

# SEXUAL VIOLENCE PREVENTION AND RESPONSE

**Sponsor:** Title IX Coordinator

**Contact:** Title IX Coordinator

**Category:** Student Affairs

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## Purpose

Empire State University is committed to maintaining a safe environment that is supportive of its primary educational mission and free from all exploitation and intimidation. The university will not tolerate sexual harassment, sexual assault or any other form of nonconsensual sexual activity to include dating violence, domestic violence and/or stalking.

It is essential that students who are sexually assaulted receive support and medical treatment as soon as possible. This document outlines the policies and procedures that will allow members of the university community to be effective at referring victims of assault to medical, psychological and legal resources. The university's Student Code of Conduct provides additional information for students.

This policy reflects SUNY's Policies on Sexual Violence Prevention and Response and is in compliance with NYS law, chapter 75 of the laws of 2015.

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## Definitions

Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given in 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 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- Consent may be withdrawn at any time.
- Consent cannot be given when a person is incapacitated, i.e., when he or she lacks the ability to knowingly choose to participate in sexual

activity. Incapacitation may be caused by lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone under the influence of alcohol, drugs or other intoxicants may be incapacitated and therefore unable to consent.

- Consent cannot be given under conditions of coercion, intimidation, force or threat of harm.
- When consent is withdrawn, or can no longer be given, sexual activity must stop.

## Statements

### Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases

The health and safety of every student at the State University of New York and its state-operated and community colleges is of utmost importance. Empire State University recognizes that students who have been drinking and/or using drugs, whether voluntarily or involuntarily, at the time that violence, including, but not limited to domestic violence, dating violence, stalking or sexual assault, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Empire State University strongly encourages students to report incidents of domestic violence, dating violence, stalking or sexual assault to university officials. A bystander or reporting individual acting in good faith, who discloses any incident of domestic violence, dating violence, stalking or sexual assault to Empire State University officials or law enforcement, will not be subject to the university's code of conduct for violations of alcohol and/or drug use policies at or near the time of the commission of the domestic violence, dating violence, stalking or sexual assault.

## Students' Bill of Rights

The State University of New York and SUNY Empire are committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence and/or stalking to ensure that they can continue to participate in 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:

### All Students Have the Right To:

- Make a report to campus security, local law enforcement and/or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- 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 from the institution;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the institution courteous, fair counseling services, where available;
- Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;

- Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident;
- Be free from retaliation by the institution, the accused, and/or the respondent, and/or their family, friends and acquaintances within the jurisdiction of the institution;
- Access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice or judicial or conduct process of the university.

## Sexual Violence Response Policy

In accordance with the Students' Bill of Rights, reporting individuals shall have the right to pursue more than one of the options below at the same time, or to choose not to participate in any of the options below:

### 1. Reporting

- 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 reporting individual 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 the penal law should be addressed to law enforcement or to the district attorney.
- To disclose the incident and obtain confidential services from New York state, contact New York City or county hotlines (<http://www.opdv.ny.gov/help/dvhotlines.html>). Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages on their web site (<https://opdv.ny.gov/>) or 800-942-6906. Assistance also is available through the following organizations:
  - Legal Momentum (<http://www.legalmomentum.org>).
  - NYSCASA (<http://nyscasa.org>).
  - NYSCADV (<http://www.nyscadv.org>).
  - Pandora's Project (<https://pandys.org/>).
  - RAINN (<http://www.rainn.org/get-help/>).
  - Safe Horizons (<http://www.safehorizon.org>).
 (Note: These hotlines are for crisis intervention, resources and referrals, and are not reporting mechanisms; disclosure during a call to a hotline does not provide information to the campus. Reporting individuals are encouraged to additionally contact a confidential campus or private resource, so that the university can take appropriate action.
- To disclose the incident to a university official, who can offer privacy and provide information about remedies, accommodations, evidence preservation and how to obtain resources. Those officials also will provide the information contained in the Students' Bill of Rights, including the right to choose when and where to report, to be protected by the university from retaliation and to receive assistance and

resources from the university. Note, university officials will disclose that they are private and not confidential resources and may still be required by law and university policy to inform one or more university officials about the incident, including but not limited to Title IX coordinator. They will notify reporting individuals that the criminal justice process uses different standards of proof and evidence than internal procedures and that questions about the penal law or criminal process should be directed to law enforcement or district attorney:

