

SUNY Ulster Board Policy Manual

Policy Section	
4.	PERSONNEL POLICIES

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Policy Section	
4.1	APPOINTMENT OF TEACHING AND NON-TEACHING STAFF

Policy Section	
4.1.1.	METHOD OF APPOINTMENT

Approval Date: November 15, 1994

The President shall be appointed by the Board of Trustees in accordance with the provisions of the Education Law. All other appointments shall be made by the President subject to the confirmation of the Board of Trustees.

Policy Section	
4.1.2.	APPOINTMENT YEAR AND SALARY PERIODS

Approval Date: November 15, 1994

- A. Appointment Year- Unless terms and conditions of their appointments otherwise provide, the regular appointment year for professional staff on ten-month assignments is from September 1 through June 30 and for those on twelve-month assignments from September 1 through August 31, and all such persons shall be deemed to be serving full time for the purposes of these policies.
- B. Salary Periods - Professional staff members on ten-month assignments, other than those on temporary assignments, may elect to have their salaries paid to them over twelve months.

Adopted: November 15, 1994 (94-11-164)

Revised March 2003 (03-3-36)

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Policy Section	
4.1.3.	TYPES OF APPOINTMENT

Approval Date: February 1969

A. Temporary Appointment

1. Temporary appointment of management/confidential staff members and professional staff covered by the OPAP collective bargaining agreement:

Definition - A temporary appointment shall be an appointment for an unspecified period which may be terminated at any time. Temporary appointments ordinarily shall be given only when the service is to be part-time, voluntary, or to continue for less than one year.

Termination - The service of members of the professional staff having temporary appointments may be terminated at will by the Board of Trustees on recommendation of the President of the College. There shall be no right of appeal from such a termination.

2. Temporary appointment of full-time teaching faculty is outlined in the faculty association collective bargaining agreement.

B. Term Appointment

1. Term appointments may be granted to management/confidential staff members and professional staff covered by the OPAP collective bargaining agreement.

Definition - A term appointment shall be an appointment for a specified term of not more than five years -, which, except as otherwise provided for by these policies, shall automatically expire at the end of the prescribed period unless terminated earlier in accordance with these policies; provided, however, that no term appointment shall be given for a period extending beyond the period of service after which, pursuant to this Article, reappointment shall be a continuing appointment.

Termination - The services of members of the professional staff having term appointments shall cease automatically at the end of

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their specified terms or may be terminated at the end of any year during their term and in either case there shall be no right of appeal. Such services may be terminated at any time during any year of the term for just cause, incompetence, insubordination or moral turpitude.

Adopted: February 1969 (69-2-16)
Revised November 15, 1994 (94-11-164)
Revised March 3, 2003
Revised June 17, 2003

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Policy Section	
4.1.4.	SPECIAL REQUIREMENTS FOR NURSING FACULTY

Approval Date: June 27, 1978

WHEREAS in order to comply with policies established by hospitals in which nursing faculty provide instruction for our students in the nursing program, now, therefore, be it

- A. RESOLVED, that the Board of Trustees of Ulster County Community College hereby require all present nursing faculty, and all future nursing faculty prior to employment, to have an annual physical examination, prior to the beginning of each academic year which will attest to the faculty member's ability to work in any clinical site.

Adopted: June 27, 1978

Revised June 17, 2003

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Policy Section	
4.1.5.	APPROVAL OF APPOINTMENTS

Approval Date: February 5, 1963

WHEREAS the Board's policy regarding the approval of full-time appointments has been reviewed; and

WHEREAS, it is now necessary to amend the policy adopted April 27, 1976; now, therefore, be it

RESOLVED that appointment to all full-time positions shall be approved by the Board in advance of any commitment for employment. In those cases which the President deems to be an emergency, the President and the Chair of the Personnel Committee can give interim approval until the next meeting of the Board. This policy applies to faculty and administrative positions.

Adopted: February 5, 1963
Adopted April 27, 1976
Revised December 17, 1987 (87-12-156)
Revised June 17, 2003

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Policy Section	
4.1.6.	OVERLOAD AND PART-TIME APPOINTMENTS

Approval Date: March 8, 1967

BE IT RESOLVED that the President of the College be authorized to make such overload and part-time appointments as are necessary and as are provided for within the current budget.

Adopted: March 8, 1967

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Policy Section	
4.1.7.	EMPLOYMENT OF IMMEDIATE FAMILY MEMBERS

Approval Date: October 18, 1988

WHEREAS the President feels that there is a need to implement a policy regarding the employment of immediate family members, and

WHEREAS the Personnel/Curriculum and the Finance/Facilities Committees of the Board of Trustees have met, discussed and concur with the President on this issue, now, therefore

BE IT RESOLVED that, effective October 19, 1988, no one within the immediate family of any person employed by Ulster County Community College should hold a position of full or part-time employment, in the same department, and in the direct line of supervision. The term "immediate family member" is defined to mean; husband, wife, spouse in a same-sex marriage performed in a jurisdiction that legally recognizes such union, son, daughter, brother, sister, father, mother, grandfather, grandmother, father-in-law, mother-in-law, and grandchildren, of the employee, or any other person whose legal residence is that of the household of the employee, and

BE IT FURTHER RESOLVED that this policy will not apply to those individuals employed on October 18, 1988 with respect to non-conforming employment relationships which existed on October 18, 1988.

Adopted: October 18, 1988 (88-10-128)

Revised June 17, 2003

Amended June 24, 2008 (08-6-94) Martinez v. County of Monroe

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Policy Section	
4.1.8.	EXEMPT CLASS POSITIONS

Approval Date: August 23, 1988

WHEREAS there are two bargaining units in the exempt class, and

WHEREAS these bargaining units do not include all exempt class personnel, and

WHEREAS there is a need for the Board of Trustees to act on issues pertaining to all professional staff members, now, therefore, be it

RESOLVED that the Board of Trustees will act on the following exempt class positions:

<u>Appointment</u>	<u>Hrs/wk</u>	<u>Benefits</u>	<u>Contract</u>
Non-teaching			
Full-time	35	Yes	OPAP
Full-time Manag/Conf	35	Yes	None
Part-time	20-35	Yes	OPAP
Temporary/<3 mos.	20-35	No	None
Teaching			
Full time/ Prob/cont appt	up to 15 cr hr/ semester	Yes	Faculty
Full time/ Temporary	up to 15 cr hr/ Semester	Yes	Faculty

Adopted: August 23, 1988 (88-8-106)

Revised June 17, 2003

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Policy Section	
4.1.9.	POLICY ON APPOINTMENT OF HOURLY PROFESSIONAL STAFF

Approval Date: June 16, 1992

WHEREAS hourly professional staff are hired on an as needed and/or seasonal basis to meet the needs of programs or activities, and

WHEREAS these positions are less than half-time with no benefits and experience a higher degree of turnover than benefited, full-time positions, and

WHEREAS the need for these people is such that normal appointment procedures may not be applicable, now, therefore, be it

RESOLVED that the President, Personnel Services and the Affirmative Action Officer shall establish procedures not requiring formal action of the Board of Trustees for the appointment of hourly, non-benefited positions in the professional service.

Adopted: June 16, 1992

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Policy Section	
4.2	TERMINATION

Approval Date: May 5, 1965

Termination of Faculty and Professional Staff for Physical or Mental Incapacity

Members of the professional staff may be terminated and their services terminated by the Board of Trustees, after receipt of the recommendation of the President and upon medical advice, for mental or physical incapacity which prevents such persons from adequately performing their duties.

Adopted: May 5, 1965

Revised June 22, 1976

Revised January 13, 1989 (89-01-15)

Revised November 15, 1994 (94-11-164)

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Policy Section	
4.3	PROMOTION

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Policy Section	
4.3.1.	QUALITIES

Approval Date: May 5, 1965

The qualities to be considered in evaluating members of the faculty for promotion shall be those which determine their effectiveness in performing their prescribed duties and their general contribution to the aims and objectives of the College. Specifically, such evaluations shall include consideration of such of the following factors as related to the particular type of responsibility with which the faculty member is concerned.

- a. Mastery of subject matter - as demonstrated by such things as advanced degrees, licenses, honors and awards, and reputation in the subject matter field.
- b. Effectiveness in teaching - as demonstrated by such things as judgment of colleagues, development of teaching materials and new courses, and student reaction.
- c. Continuing growth - as demonstrated by such things as reading, research and other activities to keep abreast of current developments in his/her field and the ability to handle successfully increased responsibility.
- d. Effectiveness of college service - as demonstrated by such things as successful committee work, administrative work and work with students or community in addition to formal teacher - student relationships.
- e. Scholarship ability - as demonstrated by such things as success in developing and carrying out significant research work in the subject matter field, publications, and reputation among colleagues.

Adopted: May 5, 1965

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Policy Section	
4.3.2.	CRITERIA

Approval Date: February 25, 1969

Promotion from one rank to another shall be based on merit and performance. Generally, promotion or initial appointment will be based on the following minimum criteria:

Instructor:

Master's degree + 45 related semester hours with less than 1 year experience.
 Master's degree + 30 related semester hours with less than 2 years experience.
 Master's degree + 15 related semester hours with less than 3 years experience.
 Master's degree with less than 4 years experience.
 Bachelor's degree or equivalent with less than 6 years experience.

Assistant Professor:

Doctorate degree.
 Master's degree + 45 related semester hours with 1 year experience.
 Master's degree + 30 related semester hours with 2 years experience.
 Master's degree + 15 related semester hours with 3 years experience.
 Master's degree with 4 years experience.
 Bachelor's degree or equivalent with 6 years experience.

Associate Professor:

Doctorate degree with 4 years experience.
 Master's degree + 45 related semester hours with 6 years experience.
 Master's degree + 30 related semester hours with 7 years experience.
 Master's degree + 15 related semester hours with 8 years experience.
 Master's degree with 9 years experience.
 Bachelor's degree or equivalent with 11 years experience.

* For administrators represented by OPAP, their collective bargaining agreement supersedes this Article.

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Professor

Doctorate degree with 8 years experience.
 Master's degree + 45 related semester hours with 10 years experience.
 Master's degree + 30 related semester hours with 11 years experience.
 Master's degree + 15 related semester hours with 12 years experience.
 Master's degree with 13 years experience.
 Bachelor's degree or equivalent with 15 years experience.

Experience as stated in the above qualifications shall mean:

	RATIO		
	Experience Credit In Years	for	Actual Years Experience
College Teaching	1	for	1
High School teaching	½	for	1
Full-time employment in a Related field (not to exceed 7 years credit)	½ or 1	for	1
Professional licenses, Diplomas, certificates	Not to exceed 2 years of credit		

Guidelines for Appointment and Promotion to Rank

Promotion of an individual meeting the above qualifications should not be construed to be automatic or mandatory. Promotion from one rank to another shall be based on merit as well as meeting the minimum criteria.

Merit promotion regardless of the criteria stated above may be recommended by the President to the Board of Trustees.

Adopted: February 25, 1969 (69-2-16)

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Policy Section	
4.4	LEAVES AND TUITION WAIVERS

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Policy Section	
4.4.1.	LEAVE FOR MEDICAL REASONS

Approval Date: October 20, 1981

WHEREAS the Personnel Committee of the Board of Trustees met to review the Board's policy as it relates to leaves of absence for medical reasons, and

WHEREAS the Personnel Committee recommends the adoption of this policy, now, therefore, be it

RESOLVED that the Board of Trustees hereby approve the adoption of the following policy:

Leaves of Absence for Medical Reasons (Physical and/or Psychological)

Those members of the teaching and non-teaching faculty, as well as the management confidential staff, who have been granted continuing appointment may be considered for a medical leave of absence. Medical leaves must be approved by the Board of Trustees and will be granted generally for one year periods, not to exceed a cumulative total of two years. To be considered for a medical leave, the individual requesting the leave must submit a statement by a physician that he or she is unable to perform their regular duties. Before the individual is allowed to return from a medical leave, a statement must be submitted that he or she is able to perform their regular duties. In either case, the Board reserves the right to have a doctor of its choice examine the individual and provide an opinion as to the person's condition. At the end of each medical leave, the Board may decide to invoke its policy of termination for physical or mental incapacity. Individuals who are granted medical leaves will have their salary adjusted upon their return to full time status in accordance with salary increases given to their members of their respective collective bargaining units. In the case of the management confidential staff, salary will be determined by the Board of Trustees.

Adopted October 20, 1981 (81-9-97)

[Also Note: Policy on Family and Medical Leave Act 4.4.7]

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Policy Section	
4.4.2.	LEAVES WITHOUT PAY

Approval Date: May 5, 1965

WHEREAS the possibility for leaves of absence is specified in various Bargaining Agreements and in Civil Service Regulations and laws, and

WHEREAS references should be made to those items for specific information concerning Sabbatical Leaves, Medical Leaves, Educational Leaves, Bereavement Leaves, and other leaves, and

WHEREAS certain of these leaves of absence are available for the management/confidential staff under the policies of the Board of Trustees, now, therefore, be it

RESOLVED that the Board of Trustees, after receiving the recommendation of the President, may grant members of the management/ confidential staff, other leaves of absence without pay, for periods of up to one year, and, be it also

RESOLVED that the following procedure will be adhered to for evaluating requests for leaves of absence without pay for all College employees:

PROCEDURE FOR EVALUATING REQUESTS FOR LEAVE OF ABSENCE WITHOUT PAY

Unless the Collective Bargaining Agreements, Civil Service Law, and/or Civil Service regulations supersede the procedure listed below, this procedure will be considered to remain in force:

1. Leaves of absence are not routinely granted to members of the College staff.
2. Application for leaves of absence without pay, in excess of ten (10) days, will be made to the President.
3. Each application will include a statement of the purpose for which the leave is requested, its anticipated duration, and its value to the applicant and/or College.
4. Leaves will be considered if they can be seen to benefit both the College and the individual employee.

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5. The individual requesting the leave must be able to be replaced with relative ease and with no significant adverse affect on the operation of the College

Adopted May 5, 1965

Revised December 20, 1988 (88-12-153)

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Policy Section	
4.4.3.	SABBATICAL LEAVE – FULL-TIME TEACHING FACULTY

Approval Date: January 28, 1969

WHEREAS the administration sees the need for a revision in the Sabbatical Leave Policy adopted by the Board of Trustees on January 28, 1969, and

WHEREAS the administration and the Personnel Committee have reviewed these revisions and recommended their adoption, and

WHEREAS the Board of Trustees adopted a policy for Management and Confidential Staff (4.9.10) dated January 17, 1989, and

WHEREAS the collective bargaining agreement with the Organization for Professional Administrative Personnel contains a complete policy on sabbatical leave, now, therefore, be it

RESOLVED that the Board of Trustees of Ulster County Community College approve the following revised sabbatical leave policy for full-time teaching faculty, and be it further

RESOLVED that these revisions be made known to all full-time teaching faculty members of the College, and be it further

RESOLVED that these revisions become part of the policies of the Board of Trustees.

Sabbatical leaves are intended to stimulate the professional staff of the College and to increase each person's value to the College by improving and enriching its program. Such leaves are not automatic and are to be granted on the basis of their value to the individual and to the College.

1. Eligibility

- A. Continuous employment as a full-time member of the full-time teaching faculty for a period of six consecutive years of service. In computing consecutive years of service, periods of sick leaves or other approved leaves with pay shall be approved.
- B. Applicant should have continuing appointment.

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- C. Periods of approved leaves of absence without pay shall not be included and will not affect eligibility.
- D. The maximum number of full-time teaching faculty to be granted a sabbatical is determined by the collective bargaining agreement.

2. Purposes for Granting Sabbatical Leaves

- A. Study and research
- B. Educational travel
- C. Creative work
- D. Experience of professional value
 - 1) Refresh outlook
 - 2) Awareness
 - 3) Growth

3. Payment during Sabbatical Leave

- A. Payment during sabbatical leave is covered in the full-time faculty collective bargaining agreement.
- B. Regular increments shall accrue during leave.
- C. Continuation of payments for all normal benefits
 - 1) Retirement premiums
 - 2) Group insurance plans
 - 3) Health-hospitalization plans
- D. Members of the full-time faculty on sabbatical leave may, with the prior approval of the President, accept fellowships, grants in aid, or earned income to assist in accomplishing the purpose of their leaves. In such cases, the President may adjust the sabbatical leave salaries to reflect such income, either prior to or during the periods of such leave, but in no case shall sabbatical leave salary be decreased if total earnings are less than full salary.

4. Effective Date of Sabbatical Leave

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Sabbatical leaves shall normally commence at the beginning of the fall semester or the beginning of the spring semester.

5. **Eligibility for Further Sabbaticals**

Subsequent sabbatical leave requests may be granted after completion of another six continuous years of active service.

6. **Application for Sabbatical Leave**

Applications for sabbatical leaves shall be submitted to the President of the College no later than six months prior to the academic year for which the sabbatical leave is requested unless such requirement is waived. Each application shall include a statement outlining the program to be followed while on leave, stating that the applicant intends to continue as a member of the full-time faculty upon return, and stating that upon return, the applicant will submit to the president of the College a report of accomplishments while on sabbatical leave.

7. **Approval**

When approved by the President of the College, the President will submit recommendations to the Board of Trustees of the College for their approval.

Adopted January 28, 1969 (69-1-6)
Amended June 24, 1969 (69-6-57)
Revised November 1971 (71-11-95)
Revised November 15, 1994 (94-11-164)

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Policy Section	
4.4.4.	TUITION WAIVERS FOR COLLEGE STAFF

Approval Date: August 22, 1967

WHEREAS the policy on Tuition Waivers has been reviewed, and

WHEREAS the President recommends that the policy adopted on August 30, 1977 be revised to include faculty and staff receiving benefits and/or for course work which is essential to job performance, and

WHEREAS the Personnel Committee has met, reviewed and agrees with this recommendation, now, therefore, be it

RESOLVED that the Board of Trustees hereby approves the following policy on Tuition Waivers, effective immediately.

TUITION WAIVERS FOR COLLEGE STAFF

- I.
 - A. Benefited faculty and staff, those working half-time or more, will be certified as eligible for tuition waivers.
 - B. Others may be granted tuition waivers for courses which are essential to job performance.
 - C. Part-time faculty shall be entitled to tuition waivers while employed by the College, of three credits per semester, contingent upon seat availability, and as otherwise provided in this policy, Sections I, II, and V.
 - D. Part-time cleaning staff shall be entitled to tuition waivers while employed by the College, of three credits per semester, contingent upon seat availability, and as otherwise provided in this policy Sections I, II, and V.

- II. Higher priority of approval will be given to job-related courses. Matriculated students may receive special consideration in scheduling in order to get their course requirements.

Ordinarily, avocational and recreational courses will not be approved during the workday unless part of program requirements.

- III. A maximum of nine (9) credit hours per person will be allowed during any given semester with not more than six (6) credit hours to be taken during the work day, and only one (1) course may be taken per work day; for example,

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one course may be taken on Monday, Wednesday and Friday and a second on Tuesday and Thursday.

- IV. Any working time used for classes must be made up. The manner of making up time is at the discretion of the supervisor. For example, the following would be appropriate.
- A. Lunch-hour time Note: The Department of Labor requires one-half hour lunch break after every five hours worked.
 - B. Compensatory time, personal days or vacation time, which, if used, should be deducted from the biweekly time sheet where appropriate.

Coffee breaks may not be used as make-up time.

- V. The following circumstances should be noted in regard to tuition waivers for credit-free courses:
- A. Registration of a tuition-waiver student will not exclude a tuition-paying student. Staff or faculty who wish a place in a credit-free class may submit a check with their registration form on which form they should clearly write "Tuition Waiver Requested."
- Acknowledgments and permits-to-attend credit-free courses will be issued to the applicant in the Office of Continuing Education after four o'clock on the day the course is scheduled to begin, or if the course starts on a weekend or holiday, after four o'clock on the last business day preceding the first class.
- B. A tuition-waiver applicant will be registered only after written authorization has been received from the instructor as a result of a request initiated by the employee applicant.
 - C. When a tuition fee includes the cost of equipment, supplies, or other expenses, these costs must be paid for by the student.

Adopted August 22, 1967

Rescinded August 30, 1977

Adopted August 30, 1977 (77-08-89)

Revised January 21, 1992 (92-01-013)

Revised January 19, 1993 (93-01-006)

Revised December 16, 1997 (97-12-163 and 97-12-164)

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Policy Section	
4.4.5.	REQUESTING AND RECORDING TIME OFF

Approval Date: February 14, 1989

WHEREAS there is a crucial need for the proper operations of the College to monitor work and leave time for all college faculty and staff, and

WHEREAS negotiated agreements and Board of Trustees policy provide for leave entitlements for full-time faculty, OPAP, and Management /Confidential staff, and/or set requirements for the maintenance of time records, and

WHEREAS there is a need to establish guidelines for the requesting and recording of work and leave time for all employees, now, therefore, be it

RESOLVED that the following guidelines, in keeping with Education, Civil Service, and General Municipal Law of the State of New York, be established for all college employees.

GUIDELINES FOR THE REQUESTING AND RECORDING OF WORK AND LEAVE TIME

Unless negotiated agreements and/or Board policy specifies otherwise, the following guidelines are in effect for all college employees:

Office Hours - Regular office hours are established by the College in conformance with the Civil Service and OPAP contracts as being from 8:30 a.m. to 7:30 p.m. with the exceptions approved by the President. If and when it is necessary for an office to open or close at an irregular time, approval must be obtained and arrangements must be made for the proper transfer of calls, messages, and other services as required by the "memo from the President" dated January 2, 1985.

