – Violations of State and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (Barbiturates, Benzedrine).

Are misdemeanors or felonies.

Liquor Law Violations – The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

Are misdemeanors or felonies.

Hate Crime – Also known as a bias crime, a hate crime is a criminal offense committed against a person, property or society which is motivated, in whole or in part, by the offender's bias against a race, religion, disability, sexual orientation or ethnicity/national origin.

Are misdemeanors or felonies.

Sex Offenses – Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

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.

Criminal Sexual Contact – is defined as “The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation; or the forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.”

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

Statutory Rape – Non-forcible sexual intercourse with a person who is under the statutory age of consent.

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

Domestic Violence – Any violent felony or misdemeanor crime committed by a current or former spouse or intimate partner of the survivor, a person sharing a child with the survivor, or a person cohabitating with the survivor as a spouse or intimate partner.

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

New York State Law Regarding Sex Offenses

The following represent all sections of the New York State Penal law, which are sex offenses:

Sec. 120.45 Stalking in the Fourth Degree

A person is guilty of stalking in the fourth degree when he or she intentionally, and for not legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

1. 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
2. causes material harm to the mental or emotional health of such person, where such conduct consists of the following: 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
3. 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.

Stalking in the fourth degree is a class B misdemeanor.

Sec. 120.50 Stalking in the Third Degree

A person is guilty of stalking in the third degree when he or she:

1. commits the crime of stalking in the fourth degree against any person in three or more separate transactions, for which the actor has not been previously convicted; or
2. commits the crime of stalking in the fourth degree against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime and the victim of such

specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or

3. with an intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or
4. commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

Stalking in the third degree is a class A misdemeanor.

Sec. 120.55 Stalking in the Second Degree

A person is guilty of stalking in the second degree when he or she:

1. commits the crime of stalking in the third degree and in the course of and furtherance of the commission of such offense:
 - a) displays, or possesses and threatens the use of a firearm, pistol, revolver, rifle, sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chukka stick, sand bag, sandclub, slingshot, slungshot, shuriken, "Kung Fu Star", dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapons; or
 - b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or
2. commits the crime of stalking in the third against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or
3. commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree; or
4. being 21 years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or
5. commits the crime of stalking in the third degree, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

Stalking in the second degree is a class E felony.

Sec. 120.60 Stalking in the First Degree

A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree as defined in sub-division three of section 120.50 or stalking in the second degree as defined in section 120.55 of this article and, in the course and furtherance thereof, he or she:

1. intentionally or recklessly causes physical injury to the victim of such crime; or
2. commits a class A misdemeanor defined in article one hundred thirty of this chapter, or a class E felony defined in section 130.25, 130.40 or 130.85 of this chapter, or a class D felony defined in section 130.30 or 130.45 of this chapter.

Stalking in the first degree is a class D felony.

Sec. 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

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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.

Sec. 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; or
2. being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old.
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.

Sec. 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.
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.

Sec. 130.35 Rape in the first degree

A person is guilty of rape in the first degree when he 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.
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.

Sec. 130.40 Criminal Sexual Act in the third degree

A person is guilty of a 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.

Sec. 130.45 Criminal Sexual Act in the second degree

A person is guilty of a 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.

Sec. 130.50 Criminal Sexual Act in the first degree

A person is guilty of a 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.

Sec. 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 purpose of this section, forcible touching includes squeezing, grabbing or pinching.

Forcible touching is a Class A misdemeanor.

Sec. 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, or sexual abuse in the second degree, as defined in section 130.60 of this article and, within the previous ten year period, 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 130.60 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.

Sec. 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

1. such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old; and
2. such other person was more than fourteen years old; and
3. the defendant was less than five years older than such other person.

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

Sec. 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.

Sec. 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.

Sec. 130.65 – 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 or rectum 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 or rectum 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.
2. Conducts 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.

Sec. 130.66 Aggravated Sexual Abuse in the third degree

1. A person is guilty of aggravated sexual abuse in the third degree when he inserts a foreign object in the vagina, urethra, penis or rectum 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 or rectum 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.

Sec. 130.67 Aggravated Sexual Abuse in the second degree

1. A person is guilty of aggravated sexual abuse in the second degree when he inserts a finger in the vagina, urethra, penis, or rectum 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.

Sec. 130.70 Aggravated Sexual Abuse in the first degree

1. A person is guilty of aggravated sexual abuse in the first degree when he inserts a foreign object in the vagina, urethra, penis or rectum 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.

Sec 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 conduct, with a child less than eleven years old; or
 - b) He or she, being eighteen years or more old, 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.

Sec. 130.80 Course of Sexual Conduct against a child in the second degree

1. A person is guilty of sexual conduct against a child in the second degree when, over a period of time not less than three months:
 - a) The person engages in two or more acts of sexual conduct with a child less than eleven years old; or
 - b) 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 of the time period charged under this section.

Course of sexual conduct against a child in the second degree is a class D felony.

Sec. 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.

Sec. 130.90 Facilitating a Sexual 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 administers 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 sexual offense with a controlled substance is a Class D felony.

Sec. 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, 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.

Sec. 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.

Sec. 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.

Sec. 255.25 Incest in the Third Degree

A person is guilty of incest in the third degree when he or she marries or engages in sexual intercourse, oral sexual conduct or anal sexual conduct with a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

Sec. 255.26 Incest in the Second Degree

A person is guilty of incest in the second degree when he or she commits the crime of rape in the second degree, or criminal sexual act in the second degree, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

Sec. 255.27 Incest in the First Degree

A person is guilty of incest in the first degree when he or she commits the crime of rape in the first degree, or criminal sexual act in the first degree, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.

Reported Clery Crime and Arrest Statistics SUNY Potsdam

	2022	2023	2024
Reported Crimes			
Murder/Non-Negligent Manslaughter	1	0	0
Negligent Manslaughter	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	0
Arson	0	0	1
Rape	1	0	3
Criminal sexual contact/fondling	1	1	0
Incest	0	0	0
Statutory Rape	0	0	0
Dating Violence	0	13	0
Domestic Violence	9	0	1
Stalking	1	1	1
Hate Crimes	1	1	0
Arrests			
Weapons	0	0	0
Drugs	0	1	0
Liquor Law	1	1	0
Campus Disciplinary Referrals			
Weapons	0	0	0
Drug Law Violation	11	0	0
Liquor Law Violation	10	19	7

FBI Index Crimes (including hate crimes)

Criminal Offense	On-Campus (includes residence halls)			On-Campus Student Housing Only			Non-Campus Buildings			Public Property		
	2022	2023	2024	2022	2023	2024	2022	2023	2024	2022	2023	2024
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	1	0
Manslaughter by Negligence	0	0	0	0	0	0	0	0	0	0	0	0
Rape	4	0	3	4	0	3	0	1	0	1	1	0
Criminal sexual contact/fondling	2	1	1	2	1	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0	1	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	1	0	0
Arson	0	1	1	0	1	1	0	0	0	0	0	0

Arrests	On-campus Arrests (includes on-campus student housing)			Arrests – On-campus Student Housing Only			Arrest – Non-Campus			Arrest – Public Property		
	2022	2023	2024	2022	2023	2024	2022	2023	2024	2022	2023	2024
Illegal Weapons possession violations	0	0	0	0	0	0	0	0	0	0	0	0
Drug Law Violations	0	0	0	0	0	0	0	0	0	0	0	0
Liquor Law Violations	0	0	0	0	0	0	0	0	0	8	0	4

Campus Disciplinary Actions	Student Conduct Referrals On Campus			Student Conduct Referrals On Campus Student Housing			Student conduct Referrals Non-Campus			Student Conduct Referrals Public Property		
	2022	2023	2024	2022	2023	2024	2022	2023	2024	2022	2023	2024
Illegal Weapons Possession	0	0	0	0	0	0	0	0	0	1	0	0
Drug Law Violations	6	0	0	5	0	0	0	0	0	0	0	0
Liquor Law Violations	8	18	2	2	18	2	0	0	0	1	1	2

Criminal Offense	On-Campus (includes residence halls)			On-Campus Student Housing Only			Non-Campus Buildings			Public Property		
	2022	2023	2024	2022	2023	2024	2022	2023	2024	2022	2023	2024
Domestic Violence	1	0	1	0	2	0	0	0	0	0	0	0
Dating Violence	11	2	0	10	0	0	0	0	0	0	0	0
Stalking	1	1	1	0	0	0	0	0	0	0	0	0

When a **Hate Crime** is reported, it will be labeled with the following categories of Prejudice: R=Race, G=Gender, REL=Religion, SO=Sexual Orientation, NO=National Origin, GI=Gender Identity, and/or E=Ethnicity. In addition to the criminal offenses listed on the chart, the following crimes need to be reported if they are hate crimes: larceny-theft; simple assault; intimidation; destruction, damage, vandalism of property: making graffiti; or any other crime involving bodily injury.