- Office of Safety and Security  
518-587-2100, ext. 2800  
2 Union Ave.  
Saratoga Springs, NY 12866-4390  
8 a.m.-5 p.m., Monday-Friday;
- Title IX Coordinator  
email:

TitleIX@sunyempire.edu (titleix@sunyempire.edu) or call 800-847-3000, ext. 1009

- Local law enforcement office ([https://en.wikipedia.org/wiki/List\\_of\\_United\\_States\\_state\\_and\\_local\\_law\\_enforcement\\_agencies/](https://en.wikipedia.org/wiki/List_of_United_States_state_and_local_law_enforcement_agencies/)).
- State police 24-hour hotline to report sexual assault on a N.Y. college campus, 844-845-7269
- To receive assistance from the university Title IX coordinator in initiating legal proceedings in family court or civil court, email: TitleIX@sunyempire.edu, or call: 800-847-3000, ext. 1009.
- To file a report of sexual assault, domestic violence, dating violence and/or stalking, and/or talk to the Title IX coordinator for information and assistance. Reports will be investigated in accordance with university policy and the reporting individual's identity shall remain private at all times, if said reporting individual wishes to maintain privacy. If a reporting individual wishes to keep his/her identity private, he or she may call the Title IX coordinator anonymously to discuss the situation and available options at: 800-847-3000, ext. 1009; TitleIX@sunyempire.edu (titleix@sunyempire.edu)
- When the accused is an employee, a reporting individual also may report the incident to the Office of Human Resources, or may request that one of the above-referenced private employees assist in reporting to: the Office of Human Resources [2 Union Ave., Saratoga Springs, NY 12866; 518-587-2100, ext. 2240]; all incidents will be shared with the Title IX coordinator. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements.
- When the accused is an employee, affiliated entity or vendor to the university, university officials will, at the request of the reporting individual, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and university policy.
- The reporting individual may withdraw a complaint or involvement from the university process at any time.

### 2. Resources

- To obtain effective intervention services
  - Sexual contact can transmit sexually transmitted infections and may result in pregnancy. Testing for STIs and emergency

contraception is available at various external locations. For confidential, private, affordable same-day STI testing clinics in your local area, call 888-380-5571 (6 a.m.-10 p.m., seven days a week).

- Other applicable services are available from local hospitals and clinics. Please refer to resources identified in Section I – Reporting above.
- Refer to SUNY's list of off-campus resources at the Sexual Assault & Violence Response (SAVR) Resources (<https://www.suny.edu/violence-response/>) web page.
- Within 96 hours of an assault, you can get a sexual assault forensic examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information is at the New York State Office of Victim Services (OVS) Forensic Rape Examination (FRE) Direct Reimbursement Program web page (<https://ovs.ny.gov/forensic-rape-examination-fre-direct-reimbursement-program/>), or 800-247-8035. Options are explained at New York State Office of Victim Services (OVS) Help for Crime Victims web page (<https://ovs.ny.gov/help-crime-victims/>).
- To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating or doing anything to alter physical appearance until after a physical exam has been completed.