Notice of Absence - All employees shall report any absence for illness or emergency to their supervisor as soon as possible. Absence due to illness shall be reported to the supervisor as soon as possible on the first day of illness and employees are required to keep the supervisor informed of the anticipated length of absence. Supervisors shall report absences to Personnel Services as specified in the call-in procedure. Teaching faculty shall report their absence to the Office of the Chief Academic Officer.

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Request for Time Off - Requests for the use of leave credits shall be made by all employees to their supervisor prior to the use of such leave. Requests shall be made on forms provided by the Accounting Office.

Personal Leave - All supervisors shall alert their staff to the proper use of personal leave (to conduct personal business, attend to family affairs, observe religious holidays, and similar matters of a personal nature). Personal leave is not to be used as an extension of a weekend, vacation, or holiday. The employee is not required to specify the reason for use of personal leave.

Emergencies - Requests for leave for emergency reasons of any kind shall be made to the employee's supervisor as early as possible and must be approved by the Dean of the area or the President.

Snow Days - Staff members who are unable to make it to work and wish to use leave entitlements for reason of inclement weather must make their requests to their supervisor as early as possible. The following accumulated time may be used: annual leave, personal leave, floating holiday leave, or earned, available compensatory time. Sick days or sick time may not be used.

Snow Emergencies – The College will only close if the County Executive declares an emergency situation and closes all of the County facilities. In such an emergency, staff members are not expected to report to work or to charge accumulated leave.

Registration, Faculty Meetings, and/or Commencement –

- a. Registration - Teaching faculty requesting absence from the fall and/or spring semester final registration periods shall complete and submit a Leave Request Form to their respective Dean or President, as appropriate.
- b. Faculty Meetings and Commencement - Teaching and non-teaching faculty requesting absence from opening fall and/or spring semester faculty meetings shall complete and submit a Leave Request Form to their respective Dean or President, as appropriate.

Recording of Time Worked and Leave Taken

When to Report - All Civil Service staff members must report time worked and approved use of leave credits on their bi-weekly time sheet. OPAP and Management/confidential staff must report leave credits used on their respective bi-weekly and monthly time sheets. Teaching faculty must report any absences to the Office of the Chief Academic Officer.

What to Report - All bi-weekly time sheets must reflect the actual time the employee arrives at the place of work and is ready to begin work, and the

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time the employee leaves at the end of the day with an explanation of any variance of 15 minutes or more in scheduled arrival or departure time indicated. At least one-half hour lunch period must be taken and shown on the time sheet in keeping with the Department of Labor rules and as per "Memo from the President to all OPAP and Civil Service Staff" dated January 2, 1985.

All supervisors shall approve overtime work of Civil Service staff before the overtime work is actually performed, except under extenuating circumstances and upon written explanation to Personnel Services. Compensatory time for OPAP staff must also be approved in advance. Forms for requesting and approving compensatory time can be obtained from the Human Resources Office.

Reporting Leave Time - Unless otherwise specified, "floating" holidays, sick, personal, and vacation time (where applicable) must be recorded in units of half days and full days.

- a. A person who is unable to fulfill college duties and obligations on a given day due to illness, personal business, vacation, and/or holiday observance, will be charged one full day of appropriate leave time.
- b. A person who fulfills some college duties and obligations on a given day, but fails to fulfill the whole, will be charged one-half day of appropriate leave.
- c. Vacation, sick, personal, and/or compensatory time may not be borrowed from future pay periods except that an employee who is not a member of a bargaining unit which has a "sick bank" or other similar benefit may borrow such time from future pay periods subject to approval by their area Dean or such other person as may be designated by the President. Absences that cannot be covered by accrued leave credits will result in a payroll adjustment.

Employees' and Supervisors' Responsibilities - Employees are responsible for the accuracy of their own time sheets. Time sheets shall be signed by the employee and forwarded to the supervisor for review and signature. Supervisors are required to review carefully all time sheets for accuracy at the time of signing. Time sheets for professional staff must also be signed by the appropriate Dean or by the President. Time sheets for the Deans must be signed by the President. The President's time sheet must be signed by the Chairman of the Board of Trustees.

Submission of Time Sheets to Payroll - All time sheets must be submitted by the supervisors and Deans to the Payroll Office promptly. If time sheets are not received by the Payroll Office by the second Monday of the following pay period,

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pay checks will not be issued to those individuals whose time sheets have not been submitted.

Adopted February 14, 1989 (89-2-34)
Revised November 15, 1994 (94-11-164)
Revised June 17, 2003
Revised September 15, 2009 (09-9-140)
Revised March 15, 2011 (11-3-46)

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Policy Section	
4.4.6.	TUITION WAIVERS FOR FIELD WORK, INTERNSHIP, OR PRECEPTORSHIP SUPERVISORS

Approval Date: February 15, 1994

WHEREAS it has been the practice of Ulster County Community College to grant a tuition waiver of up to four credits for supervisors of students participating in field work and internships; and

WHEREAS the Nursing Department will begin a "preceptorship" program that is similar for a supervised "field work" experience; and

WHEREAS the President has recommended this change and the Curriculum Committee concurs; now, therefore, be it

RESOLVED that a Supervisor of Field Work, Internship, and Preceptorship students be offered a tuition waiver for the equivalent of one course (not to exceed four credit hours); and, that it be further

RESOLVED that the President establish a procedure that monitors the offering of these tuition waivers.

Adopted February 15, 1994 (94-02-026)

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Policy Section	
4.4.7.	POLICY ON FAMILY AND MEDICAL LEAVE

Approval Date: August 23, 1994

WHEREAS there is a need to establish a policy relating to the Family and Medical Leave Act, and

WHEREAS the President is recommending the following policy be adopted, and

WHEREAS the President has reviewed this policy in a workshop session with the Board of Trustees, now, therefore, be it

RESOLVED that the Board of Trustees approves the following policy on Family and Medical Leave as outlined below.

FAMILY MEDICAL LEAVE ACT POLICY

The Family and Medical Leave Act became effective August 5, 1993. The FMLA requires employers to provide up to 12 weeks of unpaid, job-protected leave, during a 12-month period, to eligible faculty and staff for certain family and medical reasons. Faculty and staff may use the FMLA in conjunction with other leave policies in effect at UCCC.

Eligibility

Faculty and staff are eligible for FMLA if:

- they have worked for at least 1250 hours over the previous 12 months and
- they have worked for the employer for at least 12 months.

Acceptable Reasons for Leaves

UCCC must grant unpaid leave to an eligible faculty or staff member for one of the following reasons:

- for the care of the faculty or staff member's child
- (birth or placement for adoption or foster care);
- for the care of the faculty or staff member's spouse, child, or parent who has a serious health condition; or
- for a serious health condition that makes the faculty or staff member unable to perform his/her job.

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Timing and Duration of Leave

Twelve weeks of FML will be granted during a 12-month, 52-week period under this policy.

Leave taken for the birth or placement of a child must be taken within 12 months of the birth or placement. Leave taken for a serious health condition for either a family member or the faculty or staff member may be taken on a reduced or intermittent schedule if medically necessary.

In the case of a serious health condition of a family member or of the faculty or staff member, the faculty or staff member must make reasonable effort to schedule treatment, doctor visits, etc. so as not to unduly disrupt College operations.

If spouses employed by the same employer wish to take leave to care for a newly arrived child or a sick parent, their aggregate leave is limited to 12 weeks. If the leave is requested for the illness of a child or of the other spouse, each spouse is entitled to 12 weeks of leave.

Application

Faculty and staff members are expected to promptly notify their supervisors and Personnel Services as soon as they learn of the need for a leave. Thirty days advanced notice is required when the leave is foreseeable. They should obtain a certification form from Personnel Services and complete and return it within 15 days. If the form is not returned within 15 days, the leave may be denied until the form is returned.

Use of Leave Credits

Family leave will generally be unpaid. The College will require the faculty or staff member to substitute any accrued personal, vacation, sick, compensatory or holiday time for any leave.

Job Protection

Upon return from FMLA leave, faculty and staff will be returned to the same position, or to an equivalent position, unless the faculty or staff member would have been terminated in the absence of any leave (such as retrenchment, etc.).

Return to Work

Where a faculty or staff member's own serious health condition is involved, the College will require medical certification when the employee is able to return to work.

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Health Insurance

Faculty and staff on FML will be provided with 12 weeks (3 months) of health insurance. They will be required to pay the employee's portion of the premium for these 12 weeks.

Other Benefits

Faculty and staff members may continue health insurance beyond the 12 weeks, while out on approved leave, by paying the full share of the health insurance for the balance of the leave.

Other benefits, if any, shall be provided only as permitted by the respective benefit plan.

Adopted August 23, 1994 (94-08-117)

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Policy Section	
4.4.8.	VOLUNTARY LEAVE OF ABSENCE PROGRAM

Approval Date: April 16, 1991

WHEREAS the Ulster County Legislature is instituting a Voluntary Leave of Absence Program, and

WHEREAS Ulster County Community College wishes to show support for County policies, and

WHEREAS the College’s adoption of this program would provide a cost containment measure for the College, and

WHEREAS the President is recommending that the Voluntary Leave of Absence Program be adopted at the College for full-time Civil Service, OPAP, Faculty, and Management-Confidential staffs, and

WHEREAS the Board of Trustees, as a committee of the whole in executive session, met, reviewed, and agrees with this recommendation, now, therefore, be it

RESOLVED that the Board of Trustees hereby adopts the Voluntary Leave of Absence Program for Ulster County Employees as an ongoing policy for Ulster County Community College employees, effective January 1, 1994.

VOLUNTARY LEAVE OF ABSENCE
 (also known as the Furlough Plan)

Employees participating in the Voluntary Leave of Absence Program will continue to receive their normal accruals, i.e., vacation, sick leave, personal leave, holidays; and will continue to be eligible for medical and other benefits. Only the actual time that employees work will be counted towards their retirement service pursuant to New York State Retirement System regulations. Time charged to a voluntary leave of absence does not count as time worked for purposes of entitlement to overtime.

Employees have two options in choosing a method of salary reduction.

- * The first option allows employees to prorate their reduced time over the balance of the pay periods in the year. For example, if an employee earns \$500 a week and takes four weeks voluntary leave of absence, the \$2,000 (four x \$500) would be prorated over the number of pay periods remaining

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in the year as of the date of the implementation of the plan. Employees utilizing this option will be allowed to take voluntary leave of absence for a minimum of ten workdays and an annual maximum of 70 workdays.

Employees can take the total number of days selected in a set pattern, e.g., every Friday, specific blocks of time such as four weeks straight, or on an intermittent basis as departmental work schedules will allow.

- * The second option allows for employees to have their salaries deducted from the pay period(s) in which the leave days are actually taken. Employees using this option will be allowed to take voluntary leave of absence in one workday increments up to an annual maximum of 70 workdays.

Under either option, each participating employee must complete an application for Voluntary Furlough which is available in the Personnel Services Office. The agreement must specify the number of leave of absence days requested and the exact date, as well as the method in which the corresponding reduction in work schedule will occur. (i.e., option one or option two) Should an employee wish to amend or withdraw a previously approved leave of absence plan, a mutually co-signed agreement between the employee and respective department head will be required. While the operating needs of each department must be considered in granting Voluntary Leaves, administrators are strongly encouraged to arrive at some mutually agreeable leave for every applicant.

Adopted April 16, 1991 (91-04-042)

Revised October 19, 1993 (93-10-042)

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Policy Section	
4.4.9.	TUITION FOR COUNTY EMPLOYEES

Approval Date: October, 1998

WHEREAS the Board of Trustees has adopted a policy on tuition for College Staff, and

WHEREAS the College staff are covered under collective bargaining agreements with the County of Ulster as county employees, and

WHEREAS the College desires to offer educational opportunities to all County employees at a reduced tuition cost, given the County support of the College budget, now, therefore, be it

RESOLVED that the Board of Trustees does hereby authorize a reduced tuition for Ulster County employees per the College's Tuition and Fee Schedule (credit courses only), including all mandatory student fees, and be it further

RESOLVED that registration/payment for said academic credit courses only shall be on a space available basis as determined by the College Registrar, and be it further

RESOLVED that any ancillary costs associated with any credit course as noted in the college catalog shall be at the County employee's cost.

Adopted October, 1998

Amended September 20, 2011 (11-9-144)

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Policy Section	
4.5	COMPLAINT PROCEDURE

Approval Date: May 5, 1965

WHEREAS it is necessary to adopt a complaint procedure as it relates to the general welfare of the students and employees of the College, and in particular as it relates to Affirmative Action, and

WHEREAS the President recommends the attached complaint procedure, now, therefore be it

RESOLVED that the attached Complaint Procedure supersedes the previous Board Policy on Complaint Procedure last amended July 24, 1973, and supersedes the previous Board Policy #78-05-049 on Grievance Procedure as confirmed May 23, 1978, and be it further

RESOLVED that the Board of Trustees of Ulster County Community College hereby adopt the attached complaint procedure, effective January 1, 1992.

1. Purpose and Definition - This complaint procedure is provided for the prompt and equitable resolution of student and employee complaints based on any event or condition affecting their welfare. These complaints may include, but are not limited to, those alleging unlawful sexual offenses; those alleging unlawful discrimination on the basis of race, color, sex, sexual preference, national origin, religion, age, physical challenge, emotional challenge or marital status; and those claiming violation, misinterpretation, misapplication, or inequitable application of the law, rules, or regulations having the force of orders, student conduct rules, work rules, procedures, practices or customs of the Board of Trustees, the administration of the College, or members of the College's faculty or staff. These complaints shall not include matters covered by a negotiated agreement between the College and any of its bargaining units.

2. Coverage
 - A. All students and employees of Ulster County Community College may use this procedure.

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- B. This procedure may not be used if a formal complaint with a state or federal agency or any other forum, or a court action has already been commenced by the complainant on the same complaint. Any investigation or review underway will terminate without conclusion at any time a formal complaint is filed with a state or federal agency or in any other forum, or a court action is initiated on the same grievance.
- C. The complainant must elect a single on-campus procedure in an attempt to resolve the complaint. This complaint procedure may not be used if other on-campus procedures such as an Affirmative Action complaint procedure or contractual grievance procedures are being pursued.

3. Submission of Complaints

- A. Before submission of any written complaint, an attempt to resolve it informally should be made by the involved parties or the appropriate administrator, or in the case of matters related to Affirmative Action, with the College's Affirmative Action Officer. Any attempt to resolve the complaint informally shall not extend the time to file a complaint as set out in subdivision C. below.
- B. If the complaint is not resolved informally the student or employee may submit it in writing to the appropriate immediate supervisor or administrator. In the case of complaints dealing with Affirmative Action, the written complaint must be submitted to the College's Affirmative Action Officer.
- C. A complaint must be filed by the student or employee within fifteen (15) working days following the date on which the complainant first knew or reasonably should have known of such action or such condition.
- D. Written complaints must be filed on forms provided by the College. Forms are available at the Affirmative Action Office and at the Office of the President.
- E. After receipt of the written complaint, the appropriate administrator, or Affirmative Action Officer shall make every attempt at resolution among the parties within five (5) working days. The receiver of the complaint shall notify the complainant in writing within five (5) working days after receipt of the complaint of any action taken.

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- F. The complainant may then file a written appeal with the appropriate Dean of the College or with the President of the College within five (5) working days of receipt of notification that the complaint was not satisfactorily resolved.
- G. Within five (5) working days of receiving the written appeal, the Dean or the President will meet with appropriate students or College personnel to determine all the facts concerning the complaint.
- H. Within ten (10) working days of receipt of the appeal, the Dean or the President will either indicate a decision to dismiss the complaint for lack of evidence or a decision that the complaint is valid. If the complaint is considered to be valid, the Dean or President will indicate appropriate action to be taken to reach a final resolution.
- I. If the complainant is still not satisfied with the decision of the Dean or the President, two other steps may be taken to resolve the complaint.
 - An appeal may be made to a committee of the College's Board of Trustees.
 - A formal complaint may be filed with the appropriate state or federal agency. The College Affirmative Action Officer will provide information on state and federal guidelines and laws, and names and addresses of enforcement agencies.

4. Further Provisions

- A. If the complainant is unable to determine the "appropriate administrator" to contact with a complaint assistance may be obtained from the College's Affirmative Action Officer or from the Affirmative Action Officer's designee.
- B. All of the time limits outlined in the Submission of Complaints, with the exception of the fifteen (15) working day limit on the initial filing of grievances, may be extended by mutual agreement of the complainant and the President of the College or the President's designee.
- C. If, at any time, the College's representative fails to review or respond within the time limits provided, the claimant may move to the next step.

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- D. If the complainant fails to respond with the time limits provided, the complaint shall be considered withdrawn, unless a written request has been made to the President to extend the allotted time because of extenuating circumstances.
- E. All written correspondence shall be forwarded personally or by U.S. Postal Service Certified Mail.
- F. In the event of a question of the timeliness of any complaint, complaint appeal, or response, postmarks shall be determinative.

Formally part of Article III

Adopted May 5, 1965

Revised September 28, 1971

Revised October 26, 1971

Revised May 8, 1973

Amended July 24, 1973

Amended December 17, 1991 (91-12-178)

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Policy Section	
4.6	RETIREMENT

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Policy Section	
4.6.1.	PARTICIPATION IN SUNY OPTIONAL RETIREMENT PROGRAM

Approval Date: October 25, 1965

WHEREAS sections 390 through 397 of the Education Law have established an Optional Retirement Program for the State University and

WHEREAS section 391 of the Education Law indicates that the Board of Trustees of a community college may elect to offer the Optional Retirement Program to eligible employees of such college by resolution, which shall become effective upon approval of the local sponsor acting through its local legislative body or board or other appropriate governing agency and

WHEREAS professional members of Ulster County Community College faculty and administration are eligible for this Optional Retirement Program and certain members of that faculty and administration do desire to elect the Optional Retirement Program now, therefore, be it

RESOLVED that the Board of Trustees of Ulster County Community College elects to offer the Optional Retirement Program to eligible employees of Ulster County Community College, and, be it further

RESOLVED that this election shall become effective upon approval by the Board of Supervisors of the County of Ulster.

Approved October 25, 1965

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Policy Section	
4.6.2.	AUTHORIZATION FOR TIAA/CREF ELECTION OPTIONS

Approval Date: February 22, 1972

WHEREAS TIAA-CREF have made the following plans available to participating institutions, and

WHEREAS the College administration has reviewed these options and recommend their implementation, and

WHEREAS by adopting these options there will be no additional costs incurred, now, therefore, be it

RESOLVED that the Board of Trustees hereby approve that those who participate in the TIAA-CREF retirement program be allowed to elect to put 100% of their contributions into the CREF program to be effective immediately, and be it further

RESOLVED that the Board of Trustees adopt the 10% retirement transition benefit option of TIAA-CREF.

Adopted February 22, 1972

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Policy Section	
4.6.3.	APPROVAL OF TIAA/CREF RETIREMENT TRANSITION BENEFIT

Approval Date: June 19, 1984

WHEREAS the President recommends the approval of the Retirement Transition Benefit option for those College employees who are participants in the TIAA/CREF Optional Retirement Program, and

WHEREAS the purpose of the Retirement Transition Benefit is to allow an eligible individual to receive a one lump sum payment of up to 10% of the individual's TIAA/CREF accumulations at the time his/her retirement annuity would begin, provided that the individual is at least 55 years of age and the payment does not exceed 10% of the contract's accumulation, and

WHEREAS the Retirement Transition Benefit would permit our retirees to invest part of their retirement monies at their own discretion, have control over some of their monies, and have access to additional cash to adjust to retirement, and

WHEREAS the Personnel Committee has met, reviewed, and concurred with this recommendation, now, therefore, be it

RESOLVED that the Board of Trustees hereby approves the Retirement Transition Benefit for College employees who are members of TIAA/CREF.

Adopted June 19, 1984 (84-6-59)

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Policy Section	
4.6.4.	ACCUMULATION AND COMPENSATION UPON TERMINATION AND/OR RETIREMENT FOR ACCRUED ANNUAL LEAVE

Approval Date: December 20, 1988

WHEREAS annual leave (vacation) exists as a negotiated benefit for certain professional staff and Civil Service employees, and

WHEREAS there are certain restrictions negotiated regarding accrual of and compensation for these accrued annual leave days, upon termination of employment and/or retirement, and

WHEREAS the Board of Trustees wishes to adopt a policy for all employees, except the management/confidential staff, regarding payment for accrued annual leave days upon termination and/or retirement, now, therefore, be it

RESOLVED that, effective January 5, 1990, payment for accrued annual leave, upon termination of employment and/or retirement, will not exceed 40 days, and annual leave taken leading up to termination of employment and/or retirement cannot exceed ten (10) days. This policy will apply to all employees of the College unless the Collective Bargaining Agreements, Civil Service Law and/or Civil Service regulations supersede this policy.

Adopt December 20, 1988 (88-12-152)

Resolution 89-4-68 excludes OPAP

Resolution 99-1-14 (Section 4.8.4) addresses Management Confidential Staff

Updated August 19, 2003 (03-8-78)

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Policy Section	
4.6.5.	POST-RETIREMENT EMPLOYMENT

Approval Date: February 14, 1989

WHEREAS the policy on Post-Retirement Employment has been reviewed, and

WHEREAS the President is recommending that the policy adopted on February 14, 1989, be revised to increase the monetary limit, and

WHEREAS the President reviewed this change with the joint committees of the Board of Trustees, now, therefore, be it

RESOLVED that any person who retires from the College may be re-employed by the College no less than one month after retirement and at an annual salary not to exceed the limit established in Section 212 of the laws covering the New York State Teachers' Retirement System.