In 2021 there were three Hate Crime Larcenies on campus all under Religion

In 2022 there was one Hate Crime, criminal mischief reported in Morey Hall (Swastika carved into a corkboard).

In 2023 there was one Hate Crime, criminal mischief in Bishop Hall (derogatory hate speech carved into an office door above a rainbow sticker).



Fire Safety

The University Police at SUNY Potsdam maintains a “fire log” which is available at any time for inspection by students, faculty and staff, at the University Police office, located in the Van Housen Hall Extension, first floor. Following is a chart of fires, which occurred in campus residence halls during 2019, 2020, and 2021. Please note that the crime of arson may also be reported in our criminal statistic section of this report. We define a fire as “any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner”.

Residence Hall Fires Reported

Year	Location	Type/Cause	Number of Related Injuries treated at a Medical Facility	Related Deaths	Property Damaged	Value of Property Damaged
2022	Town House c-3	Kitchen/oven fire	0	0	None	N/A
2023	None					
2024	Van Housen	Arson	0	0	Yes	<\$150,000
2024	Bowman	Microwave fire	0	0	None	N/A

In an effort to maintain safe and enjoyable residence halls, the following items are prohibited:

- Candles and Incense
- Space Heaters
- E-Cigarettes
- Sun/Heat Lamps
- Halogen & floor lamps with multicolored domes
- Refrigerators exceeding 4 cubic feet
- Any extension cords
- Any electrical cooking appliance such as hot pots, Foreman grills, toaster ovens
- Potpourri pots
- Electric coils
- Lava lamps
- Window Air conditioners
- Charcoal and lighter fluid
- Any flammable liquid
- Electric percolators and drip coffee pots
- Any flammable materials, chemicals including those used in campus laboratories, explosives including fireworks
- Any type of firearm including BB guns and paintball devices and other weapons
- Tapestries or wall hangings made of fabric
- Internal combustion engines

Smoking and vaping is not permitted on campus.

Falsely activating a fire alarm or tampering in any way with any fire safety equipment is a serious crime and violation of SUNY Potsdam policy.

New York State Law Regarding Falsely Reporting an Incident

The following statutes are applicable:

PL240.50 Falsely Reporting an Incident in the third degree.

A person is guilty of falsely reporting an incident in the third degree when, knowing the information reported, conveyed, or circulated to be false or baseless, he or she:

1. Initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a crime, catastrophe or emergency under circumstances in which it is not unlikely that public alarm or inconvenience will result; or
2. Reports, by word or action, to an official or quasi-official agency or organization having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a catastrophe or emergency which did not in fact exist; or
3. Gratuitously reports to a law enforcement officer or agency (a) the alleged occurrence of an offense or incident which did not in fact occur; or (b) an allegedly impending occurrence of an offense or incident which in fact is not about to occur; or (c) false information relating to an actual offense or incident or to the alleged implication of some person therein; or
4. Reports, by word or action, an alleged occurrence or condition of child abuse or maltreatment or abuse or neglect of a vulnerable person which did not in fact occur or exist to:
 - a. The statewide central register of child abuse and maltreatment, as defined in title six of article six of the social services law or the vulnerable persons' central register as defined in article eleven of such law, or
 - b. Any person required to report cases of suspected child abuse or maltreatment pursuant to subdivision one of section four hundred thirteen of the social services law or to report cases of suspected abuse or neglect of a vulnerable person pursuant to section four hundred ninety-one of such law, knowing that the person is required to report such cases, and with intent that such an alleged occurrence be reported to the statewide central register or vulnerable persons' central register.

Falsely reporting an incident in the third degree is a class A Misdemeanor.

PL240.55 Falsely Reporting an Incident in the second degree.

A person is guilty of falsely reporting an incident in the second degree when, knowing the information reported, conveyed or circulated to be false or baseless, he or she;

1. Initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a fire, explosion, or the release of a hazardous substance under circumstances in which it is not unlikely that public alarm or inconvenience will result.

Falsely reporting an incident in the second degree is a Class E felony.

PL145.14 Criminal Tampering in the third degree.

A person is guilty of criminal tampering in the third degree when, having no right to do so nor any reasonable ground to believe that he has such right, he tampers with property or another person with intent to cause substantial inconvenience to such person or to a third person.

Criminal tampering in the third degree is a Class B misdemeanor.

For further information on residence hall rules and regulations, please visit:
www.potsdam.edu/studentlife/ResHalls/, which describes Residence Hall Policies.

The following offices may receive reports of fire/safety concerns on campus:

- University Police: Van Housen Extension, (315) 267-2222
- Environmental Health and Safety Officer: Service Center, (315) 267-2596
- Dean of Students: Barrington Student Union, (315) 267-2117
- Residence Life Staff: Draime Extension, (315) 267-2350
- Physical Plant: Raymond Hall, (315) 267-2135

Fire Safety Education and Training

The University Police, Residence Life Staff and Environmental Health and Safety Office work closely together to ensure safety. Fire drills are regularly conducted and coordinated with the Potsdam Volunteer Fire Department. The New York State Office of Fire Prevention and Control trains Residence Life staff each year. At the beginning of each semester, Residence Life staff also train to evacuate their buildings and manage door access. Floor meetings are held on each floor in each residence hall to review fire safety and evacuation procedures.

We maintain compliance with the New York State Fire Code with respect to our drills. There is a periodic review of our fire safety procedures with Resident Assistants and Resident Directors within the residence halls. We also maintain our sprinkler, fire alarm and smoke detection systems by having trained and competent personnel inspect and test the systems. Residence Life staff periodically inspect rooms for hazardous or dangerous conditions.

In the fall of 2023, the SUNY Potsdam office of Environmental Health and Safety conducted a “Campus Safety Days” presentation on campus. This included a mock dorm room burn in the Student Union Quad as well as speakers and other safety presentations regarding fire safety. Fire Extinguisher training and fire alarm training were held in 2023 as well.

We passed our New York State Office of Fire Prevention and Control inspection in 2021, 2022, and 2023, and were not assessed any penalties. During scheduled significant breaks, rooms are inspected for safety. Illegal or dangerous items are confiscated, and students may face penalties.

All University employees should receive initial fire safety training and are expected to familiarize themselves with evacuation plans for buildings they occupy.

Emergency Evacuation

Evacuation procedures are posted in each building. Special procedures are in place for evacuating members of the college community with disabilities.

Students residing in the residence halls are trained to leave the building immediately and not to use elevators.

Staff and students are trained to assemble at specifically designated assembly points.

Staff members are required to assist students as well as the University Police and Potsdam Volunteer Fire Department in complying with safety protocols.

In 2021, all required fire drills were held; they included drills in residence halls, academic buildings, and in public assembly areas. Monthly drills were also held for SUNY Potsdam Childcare Center requirements.

More information can be found by contacting the University Environmental Health and Safety Office 315-267-2596.

The following table describes fire safety systems located in the Residence Hall facilities on the SUNY Potsdam campus:

Fire Safety Systems Student Housing Facilities						
Building	Assembly Space	Detection Type	Sprinkler System (Y/N)	Fire Suppression System (Y/N)	Fire Alarm Sound	Strobe Lights (Y/N)
Bowman Hall	Bowman South Breezeway	Heat/Smoke	Y - West Side has sprinklers in each room. Remainder of dorm has sprinklers in trash rooms, basement storage rooms and kitchen areas only.	Y – In dining areas, over grill locations	Horn	Y -In Hallways and Common Areas. Also in Handicap Rooms.
Knowles Hall	In front of the Knowles MPR entrance inside the Quad	Heat/Smoke	Y - Sprinklers are located in trash rooms, basement storerooms and kitchen areas only.	N	Horn	Y - In Hallways and Common Areas. Also in Handicap Rooms.
Lehman Hall	Entry Way by the Dining Hall inside the Quad	Heat/Smoke	Y - Sprinklers are located in trash rooms, basement storerooms and kitchen areas only.	Y – In dining areas, over grill locations	Horn	Y - In Hallways and Common Areas. Also in Handicap Rooms.