### 3. Protection and Accommodations

- When the accused is a student, they may request to have the university issue a “No Contact Order,” consistent with university policy and procedure, meaning that continuing to contact the protected individual is a violation of university policy, and subject to additional conduct charges. If the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person. Both the accused/respondent and the reporting individual may request a prompt review of the need for and terms of a No Contact Order, consistent with university policy. Parties may submit evidence in support of their request.
- To be informed that a victim of any criminal sexual offense has legal recourse outside the university and can commence civil or criminal proceedings against the offending person(s), including but not limited to obtaining an Order of Protection or, outside of New York state, an equivalent protective or restraining order. To initiate legal proceedings, please contact the local police department or District Attorney's office in the applicable jurisdiction. For more information from the Title IX coordinator, please contact: Title IX coordinator, 800-847-3000 ext. 1009 or TitleIX@sunyempire.edu or the Office of Campus Safety and Security 518-587-2100, ext. 2800
- To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a college official who can explain the order and answer questions about it, including information from the order about the accused's responsibility to

stay away from the protected person(s); that burden does not rest on the protected person(s).

- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges and interim suspension.
- To have assistance from the Office of Safety and Security when an individual violates an Order of Protection or to call on and assist local law enforcement in facilitating an arrest for violating such an order.
- When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subjected to interim suspension, pending the outcome of a conduct process. Parties may request a prompt review of the need for and terms of an interim suspension and to submit evidence in support of such request.
- When the accused is not a student but is a member of the university community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks and SUNY Empire policies and rules.
- When the accused is not a member of the university community, to have assistance from the Office of Safety and Security or other university officials in obtaining a persona-non-grata letter, subject to legal requirements and university policy.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, employment or other applicable arrangements, in order to ensure safety, prevent retaliation and avoid an ongoing hostile environment. Parties may request a prompt review of the need for and terms of any interim measures and accommodations that directly affect them. While reporting individuals may request accommodations through any of the offices referenced in this policy, the following office can assist with these measures:
  - Title IX coordinator, 800-847-3000, ext. 1009; or email: TitleIX@sunyempire.edu

### 4. Student Conduct Process

- Refer to the Student Conduct Policies and Procedures to request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the Empire State College undergraduate and graduate catalogs (<http://www.sunyempire.edu/academic-affairs/catalogs-guides/>), 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, the respondent and the reporting individual 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. Participation of the advisor in any proceeding is governed by federal law and the Student Code of Conduct.
  - The right to a prompt response to any complaint and to have the complaint investigated and adjudicated in an impartial, timely 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 he or she is required or eligible to attend. Accused individuals will be told the date, time, location and 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 due process concurrent 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 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 the university.
- 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 phone/video conferencing 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 that may determine 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 sanctions.
- The right to written or electronic notice about the sanction(s) that may be imposed on the accused, 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, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest.
- The right to access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five years.
  - Office of Student Services  
1 Union Ave.

Saratoga Springs, NY 12866-4309  
 CollegewideStudentServices@sunyempire.edu  
 518-587-2100, ext. 2463

- 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.

## Options for Confidentially Disclosing Sexual Violence

The State University of New York and SUNY Empire want students to get the information and support they need, regardless of whether they move forward with a report of sexual violence to university officials, or to police. Students are encouraged to talk with someone about something they have observed or experienced, even if they are unsure that the behavior constitutes sexual violence. A conversation where questions can be answered is far superior to keeping something to yourself. Confidentiality varies, and this document is aimed at helping you understand how confidentiality applies to different resources that may be available to you.

## Privileged and Confidential Resources

Individuals who are confidential resources will not report crimes to law enforcement or university officials without the victim's permission, except for extreme circumstances, such as a health and/or safety emergency. At SUNY Empire, a confidential service includes an off-campus professional counseling service:

Off-campus options to disclose sexual violence confidentially include<sup>1</sup>:

- Off-campus counselors and advocates<sup>2</sup>  
 Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency.
  - New York State Coalition against Sexual Assault (<https://www.nyscasa.org/>).
  - Sexual Assault Nurse Examiner (SANE) at local hospitals and programs.
  - Refer to SUNY's list of off-campus resources (<http://www.suny.edu/violence-response/>).
- Off-campus healthcare providers
  - Medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. More information may be found at [http://www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf) or 800-247-8035. Options are explained at <http://www.ovs.ny.gov/helpforcrimevictims.html>.