Adopted February 14, 1989 (89-02-036)
 Revised February 23, 1993 (93-02-019)
 Revised March 15, 1994 (94-03-044)
 Revised November 21, 1995 (95-11-139)

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Policy Section	
4.6.6.	RETIREMENT COMPENSATION NON-CLASSIFIED EMPLOYEES POLICY

Approval Date: August 19, 2008

WHEREAS, the Dean of Administration recommends and the President concurs, and

WHEREAS, the Personnel, Educational Programs and Services Committees have met and concur, now, therefore, be it

RESOLVED, that the Board of Trustees hereby approves a one-time 13.5% addition to the annual base salary, beginning September 1, 2008, for non-classified employees who are retired public employees and receive no employer retirement contributions, and, be it further

RESOLVED, that at the end of ten years of continuous service that the employee receive and additional one-time 4% addition to base, and, be it further

RESOLVED, that the additions to annual base salary provided for in Board Policy 4.6.6. are hereby eliminated prospectively, and be it further

RESOLVED, that notwithstanding the foregoing, any employee who has received the benefit of the prior implementation of Board Policy 4.6.6. shall remain entitled thereto.

Adopted August 19, 2008 (08-8-115)

Amended June 21, 2016 (16-5-63)

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Policy Section	
4.7	EMERITUS STATUS

Approval Date: May 7, 1974

WHEREAS the Board's policy regarding emeritus status for members of the faculty has been reviewed, and

WHEREAS the President recommends that the policy adopted May 1974 and revised November 1989 be amended to provide tuition waiver privileges for emeritus faculty, now, therefore, be it

RESOLVED that faculty who retire because of age or incapacity are eligible, under the following conditions, to be considered for emeritus status: the faculty member must have

- retired from Ulster County Community College
- served at least twelve years full-time, and
- held the rank of full professor.

Academic rank emeritus status shall carry with it the following privileges as are relevant and possible:

- use of library services,
- invitation to participate in commencement and other academic programs
- invitation to represent the College in professional groups,
- use of tuition waivers for Ulster County Community College courses (Additional fees assessed relating to external vendor or contracted costs for credit free courses are not subject to waivers and must be paid by the Emeritus faculty member.),
- inclusion of name in the official College catalog.
- access to the College's computer services , including access to the internet and library/information packages available to all College faculty and staff at no additional expense to the College, and
- faculty/staff parking permit.

Adopted May 7, 1974
 Revised November 21, 1989
 Revised January 22, 1992 (92-01-014)
 Revised August 19, 2003 (03-8-78)
 Revised March 15, 2011 (11-3-47)

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Policy Section	
4.8	DISTINGUISHED STAFF MEMBER DESIGNATION

Approval Date: March 1996

Beginning in March 1996, the Board of Trustees began recognizing long-serving retiring staff members who did not earn the rank of Professor, with the designation of “Distinguished Staff Member”.

The staff member who retires because of age or incapacity are eligible, under the following conditions, to be considered for distinguished staff member designation, the staff member must have:

- retired from Ulster County Community College, and
- served at least twelve years full-time.

Distinguished Staff status shall carry with it the following privileges as are relevant and possible:

- use of library services,
- invitation to participate in commencement and other academic programs
- invitation to represent the College in professional groups,
- use of tuition waivers for Ulster County Community College courses (Additional fees assessed relating to external vendor or contracted costs for credit free tuition charges are not subject to waivers and must be paid by the Distinguished Staff member.),
- inclusion of name in the official College catalog,
- access to the College’s computer services , including access to the internet and library/information packages available to all College faculty and staff at no additional expense to the College, and
- faculty/staff parking permit.

March 1996 (96-03-024)

March 15, 2011 (11-3-48)

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Policy Section	
4.9	PERSONNEL POLICIES FOR MANAGEMENT AND/OR CONFIDENTIAL EMPLOYEES

WHEREAS the Administration recommends that fringe benefits and travel policies for management/confidential employees be updated for the sake of clarity, now, therefore, be it

RESOLVED that the Board of Trustees hereby approve that the section on fringe benefits and travel of the OPAP contract apply to the management confidential staff, which include:

- 4.9.1 Health Insurance
- 4.9.2 Term Life Insurance & Long Term Disability
- 4.9.3 Retirement
- 4.9.4 Annual Leave
- 4.9.5 Personal Leave
- 4.9.6 Long-term Disability (see section 4.9.2)
- 4.9.7 Travel Policies
- 4.9.8 Sick Leave
- 4.9.9 Sick Leave Upon Retirement (see section 4.9.8)
- 4.9.10 Professional Development Leave
- 4.9.11 Parental Leave
- 4.9.12 Continuation of Appointment
- 4.9.13 Accumulation and Compensation Upon Termination (see section 4.9.4)
- 4.9.14 Sick Leave Conversion to Annuity
- 4.9.15 Maternity Leave
- 4.9.16 Holidays

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Policy Section	
4.9.1.	STAFF HEALTH INSURANCE - MANAGEMENT CONFIDENTIAL

Approval Date: January 19, 1999

WHEREAS, there is a need to review and update all personnel policies (Board Policy 4.9.1) [see attached] applicable to management/confidential staff, and

WHEREAS, the President recommends the following policy to the Board of Trustees, and

WHEREAS, the Personnel, and Educational Programs and Services Committee of the Board of Trustees concurs with the President's recommendation, now, therefore, be it

RESOLVED, that the Board of Trustees does hereby approve the following health insurance policy for management/confidential staff:

Health Insurance Plans - The College will provide a health, dental and vision care plan providing benefits in accordance with the insurance carrier contract and applicable payment schedules. All existing plans are included in this resolution. The College may substitute coverage with equal or better coverage comparable to an existing carrier.

Premiums - Management/Confidential staff shall be required to pay \$100 yearly toward the premium costs for dependent coverage. Cost increases from year to year will be assessed to the employee at 50% of the amount of the increase over a 10% annual increase. When an HMO cost equals or exceeds the cost of the indemnity plan, the employee contribution will be at the same level as the indemnity plan.

Declining Coverage - Management/Confidential employees who have other health coverage may elect to not be covered by the college health plan and the College will pay \$1000 yearly to such management/confidential employees who decline coverage. The \$1000 payment shall be in bi-monthly installments for approximately 10 months.

and be it further

RESOLVED, that the foregoing shall supercede all existing Board policy to the extent inconsistent with the Board policy approved by this resolution.

Superseded January 19, 1999 (99-1-20)

SUNY Ulster Board Policy Manual

Policy Section	
4.9.2.	TERM LIFE INSURANCE & LONG TERM DISABILITY FOR MANAGEMENT CONFIDENTIAL STAFF

Approval Date: January 19, 1999

WHEREAS, there is a need to review and update all personnel policies (Board Policy 4.9.2) [see attached] applicable to management/confidential staff, and

WHEREAS, the President recommends the following policy to the Board of Trustees, and

WHEREAS, the Personnel, and Educational Programs and Services Committee of the Board of Trustees concurs with the President's recommendation, now, therefore, be it

RESOLVED, that the Board of Trustees does hereby approve the following term life insurance and long term disability policy for management/confidential staff:

Term Life Insurance and Accidental death, Dismemberment and Loss of Sight - At no cost to the management/confidential employee, the College shall provide life insurance coverage which will pay to the management/confidential staff designated beneficiary an amount equal to two times the staff member's annual salary; accidental death, dismemberment and loss of sight benefits as follows: loss of life (maximum benefit - 2 times salary), loss of hand, foot or eye (one half the maximum benefit), more than one of the above (maximum benefit).

Long term Disability - The College shall provide the total premium cost of long term disability insurance equal to or exceeding the current policy coverage (see attached coverage),

and be it further

RESOLVED, that the foregoing shall supercede all existing Board policy to the extent inconsistent with the Board policy approved by this resolution.

Superseded January 19, 1999 (99-1-21)

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Policy Section	
4.9.3.	RETIREMENT - MANAGEMENT CONFIDENTIAL

Approval Date: January 19, 1999

WHEREAS, there is a need to review and update all personnel policies (Board Policy 4.9.3) [see attached] applicable to management/confidential staff, and

WHEREAS, the President recommends the following policy to the Board of Trustees, and

WHEREAS, the Personnel, and Educational Programs and Services Committee of the Board of Trustees concurs with the President's recommendation, now, therefore, be it

RESOLVED, that the Board of Trustees does hereby approve the following retirement policy for management/confidential staff:

Management/confidential staff must join one of the three retirement systems:

- New York State and Local Employees Retirement System
- New York State Teachers' Retirement System
- Teachers' Insurance Annuity Association and College Retirement Equities Fund
- SUNY approved Optional Retirement Program(s)

and be it further

RESOLVED, that the College shall contribute at the rates prescribed by law to the various plans, and be it further

RESOLVED, that the foregoing shall supercede all existing Board policy to the extent inconsistent with the Board policy approved by this resolution.

Superseded January 19, 1999 (99-1-22)

Revised August 19, 2003 (03-8-xx)

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Policy Section	
4.9.4.	ANNUAL LEAVE - MANAGEMENT CONFIDENTIAL STAFF

Approval Date: January 19, 1999

WHEREAS, there is a need to review and update all personnel policies (Board Policy 4.9.4, 4.9.13, and 4.7.4) [see attached] applicable to management/confidential staff, and

WHEREAS, the President recommends the following policy to the Board of Trustees, and

WHEREAS, the Personnel, and Educational Programs and Services Committee of the Board of Trustees concurs with the President's recommendation, now, therefore, be it

RESOLVED, that the board of Trustees does hereby approve the following annual leave policy for management/confidential staff:

Management/confidential employees shall be credited with twenty-four (24) days vacation at the beginning of each fiscal year (September 1), and be it further

RESOLVED, that said annual leave shall be scheduled and used throughout the year, as approved by the appropriate Dean and the President, and be it further

RESOLVED, that accumulated vacation up to twelve (12) days may be carried forward from one year to the next, but never to exceed an accumulation of 36 days, and be it further

RESOLVED, that upon termination, the maximum allowable paid compensation in lieu of annual leave shall be 36 days. However, work time of less than the fiscal year starting September shall result in proration of the 24 days' credit from the previous September 1, and be it further

RESOLVED, that the foregoing shall supercede all existing Board policy to the extent inconsistent with the Board policy approved by this resolution.

Superseded January 19, 1999 (99-1-14)

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Policy Section	
4.9.5.	PERSONAL LEAVE - MANAGEMENT CONFIDENTIAL STAFF

Approval Date: January 19, 1999

WHEREAS, there is a need to review and update all personnel policies (Board Policy 4.9.5) [see attached] applicable to management/confidential staff, and

WHEREAS, the President recommends the following policy to the Board of Trustees, and

WHEREAS, the Personnel, and Educational Programs and Services Committee of the Board of Trustees concurs with the President's recommendation, now, therefore, be it

RESOLVED, that the Board of Trustees does hereby approve the following personal leave policy for management/confidential staff:

Management/confidential staff shall have available six personal leave days each college fiscal year which shall accrue on September 1, and be it further

RESOLVED, that personal leave day notification shall be made in writing 48 hours in advance to the appropriate supervisor, and be it further

RESOLVED, that personal leave days may never be accumulated beyond six (6) days, any unused personal days will not be carried forward from year to year, and be it further

RESOLVED, that a pro-rated number of personal days shall accrue at the commencement of employment for management/ confidential staff who are employed only a partial year during the first year of employment, and be it further

RESOLVED, that the foregoing shall supercede all existing Board policy to the extent inconsistent with the Board policy approved by this resolution.

Superseded January 19, 1999 (99-1-16)

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Policy Section	
4.9.6.	LONG TERM DISABILITY FOR MANAGEMENT CONFIDENTIAL STAFF

Approval Date: January 19, 1999

(see section 4.9.2)

Superseded January 19, 1999 (99-1-21)

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Policy Section	
4.9.7.	TRAVEL POLICY - MANAGEMENT CONFIDENTIAL STAFF

Approval Date: January 19, 1999

WHEREAS, there is a need to review and update all personnel policies (Board Policy 4.9.7) [see attached] applicable to management/confidential staff, and

WHEREAS, the President recommends the following policy to the Board of Trustees, and

WHEREAS, the Personnel, and Educational Programs and Services Committee of the Board of Trustees concurs with the President's recommendation, now, therefore, be it

RESOLVED, that the current travel policy applicable to staff and faculty shall also apply to management confidential employees, and be it further

RESOLVED, that the current travel policies are appended to this resolution and made a part hereof, and be it further

RESOLVED, that the foregoing shall supercede all existing Board policy to the extent inconsistent with the Board policy approved by this resolution.

Superseded January 19, 1999 (99-1-23)

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Policy Section	
4.9.8.	SICK LEAVE - MANAGEMENT CONFIDENTIAL STAFF

Approval Date: July 21, 1970

WHEREAS, there is a need to review and update all personnel policies (Board Policy 4.9.8 and 4.9.9) [see attached] applicable to management/confidential staff, and

WHEREAS, the President recommends the following policy to the Board of Trustees, and

WHEREAS, the Personnel, and Educational Programs and Services Committee of the Board of Trustees concurs with the President's recommendation, now, therefore, be it

RESOLVED, that the Board of Trustees does hereby approve the following sick leave policies for management/confidential staff:

Sick leave allowable for the management/confidential staff shall be twelve (12) days per year (available September 1 each year) with an accumulation of sick leave not to exceed 100 days.

One hundred percent (100%) of unused sick leave up to 100 days may be converted into cash payments at the time of termination of service due to death, retrenchment, or upon voluntary termination of service under any one of the following conditions:

1. Having reached the age of 55.
2. Having 20 years of full-time continuous service with the College.
3. Having an age which added to full-time years of service with the College totals 65 or more.

and be it further

RESOLVED that when a member of the management confidential staff becomes eligible to receive payment for accrued sick leave under this resolution, the declaration to cease active service is stated at least six months in advance, and be it further

RESOLVED that the College reserves the right to amend this policy at any time, including but not limited to, fixing sick leave accrual per diem values at a date certain prior to or other than a date of termination of service, and be it further

RESOLVED, that the foregoing shall supercede all existing Board policy to the extent inconsistent with the Board policy approved by this resolution.

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Adopted July 21, 1970
Superseded December 7, 1972
Superseded January 9, 1973
Superseded June 3, 1975 (75-6-48)
Rescinded July 26, 1977 (77-7-65B)
Superseded August 30, 1977 (77-8-79)
Superseded January 20, 1981 (81-1-3)
Revised January 1989
Superseded January 19, 1999

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Policy Section	
4.9.9.	SICK LEAVE UPON RETIREMENT

Approval Date: May 18, 1982

(SEE SECTION 4.9.8)

Adopted May 18, 1982 (82-5-43)

Superseded January 19, 1999 (99-1-15)

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Policy Section	
4.9.10.	PROFESSIONAL DEVELOPMENT LEAVE - MANAGEMENT CONFIDENTIAL STAFF

Approval Date: January 19, 1999

WHEREAS, there is a need to review and update all personnel policies (sabbatical leave Board Policy 4.9.10) [see attached] applicable to management/confidential staff, and

WHEREAS, the President recommends the following policy to the Board of Trustees, and

WHEREAS, the Personnel, and Educational Programs and Services Committee of the Board of Trustees concurs with the President's recommendation, now, therefore, be it

RESOLVED, that the Board of Trustees, at its discretion, may grant a management confidential staff member a professional development leave of three (3) months after 66 months of continuous management/ confidential service, and may, at its discretion, consider service time as a full-time faculty member and/or a full-time member of OPAP in considering time of service, and be it further

RESOLVED, that all other conditions of Board policy on sabbatical leaves apply to professional development leaves for the management confidential staff, and be it further

RESOLVED, that the foregoing shall supercede all existing Board policy to the extent inconsistent with the Board policy approved by this resolution.

Superseded January 19, 1999 (99-1-17)

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Policy Section	
4.9.11.	PARENTAL LEAVE - MANAGEMENT CONFIDENTIAL STAFF

Approval Date: January 19, 1999

WHEREAS, there is a need to review and update all personnel policies (Board Policy 4.5.7 and 4.9.11) [see attached] applicable to management/confidential staff, and

WHEREAS, the President recommends the following policy to the Board of Trustees, and

WHEREAS, the Personnel, and Educational Programs and Services Committee of the Board of Trustees concurs with the President's recommendation, now, therefore, be it

RESOLVED that the policy on Parental Leave for Management Confidential staff be as follows:

Parental leave of absence, not exceeding one year in length, is available for Management/ Confidential and hourly management/confidential staff members. Upon recommendation of the President, the Board of Trustees may grant extensions of such leave. Benefited staff members shall have the right to continue health insurance at rates applicable to staff on leave and may use vacation and personal leave to reduce the amount of unpaid leave. Sick leave may be used for that portion of leave during which the staff member is physically unable to work,

and be it further

RESOLVED, that paid or unpaid leave will be considered towards satisfying the College's obligation under the Family Medical Leave Act. The College will require an employee to use paid leave towards satisfying the College's obligation under the Family Medical Leave Act.

Superceded January 19, 1999 (99-1-19)

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Policy Section	
4.9.12.	CONTINUATION OF APPOINTMENT - MANAGEMENT CONFIDENTIAL

Approval Date: January 19, 1999

WHEREAS, there is a need to update personnel policies (see Board Policy 4.1.1 and 4.9.12 [attached]) applicable to Management Confidential staff, and

WHEREAS, there needs to be a positive continuity of an employment and notice process of new contracts of employment for Management Confidential staff, and

WHEREAS, the President recommends the following policy to the Board of Trustees, and

WHEREAS, the Personnel, Educational Programs and Services Committee concurs with the President’s recommendation, now, therefore, be it

RESOLVED, that the Board of Trustees does hereby approve the following notification policy for Management/Confidential staff excluding any actions taken as a result of financial exigency:

The President of the College and the Board of Trustees shall notify any Management Confidential staff member of non-renewal of appointment each year by February 1 for the ensuing fiscal year (9/1-8/31). Otherwise, Management Confidential appointments shall continue from year to year without formal notification from year to year, and be it further

RESOLVED, that Management Confidential appointments may be terminated at any time for just cause, incompetence, insubordination or moral turpitude, and be it further

RESOLVED, that the foregoing shall supercede all existing Board policy to the extent inconsistent with the Board policy approved by this resolution.

Superseded January 19, 1999 (99-1-24)
Amended September 16, 2014 (14-9-136)

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Policy Section	
4.9.13.	ACCUMULATION AND COMPENSATION UPON TERMINATION AND/OR RETIREMENT FOR ACCRUED ANNUAL LEAVE - MANAGEMENT CONFIDENTIAL

Approval Date: January 19, 1999

(see section 4.9.4)

Superseded January 19, 1999

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Policy Section	
4.9.14.	SICK LEAVE CONVERSION TO ANNUITY

Approval Date: January 19, 1999

WHEREAS there is a need to provide for a sick leave buy-out program for Management Confidential staff, and

WHEREAS, the sick leave policy for Management Confidential staff reduces the accumulated sick days to a 100 day maximum, and

WHEREAS, it will be necessary to buy-down sick leave for certain Management Confidential staff who exceed the maximum, now, therefore, be it

RESOLVED, that the Board of Trustees approves the following sick leave conversion to annuity for Management Confidential staff:

Management Confidential staff who have accumulated more than 100 sick days at August 31, 1998, will have their accumulated sick days in excess of 100 converted into a benefit account, the proceeds of which will be payable to the Management Confidential staff member or the member's estate upon their termination for any reason. The initial benefit account will be calculated by taking the current dollar value of the accumulated sick days in excess of 100, discounted to the present value of the account of the member at age 62 using a 5% discount rate. The account once created will be invested at the direction of the Management Confidential staff member or their estate will receive the entire proceeds of the account.

and be it further

RESOLVED, that the sick leave conversion to annuity shall apply only to Deans Katt and Quirk and Rosanne Yetzer; no other Management Confidential staff sick leave exceeds 100 days.

Adopted January 19, 1999 (99-1-25)

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Policy Section	
4.9.15.	MATERNITY LEAVE

Approval Date: January 19, 1999

WHEREAS, there is a need to review and update all personnel policies applicable to management/confidential staff, and

WHEREAS, maternity leave is available to the faculty, professional staff and Civil Service employees (Board Policy 4.5.7 and 4.9.11), and

WHEREAS, the President recommends the following policy to the Board of Trustees, and

WHEREAS, the Personnel, and Educational Programs and Services Committee concurs with the President's recommendation, and

WHEREAS, Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972 and Executive Order 11246 prohibit discrimination in employment, now, therefore, be it

RESOLVED, that a maternity leave of absence without pay, not exceeding one year in length, is available for management/confidential employees on the same basis as provided for faculty and other professional staff, and be it further

RESOLVED, that part of pregnancy and childbirth, when the employee is physically unable to work, shall be treated like all other temporary disabilities, in terms of sick leave, health insurance and job retention. An employee may use her own sick leave credits to reduce the amount of leave without pay as permitted other professional staff members. Medical certification will be required if the staff member is unable to perform her regular duties, and be it further

RESOLVED, that vacation leave credits, as may be available, may be used to reduce the amount of a maternity leave without pay, and be it further

RESOLVED, that paid or unpaid leave will be considered towards satisfying the College's obligation under the Family Medical Leave Act. The College will require an employee to use paid leave towards satisfying the College's obligation under the Family Medical Leave Act, and be it further

RESOLVED, that the foregoing shall supercede all existing Board policy to the extent inconsistent with the Board policy approved by this resolution.