Sisson Hall	On the sidewalk, Quad Side, between Sisson and the Student Union	Heat/Smoke	Y - Sprinklers are in trash rooms and kitchen areas only.	N	Horn	Y - In Hallways and Common Areas. Also in Handicap Rooms.
Town House A	Town House E, by the Laundry Room	Heat/Smoke	Y - Sprinklers located in every room.	N	Horn	Y - In Hallways and Common Areas.
Town House B	Town House E, by the Laundry Room	Heat/Smoke	Y - Sprinklers located in every room.	N	Horn	Y - In Hallways and Common Areas.
Town House C	Town House E, by the Laundry Room	Heat/Smoke	Y - Sprinklers located in every room.	N	Horn	Y - In Hallways and Common Areas.
Town House D	Town House E, by the Laundry Room	Heat/Smoke	Y - Sprinklers located in every room.	N	Horn	Y - In Hallways and Common Areas.
Town House E	Town House E, by the Laundry Room	Heat/Smoke	Y - Sprinklers located in every room.	N	Horn	Y - In Hallways and Common Areas.
Town House F	Town House E, by the Laundry Room	Heat/Smoke	Y - Sprinklers located in every room.	N	Horn	Y - In Hallways and Common Areas.
Town House G	Town House E, by the Laundry Room	Heat/Smoke	Y - Sprinklers located in every room.	N	Horn	Y - In Hallways and Common Areas.
Town House H	Town House E, by the Laundry Room	Heat/Smoke	Y - Sprinklers located in every room.	N	Horn	Y - In Hallways and Common Areas.

Town House I	Town House E, by the Laundry Room	Heat/Smoke	Y - Sprinklers located in every room.	N	Horn	Y - In Hallways and Common Areas.
Town House J	Town House E, by the Laundry Room	Heat/Smoke	Y - Sprinklers located in every room.	N	Horn	Y - In Hallways and Common Areas.
Van Housen Hall	Main Entrance, Quad Side, by Student Health and Counseling	Heat/Smoke	Y - Sprinklers are in trash rooms and kitchen areas only.	N	Horn	Y - In Hallways and Common Areas. Also in Handicap Rooms.

“Whistleblower” Protection

HEOA states that nothing in the law “... shall be construed to permit an institution to take retaliatory action against anyone with respect to the implementation of any provision of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.”

CRIMINAL INCIDENT REPORT

1. Prepared by:

Name _____

Title _____

Date _____

2. Was this crime reported to any Law Enforcement Agency? Yes ☐ No ☐

If "Yes," to which agency: ☐ SUNY Potsdam University Police
☐ Potsdam Village Police Department
☐ Other

3. Does the Reporter wish to file a formal complaint? Yes ☐ No ☐

If "Yes":

Name _____

Address _____

Phone _____

4. A) The following crime was reported (please check):

- | | | |
|---|--|--|
| ☐ Murder | ☐ Aggravated Assault | ☐ Robbery |
| ☐ Non-Negligent Manslaughter | ☐ Burglary | ☐ Hate Crimes |
| ☐ Negligent Manslaughter | ☐ Motor Vehicle Theft | ☐ Dating Violence |
| ☐ Rape | ☐ Arson | ☐ Domestic Violence |
| ☐ Criminal sexual contact | ☐ Liquor Law Violations | ☐ Stalking |
| ☐ Incest | ☐ Drug Law Violations | |
| ☐ Statutory Rape | ☐ Weapon Law Violations | |

Note: Definitions for each of the above on reverse of this form.

B) Was the crime reported a hate crime? ☐ Yes ☐ No

If "Yes," identify the category of prejudice:

- ☐ Race ☐ Ethnicity ☐ National Origin ☐ Gender Identity
☐ Religion ☐ Disability ☐ Sexual Orientation ☐ Gender

Please provide a brief explanation for this determination:

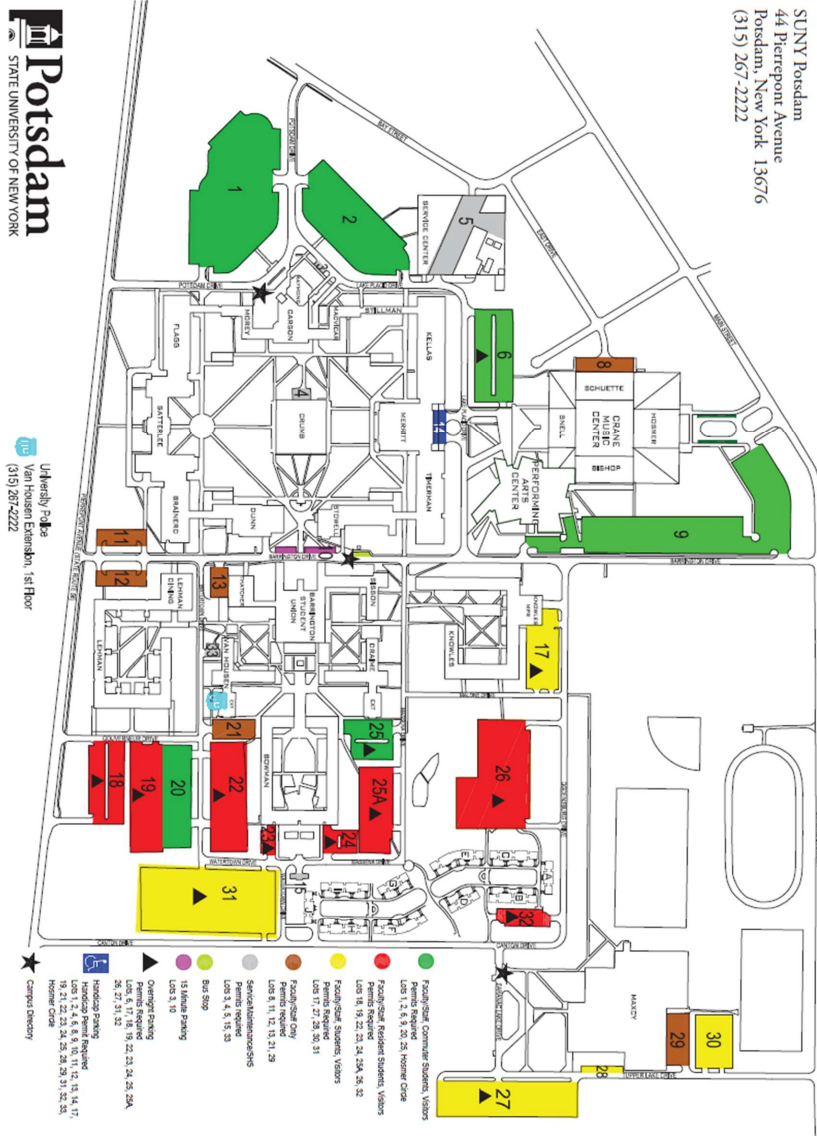
5. A) Crime occurred: Date _____ Time _____

Location _____

B) Give a brief description of the incident:

Please forward completed form to: Chief of University Police, Van Housen Ext., First Floor

UNIVERSITY POLICE
 SUNY Potsdam
 44 Pierrepoint Avenue
 Potsdam, New York 13676
 (315) 267-2222



SUNY Potsdam Clery Property Map

State University of New York at Potsdam Workplace Policies

Drug and Alcohol-Free Workplace Policy

SUNY Potsdam is committed to the development and maintenance of a Drug and Alcohol-Free work environment and, in accordance with the Federal Drug Free Workplace Act of 1988 and the State Policy on Alcohol and Controlled Substances in the Workplace, will not tolerate the unlawful possession or use of controlled substances or the on-the-job use or impairment from alcohol in the workplace. Compliance with the provisions of this Policy is a condition of employment with SUNY Potsdam.