<sup>1</sup> Note: These outside options do not provide any information to the campus.

<sup>2</sup> Note that even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.



### Privacy Versus Confidentiality

Even SUNY Empire offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX coordinator to investigate and/or seek a resolution. SUNY Empire will limit the disclosure as much as possible, even if the Title IX coordinator determines that the request for confidentiality cannot be honored.

### Requesting Confidentiality: How Empire State University Will Weigh the Request and Respond

If a complainant or reporting individual wants to maintain confidentiality or does not consent to the university's interest in initiating an investigation when consulting with an SUNY Empire employee who is responsible for responding to or reporting sexual violence or sexual harassment, then the Title IX coordinator must weigh any request for confidentiality or inaction against the obligation of SUNY Empire administrators to provide a safe, non-discriminatory environment for all members of the university community, including the complainant or reporting individual.

The university will assist in making academic, employment and other reasonable and available accommodations, regardless of the reporting individuals reporting choices. While reporting individuals may request accommodations through various college offices, the following office serves as a primary point of contact to assist with these measures:

Title IX coordinator: 800-847-3000, ext. 1009

Email: TitleIX@sunyempire.edu

The university may take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify the reporting individual or the situation they disclosed.

The university may seek consent from reporting individual prior to conducting an investigation. The reporting individual may decline to consent to an investigation, and that determination will be honored unless the university's failure to act does not adequately mitigate the risk of harm to you or other members of the university community. Honoring such request may limit the university's ability to meaningfully investigate and pursue action against an accused individual. If the university determines that an investigation is required, the reporting individual will be notified and immediate action will be taken, as necessary, to provide protection and assistance.

When the reporting individual discloses an incident to someone who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality, SUNY Empire will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- whether the accused has a history of violent behavior or is a repeat offender
- whether the incident represents escalation, such as a situation that previously involved sustained stalking
- the increased risk that the accused will commit additional acts of violence
- whether the accused used a weapon or force
- whether the reporting individual is a minor
- whether we possess other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location, or by a particular group.

If the university determines that it must move forward with an investigation, the reporting individual will be notified and the university will take immediate action, as necessary, to protect and assist him, her or them.

### Public Awareness/Advocacy Events

If an individual discloses a situation through a public awareness event, such as "Take Back the Night," candlelight vigils, protests through a student organization or other event or forum, or other public event, the university is not obligated to begin an investigation. SUNY Empire may use the information provided to inform the need for additional education and prevention efforts.

### Anonymous Disclosure

- New York State Hotline for Sexual Assault and Domestic Violence: 800-942-6906

### Institutional Crime Reporting

Reports of certain crimes occurring in certain geographic locations will be included anonymously in the university Clery Act Annual Security Report that neither identifies the specifics of the crime or the identity of the reporting individual. Contact information:

- Director of Campus Safety and Security, 518-587-2300
- Title IX coordinator, 800-847-3000, ext. 1009 or TitleIX@sunyempire.edu.

SUNY Empire is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the reporting individual or victim/survivor). A reporting individual will never be identified in a timely warning.

The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parent's prior year federal income tax return. Generally, SUNY Empire will not share information about a report of sexual violence with parents without the permission of the reporting individual.

### Definitions

- **Bystander:** a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of the university.
- **Bystander Intervention:** involves developing the awareness, skills, and courage needed to intervene in a situation when another individual needs help. Bystander intervention allows individuals to send powerful messages about what is acceptable and expected behavior in our community.
- **Code of Conduct:** the written policies adopted by the college governing student behavior, rights and responsibilities while at the university.
- **Confidentiality:** may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to university officials, in a manner consistent with state and federal law, including, but not limited to, 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers and pastoral counselors are examples of individuals who may offer confidentiality. University faculty and staff are mandated to report known incidences of sexual assault or other crimes to appropriate university officials, but are considered private sources. See definition of "Privacy" below.