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Superseded January 19, 1999 (99-1-18)

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Policy Section	
4.9.16.	HOLIDAYS

Approval Date: January 19, 1999

WHEREAS, there is a need to amend the holiday policy (Board Policy 4.98) for the management/confidential staff,

WHEREAS, the President recommends the following policy to the Board of Trustees, and

WHEREAS, the Personnel, and Educational Programs and Services Committee concurs with the President's recommendation, now, therefore, be it

RESOLVED, that the Board of Trustees does hereby approve the following holiday policy for management/confidential staff:

Where the duties of a management/confidential employee do not make it necessary or advisable to work on a holiday, management confidential staff shall be granted the College holidays as determined annually by the OPAP contract. Management confidential staff required to work on a holiday may receive time off in lieu of the holiday worked.

and be it further

RESOLVED, that the foregoing shall supersede all existing Board policy to the extent inconsistent with the Board policy approved by this resolution.

Superseded January 19, 1999 (99-1-13)

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Policy Section	
4.10	EQUAL EMPLOYMENT OPPORTUNITY

Approval Date: November 28, 1972

BE IT RESOLVED that the statement entitled "Equal Employment Opportunity" as revised and set forth below, be hereby adopted as the policy of Ulster County Community College on equal employment opportunity; and the President or the President's designee, be, and hereby is, authorized and directed to take all steps necessary and proper to promulgate and implement said policy.

EQUAL EMPLOYMENT OPPORTUNITY

Ulster County Community College, in recognition of its educational mission, its social concern, its responsibility for the personal development of individuals, and its concern for the rights of the individual, does hereby express and establish this College Policy of Equal Employment Opportunity.

It is the policy of Ulster County Community College to provide equal opportunity in employment for all qualified persons, to prohibit discrimination in employment; and to promote the full realization of equal employment opportunity through a positive continuing program for the College.

This policy of equal employment opportunity:

1. Applies to all persons without regard to race, creed, color, national origin, physical challenge, emotional challenge, age, marital status, sexual orientation, or sex, except where a bonafide occupational qualification exists.
2. Applies equally to all job classifications and titles and to all types of appointments under the College jurisdiction, whether full-time or part-time.
3. Governs all College employment policies, practices, and actions, including, but not necessarily limited to: recruitment, employment, rate of pay or other compensation, advancement, upgrading, promotion, demotion, renewal, non-renewal, termination, transfer, layoff, leave, training, and employee benefits of whatever nature.

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4. Expects each contractor, supplier, union, public agency, or other cooperative agent to support this policy by complying with all applicable State and Federal Equal Employment Opportunity Laws and regulations.

Full, immediate, and continuing realization of this policy is to be undertaken by:

1. Developing Affirmative Action Programs which will: detail actions designed to realize the College's commitment to equal employment, analyze any deficiencies; identify and remove impediments to equal employment opportunity; establish goals and timetables for affirmative action; provide for internal and external dissemination of college policy; pursue the commitment to equal employment assessment, evaluation, and improvement of college action in carrying out this policy and these affirmative action programs.
2. Committing staff and support necessary to implement the equal employment policies and programs of the College. Liaison and leadership shall be affected through a member of the President's staff. The liaison and leadership function will embrace such activities as: developing policy statement and Affirmative Action Programs; developing internal and external communication techniques; assisting in the identification of problem areas and in the establishment of goals and objectives; assisting campus administration; assessing internal compliance; providing liaison with enforcement agencies, minority organizations, and community action groups; designing and implementing audit and reporting systems required for effective monitoring and operation of Affirmative Action Programs.

In support of this policy, Ulster County Community College affirms its right to take appropriate action if it, or other duly constituted authority, should determine that applicable Federal and State Equal Employment Opportunity laws and regulations have been violated, or that the effect and intent of this policy have been willfully or habitually abrogated.

Adopted November 28, 1972
Revised November 20, 1990
Revised December 17, 1991 (91-12-180)
Revised September 16, 2003 (03-9-89)

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Policy Section	
4.11	GRIEVANCE PROCEDURE

Approval Date: August 30, 1977

WHEREAS it is necessary to adopt a grievance procedure as it relates to Affirmative Action, and

WHEREAS the President recommends the attached grievance procedure, now, therefore, be it

RESOLVED that the Board of Trustees of Ulster County Community College hereby adopt the attached grievance procedure under Affirmative Action, effective September 1, 1977.

1. Purpose - This grievance procedure is provided for the prompt and equitable resolution of student and employee complaints alleging unlawful discrimination on the basis of race, color, sex, national origin, religion, age, handicap or marital status in any education or employment program, policy or practice of Ulster County Community College.

2. Coverage
 - A. All students and employees of Ulster County Community College may use this procedure.

 - B. This procedure may not be used if a formal complaint with a state or federal agency or a court action has already been filed by the grievant on the same complaint; any investigation or review underway will terminate without conclusion at any time a formal complaint is filed with a state or federal agency or a court action is initiated on the same grievance.

3. Requirement for Filing Grievances
 - A. A grievance must be submitted in writing on forms provided by Ulster County Community College. Forms are available at the Affirmative Action Office.

 - B. A grievance must be filed by the student or employee within twenty-one (21) calendar days following the date on which the grievant first

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knew or reasonably should have known of such act, whichever is later.

- C. Cases of alleged discrimination which have occurred prior to the promulgation of this grievance procedure and which are brought to grievance after said promulgation occurs will be judged on the basis of determination that the alleged discrimination continues to exist after said promulgation, and must be filed by June 30, 1979.
- D. Grievances must be filed in the office of the campus Affirmative Action Officer.

4. Procedures for Processing Grievances

- A. Step one: The Affirmative Action Officer shall, within fourteen (14) calendar days after receipt of the grievance, make every attempt at informal resolution of the complaint through meetings with campus administrators, supervisors, faculty members and/or students as appropriate. If the Affirmative Action Officer is unable to resolve the grievance, the Officer shall notify the grievant in writing within twenty-one (21) days after receipt of the grievance.
- B. Step two: If the Affirmative Action Officer is unable to resolve the grievance at Step 1, the grievant may file a written appeal with the Affirmative Action Officer within ten (10) calendar days of receipt of notification that the grievance was unresolved.
- C. The appeal, together with a statement from the Affirmative Action Officer indicating that Step 1 resolution was not possible, shall be forwarded directly to the President of the College at his/her office.
- D. Within ten (10) calendar days after receipt of the appeal, the President shall provide for a review of the matter by an ad hoc tripartite committee to be selected as follows: One by the grievant, one by the President, each from a panel of campus administrators, faculty and employees; with the third member of the committee to be selected by the other two committee members from the same panel.
- E. Selection of the ad hoc tripartite committee must be completed and the Affirmative Action Officer notified of the members chosen within ten (10) calendar days of the receipt of notification by the grievant and the President that a review of the matter shall take place by a tripartite committee.

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- F. The tripartite committee shall conduct a hearing. The President, or his designee, or both, may be present at the Committee hearing as an Auditor(s), but shall not be present at, or participate in, the deliberation or decisions of the Committee. At such a hearing, witnesses may be called by the College, the Committee and the aggrieved party. All testimony of such a hearing shall be under oath. A stenographic record or tape recording will be made of such hearing. The tripartite committee will submit a written statement to the campus President as to whether or not, in their opinion, discrimination has occurred, within twenty-one (21) calendar days from the time the selection of the committee is completed.
- G. The President or his/her designee shall communicate the statement of the tripartite committee to the grievant and to the campus Affirmative Action Officer within fourteen (14) calendar days following receipt of said written statement; together with a statement indicating his/her acceptance or rejection of the committee's recommendation. The President will indicate his/her decision either to dismiss the charge for lack of evidence that unlawful discrimination has occurred or to discuss appropriate redress with the grievant if unlawful discrimination has been found.

5. Off-Campus Resolution of Grievances

- A. If the grievant is dissatisfied with the Step 2 response, either because of a negative finding or disagreement over what constitutes appropriate redress, the grievant may file a formal complaint with the appropriate state or federal agency. The campus Affirmative Action Office will provide information on State and Federal guidelines and laws, and names and addresses of enforcement agencies.

6. Further Provisions

- A. All of the time limits contained above, with the exception of the twenty-one (21) day limit on the initial filing of grievances, may be extended by mutual agreement of the grievant and the President or his designee.
- B. If the College or a designee thereof, at any step fails to review and/or respond within the time limits provided, the grievant may appeal to the next step.
- C. If the grievant fails to respond within the time limits provided, the grievance shall be deemed to have been withdrawn, unless a written

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request has been made to the President to extend the allotted time because of extenuating circumstances.

- D. All written correspondence shall be forwarded personally or by U.S. Postal Service Certified Mail.
- E. In the event of a question of the timeliness of any grievance, grievance appeal or response, postmarks shall be determinative.

Adopted August 30, 1977 (77-8-88)

Confirmed May 23, 1978 (78-5-49)

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Policy Section	
4.12	HARASSMENT AND ASSAULT POLICY (Also see 4.13 SEXUAL HARASSMENT)

Approval Date: May 18, 1982

WHEREAS it is necessary to revise Ulster County Community College's policy on harassment and assault, and

WHEREAS the President recommends these changes be approved, and

WHEREAS the Personnel Committee has met, reviewed, and concurs with this recommendation, now, therefore, be it

RESOLVED that the Board of Trustees hereby approves the revisions to the policy on harassment and assault, a copy of which is as follows:

HARASSMENT AND ASSAULT POLICY

An essential part of Ulster County Community College's Equal Opportunity Program is maintenance of an environment in which employees and students are able to work and learn without physical or verbal harassment of any kind because of sex*, sexual orientation, race, color, national origin, religion, age, or physical challenge, and free from any violent assault, particularly sexual assault or bias-related assault.

The emphasis of this policy is on prevention. The College will distribute appropriate literature and present workshops and programs to develop an awareness of this policy statement and sensitivity to these issues.

Harassment

Because of the sensitive nature of situations involving harassment, the College will follow a flexible system for complaints to ensure the protection of the right to privacy of the complainant. If employees or students consider themselves to be victims of harassment, a complaint can be filed with the Affirmative Action Officer or the Affirmative Action Officer's designee. All complaints will be investigated with every effort made to maintain the confidentiality of all persons involved. If a complaint is substantiated, appropriate and strong action will be taken in accordance with existing Board of Trustees policies. While the procedure does not negate the existing Complaint Procedure Policy, the Affirmative Action complaint procedure, nor contractual grievance procedures, the complainant must elect a single on-campus procedure in an attempt to resolve the complaint.

Assault


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Although any act of assault constitutes a criminal act and although any act of assault is prohibited by the College's policy on Maintenance of Order, with this policy the College affirms its commitment to prevention of assault on campus, and confirms its commitment to making its students and employees aware of the legal consequences of such acts.

This policy and other applicable college policies will be published periodically in the college newspaper together with information on counseling services, health services, and campus security procedures. As publications, such as the student handbook, are revised, these policies and procedures will be included in those publications. They will continue to be published in the College's Handbook for Professional Staff and the Board Policy Manual. The College will also continue to hold preventative workshops on assault.

New students and employees will be informed of any violent crimes or assaults occurring on the campus within a year of their admission to the College or their hiring.

Any assault or act of violence should be reported immediately to Campus Security. Campus Security will then contact the proper public law enforcement authorities and college authorities. If necessary, Campus Security will immediately secure the assistance of Health Services and Counseling Services for the victim.

Possible disciplinary actions, excluding those penalties determined in a legally constituted court of law, are detailed in the College's Maintenance of Order Policy.

*A separate policy on sexual harassment follows as 4.13

Adopted May 18, 1982, (82-5-049)
Revised February 20, 1984 (84-2-016)
Revised November 20, 1990 (90-11-156)
Revised December 17, 1991 (91-12-179)
Revised June 15, 1993 (93-06-074)
Revised September 16, 2003 (03-9-89)
Revised April 20, 2004 (04-47)

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Policy Section	
4.13	SEXUAL HARASSMENT POLICY AND PROCEDURES

Approval Date: April 20, 2004

I. PURPOSE

Sexual harassment is demeaning, degrading, and illegal. It affects an individual's self-esteem, and can have a negative impact on an individual's work or academic performance. This document states the policy of SUNY Ulster on sexual harassment and describes the options and resources available to all persons who participate in college programs and activities for resolution of sexual harassment problems. It includes procedures for officials to follow in receiving, reporting, and referring complaints and identifies existing policies for college discipline/corrective action that apply in matters of sexual harassment. This policy reflects SUNY Ulster's determination to deal firmly and fairly with all occurrences through the framework of local reporting procedures and the application of existing policies.

II. DEFINITIONS

A. Sexual Harassment

It is a violation of College policy for any member of the College community to engage in sexual harassment or to retaliate against any member of the College community for raising an allegation of sexual harassment, for filing a complaint alleging sexual harassment, or for participating in any proceeding to determine if sexual harassment has occurred.

Sexual harassment of employees and students, as defined below, is contrary to SUNY Ulster policy and is a violation of Federal and State laws and regulations. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- 1). Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing;
- 2). Submission to or rejection of such conduct by an individual is used as a basis for employment or education decisions affecting such individual; or
- 3). Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working or educational environment.

Sexual harassment can occur between individuals of different sexes or of the same sex. Although sexual harassment most often exploits a relationship between individuals of unequal power (such as between faculty/staff member and student, supervisor and supervisee, or tenured and untenured faculty members), it may also occur between

individuals of equal power (such as between fellow students or co-workers), or in some circumstances even where it appears that the harasser has less power than the individual harassed (for example, a student sexually harassing a faculty member). It may also occur between the college's faculty, staff or students and third party vendors. A lack of intent to harass may be relevant to, but will not be determinative of, whether sexual harassment has occurred.

Examples of Sexual Harassment

Sexual harassment may take different forms. Using a person's response to a request for sexual favors as a basis for an academic or employment decision is one form of sexual harassment. Examples of this type of sexual harassment (known as *quid pro quo* harassment) include, but are not limited to, the following:

- Requesting or demanding sexual favors in exchange for employment or academic opportunities (such as hiring, promotions, grades, or recommendations);
- Submitting unfair or inaccurate job or academic evaluations or grades, or denying training, promotion, or access to any other employment or academic opportunity, because sexual advances have been rejected.

Other types of unwelcome conduct of a sexual nature can also constitute sexual harassment, if sufficiently severe or pervasive that the recipient does find, and a reasonable person would find, that an intimidating, hostile, or abusive work or academic environment has been created. Examples of this kind of sexual harassment (known as *hostile environment* harassment) include, but are not limited to, the following:

- Sexual comments, teasing, or jokes;
- Sexual slurs, demeaning epithets, derogatory statements, or other verbal abuse;
- Graphic or sexually suggestive comments about an individual's attire or body;
- Inquiries or discussions about sexual activities;
- Pressure to accept social invitations, to meet privately, to date, or to have sexual relations;
- Sexually suggestive letters or other written materials;
- Sexual touching, brushing up against another in a sexual manner, graphic or sexually suggestive gestures, cornering, pinching, grabbing, kissing, or fondling;
- Sexual violence, which refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's age, disability, use of drugs or alcohol. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion, and
- Gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.


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Isolated instances, e.g., a sexual overture, comment, or joke, ordinarily will not constitute sexual harassment unless the circumstances are egregious, nor does such sexual behavior constitute harassment if it is welcomed (i.e., voluntary and consensual).

Speech occurring in an instructional or research context is covered by academic freedom principles. Academic freedom is protected by the Policies of the Board of Trustees. Academic freedom speaks of and protects the right of faculty to "without limitation, discuss their own subject in the classroom." However, the right is not without limitation, as speech, that has no relation to the subject being taught and does not advance any valid educational objectives would not be held to be protected by academic freedom. The question of whether particular speech meets that standard must be decided on a case by case basis.

B. Consensual Relationships

Amorous, dating or sexual relationships that might be appropriate in other circumstances have inherent dangers when they occur between a faculty member, supervisor or other member of the college community and any person for whom they have a professional responsibility. These dangers can include: that students or employees may feel coerced into an unwanted relationship because they fear that refusal to enter into the relationship will adversely affect their education or employment; that conflicts of interest may arise when a faculty member, supervisor or other member of the college community is required to evaluate the work or make personnel or academic decisions with respect to an individual with whom they are having a romantic relationship; that students or employees may perceive that a fellow student or co-worker who is involved in a romantic relationship will receive an unfair advantage and that if the relationship ends in a way that is not amicable, either or both of the parties may wish to take action to injure the other party.

Faculty members, supervisors and other members of the college community who have professional responsibility for other individuals, accordingly, should be aware that any romantic or sexual involvement with a student or employee for whom they have such a responsibility may raise questions as to the mutuality of the relationship and may lead to charges of sexual harassment. For the reasons stated above, such relationships are strongly discouraged.

For purposes of this section, individuals have "professional responsibility" for other individuals at the college if they perform functions including, but not limited to, teaching, counseling, grading, advising, evaluating, hiring, supervising or making decisions or recommendations that confer benefits such as promotion, financial aid or awards or other remuneration, or that may impact upon other academic or employment opportunities.

C. Sexual Harassment Complaint

A sexual harassment complaint shall be defined as any meeting or discussion between the complainant and a college official (see below), the purpose of which is to inform the


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college that sexual harassment may be occurring and to provide information sufficient to identify the accused. Once this meeting or discussion has occurred, the college is considered by law to be "on notice" and is required to investigate such a complaint.

A complaint is an allegation of a violation of college policy. Until an investigation process has been completed, no inferences can be drawn as to the truth or falsity of the allegation.

A college official is any person charged with the responsibility for preventing, investigating, resolving or reporting sexual harassment complaints (e.g., Affirmative Action Officer, Supervisor, Department Head, Dean, Vice President, or President).

Nothing in the policy should be construed as in any way limiting students' or employees' rights to file a complaint with the New York State Division of Human Rights, the U.S. Department of Education Office for Civil Rights or the U.S. Equal Employment Opportunity Commission, or to take any legal action which they may deem advisable.

III. GENERAL POLICY STATEMENT

It is the policy of SUNY Ulster to promote a cooperative work and academic environment in which there exists mutual respect for all College students, faculty, and staff. Harassment of employees or students based upon sex is inconsistent with this objective and contrary to the College policy of equal employment and academic opportunity without regard to age, sex, sexual orientation, alienage or citizenship, religion, race, color, national or ethnic origin, handicap, and veteran or marital status. Sexual harassment is illegal under federal, state, and local laws, and will not be tolerated within the College.

SUNY Ulster will disseminate this policy and take other steps to educate the College community about sexual harassment. The College will establish procedures to ensure that investigations of allegations of sexual harassment are conducted in a manner that is prompt, fair, thorough, and as confidential as possible under the circumstances, and that appropriate corrective and/or disciplinary action is taken as warranted by the circumstances when sexual harassment is determined to have occurred.

Members of the College community who believe themselves to be aggrieved under this policy are strongly encouraged to report the allegations of sexual harassment as promptly as possible. Delay in making a complaint of sexual harassment may make it more difficult for the College to investigate the allegations. All members of the College community are required to cooperate in any investigation of a sexual harassment complaint.

A. Assignment of Responsibility

1. President, Vice President, Deans, Directors, Department Heads, Supervisors and Managers.

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2. It is the responsibility of these officials to prevent sexual harassment if possible and correct it where it occurs. This responsibility includes taking disciplinary and/or corrective action when appropriate.
3. It is the responsibility of these officials to provide information to their employees, staff, faculty, and students regarding the procedures and resources described in this document. Because of the serious and sensitive nature of sexual harassment and the developing case law in this area, persons with inquiries or complaints should be referred to the Affirmative Action Officer. When issues relating to sexual harassment are brought to their attention, college officials should refer to this policy and call the Affirmative Action Officer for assistance.

The Affirmative Action Officer has overall responsibility for the investigation of allegations of sexual harassment, and for the conduct of sexual harassment resolution proceedings. The Affirmative Action Officer may appoint one or more qualified designees for the purposes of taking complaints, investigating complaints and conducting the informal and formal resolution process. Employees, students and others who believe they are being sexually harassed, or retaliated against, and college officials who receive reports of sexual harassment or retaliation should contact the Affirmative Action Officer, who is the Vice President and Dean of Enrollment Management, located in Vanderlyn Hall Room 119, 845-687-5070.

B. Education

Promoting awareness of the definition and consequences of sexual harassment is an essential element of this policy. Programs will be developed and implemented to educate members of the SUNY Ulster community to the nature and seriousness of this offense; to promote awareness and prevention; and to identify appropriate procedural processes to address sexual harassment offenses. The intent of the policy is to inform all persons who participate in college programs and activities about their right to file a harassment complaint and the procedures for doing so if there is an infringement upon that right.

C. Protection from Retaliation for Complaining Party and Witnesses

Federal and State law and college policy prohibits any form of retaliation against a person who files a discrimination complaint, including a charge of sexual harassment. A faculty member, administrator, staff member, student, member of the public, or applicant for employment may not be subject to restraint, interference, coercion, intimidation or reprisal for action taken in good faith to seek advice concerning a sexual harassment matter, to file a sexual harassment complaint or to serve as a witness in the investigation of a sexual harassment complaint. Complainants or others involved in filing or investigating a complaint who believe they are a target of retaliation or intimidation should report this immediately to the Affirmative Action Officer.

D. Charged Party: Protection from Bad Faith Complaints

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Members of the College community who make false and malicious complaints of sexual harassment, as opposed to complaints which, even if erroneous, are made in good faith, will be subject to disciplinary action.

E. Confidentiality

All individuals who are involved in the complaint reporting, informal resolutions and investigative process are required to maintain confidentiality of the proceedings and not reveal any information that they learn in the course of these proceedings.