SUNY Potsdam employees are subject to the following:

1. The term "controlled substance" means a controlled substance in Schedules 1 through V of Section 202 of the Federal Controlled Substance Act (21 USC 812).
2. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance by an employee in all SUNY Potsdam work locations is prohibited. An employee may possess and use a controlled substance which is properly prescribed for him or her by a medical practitioner.
3. On-the-job use of or impairment from alcohol by an employee in all SUNY Potsdam work locations is prohibited.
4. An employee who unlawfully manufactures, distributes, dispenses, possesses or used controlled substances in the workplace will be subject to disciplinary procedures consistent with applicable laws, rules, regulations, and collective bargaining agreements.
5. An employee who uses alcohol on the job or is impaired from the use of alcohol in the performance of the job will be subject to disciplinary procedures consistent with applicable laws, rules, regulations, and collective bargaining agreements.
6. An employee convicted of a drug or alcohol related criminal statute violation occurring in or on property owned or controlled by SUNY Potsdam is required to give a signed written notice of the conviction to the Chief of University Police within five (5) calendar days following the conviction.
7. SUNY Potsdam will notify the appropriate federal agencies, if applicable, within ten (10) days of receipt of a notice of an employee drug conviction.
8. SUNY Potsdam will make every effort to maintain a drug and alcohol-free workplace. This effort will include drug and alcohol awareness education, an employee assistance program and the implementation and strict enforcement of this Policy.

State University of New York at Potsdam Domestic Violence and the Workplace Policy

Original Issue Date: June 24, 2008, Revision Dates: September 10, 2013; October 20, 2017

Policy Statement

Domestic violence permeates the lives and compromises the safety of thousands of New York State employees each day, with tragic, destructive, and often fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past.

Domestic violence is 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. In addition to exacting a tremendous toll from the individuals, it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover.

SUNY Potsdam, to the fullest extent possible without violating any existing rules, regulations, statutory requirements, contractual obligations or collective bargaining agreements, will take all appropriate actions to promote safety in the workplace and respond effectively to the needs of victims of domestic violence.

Definitions

For purposes of this policy, the following terms will be defined as stated below:

Domestic Violence – 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. [Title IX Definition of Domestic Violence: Any violent crime committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.]

Intimate Partner – Includes persons legally married to one another; persons formerly married to one another; persons who have a child in common, regardless of whether such persons are married or have lived together at any time, couples who are in an intimate relationship, including but not limited to, couples who live together or have lived together, or persons who are dating or who have dated in the past, including same sex couples.

Abuser – A person who perpetrates a pattern of coercive tactics, which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

Victim – The person against whom an abuser directs coercive and/or violent acts.

Guidelines

I. Employee Awareness

SUNY Potsdam shall take all reasonable actions to educate employees regarding the effects of domestic violence, ways to prevent and curtail violence, and methods to report such violence to authorities.

It is the policy of SUNY Potsdam that information on domestic violence and available resources shall be posted and, if necessary, replaced or reposted annually in areas where other employment policies and information are traditionally posted. This information shall include the topics addressed in the appendix.

II. Non-Discriminatory and Responsive Personnel Policies for Victimized Employees

SUNY Potsdam shall ensure that personnel policies and procedures do not discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.

- a. New York State law makes it a crime for employers to penalize an employee who, as a victim or witness of a criminal offense, is appearing as a witness, consulting with a district attorney, or exercising his/her rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law. This law requires employers, with prior day notification, to allow time off for victims or subpoenaed witnesses to exercise his/her rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law [Penal Law §215.14]. If there are any questions or concerns regarding the leave that must be granted to victims or subpoenaed witnesses, contact the Associate Vice President or Director of Human Resources Operations or the Attendance and Leave Unit at the Department of Civil Service.
- b. SUNY Potsdam, upon request, will assist the employee in determining the best use of his/her attendance and leave benefits when an employee needs to be absent as a result of being a victim of domestic violence. If an employee requests time off to care for and/or assist a family member who has been a victim of domestic violence, SUNY Potsdam will evaluate the employee's request for leave for eligibility under existing law and collective bargaining agreements applicable to the employee and the attendance rules.
- c. SUNY Potsdam understands that victims of domestic violence may lack the required documentation or have difficulty obtaining the required documentation to justify absences without compromising their safety. Therefore, the Associate Vice President or Director of Human Resources Operations will consult with the employee to identify what documentation she/he might have, or be able to obtain, that will not compromise his/her safety-related needs and will satisfactorily meet the documentation requirement of the employer. Because there are confidentiality issues associated with the submission of documentation in these instances, SUNY Potsdam may choose to consult with the Attendance and Leave Unit at the Department of Civil Service when questions arise.
- d. Employees who are victims of domestic violence and who separate from a spouse (or terminate a relationship with a domestic partner, if covered), shall be allowed to make reasonable changes in benefits at any time during the calendar year where possible, in accordance with statute, regulation, contract and policy.
- e. New York State has established that victims of domestic violence are now a protected class in the employment provisions of the NYS Human Rights Law. This law prevents an employer from firing or refusing to hire any individual based on their status as a victim of domestic violence and prevents discrimination in compensation or in the terms, conditions or privileges of employment. SUNY Potsdam will not make inquiries about a job applicant's current or past domestic violence victimization, and employment decisions will not be based on any assumptions about or knowledge of such exposure.
- f. In cases in which it is identified that an employee's work performance difficulties are a result of being a victim of domestic violence, said employee shall be afforded all of the proactive measures outlined in this policy, and shall be provided clear information about performance expectations, priorities, and performance evaluation. If a disciplinary process is initiated, special care will be taken to consider all aspects of the victimized employee's situation. SUNY Potsdam shall utilize all reasonable available options to resolve work-related performance problems, and

may make a referral to the Employee Assistance Program, consistent with existing collective bargaining unit agreements, statute, regulations and agency policy.

- g. If reasonable measures have been taken to resolve domestic violence-related work performance problems of victimized employees, but the performance problems persist and the employee is terminated or voluntarily separates from employment due to these domestic violence related issues, and the employee conveys to SUNY Potsdam that the separation is due to these domestic violence issues, SUNY Potsdam shall inform the employee of his or her potential eligibility for unemployment insurance and respond quickly to any requests for information that may be needed in the claims process. New York State law provides that a victim of domestic violence who voluntarily separates from employment may, under certain circumstances, be eligible for unemployment insurance benefits. [§593 of NYS Labor Law.]
- h. Additional information may be found here:
<https://www.labor.ny.gov/ui/claimantinfo/domesticviolenceanduibenefits.shtm>

III. Workplace Safety Plans

By means of a domestic violence workplace safety response plan, SUNY Potsdam shall make employees aware of their options and available resources and help employees safeguard each other and report domestic violence to designated officials.

- a. The designated liaison between SUNY Potsdam and SUNY System Administration is the Associate Vice President or Director of Human Resources Operations. This liaison will ensure campus wide implementation of this policy and serve as the primary liaison with System Administration regarding this policy. Bi-annual reporting to SUNY System Administration and OPDV is completed by the College's Domestic Violence Liaison/Title IX Coordinator.
- b. The following individuals/offices are also designated as available to support those in need of assistance concerning domestic violence: Domestic Violence Liaison/Title IX Coordinator (315) 267-2516, Employee Assistance Program (315) 267-3434, and/or Renewal House On-Campus Advocate (315) 379-9845 [Wednesdays 9 a.m. to 5 p.m. VanHousen Ext. 390].
- c. SUNY Potsdam shall comply and assist with enforcement of all known valid court orders of protection (OP) that are brought to the attention of SUNY Potsdam, particularly orders in which abusers have been ordered to stay away from the work site. In compliance with Federal and State Law, if requested by the victim of domestic violence or law enforcement, SUNY Potsdam shall provide information in its possession concerning an alleged violation of an OP.

Employees are encouraged to bring their OP to the attention of the Associate Vice President or Director of Human Resources Operations. Once the OP has been brought forward, it will be kept in a locked filing cabinet in the Human Resources office, accessible only to the Associate Vice President and Director of Human Resources Operations. In the case of a workplace emergency requiring the presentation of the OP to law enforcement, if the Associate Vice President is unavailable to obtain the document, the Director of Human Resources Operations will have access to the cabinet where the document is locked.