- **Dating violence:** any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of the relationship shall be determined based on victim's statement with consideration of the type and length of the relationship and the frequency of interactions between the persons involved in the relationship. Such violent act may include, but are not limited to sexual or physical abuse or the threat of such abuse. 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 victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.
- **Preponderance of the evidence:** the standard of proof in sexual harassment and sexual assault cases, which asks whether it is "more likely than not" that the sexual harassment or sexual violence occurred. If the evidence presented meets this standard, the accused should be found responsible.
- **Privacy:** may be offered by an individual when he or she is unable to offer confidentiality under the law, but shall not disclose information about a crime or incident learned from a reporting individual or bystander more than is necessary to comply with this and other applicable laws, including informing appropriate university officials.
- **Responsible employee:** an employee with the authority to redress sexual violence, who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate university official, or whom a student could reasonably believe has this authority or duty. If a responsible employee is aware of sexual violence, then the university is considered on notice of that sexual violence.
- **Reporting individual:** victim, survivor, complainant, claimant, witness with victim status and any other term used by the university to reference an individual who brings forth a report of a violation.
- **Retaliation:** adverse action against another person for reporting a violation or for participating in any way in the investigation or conduct process. Retaliation includes harassment and intimidation, including but not limited to violence, threats of violence, property destruction, adverse educational or employment consequences and bullying.
- **Sex discrimination:** includes all forms of sexual harassment, sexual assault, and other sexual violence by employees, students, or third parties against employees, students or third parties. Students, employees and third parties are prohibited from harassing others, whether or not the harassment occurs on a SUNY campus or during work hours. All acts of sex discrimination, including sexual harassment and sexual violence, are prohibited by Title IX.
- **Sexual activity:** shall have the same meaning as "sexual act" and/or "sexual contact", per 18 U.S.C. 2246(2) and 19 U.S.C. 2246(3).
- **Sexual assault:** physical sexual act(s) committed against another person without consent. Sexual assault is an extreme form of sexual harassment. Sexual assault includes what is commonly known as "rape" (including "date rape" and "acquaintance rape"), fondling, statutory rape and incest. For statutory rape, the age of consent in New York State is 17 years old.
- **Sexual harassment:** unwelcome, gender-based verbal, non-verbal, or physical conduct that is sexual in nature and sufficiently severe, persistent, or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational program and/or activities, and based on power differentials, the creation of a hostile environment, or retaliation.
- **Sexual violence:** physical sexual acts perpetrated against a person's will or perpetrated where a person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including, dating violence, domestic violence and sexual assault (including rape).
- **Stalking:** 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 causes that person to suffer substantial emotional damage. Examples include: repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such 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.
- **Title IX coordinator:** Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. Sec., 1681, et seq., states that all students have equal educational opportunity free from sex discrimination, including sexual harassment and sexual assault. The Title IX coordinator is responsible for the university's compliance with this regulation including, but not limited to systematically monitoring and evaluating policy and procedures that effectively and efficiently respond to complaints of sex discrimination. Individuals with questions or concerns related to Title IX may contact the Title IX coordinator at 800-847-3000 ext. 1009. The Title IX coordinator is either the official coordinator and/or his or her designee or designees.

### Applicable Legislation and Regulations

- SUNY Policies on Sexual Violence Prevention and Response (<https://system.suny.edu/sexual-violence-prevention-workgroup/policies/>); Dec. 1, 2014.
- Governor Cuomo Announces SUNY Adopts Comprehensive System-wide Uniform Sexual Assault Policy (<https://www.suny.edu/suny-news/press-releases/december-2014/12-2-14-sex-assault-policies/>); Dec. 2, 2014.

### Related References, Policies, Procedures, Forms and Appendices

- No Contact Order Policy (<https://www.sunyempire.edu/policies/?search=cid%3D104608>)
- Student Conduct Policy and Procedures (<https://www.sunyempire.edu/policies/?search=cid%3D37969>)