Persons seeking information on a situation or behavior that may constitute sexual harassment should be aware of the following: If the person making the inquiry wishes to ensure that the discussion remains completely confidential and that no action is taken unless they wish to pursue the matter, it is essential that the inquiry or request for information remain non-specific and the person making the inquiry not disclose information sufficient to identify the accused. This is necessary because the college is legally obligated to investigate, even without the inquirer's consent, once it is informed that harassment may be occurring.

Once the person discloses information sufficient to identify the accused, he/she will be considered to have filed a complaint with the college. The confidentiality of the information received, the privacy of the individuals involved, and the wishes of the complainant regarding action by SUNY Ulster cannot be guaranteed, but will be protected to as great a degree as is legally possible. While the expressed wishes of the complainant regarding confidentiality will be considered, they must be weighed against the responsibility of the college to act upon the information and the right of the charged party to receive information about the allegations.

When a complainant requests an informal review, the names of the involved individuals and units must be identified to the Affirmative Action Officer or the Affirmative Action Officer's designee. If a decision is made to go forward with an informal review, the charged party has a right to the name of the complainant and the charge. Non-complaining parties, e.g., witnesses, will not be disclosed and the privacy interests of these non-complaining parties will be protected.

IV. COMPLAINT PROCEDURES

Employees and students are encouraged to seek information regarding complaint resolution from any of their Supervisors, Department Chairs, Affirmative Action Officer or other college officials. Employees and students also retain the right to seek resolution through external alternatives such as agencies of the federal or state government.

A. Complaint Reporting

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Any faculty member, staff employee, or student who believes they have been victimized by sexual harassment is encouraged to promptly contact the Affirmative Action Officer, who is the Vice President and Dean for Enrollment Management, Vanderlyn 119B. In the event a situation occurs that warrants immediate action during non-business hours (weekends, evenings and at night) the complainant should contact Campus Public Safety for assistance at 845-687-5036 or 845-687-5221.

The Affirmative Action Officer reports to the President and is charged with the implementation of the college's non-discrimination obligations. The Affirmative Action Officer has the primary responsibility of accepting and processing discrimination complaints, including complaints charging a faculty member, staff employee or student with sexual harassment. The Affirmative Action Officer may appoint one or more qualified designees for the purposes of taking complaints, investigating complaints and conducting the informal and formal resolution process. Complaints initially made to other college officers or personnel must be reported by the official or personnel to the Affirmative Action Officer. Efforts to resolve complaints through informal intervention, mediation or investigation will be undertaken impartially and in as prompt and as confidential a manner as possible.

If, in the opinion of the Affirmative Action Officer, or the designee, the assistance of an advocate for the complainant would be likely to assist in the taking of the complaint and the investigation thereof the Affirmative Action Officer, or the designee, shall so advise the complainant and the complainant, if they choose, may propose an advocate. The use of an advocate, or any particular advocate, shall be at the discretion of the Affirmative Action Officer, or the designee. The use of an advocate is intended to facilitate communication between the complainant and the Affirmative Action Officer, or the designee, but the Affirmative Action Officer, or the designee, shall always have direct access to the complainant.

In the event an informal or formal complaint is filed against the Vice President, the complainant will report the complaint to the President, who shall appoint an Executive Staff Member who will conduct an investigation in consultation with the college attorney. In the event an informal or formal complaint is filed against the President, the Affirmative Action Officer shall inform the Chair of the Board of Trustees who shall engage a qualified outside professional or professionals to investigate the charges and provide a written report with recommendations to the Board of Trustees.

If the alleged harassment is deemed to be criminal behavior, the Affirmative Action Officer will notify Public Safety of the situation and request Public Safety's assistance and involvement. The Affirmative Action Officer, or the designee, will receive access to Public Safety's investigation notes and findings as necessary for the investigation, so long as it does not compromise the criminal investigation.

Time Period for Filing a Complaint


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Prompt reporting of a complaint, before the behavior becomes severe or pervasive, is strongly encouraged. This will allow for a rapid response to and resolution of the objectionable behavior. Ordinarily, complaints should be filed with the Affirmative Action Officer, or the designee, within sixty (60) days after the last act alleged to constitute sexual harassment has occurred, or receipt of the final grade which is alleged to be the product of sexual harassment.

Caution: Absent exceptional circumstances, the complaining party's failure to file a complaint within the relevant time period will lead to dismissal of the complaint.

Election to File Internally Versus Externally

The Affirmative Action Officer is the SUNY Ulster official responsible for accepting and handling complaints of discrimination, including sexual harassment. The Affirmative Action Officer may appoint one or more qualified designees for the purposes of taking complaints, investigating complaints and conducting the informal and formal resolution process. The complaining party is encouraged to have the complaint investigated and mediated internally in accordance with these procedures. Once notified, the College will take immediate and appropriate corrective action when it determines that harassment has occurred. The complaining party is free at any time (before or after the filing of a complaint) to file a charge or institute formal proceedings before a Federal or State agency authorized by law to investigate such claims. If a formal proceeding before a Federal or State agency is instituted or a lawsuit is filed, the Affirmative Action Officer will proceed in the manner most appropriate under the circumstances, understanding that the College's role may be altered from independent investigator to a respondent or defendant.

Note: The complainant must elect a single on-campus procedure (informal or formal) in an attempt to resolve the complaint.

B. Informal Complaint Resolution

Sexual harassment complainants have the option of pursuing informal complaint resolution through the Affirmative Action Officer. The College official who received the sexual harassment complaint must refer all complaints to the Affirmative Action Officer for disposition. The informal sexual harassment complaint resolution process is limited to voluntary resolution of complaints agreed to by both parties. The informal complaint resolution process will not be used to resolve sexual assault complaints.

The procedures for informal complaint resolution are as follows:

1. Ideally the informal review should be completed within 15 days. The Affirmative Action Officer, or the designee, may extend that period due to extenuating circumstances or if he/she believes that given additional time, a resolution can be achieved.

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2. The Affirmative Action Officer, or the designee, will interview parties relevant to the complaint (complainant, accused, witnesses if any, other third party persons who can provide information pertinent to the complaint); collect and review information; record results of their preliminary review; offer information and advice, and attempt to achieve voluntary resolution of complaints. Voluntary resolution may include, but is not limited to:
 - a. Counseling and training of the accused and/or complainant if appropriate;
 - b. Apology by the accused, if appropriate;
 - c. Academic or non-academic reassignment to minimize contact between the parties (assignment to another section, course, academic advisor, work supervisor, work area, supervisor, etc.);
 - d. In the event that inappropriate behavior has been deemed to exist, solicitation of assurances that the inappropriate behavior will cease.
3. The review is completed when the Affirmative Action Officer, or the designee, sends written confirmation to the complainant and the accused that informal efforts to resolve the complaint have been concluded.

This will occur when:

- a. The complainant determines that the issue has been resolved satisfactorily;
or
 - b. Either the complainant or the Affirmative Action Officer feels that efforts to resolve the complaint by informal means are no longer desirable or productive; or
 - c. The Affirmative Action Officer determines that the complaint involves conduct that does not meet the definition of sexual harassment (e.g., involves conduct of a completely non-sexual nature) and thus is not appropriate for resolution under these procedures; or
 - d. The Affirmative Action Officer's decision results in a factual determination that sexual harassment has not occurred (a "no cause" finding). The decision will include, if appropriate, reasonable steps to restore the reputation of the accused party, such as expungement of records, and unless the charged party otherwise requests, notification to persons who participated in the investigation of the complaint.
4. If the investigation reveals that the complaint is malicious, or knowingly false, or fundamentally frivolous, the Affirmative Action Officer shall dismiss such charges and the investigation will be promptly terminated.

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C. Formal Complaint Resolution

If either party elects the formal complaint investigation process, or if the complaint alleges sexual assault, then the Affirmative Action Officer, or the designee, initiates that process. Electing this process does not preclude resorting at this stage or later to other remedies external to this procedure.

All parties to a complaint will be assured of their right to due process.

This formal complaint process differs from the informal process in several respects: The investigation reports, documentation and written records summarizing the statements of the complaining party, charged party, and any witnesses may be used as documentation for the formal investigation and for any corrective actions recommended to the appropriate college official. Involuntary disciplinary sanctions may result.

Final adjudication for a "cause" finding in a formal complaint of sexually harassing or threatening behavior by an undergraduate student that is non-employment related will be processed in accordance with the student conduct rules and procedures. However, student complaints related to the conduct of their employment, arising in the performance of assigned job duties, will be processed in accordance with the employee procedures set forth in this document.

1. Purpose and Scope of Investigation

The formal complaint resolution process begins with an investigation into the facts. A three-person panel (co-investigators) comprised of Executive Staff reporting directly to the President will conduct the fact-finding process. This formal complaint process should be conducted and completed as expeditiously as possible, preferably within 30 calendar days from the initiation of the formal complaint. The purpose of the investigation is to make a reasonable determination as to the merits of the sexual harassment allegations. In making their determination, the co-investigators will apply the conventional "preponderance of the evidence" standard - proof which leads the finder of fact to find that the existence of the contested fact is more probable than its nonexistence.

The investigation process will not be open to the public. During the proceedings the charged party will have the right to confront and cross-examine adverse witnesses. The complaining and charged parties are free to seek the advice of advisors (including attorneys, union representatives and/or student advocates) throughout the investigative process. Such representatives may accompany their clients or advisees during the investigation process; however, they may not address the investigation panel. If required by the relevant union contracts[s] and desired by the persons involved, the complaining and charged parties' union representatives, if any, will be notified of the initiation of proceedings under this subsection.

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In addition to interviewing the parties, the co-investigators may interview witnesses and gather whatever additional information, such as records and documents, they deem necessary to present their findings and recommendations in the investigative report.

2. Consultation

Whenever an investigation is conducted, the President, Vice President, Dean of Administration and the College Attorney may be consulted, as necessary.

3. Investigation Report

At the conclusion of the investigation, the co-investigators will prepare a written report explaining the scope of the investigation and render a determination as to the merits of the sexual harassment allegations. The co-investigators' determination must be based on preponderance of the evidence – proof, which leads the finder of fact to find that the existence of the contested fact is more probable than its nonexistence.

The Affirmative Action Officer will forward the investigation report in confidence to the President.

If the investigation results in a factual determination that the sexual harassment allegations have merit (a “cause” finding), then the report will include recommendations concerning corrective actions or disciplinary sanctions to be taken against the charged party and specific make-whole provisions for the benefit of the complaining party where appropriate.

4. Disposition of Complaint

After receiving the report of the investigation, the President may accept the findings as reported, or may request further investigation into the allegation.

Prior to making a decision with respect to findings or recommendations in the report, the President must first forward the report to the complaining party and the charged party, and provide both parties a reasonable opportunity to submit written comments (within ten calendar days). The President should complete his/her review and determination within ten (10) calendar days of receiving any such written comments.

The President may also confidentially consult with the College Attorney concerning the sufficiency of the investigation, the factual findings, and the related recommendations (if any); and with the charged party's supervisor or department head if disciplinary actions are recommended. The final disposition will depend upon the nature of the findings in the investigation report and the employment status of the charged party, as explained below. The President's findings shall be based on a preponderance of the evidence.

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5. “No Cause” Finding

If the decision of the President affirms a factual determination that sexual harassment has not occurred, the College’s internal complaint resolution process is concluded. The charged party and the complainant will be informed of the determination. The complaining party will be informed of his or her rights with regard to other external avenues of complaint processing.

6. “Cause” Finding – Uncontested

If the charged party does not contest a “cause” finding and the recommended corrective action(s), the President may determine to accept the report and notify the parties that the complaint resolution is concluded (subject to implementation of and compliance with the corrective actions).

The President may accept an uncontested “cause” finding, but may suggest modifications to the recommended sanction(s) to the co-investigators.

7. “Cause” Finding – Contested

A formal investigation procedure may result in disciplinary or corrective action that may entitle the accused party to invoke personnel or student grievance policies and procedures or collective bargaining agreement grievance procedures. Additional information is available from designated staff in the Human Resources office on campus.

8. Appeals

Either party (the complaining party or the charged party) may appeal the finding and decision by the President. The appeal shall be made to the Chairperson of the Board of Trustees, shall be in writing and shall be received by the Secretary to the Board of Trustees within fifteen (15) calendar days of the date of the written decision appealed from. All such appeals will receive a written response within 30 calendar days of receipt. The decision of the Chairperson of the Board of Trustees will be final. There is no provision for an in-person appeal.

D. Disciplinary Action

Following appropriate procedures as provided by College policies, and pursuant to the appropriate administrator’s authority for disciplinary actions, the responsible administrative authority may initiate disciplinary action against the accused.

Disciplinary and/or corrective action taken against College employees will be in accordance with the applicable personnel policies and procedures or collective bargaining agreement. If discipline/corrective action is taken, the person disciplined has the right to file a grievance under the procedure appropriate to his/her status alleging that the discipline/corrective action was unreasonable under the circumstances or that applicable policies or contractual provisions were violated.

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Disciplinary and/or corrective action taken against SUNY Ulster students will be in accord with the applicable student conduct rules.

E. Notice to Parties

Both parties shall be notified contemporaneously in writing of the outcome of both the complaint and any appeal. Notice shall be by mail to a party's address as contained in the college records. Sanctions imposed upon a student shall be disclosed in said notice to the extent sanctions bear a relationship to the complainant.

V. RECORDS

1. A file, containing investigative reports and other documents relevant to complaints, both informal and formal, will be maintained by the Affirmative Action Officer. These files will be maintained separately from other employee personnel files.
2. When the complainant chooses not to identify themselves or others, or not to request the assistance of the College in resolving the issue, the only document maintained will be the information/situation report, which will be retained for three years.
3. Records of investigated complaints in which sexual harassment is factually determined not to have occurred (i.e., "no cause" findings) will be confidentially maintained for a period of three years, or until the conclusion of any external agency investigation or legal action.
4. Records of complaints which, following investigation, resulted in a factual determination that sexual harassment had occurred (i.e., "cause" findings) will be maintained permanently.

Access to such records is strictly limited to College officials directly involved in the investigation, adjudication or implementation of the complaint resolution process.

VI. RESOURCES AND REFERENCES

Education and training programs for faculty, staff, students, department heads, supervisors and managers can be arranged by contacting the Office of Human Resources. Information regarding the policy is available in departments, through the Office of Human Resources or through the Affirmative Action Officer.

Federal and State Regulations

Sexual harassment is prohibited by law and by governmental agency regulations. These regulations are rigorous and subject the College to substantial liability if it fails to take positive action to prevent and resolve such behavior.

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1. **EEOC Title VII** regulations state that an employer is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer, and regardless of whether the employer knew or should have known of their occurrence. They also state that "an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate administrative action." The EEOC will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity. Supervisors and other College officials are responsible for knowing these regulations and being informed of the procedures to be used when acts of sex discrimination or sexual harassment are alleged.
2. These standards are also applied as they relate to **Title IX regulations of the Education Amendment of 1972**, which prohibit discrimination in any Federally funded higher education program.
3. **The New York Human Rights Law, NY Exec. Law 290-301 (1982 & Supp. 1991)** prohibits discrimination in employment based on sex. The law also prohibits any employer, labor organization, employment agency or person from discriminating or retaliating against an individual because that individual has opposed any practice forbidden under the law or because the individual has filed a complaint, testified or assisted in any proceeding concerning an unlawful practice under the law.
4. **New York Executive Order No. 19 (May 31, 1983)** directs the heads of each department, agency, commission, board, or other state entity to take preventive affirmative action against sexual harassment, which is defined as unwelcome sexual advances, request for sexual favors, and sexually motivated physical conduct or other verbal or physical conduct of a sexual nature.
5. **New York CLS Penal Law 240.25** prohibits harassment on the basis of sex, race, national origin, color, creed, marital status or disability.
6. Inquiries may also be directed to the United States Department of Education's Office for Civil Rights, 32 Old Slip 26th Floor, New York, NY 10005-2500; Tel. (646) 428-3800; Email OCR.NewYork@ed.gov and/or the New York State Division for Human Rights by calling 1-888-392-3644 or at <http://www.dhr.ny.gov/how-file-complaint>.

VII. RELATED POLICIES

1. SUNY Grievance Procedures for Review of Allegations of Discrimination

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2. SUNY Ulster Faculty/Staff Handbook
3. SUNY Ulster Student Handbook
4. EEOC Guidelines on Discrimination Because of Sex, U.S. Code of Federal Regulations 29, Part 1604.11 Sexual Harassment, 1989

Adopted April 20, 2004 (04-4-47)
Amended March 21, 2006 (06-03-48)
Amended December 18, 2007 (07-12-150)
Amended January 17, 2012 (12-1-19)
Amended March 18, 2014 (14-3-52)
Amended February 16, 2016 (16-2-43)

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Policy Section	
4.14	ESSENTIAL PERSONNEL POLICY

Approval Date: January 15, 2008

WHEREAS the possibility exists that natural or man-made events could create an emergency at the College, significantly compromising campus operations and creating the need to limit access to the campus temporarily, an operational plan identifying personnel who may have access to the campus and delineating accountability, responsibility and resources and identifying the personnel needs to be developed with appropriate Board policy in place, and

WHEREAS those positions designated as Essential Personnel are responsible for preparedness, response, and recovery planning, and

WHEREAS when the need for *only* Essential Personnel to be on campus exists, this excludes all other personnel from access to campus, unless exceptions are made by the President or his or her designee, and

WHEREAS the Vice President recommends and the President concurs, and

WHEREAS the Personnel Committee has met, reviewed and agrees with this recommendation, now, therefore, be it

RESOLVED that the following essential functions are required to support the maintenance of SUNY Ulster properties and resources:

- Public Safety/Police to maintain order on all campuses and to ensure the safety of other essential personnel,
- Building/Grounds to preserve the integrity of campus buildings,
- Administrative to create a campus control center providing support and direction of personnel involved in all functions identified as essential, and be it further

RESOLVED that the following positions are designated to perform these essential functions falling within their scope when called upon to do so:

- Director of Public Safety, Public Safety Personnel and all Campus Peace Officers,
- Director of Plant Operations and all Maintenance and Plant Operations personnel,
- President, Vice President, Dean of Academic Affairs, Dean of Administration, Dean of Continuing & Professional Education, Executive Director of External Relations and Institutional Advancement, and Assistant to the President,
- Registrar,

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- HR and payroll personnel,
- Assistant Dean of Student Services and Athletic Director,
- Chief Information Officer of and all Office of Information Technology personnel,
- Coordinator of Procurement & General Services and Purchasing Agent,
- Coordinator of the Business Resource Center & CE Operations
- Health Services Coordinator and all Health Services Staff
- Receptionist(s) at Switchboard.

RESOLVED that the declaration of an Essential Personnel Emergency shall be made by the President or the President's designee.

Adopted January 15, 2008 (08-1-13)
Revised September 15, 2009 (09-9-138)
Revised January 19, 2010 (10-1-06)
Revised January 22, 2014 (14-1-29)
Revised November 17, 2015 (15-11-144)

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Policy Section	
4.15	STANDARD WORK DAY POLICY

Approval Date: May, 2009

WHEREAS, the New York State and Local Retirement System requires a Board Policy for reporting purposes that establishes the standard work day for all positions at Ulster County Community College, and

WHEREAS the recent State of New York Comptroller’s Examination of employers in the N.Y.S. Employees Retirement System raised issues of the College’s Standard Work Day, and

WHEREAS the President recommends a formal policy statement from the Board of Trustees, and

WHEREAS the Personnel and Educational Committees of the Board have met and concur,
 now therefore, be it

RESOLVED that the Board of Trustees hereby establishes that the standard full-time work day for Ulster County Community College is seven hours per day, 35 hours per week.

Adopted May, 2009 (09-5-72)

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Policy Section	
4.16	PANDEMIC INFLUENZA SOCIAL DISTANCING POLICY

Approval Date: September 2009

WHEREAS, the Vice President and Dean of Enrollment Management recommends, and the President concurs, and

WHEREAS, the Personnel, Educational Programs and Services Committee has met and concurs, and

WHEREAS, it is the responsibility of the Board of Trustees to ensure the safety of SUNY Ulster County Community College’s students, faculty, and staff, and

WHEREAS, social distancing is a recommendation of public health professionals in the event of a flu pandemic, and

WHEREAS, a social distancing policy suspends classes and other public gatherings and places limits on campus business to help prevent the person-to-person spread of influenza, and

WHEREAS, if a severe influenza pandemic were to occur at SUNY Ulster County Community College, it is recommended that the College’s leadership plan to implement a social distancing policy early in the period of contagion for a period of 1 to 8 weeks, and

WHEREAS, continuity of instruction and continuity of business planning templates will be developed to address critical issues surrounding academic instruction and college business in the event of a 1 to 8 week interruption of instruction and limitation on business; now, therefore, be it

RESOLVED, that the Board of Trustees adopt the Ulster County Community College Pandemic Influenza Social Distancing Policy, and be it

FURTHER RESOLVED, that the Pandemic Influenza Social Distancing Policy be periodically reviewed and updated by SUNY Ulster County Community College’s leadership.


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Stone Ridge, NY 12484
September 1, 2009

Pandemic Influenza Social Distancing Policy

(Adapted from the University of California Irvine Pandemic Influenza Social Distancing Policy)

I. A. Best Practice: Social Distancing

Social distancing is a recommendation of public health professionals. A social distancing policy suspends classes and other public gatherings and places limits on campus business to help prevent the person-to-person spread of influenza. If a severe influenza pandemic were to occur at Ulster County Community College, we should expect to institute social distancing measures for a period of 1 to 8 weeks.¹

To better prepare for the possibility of flu pandemic, it is recommended that the College's leadership plan to implement a social distancing policy *early* in the period of contagion. Section III, Guidelines for Implementation of Social Distancing, provides detail on this.