The Associate Vice President or Director of Human Resources Operations will discuss with the employee a plan on how to best proceed to ensure the safest possible work environment for the employee and the rest of the staff. With the permission of the employee, this may include: providing a copy of the OP and/or photo of the perpetrator to University Police; identifying supervisors or colleagues who would be able to assist with the identification of the perpetrator; or developing a workplace safety plan. Workplace safety plans may include but are not limited to, advising co-workers and, upon request, the employee's bargaining representative, of the

situation; setting up procedures for alerting University Police; temporary relocation of the victim to a secure area; options for voluntary transfer or permanent relocation to a new work site; change of work schedule, reassignment of parking space; escort for entry to and exit from the building; responding to telephone, fax, e-mail or mail harassment; and keeping a photograph of the abuser and/or a copy of any existing court orders of protection in a confidential on-site location and providing copies to University Police. SUNY Potsdam will address any additional concerns raised by a situation in which both the victim and offender are employed by SUNY Potsdam.

The employee is responsible for notifying the Associate Vice President or Director of Human Resources Operations if there are any changes to the OP.

- d. SUNY Potsdam maintains a Workplace Violence Policy, which includes procedures for contacting University Police and possibly other appropriate law enforcement agencies, and which provides employees with clear instructions about what to do and who to contact if they observe anyone engaging in threatening behavior.
- e. SUNY Potsdam will discuss with a known victim of domestic violence the limitations on confidentiality under New York State Law (See Section VII [h]; NYS Agencies Responsibility d – g).
- f. This policy shall be reviewed annually. Any substantive policy revisions and updates shall be forwarded to SUNY System Wide Affirmative Action Officer.

V. Accountability for Employees Who Are Offenders

SUNY Potsdam will hold employees accountable for engaging in the following behavior: (1) using state resources to commit an act of domestic violence; (2) committing an act of domestic violence from or at the workplace or from any other location while on official state business; or (3) using their job-related authority and/or state resources in order to negatively affect victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence.

- a. In cases in which SUNY Potsdam has found that an employee has threatened, harassed, or abused an intimate partner at the workplace using state resources such as work time, workplace telephones, FAX machines, mail, e-mail or other means, said employee may be subject to corrective or disciplinary action in accordance with existing collective bargaining unit agreements, statutes and regulations.
- b. In cases in which SUNY Potsdam has verification that an employee is responsible for a domestic violence-related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of domestic violence, and said employee has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from appropriate consequences for their behavior, SUNY Potsdam shall determine if corrective action is warranted, in accordance with existing collective bargaining unit agreements, statutes and regulations.
- c. In cases in which any employee intentionally uses his/her job-related authority and/or intentionally uses state resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for his behavior, said employee may be subject to corrective or disciplinary action, in accordance with existing collective bargaining unit agreements, statutes and regulations.

V. Firearms

Pursuant to New York State and federal law, a person convicted of a domestic violence-related crime or subject to an order of protection, under certain circumstances, forfeits the right to legally possess a firearm or long gun. Additionally, federal law contains prohibitions relating to shipping, transportation, or receiving firearms or ammunition.

- a. In addition to complying with the law, employees who are authorized to carry a firearm as part of their job responsibilities are required to notify the campus if they are arrested on a domestic violence-related offense and/or served with an order of protection. Under certain circumstances, such employees are responsible for surrendering their firearms to the firearm-issuing agency or to the appropriate police agency.
- b. Should an employee fail to comply with the requirements set forth in V. a., said employee may be subject to corrective or disciplinary action, in accordance with existing collective bargaining unit agreements, statute or regulations. In addition, the appropriate law enforcement agency shall be notified for possible criminal action.

VI. Training

All personnel designated to provide support for those in need of assistance shall complete OPDV's one-day training on Domestic Violence and the Workplace or training provided by our local domestic violence support agency, Renewal House. All appropriate managers, supervisors, Employee Assistance Program professionals, Human Resources personnel, union and labor representatives, and University Police staff will be encouraged to attend OPDV's training on Domestic Violence and the Workplace or training provided by Renewal House. Training will be made available to all staff on domestic violence and its impact on the workplace. This training will utilize materials provided by OPDV and/or Renewal House when possible.

VII. SUNY Potsdam Responsibility

- a. SUNY Potsdam believes that domestic violence is behavior that cannot be tolerated and, to that end will, actively provide information and support to employees who are victims of such abuse.
- b. SUNY Potsdam will disseminate copies of this *Domestic Violence and the Workplace Policy* to all employees upon implementation and to all new employees upon hiring or appointment.
- c. SUNY Potsdam expects all employees to review and follow this policy and the procedures set forth herein.
- d. SUNY Potsdam will, consistent with applicable law and campus policy, document all incidents of domestic violence that happen in the workplace. Such documents shall be kept confidential to the extent permitted by law and campus policy and the provisions of Section g detailed below.
- e. All SUNY Potsdam employees providing domestic violence information and support services shall document, consistent with applicable law and agency policy, the number of employees who report domestic violence, the number of employees that request information/services, and the number of referrals made to domestic violence service providers. All information about employees who seek assistance shall be kept confidential to the extent permitted by law and campus policy and the provisions of section g detailed below, and documentation should not include any personal information. Bi-annual reporting to SUNY System Administration and OPDV is completed by the College's Domestic Violence Liaison/Title IX Coordinator.
- f. Bi-annually, the Domestic Violence Liaison/Title IX Coordinator shall, consistent with applicable law and SUNY Potsdam policy, provide information about the number and general nature of domestic violence incidents that happen in the workplace, the number of employees who report domestic violence, the number of employees that request information/services, and the

number of referrals made to domestic violence service providers, with no personally identifying information, to SUNY System Administration and OPDV.

- g. Information related to an employee being a victim of domestic violence shall be kept confidential, to the extent permitted by law and campus policy, and shall not be divulged without the written consent of the victimized employee, unless the campus determines that maintaining said confidentiality puts the victim or other employees at risk of physical harm, is required by law, or is deemed necessary to enforce an order of protection. In such circumstances where a determination has been made that maintaining confidentiality puts the victim or other employees at risk of physical harm, only those individuals deemed necessary by the campus to protect the safety of the victim and/or other employees or to enforce an order of protection shall be given such information. SUNY Potsdam shall disclose only the minimum amount of information necessary to protect the safety of the victim and/or other employees or enforce an order of protection. Where possible, SUNY Potsdam will provide to the victim of domestic violence notice of the intent to provide information to other employees and/or safety personnel. Nothing herein shall prevent SUNY Potsdam from investigating an act or acts of domestic violence occurring in the workplace. Some examples of situations where confidentiality cannot be maintained include the following:
 - (i) Supervisors/managers may be informed about a domestic violence incident that happens in the workplace, or a report of domestic violence, if it is necessary to protect the safety of the employee or the employee's co-workers.
 - (ii) First aid and safety personnel may be informed about a domestic violence incident that happens in the workplace or a report of domestic violence, if it is necessary to protect the safety of the employee or the employee's co-workers.
 - (iii) Government officials investigating a domestic violence incident that occurs in the workplace, or a report of domestic violence, shall be provided relevant information upon request and in accordance with legal requirements.
- h. While reported information is kept private to the greatest extent possible by Federal law, State law, and campus policy, New York State law includes clear limitations on legal confidentiality. Information reported to anyone not in a position listed below may have to be disclosed pursuant to a subpoena, where otherwise required by law or in accordance with Section VII, paragraph g above. Such confidentiality exists in certain (but not all) instances for certain medical personnel and counselors, social workers, clergy, attorneys, and rape crisis counselors and may in fact be required to be turned over in these cases through a subpoena or court order. Please note that where medical information is received from an employee who is the victim of domestic violence, such medical information shall be kept confidential to the extent required by and permitted by New York State and Federal laws including, but not limited to, the Americans with Disabilities Act and the Family and Medical Leave Act, if they apply to the employee's situation.

APPENDIX

Information to be Included in Campus Postings Regarding Domestic Violence and the Workplace

At a minimum, the following information shall be provided to current employees and new employees and included in posters posted in areas where employment information is ordinarily posted:

- a. Information regarding domestic violence and available resources in the work site. Such information shall include available sources of assistance such as Employee Assistance Program, local domestic violence service providers, the NYS Domestic Violence and Sexual Assault hotline, and/or human resources personnel who are trained and available to serve as confidential sources of information, support, and referral. Additionally, the posters may include

information regarding domestic violence programs located on the OPDV website:

<http://opdv.ny.gov/>.

- b. A statement informing employees that New York State law prohibits insurance companies and health maintenance organizations from discriminating against domestic violence victims or designation of domestic violence as a pre-existing condition [§2612 of the Insurance Law].

Additionally, SUNY Potsdam shall integrate information on domestic violence and this Domestic Violence and the Workplace Policy into existing materials and literature, policies, protocols, and procedures, including the Public Employer Workplace Violence Prevention Programs¹ as appropriate.

¹ 12 NYCRR pt. 800.16 Public Employer Workplace Violence Prevention Programs

Grievance Policy for Addressing Formal Complaints of Sexual Harassment Under the Title IX Regulations

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1. Introduction

What is the purpose of the Title IX Grievance Policy?

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access our educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 that:

- Defines the meaning of "sexual harassment" (including forms of sex-based violence)
- Addresses how this institution **must** respond to reports of misconduct falling within that definition of sexual harassment, and
- Mandates a grievance process that this institution **must** follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment.

See, 85 Fed. Reg. 30026 (May 19, 2020). The full text of the Final Rule and its extensive Preamble are available here: <http://bit.ly/TitleIXReg>

Based on the Final Rule, SUNY Potsdam implemented the following Title IX Grievance Policy, which became effective August 14, 2020.

How does the Title IX Grievance Policy impact other campus disciplinary policies?

In recent years, “Title IX” cases have become a short-hand for any campus disciplinary process involving sex discrimination, including those arising from sexual harassment and sexual assault. But under the Final Rule, SUNY Potsdam must narrow both the geographic scope of its authority to act under Title IX and the types of “sexual harassment” that it must subject to its Title IX investigation and adjudication process. **Only** incidents falling within the Final Rule’s definition of sexual harassment will be investigated and, if appropriate, brought to a live hearing through the Title IX Grievance Policy defined below.

SUNY Potsdam remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule.

For example, our campus has:

- Student Community Rights and Responsibilities
- Sexual Harassment Response & Prevention Policy
- Consensual Relationship Policy
- Mandatory Reporting and Prevention of Child Sexual Abuse
- Domestic Violence and the Workplace
- Workplace Violence Policy

These policies define certain behaviors as a violation of campus policy, including **sections addressing Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and related sex-based offenses.**

To the extent that alleged misconduct falls outside the Title IX Grievance Policy, or misconduct falling outside the Title IX Grievance Policy is discovered in the course of investigating covered Title IX misconduct, the institution retains authority to investigate and adjudicate the allegations through a separate grievance proceeding for students defined within *the Student Community Rights and Responsibilities*: <https://www.potsdam.edu/current/student-conduct-community-standards/student-community-rights-and-responsibilities> and for faculty or staff defined within the policies listed above and available at the Human Resources policies and procedures website: <https://www.potsdam.edu/about/offices/hr/policies-and-procedures>

The elements established in the Title IX Grievance Policy under the Final Rule have no effect and are not transferable to any other policy of the College for any violation of the Code of

Conduct, employment policies, or any civil rights violation except as narrowly defined in this Policy. This Policy does not set a precedent for other policies or processes of the College and may not be cited for or against any right or aspect of any other policy or process.

How does the Title IX Grievance Policy impact the handling of complaints?

Our existing Title IX office and reporting structure remains in place. What has changed is the way our Title IX office will handle different types of reports arising from sexual misconduct, as detailed in full throughout Section 2.

2. The Title IX Grievance Policy

General Rules of Application

Effective Date

This Title IX Grievance Policy became effective on August 14, 2020, and will only apply to formal complaints of sexual harassment brought on or after August 14, 2020. Complaints brought prior to August 14, 2020 will be investigated and adjudicated according to the process in place at the time the incident allegedly occurred.

Revocation by Operation of Law

Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require the elements of this policy, this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Grievance Policy be revoked in this manner, any conduct covered under the Title IX Grievance Policy shall be investigated and adjudicated under existing policies and procedures as noted above.

Non-Discrimination in Application

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

Definitions

Covered Sexual Harassment

For the purposes of this Title IX Grievance Policy, “covered sexual harassment” includes any conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution’s education program or activity;
3. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;
4. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
5. Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any 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 New York State’s domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of New York.
6. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

Note that conduct that does not meet one or more of these criteria may still be prohibited under the student code of conduct (*Student Community Rights and Responsibilities*) or the applicable employee policies and procedures listed in Section 1 and may be adjudicated under the appropriate policy in the event it does not meet the criteria for this policy.

Consent

For the purposes of this Title IX Grievance Policy, “consent” means affirmative consent, which 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.

- A. 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.
- B. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- C. Consent may be initially given but withdrawn at any time.
- D. Consent cannot be given when a person is incapacitated, and a reasonable person knows or should have known that such person is incapacitated. Incapacitation 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.
- E. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- F. When consent is withdrawn or can no longer be given, sexual activity must stop.
(See Affirmative Consent definition in *Student Community Rights and Responsibilities* or the Sexual Harassment Response and Prevention Policy).

Education Program or Activity

For the purposes of this Title IX Grievance Policy, SUNY Potsdam's "education program or activity" includes:

- Any on-campus premises.
- Any off-campus premises that SUNY Potsdam has substantial control over. This includes buildings or property owned or controlled by a recognized student organization.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of SUNY Potsdam's programs and activities over which SUNY Potsdam has substantial control.

Formal Complaint

For the purposes of this Title IX Grievance Policy, “formal complaint” means a document — including an electronic submission — filed by a complainant with a signature or other indication that the complainant is the person filing the formal complaint, or signed by the Title IX Coordinator, alleging sexual harassment against a respondent about conduct within SUNY Potsdam’s education program or activity and requesting initiation of the procedures consistent with the Title IX Grievance Policy to investigate the allegation of sexual harassment.

Complainant

For the purposes of this Title IX Grievance Policy, Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy.

Relevant evidence and questions

“Relevant” evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.

“Relevant” evidence and questions do not include the following types of evidence and questions, which are deemed “irrelevant” at all stages of the Title IX Grievance Process:

- Evidence and questions about the complainant’s sexual predisposition or prior sexual behavior unless:
 - They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
 - They concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent. 34 C.F.R. § 106.45(6)(i).
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege.
- Any party’s medical, psychological, and similar records unless the party has given voluntary, written consent. 85 Fed. Reg. 30026, 30294 (May 19, 2020).

Respondent

For the purposes of this Title IX Grievance policy, Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this policy.

Privacy vs. Confidentiality

Consistent with the *Student Community Rights and Responsibilities* and the Employment Policies listed in Section 1, references made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to *privacy* mean that there are SUNY Potsdam offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. SUNY Potsdam will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

Disability Accommodations

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

Business Days

“Business Days” means Monday through Friday, except days that the College observes as Federal or State holidays.

Making a Report Regarding Covered Sexual Harassment to the Institution

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report.

Contact Information for the Title IX Coordinator:

Name: Andrea Waters
Title: Title IX Coordinator
Office Address: Sisson 244
Email Address: watersal@potdams.edu
Telephone Number: (315) 267-2224

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

Confidential Reporting

The following Officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this policy:

- Title IX Coordinator or designee
- Human Resources
- University Police
- Other mandatory faculty/staff reporters

The following Officials may provide confidentiality:

- College Counseling Center Counselors
- Student Health Services providers
- Renewal House Campus Advocate
- Employee Assistance Program

Non-Investigatory Measures Available Under the Title IX Grievance Policy

Supportive Measures

Complainants (as defined above), who report allegations that could constitute covered sexual harassment under this policy, have the right to receive supportive measures [identified below] from SUNY Potsdam regardless of whether they desire to file a complaint, as appropriate. Supportive measures are non-disciplinary and non-punitive.