B. Risks to the Campus

The *biggest risk* is an easily transmissible deadly virus spreading to thousands of credit and non credit students and community residents who use the campus for business, recreational, and cultural events. Other risks are:

- Loss of academic progress for substantial number of students
- Loss of revenue
- Loss of income to Ulster County Community College employees

II. A. Suspension of classes and other public gatherings

Criteria for the decision to suspend classes includes one or more of the following:

- Confirmation of a high rate of infectivity, morbidity and/or mortality (World Health Organization (WHO) Phase 6)
- New York State, or Ulster County Department of Health recommendation to curtail/cancel public activities
- New York State, or Ulster County Department of Health requirement to curtail/cancel public activities
- Falling class attendance
- Rising employee absenteeism

¹ This is an estimate. The first pandemic influenza wave (mortality) in 1918 lasted four weeks. The second wave lasted eight weeks.

B. Continuity of instruction

The Dean of Academic Affairs will provide leadership to academic departments with developing academic continuity planning templates to address the following issues in the event of a 1 to 8 week class interruption of instruction:

- Identify essential instructional functions that must continue
- Identify essential personnel to maintain these essential functions
- Arrange for alternative plans, such as independent study projects and/or distance learning, for instruction to continue where possible

In addition, the Dean of Academic Affairs will coordinate a college-wide rescheduled instructional calendar after the period of contagion has passed. Planning to address class interruptions is underway.

C. Continuity of business

The President's Executive Staff comprised of the Vice President and Dean for Enrollment Management, Dean of Academic Affairs, Dean of Administration, Dean of Continuing and Professional Education and Executive Assistant to the President will further develop business continuity planning templates to address the following issues in the event of a 1 to 8 week limitation on business:

- Identify essential functions that must continue (Public Safety, Plant Operations)
- Identify essential personnel to maintain these essential functions
- Develop alternative work plans, i.e., telecommuting
- Recovery of full business operations

III. Guidelines on Trigger Points for Implementation of Social Distancing Policy

Trigger Points A – F have been developed in conjunction with the WHO's heightened Phases of Alert to help guide the initiation of actions required to implement the campus Social Distancing Policy. These trigger points, along with recommendations of the Centers for Disease Control, New York State Department of Health and the Ulster County Health Department, will help the President of Ulster County Community College time implementation of needed actions in the event of an influenza pandemic.

Trigger Points A - F:

- A. CDC recommends social distancing measures

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- B. NYS Department of health recommends social distancing measures
- C. UC Health Department recommends social distancing measures

- D. CDC requires social distancing measures
- E. NYS Department of health requires social distancing measures
- F. UC Health Department requires social distancing measures

W.H.O. Phases of Alert

- W.H.O. Phase 4 Evidence of increased human-to-human transmission
- W.H.O. Phase 5 Evidence of significant human-to-human transmission
- W.H.O. Phase 6 Efficient and sustained human-to-human transmission

Actions Needed	Trigger Points
1. Reduce face-to-face exposure by using conference calls and video conferencing where possible; avoid unnecessary travel; avoid shaking hands with others	A, WHO 4
2. Stand-by mode for public gatherings on campus: <ul style="list-style-type: none"> • Sick students, faculty, staff not allowed on campus (sent home if arrive to campus ill) • Notice to renters that non-instructional activities may be curtailed or cancelled; • Notice to prospective renters that non-instructional activities, including non-credit classes may be curtailed or cancelled; 	B, WHO 4
3. Curtail or suspend all non-instructional activities, such as limitation of performances, athletic events, recreational and cultural use of campus, and non-credit classes *Limitations are set in consideration of staff, faculty & student safety, e.g., proximity of human contact, per activity.	C, WHO 5
4. Cancel all non-instructional activities	D, WHO 5
5. Suspend all in-person classes meeting in groups; well faculty and staff allowed on campus to continue instruction as described in instruction continuity plan	E, WHO 6
6. Reduce campus staffing to essential personnel levels; instruction continuity plan in place	F. WHO 6
7. Campus closed to all but Security and Plant Operations. Instruction, Business and Student Support Continuity Plans in place.	State of Emergency declared in County

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Policy Section	
4.17	EVALUATION OF PROSPECTIVE EMPLOYEES WITH CRIMINAL HISTORY BACKGROUNDS

Approval Date: March 13, 2012

WHEREAS, currently the materials that prospective employees receive state clearly that the offer of employment is conditional based upon a successful completion of the finger printing procedure, and

WHEREAS, prospective College employees may self-report a criminal background history as part of the application process, and

WHEREAS, the College is desirous of creating a policy and procedure for the evaluation of prospective employees with a criminal history background, now therefore be it

RESOLVED that the Board of Trustees authorizes the establishment of an administrative committee comprised of the Director of Security, the Dean of Administration, the Associate Dean of Students, and the Dean of Advancement and Continuing Education to meet to review the facts contained in any criminal background report and to make a determination as to whether hiring the applicant would involve an unreasonable risk to property or the safety or welfare of specific individuals or the general public, and be it further

RESOLVED that the committee shall evaluate prospective employees with a criminal history background in a manner consistent with Article 23-A of the New York State Corrections Law.

Adopted March 13, 2012 (12-3-45)

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Policy Section	
4.18	SEXUAL MISCONDUCT POLICY

Approval Date: August 19, 2014

WHEREAS, SUNY Ulster is committed to Board Policy 4.13 Sexual Harassment Policy and Procedures and to creating and maintaining an educational environment free from all forms of sex discrimination, and

WHEREAS, the Violence Against Women Act (“VAWA”) requires colleges and universities to adopt certain institutional policies to address and prevent campus sexual misconduct, and WHEREAS, SUNY requires all institutions to be in compliance with the Clery Act, Title IX and the Violence Against Women Act (“VAWA”), and

WHEREAS, the “VAWA” Policy will be implemented in 2015 and the attached Sexual Misconduct Policy is an effort by SUNY Ulster to be in compliance with the forthcoming “VAWA” Policy, and

WHEREAS, the Vice President and Dean of Enrollment Management recommends, and the President concurs, and

WHEREAS, the Personnel, Educational Programs and Services Committee has met and concurs, now, therefore be it

RESOLVED that the Board of Trustees approves the Sexual Misconduct Policy, a copy of which Policy is attached hereto.

Sexual Misconduct Policy

Introduction

Policy Statement on Sexual Misconduct:

SUNY Ulster is committed to creating and maintaining an educational environment free from all forms of sex discrimination, including sexual misconduct. Any act involving sexual harassment, violence, coercion, and intimidation will not be tolerated. Specifically, SUNY strictly prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking. These acts have a real impact on the lives of victims. They not only violate a person's feelings of trust and safety, but they can also substantially interfere with a student's education. It is the policy of SUNY Ulster that, upon learning that an act of sexual misconduct has taken place, immediate action will be taken to address the situation and punish the perpetrator. This includes working with State and local law enforcement to bring possible criminal charges, seeking disciplinary action through the College, and enforcing mandatory transcript notifications so other institutions are on notice of the offense committed.

SUNY Ulster encourages the reporting of sexual misconduct that is prompt and accurate. This allows the College community to quickly respond to allegations and offer immediate support to the victim. SUNY Ulster is committed to protecting the confidentiality of victims, and will work closely with students who wish to obtain confidential assistance regarding an incident of sexual misconduct. All allegations will be investigated promptly and thoroughly, and both the victim and the accused will be afforded equitable rights during the investigative process.

It is the collective responsibility of all members of the SUNY Ulster community to foster a safe and secure campus environment. In an effort to promote this environment and prevent acts of sexual misconduct from occurring, the College engages in ongoing prevention and awareness education programs. All incoming students and employees are required to participate in these programs, and all members of the College community are encouraged to participate throughout the year in ongoing campaigns and trainings focused on the prevention of sexual misconduct on campus.

Scope

Who: This policy applies to all members of the SUNY Ulster community, including students, faculty, staff, visitors, independent contractors, and other third parties who are on campus and involved in an incident of sexual misconduct (this can be someone who witnessed an incident or who wishes to report an incident on behalf of another). The policy applies to these parties regardless of sexual orientation or gender identity.

What: This policy prohibits all forms of sexual misconduct. This broad term includes, but is not limited to, acts of sexual harassment, sexual violence, sexual coercion, sexual threats or intimidation, domestic violence, dating violence, sexual assault, stalking, and cyber-stalking. Please refer to the **Definitions** section for a list of terms and prohibited acts.


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Where: This policy covers conduct that takes place on the College campus. This includes any building or property owned or controlled by SUNY Ulster and used in direct support of, or in a manner related to, the school's educational purposes, including dining halls and public property within or immediately adjacent to and accessible from campus. This also includes any building or property owned or controlled by a student organization that is officially recognized by the College and any building or property not within the same reasonably contiguous geographic area of the College that supports or relates to the school's educational purposes and is frequently used by students. This policy also covers conduct that takes place off-campus that may have a nexus to the College community.

Programs: This policy covers all educational, extracurricular, athletic, or other campus programs.

Activities: This policy covers all campus and school-related activities, including, but not limited to, student organizations (academic, multicultural, religious, service, social and support, sports and recreational), community organizations with student and/or faculty participation, and all other educational or extracurricular events hosted by or at the College.

Relationships: This policy covers sexual misconduct occurring between individuals in various types of relationships. These include, but are not limited to, student to student, staff to staff, faculty member to faculty member, visitor/contracted employee to faculty/staff, faculty member to student, staff to student, supervisor to subordinate, and coach to student athlete. Sexual misconduct may be acts committed by an individual or collective actions committed by members of a group or organization. These acts may be committed against an individual or against a group or organization. These acts may be committed by a stranger, an acquaintance, or someone with whom the victim has a social, romantic, or intimate relationship. These acts may be committed by or against any individual, regardless of sexual orientation or gender identity.

Confidentiality: The College is committed to maintaining the privacy of all individuals involved in a report of sexual misconduct. While the College encourages victims to report an incident of sexual misconduct, there are many options available for students to speak with someone about what happened while maintaining confidentiality.

Resources Available for Support

After an allegation that an act of sexual violence has occurred, including any act of dating violence, domestic violence, sexual assault, or stalking, the College offers students a range of protective measures.

1. Resources for Immediate Assistance: The information below provides contacts for trained on- and off- campus advocates and counselors who can provide an immediate confidential response in a crisis situation. Also provided are emergency numbers for on- and off- campus safety, law enforcement, and other first responders.

Confidential Resources: The College encourages all members of the school community to report any incidents of sexual misconduct; however, there are several confidential resources available to

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students, faculty, and staff who are not yet ready to report an incident. These individuals can help a victim obtain needed resources, explain reporting options, and assist in navigating the reporting process. These resources are required by law to keep all communications confidential without an individual's express consent to release information.

On-Campus	Off-Campus
(advocates)	Domestic Violence Outreach 845 338 2370
(counselors) Linda Farina VAN 119F 845 687 5192	Family of Woodstock 845 679 2485
(emergency response)	SANE 845 340 3363
(emergency response)	Crime Victims Assistance 845 340 3443

Campus Resources: These are resources provided by the College community offering intervention services, counseling, academic support, and medical services. These resources are not bound by confidentiality, but will work together to maintain individual privacy.

On-Campus
(college police) Public Safety 845 687 5221
(campus health services) Health Services 845 687 5246
(Dean of Students) John Frampton 845 687 5288
(Title IX Coordinator) Ann Marrott 845 687 5070

Community Resources: These are resources located off-campus in the local community offering intervention services and counseling.

Off-Campus
Ulster County Sheriff 845 338 3640
State Police 845 338 1702
Family of Woodstock 845 679 2485/845 338 2370
Crime Victims Assistance 845 340 3443

Health Care Resources: Medical assistance is available during business hours by calling 845 687 5246 or 24/7 by calling 845 687 5221. Every victim has the option to seek treatment for injuries sustained during an incident of sexual misconduct, preventative treatment for sexually transmitted diseases, and other health services. A medical exam is also an important way for a health provider to properly collect and preserve evidence.

Immediate Medical Attention
(911)
(local hospital) Kingston Hospital 845 331 3131
(campus health services) Health Services 845 687 5246
(local rape crisis center) Family of Woodstock 845 679 2485/845 338 2370
Crime Victims Assistance 845 340 3443

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2. Resources for Ongoing Assistance: The information below provides contacts for trained on- and off- campus advocates who can provide on-going counseling, advocacy, and support following an incidence of sexual misconduct.

Confidential Resources: These are resources on- and off- campus where the victim may disclose confidentially with counseling, advocacy, health, mental health, or sexual-misconduct-related resources.

On-Campus	Off-Campus
(advocates)	Domestic Violence Outreach 845 338 2370
(counselors) Linda Farina VAN 119F 845 687 5192	Family of Woodstock 845 679 2485

Campus Resources: These are resources provided by the college/university community offering counseling and support for victims of sexual misconduct, whether or not a victim chooses to make an official report or participate in the institutional disciplinary or criminal process. These individuals can also provide ongoing support during the institutional disciplinary and criminal process.

On-Campus
(college counseling) Linda Farina VAN 119F 845 687 5192
(Title IX Coordinator) Ann Marrott 845 687 5070
(campus health services) Health Services 845 687 5246

Academic Accommodations: The College is committed to ensuring the safety and well-being of the victim. A student who has been a victim of sexual misconduct may request an academic accommodation after a report of sexual misconduct. Any individual who makes a request will receive appropriate and reasonable accommodation. Possible requests include the ability to change academic schedules or work schedules, withdraw from or retake a class without penalty, and access academic support such as tutoring services.

Interim Measures: In situations where it is necessary, the College will take immediate steps to protect victims pending the final outcome of an investigation. These steps include the accommodations listed above in addition to issuing no contact orders. Pending resolution of the complaint, the accused may be prohibited from contacting the victim and may be placed on suspension or denied access to campus. Also, the College may change the course schedule of the accused. Please refer to the Student Code of Conduct for disciplinary procedures related to acts of sexual misconduct.

Title IX Coordinator

The Title IX Coordinator is responsible for the College's compliance with Title IX of the Education Amendments of 1972. In this role, the Title IX Coordinator administers the review, investigation, and resolution procedures for reports of sexual misconduct. Please refer to the Reporting Policies & Procedures section for additional information on the role and duties of the Title IX Coordinator.


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Ann Marrott VAN 119 687 5070 marrotta@sunyulster.edu

Reporting Policies & Procedures

A. Where to Report All Acts of Sexual Misconduct/Violence

1. Filing a Complaint with the College:

A student may file a complaint with one or more Offices, and each Office is prepared to assist the student with deciding on where complaints may be filed, if any, and the processes associated with each Office's complaint procedures. In addition, each Office is able to refer a student for academic accommodations and health care services.

A student may report sexual misconduct, including sexual harassment, sexual assault, domestic violence, dating violence, sexual assault, stalking, and cyber-stalking to the following offices:

1. Criminal complaint
 - a. Public Safety (687 5023 or in an emergency 687 5221)
2. Institutional complaint
 - a. Title IX Coordinator (687 5070)
 - b. Health Services (687 5246)
 - c. College Counselor (687 5192)
 - d. Employee Discipline - Office of Human Resources (845 687 5251)

2. Filing a Complaint with a State and/or Federal Agency:

A student who is not satisfied with the College's handling of a complaint, may also file a complaint with federal and state agencies. Attached is an Appendix listing the agencies and their respective contact information.

3. Dual Filing a Complaint with the College and a State and/or Federal Agency:

In addition, the Complainant may file a complaint with the appropriate State or Federal agency at any point during the process.

Role of the Title IX Coordinator in the Complaint Process:

The Title IX Coordinator shall be notified of all sexual misconduct complaints by the College employee who took the complaint in order for the Title IX Coordinator to oversee the complaint processes and accommodations for the student.

B. Investigatory Procedures:

1. ***Criminal complaints:*** the NYS and/or federal penal codes will apply, and the matter will follow the criminal processes through a police investigation, a referral to the District Attorney's Office for prosecution and the criminal court system for resolution.


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2. ***Institutional complaints:*** the complaint will be handled through the College’s Policy and Procedures Against Sexual Harassment.
3. ***Student Disciplinary complaints:*** the complaint will be handled through the College’s Student Disciplinary Code.
4. ***Employee Disciplinary complaints:*** the complaint will be handled through the Office of Human Resources, in accordance with its procedures for complaints against management confidential employees, or for complaints against an employee who is a member of a union, in accordance with the disciplinary procedures set forth in the applicable NYS Collective Bargaining Agreements negotiated statewide through the NYS Governor’s Office of Employee Relations.

C. Evidentiary Standard in Institutional, Student Disciplinary and Employee Disciplinary Complaints:

Preponderance of the Evidence: the standard of proof in sexual misconduct cases, which asks whether it is “more likely than not” that the sexual misconduct occurred.

Potential Outcomes under the Procedures:

1. ***Criminal Complaints:*** The complaint may result in criminal penalties, such as fine, community service, probation, jail sentence, registration as a sex offender with the NYS or federal data bases.
2. ***Institutional Complaints:***
 - a. Under the ***sexual harassment policy***, if there is a finding that a sexual assault may have occurred ***and the alleged perpetrator is***
 - A ***student***, then the matter is referred to the Student Discipline process for student discipline, and the penalties may be disciplinary probation, suspension or expulsion from the College.
 - An ***employee***, then the matter is referred to the Office of Human Resources for employee discipline and the penalties may include fines, formal counseling, probation, suspension with or without pay, or termination from employment.
 - b. Under the ***Student Discipline process***, the penalties may be disciplinary probation or suspension or expulsion from the College.
 - c. Under the ***Employee Disciplinary process***, the penalties may be fines, formal counseling, probation, suspension with or without pay, or termination from employment.

D. Retaliation

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The College is firmly committed to a policy that encourages timely disclosure of sexual misconduct. Any person, who, in good faith, reports sexual misconduct will be protected from retaliation (defined as an adverse action taken because an individual has engaged in protected activities), threats of retaliation, suspension or discharge from an educational opportunity or employment, or any other forms or means of discrimination because this person reported alleged sexual misconduct.

E. Confidentiality and Reporting Protocol

If a crime of sexual misconduct has occurred, including dating violence, domestic violence, sexual assault, or stalking, the College encourages accurate and prompt reporting of these crimes to the campus police or State and local police agencies. However, it can be difficult for a victim to come forward after such an event, and there are several options available for students who wish to maintain confidentiality while getting the support they need. Different employees on campus have different abilities to maintain a victim’s confidentiality:

1. Privileged Communications: Some employees are required to maintain near complete confidentiality; talking to 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. Disclosures to these employees will not trigger a College investigation into an incident against the victim’s 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 (called “responsible employees”) constitutes a report to the College—and generally obligates the College to investigate the incident and take appropriate steps to address the situation.

1. Privileged & Confidential Communications:

Professional and Pastoral Counselors:

Professional, licensed counselors 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. Following is the contact information for these individuals:

Professional & Pastoral Counselors
Crime Victims Assistance 845 340 3443

2. No Personally Identifying Information:

Non-Professional Counselors and Advocates:

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Individuals who work or volunteer in the on-campus College Counselor’s Office can generally talk to a victim without revealing any personally identifying information about an incident to the College. A victim can seek assistance and support from these individuals without triggering a College investigation that could reveal the victim’s identity or that the victim has disclosed the incident. While maintaining a victim’s confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the victim – helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the victim to ensure that no personally identifying details are shared with the Title IX Coordinator. A victim who speaks to a professional or non-professional counselor or advocate must understand that, if the victim wants to maintain confidentiality, the College will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the accused. Even so, these counselors and advocates will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to working or course schedules. A victim who at first requests confidentiality 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. Following is contact information for these non-professional counselors and advocates:

Non-Professional Counselors and Advocates
(college counseling) Linda Farina VAN 119F 845 687 5192

3. Reporting to Responsible Employees:

A “responsible employee” is a College employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. When a victim tells a responsible employee about an incident of sexual violence, 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. A responsible employee must report to the Title IX coordinator all relevant details about the alleged sexual violence shared by the victim and that 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 a responsible employee will be shared only with people responsible for handling the College’s response to the report. A responsible 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 a responsible 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 responsible 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

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the Title IX Coordinator, the responsible employee will also inform the Coordinator of the victim’s request for confidentiality. Responsible 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, responsible employees will not pressure a victim to make a full report if the victim is not ready to.

4. Requesting Confidentiality:

If a victim discloses an incident to a responsible 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 in order 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
William Ryan - College Attorney

When weighing a victim’s request for confidentiality or that no investigation or discipline be pursued, the College Attorney 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

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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 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 proceeding. 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.

5. Other Confidential Avenues:

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

a. 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 College may use the information the student provides to inform the need for additional education and prevention efforts.

b. Anonymous Reporting

A student may call the College Counselor anonymously at 845 687 5192 to talk about the situation and find out information about the student's options. The student should simply tell the receptionist that he or she would prefer not to give his or her name. The student can talk confidentially with the Counselor, and disclose as much or as little information as the student would like to. The student may also complete a Sexual Assault Anonymous Report.

c. Off-Campus Counselors and Advocates

Crisis Services and off-campus healthcare providers will generally maintain confidentiality unless a student signs a consent or waiver form.

Timely Warnings and Emergency Notifications


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

Timely Warnings shall be issued whenever a Clery Crime that is considered to represent a serious or continuing threat to students and employees is reported to Public Safety or a local police agency and has occurred within the College's Clery Geography. Whenever a timely warning is sent it may be sent to the entire Campus Community or to the relevant population if technology allows.

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 is 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.

Who decides? The President or a designee of the President, in conjunction with the Director of Public Safety and/or other campus and non-campus officials as appropriate, 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 any of our campuses that affects the personal safety and security of our population.

- An incident that occurs in close proximity to 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 bio terrorism.

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.

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

For Safety Related Issues: The means of communication will be chosen by the President or the designee based upon the nature of the incident. Possible means of communication are:

- E-mail to all students and/or faculty/staff
- Postings on campus

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- Posting of notification in Public Safety Area
- ***SUNY NY Alert in the case of a critical campus wide emergency***
- Post to web portal

For Health Related Issues: The means of communication will be chosen by the President or the designee 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 College web-site

Investigation, Grievance, & Adjudication Procedures

ESTABLISHING TIME FRAMES FOR THE REVIEW PROCESS

The College will conduct a review of all sexual harassment complaints as prescribed in The College's Sexual Harassment Policy and Procedures.

The College will conduct a timely review of all complaints of domestic violence, dating violence, and/or stalking. Absent extenuating circumstances, review and resolution is expected to take place within sixty (60) calendar days from receipt of the complaint.

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 15 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, is usually completed within 30 days of receipt of the complaint.

Results of the complaint, via either a formal hearing or waiver of hearing are typically issued within 45 days of receipt of the complaint.

An appeal of the results must be submitted within 7 days of receipt of the written result. Absent extenuating circumstances, decisions on appeals are typically issued within 7 days of submission of the appeal.

BURDEN OF PROOF

The burden of proof in all cases is "the preponderance of the evidence" – whether it is "more likely than not" that the sex discrimination, dating violence, domestic violence, sexual assault, or stalking occurred. If the evidence presented meets this standard, then the respondent must be found responsible.

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EXTENSIONS

All deadlines and time requirements in the Code may be extended for good cause as determined by the Title IX Coordinator. Both the respondent and the complainant will be notified in writing of the delay, the reason for delay, and provided the date of the new deadline or event. Extensions will not be longer than 5 business/school days.

EVIDENCE

Evidence to be presented by complainant(s) and respondent(s) during any hearing on the charges must be shared with the opposing party at least two (2) business days in advance of the scheduled hearing. The College Official presiding at and/or hearing the case 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 College Official presiding at and/or hearing the case will make the final decision relating to the admissibility of all evidence.

PARTIES' RIGHTS TO ADVISORS

The respondent and complainant may be assisted during disciplinary hearings and related meetings, by an advisor of their choice. The respondent and complainant may present witnesses and may produce other evidence for consideration by the student conduct body. The respondent and complainant are responsible for presenting evidence on their own behalf. Advisors may speak privately to their advisee, respondent or complainant, during the proceeding. Either party may request a brief recess to consult with their advisor which will be granted at the discretion of the Associate Dean of Students or designee. Advisors for the respondent and complainant may not present evidence or question witnesses.

Notification of findings

Within five (5) class days after the adjournment of the hearing, the student conduct hearing body shall submit written findings of fact, conclusions regarding the charge(s), and imposition of a sanction, if any, to the respondent and any College official who is determined by the Associate Dean of Students to have a legitimate interest in the result. In the case of sexual misconduct and violations involving dating violence, domestic violence, sexual assault, or stalking, both the complainant and respondent shall also receive simultaneous notice of the results and sanctions imposed (and the rationale for the result and sanctions), as well as notice of the appellate procedures available, any possible changes to the result that may occur before it becomes final, and when the result becomes final.

SANCTIONS

*The College considers dating violence, domestic violence, sexual assault, and stalking as extremely serious violations and subject to **SUSPENSION** and/or **EXPULSION** from the College.*

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C.

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1092(f)(1)(F)(i)(I)-(VIII), the Registrar shall make a notation on the transcript of students found responsible after a conduct process that they were “suspended after a finding of responsibility for a code of conduct violation” or “expelled after a finding of responsibility for a code of conduct violation.” For the respondent who withdraws from the College while such conduct charges are pending, and declines to complete the disciplinary process, the Registrar shall make a notation on the transcript of such students that they “withdrew with conduct charges pending.” If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

RETALIATION

No member of the College community shall retaliate, intimidate, threaten, coerce or otherwise discriminate against a person who files a Title IX complaint, serves as a witness, or assists or participate in a Title IX proceeding in any manner. Participants who experience retaliation should report the incident to the Title IX Coordinator.

How to Help as a Bystander

The College expects all members of the campus community to take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Educating and engaging bystanders are effective ways to help prevent acts of sexual misconduct. Bystanders can help in several different ways, including direct intervention, seeking assistance from an authority figure, notifying campus security, or calling State or local law enforcement.

If you see an act of sexual misconduct: It is important to understand that no individual has the right to be violent, even if two people are in a relationship. Recognizing when acts of sexual misconduct are occurring is the first step to intervening. Required campus education and training programs give a full synopsis on recognizing when sexual misconduct is taking place. If you make the decision to intervene, do so safely—violence does not stop violence, and, if you cannot stop the act with your words, call law enforcement. Do not be afraid to ask other students, faculty or staff for help.

If a victim confides in you: It is important to let the victim tell their story. Listen respectfully, and help them explain and identify what has happened to them. Help the victim identify others in their network who they can confide in. Ask the victim what they need to feel safe, encourage them to seek medical attention and counseling, and encourage them to report the act if they feel comfortable doing so.

Prevention Education & Awareness Programs/Trainings

The College has education programs to promote the awareness of rape, acquaintance rape, dating violence, domestic violence, sexual assault, and stalking. These education programs include


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primary prevention and awareness programs for all incoming students and new employees. These education programs will include: a statement that these crimes are prohibited at the College; definitions of consent, domestic violence, dating violence, sexual assault, and stalking in the College's jurisdiction; safe and positive bystander intervention when there's a risk of one of those incidents; information on risk reduction to recognize warning signs of abusive behavior and avoiding potential attacks; and information about the institutional disciplinary procedures. The various programs and trainings offered by the College are described below:

1. *Prevention Programs*: These are programs to prevent dating violence, domestic violence, sexual assault, and stalking. The programs are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome. They also consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.
2. *Awareness Programs*: These are community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.
3. *Bystander Intervention*: These programs and trainings offer safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. They include recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.
4. *Ongoing Prevention & Awareness Campaigns*: These include programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the college/university and including information provided in campus education programs.
5. *Primary Prevention Programs*: These include programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.
6. *Risk Reduction Programs*: These programs present options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in

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order to promote safety and to help individuals and communities address conditions that facilitate violence.

Definitions:

DATING VIOLENCE

Dating violence is 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 such a relationship shall be determined based on the victim'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

Domestic violence is 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.

STALKING

The term 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.

CONSENT

Consent is the agreement to engage in specific sexual contact, which may be given by verbal agreement or active and willing participation in the sexual activity. Consent to sexual contact or any specific sexual act cannot be given if an individual is incapacitated or impaired because of a physical or mental condition or the ingestion of drugs or alcohol, or under the age of 17. Silence, previous sexual relationships, current relationships, or the use of alcohol and/or drugs is not an indication of consent. The use of force, threat of force, threat of immediate or future harm, or use of physical intimidation to secure compliance with sexual activity is evidence of lack of consent. Consent may be initially given, but it may be revoked at any point, either verbally, through physical resistance, or by losing consciousness. Failure to cease sexual contact promptly in response to a withdrawal of consent constitutes prohibited nonconsensual sexual contact. "No" or any other negative statement or acts/physical gestures supporting the desire to cease contact in response to sexual contact or an invitation to sexual contact will be regarded as a denial of consent to such sexual contact.

APPENDIX:

NYS Division of Human Rights

State Headquarters

New York State Division of Human Rights
One Fordham Plaza, 4th Floor
Bronx, New York 10458
Tel: (718) 741-8400
Fax: (718) 741-3214

Albany

New York State Division of Human Rights
Empire State Plaza, Corning Tower, 28th Floor
Post Office Box 2049
Albany, New York 12220
Tel: (518) 474-2705
Fax: (518) 473-3422

Office of Sexual Harassment

New York State Division of Human Rights
Office of Sexual Harassment
55 Hanson Place, Suite 347
Brooklyn, New York 11217
Tel: (718) 722-2060 or 1-800-427-2773
Fax: (718) 722-4525

Office of AIDS Discrimination

New York State Division of Human Rights
Office of AIDS Discrimination
20 Exchange Place, 2nd Floor
New York, New York 10005
Tel: (212) 480-2522 or 1-800-522-4369
Fax: (212) 480-0143

United States Department of Labor

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Office of Federal Contract Compliance Programs (OFCCP)

201 Varick Street, Room 750
New York, NY 10014
Tel: (212) 337-2006
Fax: (212) 620-7705

OFCCP New York District Office

26 Federal Plaza, Room 36-116
New York, NY 10278-0002
Tel: (212) 264-7742
Fax: (212) 264-8166

New York State Department of Labor

State Campus, Building 12, Room 500
Albany, NY 12240-0003
Tel: (518) 457-2741
Fax: (518) 457-6908

United States Equal Employment Opportunity Commission

EEOC National Headquarters
131 Main Street NE, Fourth Fl. Suite 4NW02F
Washington, D. C. 20507
Tel: (202) 663-4900
Fax: (202) 663-4912

EEOC Field Office
6 Fountain Plaza, Suite 350
Buffalo, New York 14202
Tel: (716) 551-4441
Fax: (716) 551-4387

Office for Civil Rights

OCR National Headquarters
U. S. Department of Education
Office of Civil Rights, Customer Service Team
Mary E. Switzer Building
330 C. Street, S. W.
Washington, D. C. 20202
Tel: (800) 421-3481
Fax: (202) 205-9862

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Office for Civil Rights, New York Office
32 Old Slip, 26th Floor
New York, NY 10005-2500
Tel: (646) 428-3800
Fax: (646) 428-3843

Adopted August 21, 2014 (14-8-120)
Amended August 16, 2016 (16-8-108)

Policy Section	
	POLICY ON SEXUAL VIOLENCE PREVENTION AND

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4.19	RESPONSE
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Approval Date: December 16, 2014

WHEREAS, the SUNY Ulster Board of Trustees approved Board Policy 4.18 Sexual Misconduct Policy in an effort to be in compliance with the forthcoming Violence Against Women Act (VAWA) via Resolution #14-8-120, and

WHEREAS, the Chancellor of the State University of New York has requested that all campuses adopted the attached Sexual Violence Prevention and Response Policy, and

WHEREAS, the Vice President and Dean of Enrollment Management recommends, and the President concurs, and

WHEREAS, said policy has been reviewed and approved by the College Attorney, and

WHEREAS, the Personnel, Educational Programs and Services Committee has met and concurs,now, therefore be it

RESOLVED, that the Board of Trustees approves the Policy on Sexual Violence Prevention and Response Sexual Misconduct Policy, a copy of which policy is attached hereto.

**SUNY Policies on Sexual Violence Prevention and Response
December 1, 2014, Redlined Against New York State
Legislation, June 2015**

For the SUNY Board of Trustees' resolution calling for the establishment of these policies, visit:
<http://www.suny.edu/media/suny/content-assets/documents/boardoftrustees/memos/Sexual-Assault-Response-Prevention-REVISED.pdf>

The State legislation can be viewed here: <http://open.nysenate.gov/legislation/api/1.0/pdf/bill/S5965-2015>

Initial Guidance

This guidance document is prepared for use by State University of New York State-operated and community colleges only and is meant to assist SUNY college professionals in quickly and efficiently bringing policies into compliance with 2015 New York State law. The guidance is prepared by Joseph Storch and Andrea Stagg, Associate Counsel, Office of General Counsel, State University of New York and redlines the legislative language against current SUNY policy (as of December 1, 2014). The legislation was based, in large part, on the SUNY Sexual Violence² Prevention policies, and so the reader can see there are very few changes for SUNY colleges to make. In addition to redlining newly required changes, in the spirit of keeping this to one single document, we are including additional detailed guidance in footnotes.

Importantly, the legislation was changed to avoid requiring action by Boards or Councils. The legislation specifically requires the “institution” to adopt the changes, not the Board or Governing Body. This means that institutions *do not* have to get approval from any Board to institute the changes, and can institute them quickly within existing campus policymaking processes. The legislation provides that institutions must be fully in compliance within 90 days,³ but it need not take that long for SUNY colleges, since the December 1, 2014 policies brought our campuses ninety percent of the way towards compliance with this legislation. The date that the Governor will receive the legislation from the Senate and the date of signature have not yet been set, however, the Governor will certainly sign this bill.

Note that while most of the policies mirror SUNY’s December 1, 2014 policies, the legislation does not include certain requirements that SUNY policies include (for example, mandatory suspension or dismissal for sexual assault, certain protections when participating in the student conduct process). For institutions whose Boards or Councils have not yet adopted that specific language, they must still do so to comply with the Board of Trustees October Resolution. Specific questions regarding these distinctions may be addressed to Andrea Stagg or Joseph Storch.

Where the legislation places text in quotes, it must be adopted using that language. Other than quoted passages, the legislation requires conceptual elements, but does not require any specific word or sentence. We have advised that SUNY campuses that use slightly different words with the same substantive meaning may use the term consistent with their other policies, even in

¹ Sexual violence, as that term is used in this document and prior U.S. Office for Civil Rights guidance, refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (as defined by the affirmative consent policy included herein). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by other students, college employees, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

² With the exception of reporting to the State Department of Education and climate surveys, which require compliance within one year of enactment.


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quoted sentences.⁴ Further, the legislation requires that each concept be included in policy, but does not require that the elements be in any specific order. While a college *may* have a single policy incorporating all elements within the Code of Conduct, in discussions with campus representatives, we have found the best practice is to take each paragraph and incorporate it into the section of the Code where it belongs, so students do not have to hunt around in different sections and cross-compare in order to make sense of the policies.

While most of the legislation matches the SUNY policies, there are several small policies or procedures that must be created. We include a list of those policies on a new page following the end of the redlined SUNY policies as well as a list of definitions from the legislation.

Compliance with the Legislation:

As with compliance with Article 129-a of the Education Law, each college and university shall have to certify compliance with these requirements to the New York State Department of Education annually on or before July 1, beginning in 2016. The legislation also tracks Article 129-a, as institutions will have to file with the Department of Education a copy of all written rules and policies on July 1, 2016 and once every ten years thereafter.⁵ After the first filing, for efficiency, the full filing will follow the same decennial cycle as 129-a.

Institutions must also provide a copy of the rules and policies required by the legislation to each student “using a method and manner appropriate to its institutional culture.”⁶ This provides significant flexibility to our colleges who should use good faith to provide these policies in a manner aimed to educate, not to check a compliance box. The policies should also be posted on the web. As discussed earlier, they can be compiled together or placed in the appropriate sections of the Code of Conduct, which is available on the web.

There is no private right of action for violations of these statutory requirements.⁷ This means that no individual may sue a college or university for violating the terms of this legislation. Other previously existing actions are still available. The State Department of Education may enforce the legislation and may audit compliance.

When a respondent does bring an action (often under Article 78, but potentially under other laws), the name and biographical information of any participating student is presumed confidential and they shall be listed as numbered witnesses.⁸

Equal Treatment:

³ For instance, if an institution refers to permanent removal of a student as “dismissal,” it need not change that to “expulsion” to comply with the legislative requirement of a transcript notation for cases of expulsion.

⁴ Section 6440.

⁵ Section 6440 (4)

⁶ Section 6440 (c) (9).

⁷ Section 6448 and Section 2 of the legislation.


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The legislation is clear, just as with the Violence Against Women Act, equality in rights and opportunities must be given to Reporting Individuals and Accused/Respondents.⁹

The protections of the legislation “apply 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.”⁹

The legislation applies regardless of whether the Reporting Individual and/or Accused/Respondent is on campus, off campus, or studying abroad.¹⁰

Working Together:

The legislation acknowledges that violence often involves parties from more than one institution. When it does, colleges are encouraged to work collaboratively, mindful of the requirements of the Family Education Rights and Privacy Act (FERPA).¹¹

The legislation further requires that colleges that lack appropriate on-campus resources or services shall, to the extent practicable, enter into MOUs, agreements, or partnerships with community-based organizations, including rape-crisis centers and domestic violence shelters and assistance organizations.¹² The legislation also calls for colleges giving students access, to the extent practicable, to a sexual assault forensic examination either by an employee on campus in the health center or by entering into an MOU or agreement with at least one local health care facility.¹³ If requested, the Office of General Counsel can work with State-wide organizations and coalitions to develop model policy language where appropriate and share existing agreements between SUNY campuses and community organizations.

Additional Training:

The legislation establishes a special unit within the State Police to assist in complying with this law including providing forensic support services to University Police, Campus Security and local law enforcement and providing training to college campuses, and appropriates 4.5 million dollars to the State Police. Another 4.5 million dollars is appropriated through the Office of Victim Services and Department of Health towards prevention, education and victim services of rape crisis centers. Finally, one million dollars is appropriated to colleges and universities for training.

The Office of General Counsel will continue to provide training and technical assistance in complying with this legislation. If there are sample policies or documents or specific

⁸ Section 6440 (2).

¹⁰ Section 6440 (6).

¹¹ Section 6440 (2).

¹² Section 6444 (7).

¹³ Section 6444 (8).

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training topics you would like us to cover in a training or a webinar, please reach out to Andrea Stagg or Joseph Storch. We look forward to continuing to work with you on these important issues.

SUNY Policies on Sexual Violence¹⁴ Prevention and Response

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Student Onboarding and Ongoing Education Guide	Error! Bookmark not defined.

Definition of Affirmative Consent

Affirmative consent is a knowing¹⁴ and voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity.¹⁵ Silence or lack of resistance, in and of itself, does not demonstrate consent.¹⁶ The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.¹⁷

New Definition Without Redline:

Verbatim Language:

“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.”

Additional Mandatory Language That May Be Worded as Appropriate for Each Institution:

- 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, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- 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.

¹⁴ An example of consent that would not be knowing is if student 1 is dating student A, a twin. Twin student B comes in her residence hall room at night and, thinking it was student A, she has what would seem to be active consensual sex with student B. When the lights come up, she realizes it is student B. Student 1 did not give knowing consent.

¹⁵ There is no requirement that there be “verbal” consent or a specific statement of yes. To require such a verbal statement would be to exclude hearing and speaking impaired students from consenting to sexual activity. Consent can be given through words or actions.

¹⁶ As in the footnote above, this is not to say that silence is the opposite of verbalization. The legislation matches the SUNY policies, but to clarify adds the phrase “in and of itself” to make clear that it is not a defense to a charge of sexual activity without consent that the other person was silent and didn't say no, and so therefore they must have consented. Silence, in and of itself, is not proof of consent (a departure from New York State Penal Law).

¹⁷ The sentences that were excluded in the bill but original to the SUNY policies may be useful in training for students, because they are descriptive.

Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases¹⁸

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. Ulster County Community College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence,¹⁹ 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. Ulster County Community College strongly encourages students to report incidents of 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 Ulster County Community College officials or law enforcement will not be subject to Ulster County Community College's code of conduct action²⁰ for violations of alcohol and/or drug use²¹ policies occurring at or near the time²² of the commission of the domestic violence, dating violence, stalking or sexual assault.

¹⁸ The main changer here is including the other VAWA crimes.

¹⁹ Legislators were clear in negotiations that they did not want to limit amnesty to sexual and interpersonal violence. This is consistent with the Good Samaritan 911 Law of 2011. There was general agreement that amnesty for drug and alcohol use violations was a wise policy anytime that we seek to have a student report that they were the victim of or witness to violence.

²⁰ This amnesty specifically covers judicial or conduct actions of a disciplinary nature. It does not limit a college from seeking help for a student who is struggling with drug or alcohol addiction or is otherwise in danger. Further, for those in a clinical or similar setting wherein external laws, policies, or accreditation requirements require removal or restrictions for those using drugs or alcohol, this policy does not specifically limit those actions. Colleges should take care that, while individuals may be restricted from these clinical and similar experiences, they must not be disciplined beyond what those neutral restrictions require.

²¹ Note that the legislation and the policies cover personal drug use whether intentional or accidental. There is not amnesty for drug sale, distribution, or for drugging another individual.

²² At or near the time is not defined, and should be implemented reasonably and in good faith by institutions.

Campus Climate Assessment Policy

Climate assessments afford institutions the opportunity to better understand their campus and to make informed decisions when it comes to providing a safe educational environment. Beginning in the 2015-2016 academic year,²³ each State University of New York State-operated and community college will conduct a uniform climate survey that ascertains student experience with and knowledge of reporting and college adjudicatory processes for sexual harassment, including sexual violence, and other related crimes.

The survey will address at least the following:

- Student and employee knowledge about:
 - The Title IX Coordinator's role;
 - Campus policies and procedures addressing sexual assault;
 - How and where to report sexual violence as a victim/survivor or witness;
 - The availability of resources on and off campus, such as counseling, health, academic assistance;
 - The prevalence of victimization and perpetration of sexual assault, domestic violence, dating violence, and stalking on and off campus during a set time period (for example, the last two years);
 - Bystander attitudes and behavior;
 - Whether victims/survivors reported to the College/University and/or police, and reasons why they did or did not report.
 - The general awareness of the difference, if any, between the institution's policies and the penal law;
 - The general awareness of the definition of affirmative consent.

Every institution shall take steps to ensure that answers remain anonymous and that no individual is identified.²⁴ Results will be published on the campus website providing no personally identifiable information shall be shared.