As appropriate, supportive measures may include, but not be limited to:

- Counseling services
- Health services
- Safe housing or room change
- Classroom relocation

- Job assignment relocation
- Modification to work schedule
- Academic Support Services (tutoring, contacting Student Success Center and/or instructors, etc.)
- Safety escort by University Police (RAVE)
- Restrictions on contact between the parties (No Contact Orders)
- Increase monitoring of certain areas on campus

See 85 Fed. Reg. 30401.

Emergency Removal

SUNY Potsdam retains the authority to remove a respondent from SUNY Potsdam's program or activity on an emergency basis, where the College (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal.

The Director of Student Conduct & Community Standards or designee may take action immediately to suspend a student from the College and remove the student from campus, when there is reasonable belief that the continued presence of such student would constitute a danger to the safety of persons or property. The Assistant Vice President for Administration & Human Resources or designee may take action immediately to suspend a faculty or staff member from the College and remove the faculty or staff member from campus, when there is reasonable belief that the continued presence of such faculty or staff member would constitute a danger to the safety of persons or property. SUNY Potsdam will follow the appropriate collective bargaining agreement process for emergency removal.

If SUNY Potsdam determines such removal is necessary, the respondent will be provided notice and an opportunity to challenge the decision immediately following the removal. Any appeal must be made to the Chief Student Affairs Officer or designee for students or to the Assistant Vice President for Administration & Human Resources or designee for faculty or staff members.

Alternative Assignment

SUNY Potsdam retains the authority to place a non-student employee respondent on alternative assignment during the Title IX Grievance Process, consistent with the appropriate collective bargaining agreement.

The Title IX Grievance Process

Filing a Formal Complaint

The timeframe for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) business days after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of SUNY Potsdam, including as an employee. For complainants who do not meet these criteria, the College will utilize applicable policies and procedures listed in Section 1.

If a complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. SUNY Potsdam will inform the complainant of this decision in writing, and the complainant need not participate in the process further but will receive all notices issued under this Policy and Process.

Nothing in the Title IX Grievance Policy or other campus policies and procedures prevents a complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

Informal Resolution

A complainant who files a Formal Complaint may elect, at any time, to address the matter through the Institution's Informal Resolution Process. All Parties to a Formal Complaint must agree to enter the Informal Resolution Process through an informed written consent. Information about this Process is available here for students:

<https://www.potsdam.edu/sites/default/files/inlinefiles/Potsdam-Informal-Resolution-Policy.pdf>

Information about this Process is available here for employees:

https://www.suny.edu/sunypp/documents.cfm?doc_id=451

Multi-Party Situations

The institution may consolidate Formal Complaints alleging covered sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of covered sexual harassment arise out of the same facts or circumstances.

Determining Jurisdiction

The Title IX Coordinator or another appropriate official without a conflict of interest or bias will determine if the Title IX Grievance Process should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in SUNY Potsdam's education program or activity; and
4. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

If all of the elements are met, SUNY Potsdam will investigate the allegations according to the Grievance Process.

Allegations Potentially Falling Under Two Policies

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied to investigation and adjudication of only the allegations that constitute covered sexual harassment.

Mandatory Dismissal

If any one of these elements are not met, the Title IX Coordinator or designee will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Policy. Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

Discretionary Dismissal

The Title IX Coordinator or designee may dismiss a Formal Complaint brought under the Title IX Grievance Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint, or any allegations raised in the Formal Complaint;
- The respondent is no longer enrolled or employed by SUNY Potsdam; or,
- If specific circumstances prevent SUNY Potsdam from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any party may appeal a dismissal determination using the process set forth in "Appeals," below.

Notice of Dismissal

Upon reaching a decision that the Formal Complaint will be dismissed, the institution will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties through their institutional email accounts. It is the responsibility of parties to maintain and regularly check their email accounts.

Notice of Removal

Upon dismissal for the purposes of Title IX, SUNY Potsdam retains discretion to utilize the policies and procedures outlines in Section 1 to determine if a potential violation of campus policies has occurred. If so, SUNY Potsdam will promptly send written notice of the dismissal of the Formal Complaint under the Title IX Grievance Process and referral of the allegations to the appropriate conduct process or collective bargaining agreement.

Notice of Allegations

The Title IX Coordinator will draft and provide the Notice of Allegations to any party to the allegations of sexual harassment. Such notice will occur as soon as practicable after the institution receives a Formal Complaint of the allegations, if there are no extenuating circumstances.

The parties will be notified by their institutional email accounts if they are a student or employee, and by other reasonable means if they are neither.

The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator or designee may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above and will issue a Notice of Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.

Contents of Notice

The Notice of Allegations will include the following:

- Notice of the SUNY Potsdam's Title IX Grievance Process including any informal resolution process and a hyperlink to a copy of the process.

- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, as required under 34 C.F.R. § 106.45(b)(5)(iv);
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source, as required under 34 C.F.R. § 106.45(b)(5)(vi);
- *The Student Community Rights and Responsibilities* specifically prohibits knowingly making false statements or knowingly submitting false information during the grievance process (Prohibited Conduct 28).

Ongoing Notice

If, in the course of an investigation, the College decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise covered "sexual harassment" falling within the Title IX Grievance Policy, the College will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means.

The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

Advisor of Choice and Participation of Advisor of Choice

SUNY Potsdam will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally.

SUNY Potsdam has a long-standing practice of requiring students and employees to participate in the process directly and not through an advocate or representative. Individuals participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule,

Advisors of Choice shall not participate directly in the process as per standard policy and practice of SUNY Potsdam.

SUNY Potsdam will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for all parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

SUNY Potsdam's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this Policy, and SUNY Potsdam cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. SUNY Potsdam will not be obligated to delay a meeting or hearing under this process more than five (5) business 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 SUNY Potsdam.

Notice of Meetings and Interviews

SUNY Potsdam will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

Delays

Each party may request a one-time delay in the Grievance Process of up to five (5) business days for good cause (granted or denied in the sole judgment of the Title IX Coordinator, Director of Student Conduct and Community Standards, Assistant Vice President for Administration & Human Resources or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties.

For example, a request to take a five day pause made an hour before a hearing for which multiple parties and their advisors have traveled to and prepared for shall generally not be granted, while a request for a five day pause in the middle of investigation interviews to allow a party to obtain certain documentary evidence shall generally be granted.

The Title IX Coordinator, Director of Student Conduct and Community Standards, Assistant Vice President for Administration & Human Resources or designee shall have sole judgment to grant further pauses in the Process.

Investigation

General Rules of Investigations

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations.

SUNY Potsdam and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of this Policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from SUNY Potsdam and does not indicate responsibility.

SUNY Potsdam cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. SUNY Potsdam will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

Inspection and Review of Evidence

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

1. Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility;
2. Inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

The institution will share the evidence made available for each party and each party's advisor, if any, to inspect and review through an electronic format or a hard copy. The institution is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The parties will have ten (10) business days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing the Investigative Report. Parties may request a one-time, reasonable extension for approval by the Title IX Coordinator or designee. The investigator will not be required to accept a late submission. The investigator has ten (10) business days to generate a report or, alternatively, may provide the parties with written notice extending the investigation for ten (10) business days and explaining the reason for the extension.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

The parties and their advisors will not photograph or otherwise copy the evidence. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

Inclusion of Evidence Not Directly Related to the Allegations

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report.

Investigative Report

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence and provide that Report to the parties at least ten (10) business days prior to the hearing in an electronic format or a hard copy for each party's review and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant. See, 85 Fed. Reg. 30026, 30304 (May 19, 2020).

Hearing

General Rules of Hearings

SUNY Potsdam will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing unless otherwise resolved through an informal resolution process. The appropriate procedures in the collective bargaining agreements will be followed.

The live hearing may be conducted with all parties physically present in the same geographic location, or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through videoconferencing software such as Microsoft Teams. This technology will enable participants simultaneously to see and hear each other. At its discretion, SUNY Potsdam may delay or adjourn a hearing based on technological errors not within a party's control.

All proceedings will be recorded. That recording or transcript will be made available to the parties for inspection and review at the requester's expense.

Prior to obtaining access to any evidence, the parties and their advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

Continuances or Granting Extensions

SUNY Potsdam may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, SUNY Potsdam will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

Newly-discovered Evidence

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

If a party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing.

The Hearing Board Chair will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly-discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the Hearing Board Chair answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.

Participants in the live hearing

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

Complainant and Respondent (The Parties)

- The parties cannot waive the right to a live hearing.
- The institution may still proceed with the live hearing in the absence of a party and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a “statement” by that party. 85 Fed. Reg. 30026, 30361 (May 19, 2020).
- For example, a verbal or written statement constituting part or all of the sexual harassment itself is not a “prior statement”. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint. See, OCR Blog (May 22, 2020), available at <https://www2.ed.gov/about/offices/list/ocr/blog/20200522.html>
- SUNY Potsdam will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party’s participation. See 34 C.F.R. § 106.71; see also 85 Fed. Reg. 30026, 30216 (May 19, 2020).
- If a party does not submit to cross-examination, the decision-maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility.
- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party’s absence from the live hearing or refusal to answer cross examination or other questions. See 34 C.F.R. §106.45(b)(6)(i).
- The parties shall be subject to the institution’s Rules of Decorum.

The Decision-maker

- The hearing body will consist of three individuals.
- No member of the hearing body will also have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case, nor may any member of the hearing body serve on the appeals body in the case.
- No member of the hearing body will have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
- The parties will have an opportunity to raise any objections regarding a decision-maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

Advisor of choice

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
- The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross examination.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the institution will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The advisor is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The advisor is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf. 85 Fed. Reg. 30026, 30340 (May 19, 2020).
- If neither a party nor their advisor appear at the hearing, SUNY Potsdam will provide an advisor to appear on behalf of the non-appearing party. See, 85 Fed. Reg. 30026, 30339-40 (May 19, 2020).
- Advisors shall be subject to the institution's Rules of Decorum, and may be removed upon violation of those Rules.

Witnesses

- Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation. See, 85 Fed. Reg. 30026, 30360 (May 19, 2020).
- If a witness does not submit to cross-examination, as described below, the decision-maker can still rely on any statements made by that witness in reaching a determination regarding

responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing. 85 Fed. Reg. 30026, 30347 (May 19, 2020).

- Witnesses shall be subject to the institution's Rules of Decorum.

Facilitator(s)

- Present to ensure that the proper policies and procedures are followed during a live hearing.
- The facilitator does not have a decision-making role in the hearing process.
- A facilitator may be present to coordinate hearing technical and organization needs.

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. Rules of decorum prohibit any party advisor or decision-maker from questioning witnesses in an abusive, intimidating, or disrespectful manner. 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.

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 mis-gender 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-makers.
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 Chair of the Hearing Board.
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 Hearing Board, and/or the advisor in cross-examination. When the Hearing Board 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.

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

Upon a second or further violation of the Rules, the Hearing Board 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 Hearing Board 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 Hearing Board 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, Director of Student Conduct, Director of Human Resource Operations, or a designee of either and presented to the Chief Student Affairs Officer or the Vice President for Administration & Human Resources. The Advisor accused may provide an explanation or alternative evidence in writing for consideration by the Chief Student Affairs Officer or Vice President for Administration & Human Resources. Such evidence or explanation is due within fifteen (15) business days of receipt of a notice of a charge of re-disclosure or improper access to records. There shall be no right to a live hearing, oral testimony, or cross-examination. The Chief Student Affairs Officer or Vice President for Administration & Human Resources 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) business 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 Chief Student Affairs Officer or Vice President for Administration & Human Resources 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).

Hearing Procedures

For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- The Chair of the Hearing Board will open and establish rules and expectations for the hearing;
- The Parties will each be given the opportunity to provide opening statements;
- Members of the Hearing Board will ask questions of the Parties and Witnesses;
- Parties will be given the opportunity for live cross-examination after the Hearing Board conducts its initial round of questioning; During the Parties' cross examination, the Hearing Board will have the authority to pause cross examination at any time for the purposes of asking the Hearing Board's own follow up questions; and any time necessary in order to enforce the established rules of decorum.
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Hearing Board. A Party's waiver of cross-examination does not eliminate the ability of the Hearing Board to use statements made by the Party.

Live Cross-Examination Procedure

Each party's advisor will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

Before any cross-examination question is answered, the Hearing Board will determine if the question is relevant. Link to Relevance Policy:

<https://www.potsdam.edu/sites/default/files/inline-files/Relevance%20Policy.pdf>

Cross examination questions that are duplicative of those already asked, including by Hearing Board may be deemed irrelevant if they have been asked and answered.

Review of Transcript/Recording

The recording of the hearing will be available for review by the parties within two (2) business days unless there are any extenuating circumstances. The recording of the hearing will not be provided to parties or advisors of choice. An official audio recording will be made of the proceedings. This recording is the property of the College and will not be duplicated or released. Participants are prohibited from making their own recording during the hearing (including but not limited to audio, photographic and/or written recording). The Referred Party and Referring Party may submit a written request to the Title IX Coordinator, Director of Student Conduct and Community Standards, or Assistant Vice President for Administration & Human Resources for permission to listen to the official audio recording in a supervised location on campus. An official written transcript can be provided by the College at the requesting party's expense.

Determination Regarding Responsibility

Standard of Proof

SUNY Potsdam uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Policy occurred.

General Considerations for Evaluating Testimony and Evidence

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision-maker.

Decision-makers shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a complainant, respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a party or witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e., tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

The Final Rule requires that SUNY Potsdam allow parties to call "expert witnesses" for direct and cross examination. SUNY Potsdam does not provide for expert witnesses in other proceedings. While the expert witness will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.

The Final Rule requires that SUNY Potsdam allow parties to call character witnesses to testify. SUNY Potsdam does not provide for character witnesses in other proceedings. While the character witnesses will be allowed to testify and be cross-examined as required by the Final Rule, the decision-maker will be instructed to afford very low weight to any non-factual character testimony of any witness.

The Final Rule requires that SUNY Potsdam admit and allow testimony regarding polygraph tests ("lie detector tests") and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

Where a party or witness' conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Hearing Board may draw an adverse inference as to that party or witness' credibility.

Components of the Determination Regarding Responsibility

The written Determination Regarding Responsibility will be issued simultaneously to all parties

through their institution email account, or other reasonable means as necessary. The Determination will include:

1. Identification of the allegations potentially constituting covered sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section of the campus policy, if any, the respondent has or has not violated.
5. For each allegation:
 - a. A statement of, and rationale for, a determination regarding responsibility;
 - b. A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the respondent; and
 - c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
6. The recipient's procedures and the permitted reasons for the complainant and respondent to appeal (described below in "Appeal").

Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by SUNY Potsdam within ten (10) business days of the completion of the hearing.

Finality

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in "Appeals" below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

Appeals

Each party may appeal (1) the dismissal of a formal complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal within seven (7) business days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);
- 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 an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
- A sanction imposed as a result of the original hearing that is disproportionate with the outcome of the matter.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a party appeals, the institution will as soon as practicable notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals may be no longer than (two thousand five hundred (2,500) words or five (5) pages (including attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals for the dismissal of a formal complaint or any included allegations will be decided by either the Assistant Vice President for Administration & Human Resources or designee in cases involving employee respondents or by the Chief Student Affairs Office or designee in cases involving student respondents.

Appeals on the determination of responsibility will be decided by an Appeal Board, who will be free of conflict of interest and bias, and any individuals on the Appeal Board will not serve as investigator, Title IX Coordinator, or hearing decision maker in the same matter. The Chief Student Affairs Officer, Vice President for Administration & Human Resources or designee will first review the appeal for timeliness and to determine if the appeal meets the grounds for at least one of the four grounds of appeal. The original decision and sanction will stand if the appeal is not timely or does not meet the grounds for appeal, and the decision is final.

Outcome of appeal will be provided in writing simultaneously to both parties, and include rationale for the decision. The appeal decision is final.

Retaliation

SUNY Potsdam will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under this Title IX Grievance Policy.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Title IX Grievance Policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX, or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment.

Complaints alleging retaliation may be filed according to the Sexual Harassment Response and Prevention Policy or the *Student Community Rights and Responsibilities*.

Updated August 30, 2022