Beginning in the spring semester of 2015, the Chancellor or designee will convene a group of scholars and practitioners to review methods of assessing campus climate, specific questions asked in past surveys, relevant data on responses and response rates, issues and problems encountered in survey implementation, and lessons learned from past surveys. The Chancellor or designee will gather this data and seek to develop a standardized survey, with the advice of relevant members of the SUNY community and knowledgeable outside entities, that uses established measurement tools, to be implemented every two years by all SUNY State-operated and community colleges beginning in the 2015-2016 academic year. This policy may be changed by the Chancellor or designee should federal and/or State legislation require a different process or duplicate efforts to assess campus climate via survey.

²³ It should be noted that the statutory requirement would become effective one year after enactment of the law.

²⁴ Section 6445 (4) of the legislation states that "[i]nformation discovered or produced as a result of complying with this section shall not be subject to discovery or admitted into evidence in any federal or state court proceeding or considered for other purposes in any action for damages brought by a private party against an Institution, unless, in the discretion of the court, any such information is deemed to be material to the underlying claim or defense."

Student's Bill of Rights²⁵

The State University of New York and Ulster County Community College 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 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:

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 from 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 institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident.
8. Be free from retaliation by the institution, 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 determination²⁶;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;²⁷
11. Exercise civil rights and practice of religion²⁸ without interference by the investigative, criminal justice, or judicial or conduct process of the College.

Options in Brief:

Victims/survivors have many options that can be pursued simultaneously, including one or more of the following:

- Receive resources, such as counseling and medical attention;

²⁵ Section 6444 (2)

²⁶ Appeal must be considered by a panel—not one person. The panel may include one or more students.

²⁷ Campuses still can limit the participation of the advisor, and should describe those parameters in policy.

²⁸ This means that we will not schedule meetings or hearings on days of religious observance (for instance, holding a hearing on a Friday night when the reporting individual or respondent is a religious Jewish person), require a student to undergo medical procedures that they say are forbidden by their religion, or otherwise require a reporting individual to have to choose between their religion or belief system and reporting to the institution.

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- Confidentially or anonymously disclose a crime or violation (for detailed information on confidentiality and privacy, visit [http://people.sunyulster.edu/Portal/Report_Something/form_p.asp?param=public].
- Make a report to:
 - An employee with the authority to address complaints, including the Title IX Coordinator, a Student Conduct employee, or a Human Resources employee;
 - Ulster Community College Public Safety;
 - Local law enforcement; and/or
 - Family Court or Civil Court.

Copies of this Bill of Rights shall be distributed annually to students, made available on every college's website, and posted in each campus residence hall, dining hall, and student union or campus center and shall include links or information to access the Sexual Violence Response Policy below and the Options for Confidentially Disclosing Sexual Violence.

Sexual Violence Response Policy

In accordance with the Student's 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:

I- Reporting:²⁹

- To disclose *anonymously and* incident to one of the following college officials, who by law may maintain confidentiality, and can assist in obtaining services (more information on confidential reporting is available in the Options for Confidentially Disclosing Sexual Violence Policy
 - Click: http://people.sunyulster.edu/Portal/Report_Something/form_p.asp?param=public
 - Call to report anonymously: [845-688-6060](tel:845-688-6060)
 - hCounselor, Linda Farina VAN 119F 845-687-5192
- To disclose *confidentially* the incident and obtain services from the New York State, 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: <http://www.opdv.ny.gov/help/index.html> (or by calling 1-800-942-6906), and assistance can also be obtained through:
 - SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints/>;
 - Legal Momentum: <https://www.legalmomentum.org/>;
 - NYSCASA: <http://nyscasa.org/responding>;
 - NYSCADV: <http://www.nyscadv.org/>;
 - Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>;
 - GLBTQ Domestic Violence Project: <http://www.glbtqdvp.org/>; and
 - RAINN: <https://www.rainn.org/get-help>.
 - Safe Horizons: <http://www.safehorizon.org/>.(note that these hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the campus. Reporting individuals are encouraged to additionally contact a campus confidential or private resource so that the campus can take appropriate action in these cases).
- To disclose the incident to one of the following college officials who can offer *privacy* and can provide information about remedies, accommodations, evidence preservation, and how to obtain resources. Those officials will also 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 institution from retaliation, and to receive assistance and resources from the institution. These college officials will disclose that they are private and not confidential resources, and they may still be required by law and college policy to inform one or more college officials about the incident, including but not limited to the Title IX Coordinator. They will notify reporting individuals that the criminal just process uses different standards of proof and evidence than internal procedures, and questions about the penal law or the criminal process should be directed to law enforcement or district attorney,;

²⁹ The purpose of this policy is to provide clear information to students. Colleges should fill in the brackets with one or more relevant links. If a college does not have a certain resource (such as a counseling center), compliance does not require a wasted sentence saying "Counseling Center: No Counseling Center available." That line should be skipped when providing resource information.



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On-Campus
Counselors, Linda Farina VAN 119F 845-687-5192
Public Safety 845-687-5221 – available 24 hours/day; 7 days/week ³⁰
Health Services 845-687-5246
Assistant Dean of Students, Matthew Brennie 845-688-6068
Title IX Coordinator, Ann Marrott 845-687-5070

- To file a criminal complaint with Campus Public Safety and/or with local law enforcement and/or state police:
 - [College or Public Safety Office, ext. 5221, HAS 134]

Off-Campus
Ulster County Sheriff 845-338-3640
State Police 845-338-1702
Family of Woodstock 845-679-2485/845-338-2370
Crime Victims Assistance 845-340-3443
State Police 24-hour hotline to report sexual assault on NY college campus: 1-844-845-7269

- To receive assistance by in initiating legal proceedings in family court or civil court.
- To file a report of sexual assault, domestic violence, dating violence, and/or stalking, and/or talk to the Title IX Coordinator, Ann Marrott (845-687-5070) for information and assistance. Reports will be investigated in accordance with Ulster County Community College 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 anonymous, he or she may report anonymously via an internet reporting system by clicking [here](#):
http://people.sunyulster.edu/Portal/Report_Something/form_p.asp?param=public) or telephone a report anonymously by calling [845-688-6060](tel:845-688-6060) to discuss the situation and available options (see policy [here](#):
http://people.sunyulster.edu/portal/title_ix_policies.htm):
 - Title IX Coordinator, Ann Marrott, VAN 119B, 845-687-5070, marrotta@sunyulster.edu.

³⁰ Section 6444 (1) (b) of the legislation requires that colleges “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. Such official shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the reporting individual of other reporting options.” While a college or university *may* have a Title IX Coordinator available 24 hours per day, it was important to SUNY to have flexibility to have that role played by another appropriate official. At SUNY State-operated and community colleges we almost uniformly have University Police or Campus Security professionals who are available at all hours, and they may be listed as the individuals who can provide this information. Additionally, the elements established in this section include information already provided to students by these offices.


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- When the accused is an employee, a reporting individual may also report the incident to the Office of Human Resources or may request that one of the above referenced confidential or private employees assist in reporting to Employee Relations or Human Resources. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the college, college 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 college policy.
- You may withdraw your complaint or involvement from the Ulster County Community College process at any time.

Coordinator of Personnel Services, Debbie Delanoy 845-687-5088, CLI 212

II- Every college shall ensure that, at a minimum, at the first instance of disclosure by a reporting individual to a college representative, the following information shall be presented to the reporting individual: “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.”³¹

III- Resources:

- To obtain effective intervention services.
 - Linda Farina, VAN 119F, 845-687-5192, These are offered free of charge.
 - Health Services, SEN 139, 845-687-5246. These are offered free of charge. Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Testing for STIs and emergency contraception is available at

Off-Campus
Domestic Violence Outreach 845-338-2370
Family of Woodstock 845-679-2485
SANE 845-340-3363
Crime Victims Assistance 845-340-3443

- 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 may be found here: <https://www.ovs.ny.gov/sites/default/files/brochure/ovsrightsofcvbooklet.pdf>, or by calling 1-800-247-8035. Options are explained here: <https://www.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.

IV- Protection and Accommodations:

- When the accused is a student, to have the college issue a “No Contact Order,” consistent with college policy and procedure, meaning that continuing to contact the protected individual is a violation of college policy 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 reporting individual may request a prompt review of the need for and terms of a No Contact Order, consistent with Ulster Community College

³¹ It is advisable to also place this information on the college or university’s reporting web site.

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policy. Parties may submit evidence in support of their request.³²

- To have assistance from Campus Public Safety or other college officials in initiating legal proceedings in family court or civil court, including but not limited to obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.
- 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,³³ 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 Campus Public Safety in effecting an arrest when an individual violates an Order of Protection or, if outside of New York State, an equivalent protective or restraining order within the jurisdiction of Campus Public Safety or, if outside of the jurisdiction or [if Campus Security does not have arresting powers] to call on and assist local law enforcement in effecting 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 subject 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.³⁴
- When the accused is not a student but is a member of the college 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 Ulster County Community College policies and rules.
- When the accused is not a member of the college community, to have assistance from Campus Public Safety or other college officials in obtaining a barring notice; subject to legal requirements and college policy.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation 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 serve as a point to assist with these measures:

Assistant Dean of Student Services, Matthew Brennie, 845-688-6068, VAN 240

V- Student Conduct Process:

- To request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the College Catalog found at <http://catalog.sunyulster.edu/> and on the college portal at my.sunyulster.edu as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.

³² Colleges may, but are not required to, establish a schedule for each individuals' use of certain facilities. Section 6444 (4) (a).

³³ Each college should post information about personnel, likely in University Police, Campus Security, or Student Affairs, who can assist a student in understanding an Order of Protection, and a clear method for contacting that office. To comply with the VAWA requirement of even-handedness, such explanations should be available both to students who are protected by Orders of Protection and to those who are subject to Orders of Protection.

³⁴ Campuses must have a procedure by which the accused/respondent or victim/survivor can request a review of the terms of an interim suspension. The review must be prompt, although reasonable under the circumstances. The requests may be for potential modification of the suspension, and the party or parties can submit evidence in support of the request. To be consistent with Title IX and the need for equal opportunity, notify the other party the way you would when one party appeals after a hearing.

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- 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 their 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 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 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 Ulster County Community College).
 - 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 based upon the outcome of the conduct proceeding. For students found responsible for sexual assault,³⁵ 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,³⁶ which may include

³⁵ Sexual assault is defined to be a Code of Conduct violation consistent with the Federal definition of rape adopted by the Department of Education in Final Regulations (<http://www.gpo.gov/fdsys/pkg/FR-2014-10-20/pdf/2014-24284.pdf>, page 62789), from the Uniform Crime Reporting system of the Federal Bureau of Investigations. “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.” Consent for these purposes is the consent definition in these policies and the legislation.

³⁶ This is a significant change for many SUNY colleges. The legislation requires that at least one level of appeal be before a panel. Colleges are given wide discretion to determine whether there is one or more

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one or more students, 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 record³⁷ of a student conduct hearing, which shall be preserved and maintained for at least five years.

Assistant Dean of Student Services, Matthew Brennie, 845-688-6068, SEN 113

- The right to choose whether to disclose or discuss the outcome of a conduct hearing.³⁸
- 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.³⁹

levels of appeal, who sits on such a panel, how many constitute a panel, whether there is a single panel for all cases or a group of individuals from whom a panel is chosen for each case, whether the panel includes students, whether the panel vote must be unanimous or majority, and all other decisions in this area.

³⁷ The legislation does not specify the type of record or manner of access. It can be a recording, notes, a transcript or any other reasonable type of record. Further, the legislation is careful to say “access.” This means that colleges are required to continue their practice of giving participants reasonable access during business hours and are specifically not required to provide participants with copies of the record.

³⁸ This means that students may not be required to sign a non-disclosure agreement or other document forbidding them from discussing their case. This applies to respondents and reporting individuals. Participants are not themselves barred by FERPA from sharing this information. Note, however, that this does not allow students to unreasonably share private information in a manner intended to harm or embarrass another individual, or in a manner that would recklessly do so regardless of intention. Such sharing may be retaliation which can result in separate charges under the Code of Conduct.

³⁹ Practically, the experienced reader will note that this sentence is precisely the same as the current Federal requirements where the Clery Act/VAWA meets FERPA. More information can be found in this chart, Notifications Following Student Conduct Hearings, <http://www.nacua.org/securedocuments/resourcepagedocs/CleryAct/VictimNotificationChartJuly2014.pdf>.

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Options for Confidentially Disclosing Sexual Violence⁴⁰

The State University of New York and Ulster County Community College want you to get the information and support you need regardless of whether you would like to move forward with a report of sexual violence to campus officials or to police. You may want to talk with someone about something you observed or experienced, even if you are not sure 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.

In this Policy:

- Privileged and Confidential Resources.
- Non-Professional Counselors and Advocates.
- Privacy versus Confidentiality.
- Requesting Confidentiality: How the College/University Will Weigh the Request and Respond.
- Public Awareness/Advocacy Events.
- Anonymous Disclosure.
- Institutional Crime Reporting.

Privileged and Confidential Resources:

Off-campus options to disclose sexual violence *confidentially* include (note that these outside options do not provide any information to the campus):

- Off-campus counselors and advocates. 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 Ulster County Crime Victims Assistance Program.

Off-Campus
Domestic Violence Outreach 845-338-2370
Family of Woodstock 845-679-2485
Ulster County SANE 845-340-3363
Crime Victims Assistance 845-340-3443

- Off-campus healthcare providers
 - Note that 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 here: http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf, or by calling 1-800-247-8035. Options are explained here: <http://www.ovs.ny.gov/helpforcrimevictims.html>.

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.

Non-Professional Counselors and Advocates:

Non-professional counselors and advocates can also assist you without sharing information that could identify you. At Ulster County Community College, this includes Linda Farina, College Counselor, VAN 119F, ext.

⁴⁰ The legislation makes only tiny ministerial changes to the confidentiality policy.

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5192, These individuals will report the nature, date, time, and general location of an incident to Ulster County Community College's Title IX Coordinator, but will consult with you to ensure no personally identifying details are shared without your consent. These individuals are not considered confidential resources as discussed above.

Privacy versus Confidentiality:

Ulster County Community College offices and employees who cannot guarantee *confidentiality* will maintain your *privacy* to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible under the law for tracking patterns and spotting systemic issues. Ulster County Community College 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 Ulster County Community College Will Weigh the Request and Respond:

If you disclose an incident to a Ulster County Community College employee who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality or do not consent to the institution's request to initiate an investigation, the Title IX Coordinator must weigh your request against our obligation to provide a safe, non-discriminatory environment for all members of our community, including you.

We will assist you with academic, employment, and other reasonable and available accommodations regardless of your reporting choices. While reporting individuals may request accommodations through several college offices, the following office can serve as a primary point of contact to assist with these measures [Linda Farina, College Counselor, VAN 119F, ext. 5192]. We also may take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify you or the situation you disclosed.

We may seek consent from you prior to conducting an investigation. You may decline to consent to an investigation, and that determination will be honored unless the Ulster County Community College's failure to act does not adequately mitigate the risk of harm to you or other members of the Ulster County Community College community. Honoring your request may limit our ability to meaningfully investigate and pursue conduct action against an accused individual. If we determine that an investigation is required, we will notify you and take immediate action as necessary to protect and assist you.

When you disclose an incident to someone who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality, Ulster County Community College 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; and
- 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 Ulster County Community College determines that it must move forward with an investigation, the reporting individual or victim/survivor will be notified and Ulster County Community will take immediate action as necessary to protect and assist them.

Public Awareness/Advocacy Events:



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If you disclose a situation through a public awareness event such as “Take Back the Night,” candlelight vigils, protests, [student organization or other event or forum], or other public event, Ulster County Community College is not obligated to begin an investigation. Ulster County Community College may use the information you provide to inform the need for additional education and prevention efforts.

Anonymous Disclosure:

To report *anonymously* an incident to one of the following college officials, who by law may maintain confidentiality, and can support and assist in obtaining services, you can use our anonymous internet reporting system by clicking [here](#), or you can telephone a report anonymously by calling [845-688-6060](tel:845-688-6060).

- Ann Marrott, Title IX Coordinator, VAN 119B, 845-687-5070 or
- Wayne Freer, Director of Public Safety, HAS 134, 845-687-5053.

To disclose *confidentially* an incident and obtain services, call the New York State Hotline for Sexual Assault and Domestic Violence: 1-800-942-6906.

The Hotline is for crisis intervention, resources and referrals and is **not a reporting mechanism**.

Institutional Crime Reporting

Reports of certain crimes occurring in certain geographic locations will be included in the Ulster County Community College Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the reporting individual or victim/survivor.

- Ann Marrott, Title IX Coordinator, VAN 119B, 845-687-5070,
- Wayne Freer, Director of Public Safety, HAS 134, 845-687-5053.

Ulster County Community College 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 parents’ prior year federal income tax return. Generally, Ulster County Community College will not share information about a report of sexual violence with parents without the permission of the reporting individual.

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Student Onboarding and Ongoing Education Guide⁴¹

The State University of New York and its State-operated and community colleges believe that sexual violence prevention training and education cannot be accomplished via a single day or a single method of training. To that end, SUNY campuses will continue to educate all new and current students using a variety of best practices aimed at educating the entire college community in a way that decreases violence and maintaining a culture where sexual assault and acts of violence are not tolerated.

All new first-year and transfer students will, during the course of their onboarding to a SUNY State-operated or community college, receive training on the following topics, using a method and manner appropriate to the institutional culture of each campus:

- The institution prohibits sexual harassment, including sexual violence, other violence or threats of violence, domestic violence, dating violence, stalking, other violence or threats of violence, and will offer resources to any victims/survivors of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of the institution.
- Relevant definitions including, but not limited to, the definitions of sexual violence and consent.
- Policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression.
- The role of the Title IX Coordinator, University Police/Campus Security, and other relevant offices that address violence prevention and response.⁴²
- Awareness of violence, its impact on victims/survivors and their friends and family, and its long-term impact.
- The Student's Bill of Rights and Sexual Violence Response Policy, including:
 - How to report sexual violence and other crimes confidentially, and/or to college officials, campus law enforcement and security, and local law enforcement.
 - How to obtain services and support.
- Bystander Intervention and the importance of taking action, when one can safely do so, to prevent violence.
- The protections of the Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases.
- Risk assessment and reduction⁴³ including, but not limited to, steps that potential victims/survivors *and* potential assailants and bystanders to violence can take to lower the incidence of sexual violence.
- Consequences and sanctions for individuals who commit these crimes.

The onboarding process is not limited to a single day of orientation, but recognizes that students enroll at different times at different SUNY campuses and gives campuses the flexibility to best educate students at a time and manner that can most effectively bring these points to light. SUNY will conduct these trainings for all new

⁴¹ The legislation makes only tiny ministerial changes to education and onboarding requirements.

⁴² Sexual assault, domestic violence, dating violence, and stalking.

⁴³ May include information about alcohol and drugs. Section 6447 (2) (g) requires that colleges include information about "[r]isk assessment and reduction including, but not limited to, steps that potential victims, perpetrators, and bystanders can take to lower the incidence of violations, which may contain information about the dangers of drug and alcohol use, including underage drinking and binge drinking, involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol, the importance of communication with trusted friends and family whether on campus or off campus, and the availability of institution officials who can answer general or specific questions about risk reduction."

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students, whether first-year or transfer, undergraduate, graduate, or professional. Each campus shall use multiple methods to educate students about sexual violence prevention. Each SUNY institution will also share information on sexual violence prevention with parents of enrolling students.

Students at SUNY State-operated and community college campuses shall be offered general and specialized training in sexual violence prevention. Each institution will conduct a campaign, compliant with the requirements of the Violence Against Women Act, to educate the student population. Further, institutions will, as appropriate, provide or expand specific training to include groups such as international students, students that are also employees of the campus, leaders and officers of registered/recognized student organizations, online and distance education students. Institutions will also provide specific training to members of groups identified as likely to engage in high-risk behavior.

Beginning in the 2015-2016 academic year, SUNY State-operated and community colleges will require that student leaders and officers of registered/recognized student organizations and those seeking recognition complete training on domestic violence, dating violence, sexual assault, or stalking prevention as part of the approval process and require student-athletes to complete training in domestic violence, dating violence, sexual assault, or stalking prior to participating in intercollegiate athletics.⁴⁴

Methods of training and educating students may include, but are not limited to:

- President's welcome messaging;
- Peer theater and peer educational programs;
- Online training;
- Social media outreach;
- First-year seminars and transitional courses;
- Course syllabi;
- Faculty teach-ins;
- Institution-wide reading programs;
- Posters, bulletin boards, and other targeted print and email materials;
- Programming surrounding large recurring campus events;
- Partnering with neighboring SUNY and non-SUNY colleges to offer training and education;
- Partnering with State and local community organizations that provide outreach, support, crisis intervention, counseling and other resources to victims/survivors of crimes to offer training and education. Partnerships can also be used to educate community organizations about the resources and remedies available on campus for students and employees seeking services; and
- Outreach and partnering with local business those attract students to advertise and educate about these policies.

Each SUNY campus must report back to the Chancellor on or before March 31, 2015 on their plan to comply with this policy. Each institution must engage in a regular assessment of their programming and policies to determine effectiveness. The institution may either assess its own programming or conduct a review of other campus programming and published studies to adapt its programming to ensure effectiveness and relevance to students.

⁴⁴ Colleges have significant flexibility in how to offer this training. It may be a single training or series of trainings for all athletes or student leaders or it may allow such students to attend one of many trainings offered by the college over the course of the semester. Colleges should endeavor to accomplish this in good faith. The training requirement is not measured by the organization or team being trained once, but by each officer, leader, or athlete completing the training her or himself.



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