

Title IX Policies and Procedures

Title IX Policy Statement

The New York College of Health Profession (College) strives to provide an educational and working environment for all faculty, staff, and students that is free from all forms of sex-based discrimination and harassment. It is committed to providing an environment that treasures diversity and emphasizes the dignity and worth of every individual, an environment in which every individual is treated with respect.

Discrimination and harassment in any form are contrary to these goals and fundamentally at odds with the values of the College. Discrimination and harassment are violations of College policy, local and federal laws, and will not be tolerated. Individuals who engage in such conduct may be subject to disciplinary action.

Title IX Purpose

To provide for compliance with Title IX of the Educational Amendments Act of 1972, as amended, reaffirm the College's commitment to providing a positive environment for study and work free from sex-based discrimination and harassment inform members of the College community and visitors of the type of conduct that is proscribed and the process for making a complaint for alleged violations.

Title IX Applicability

This procedure is applicable to all student, faculty, staff, visitors to the College or an activity and educational program, including admissions and employment occurring within the United States. It applies to both the employment and student academic environment contexts, including relationships between faculty, staff and students, academic decisions regarding students, relationships between students, and the general environment in which students' function.

Title IX Definitions

- **Actual knowledge:** notice of sexual harassment or allegations of sexual harassment to a College Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient.
- **Administrative leave:** placing a non-student employee respondent on administrative leave during the pendency of a grievance process.
- **Complainant:** an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- **Emergency removal:** removing a respondent from the College's education programs or activities on an emergency basis, provided that the College undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

- **Formal complaint:** a document filed and signed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.
- **Person:** student, faculty, and staff; contractors and visitors engaged in an activity on a College campus, site, or event.
- **Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- **Sex-based Discrimination:** discrimination based on sex, including sexual orientation and gender identity in educational programs and activities. This includes situations where individuals are harassed; disciplined in a discriminatory manner; excluded from, denied equal access to, or subjected to sex stereotyping in academic or extracurricular opportunities and other education programs or activities; denied the benefits of the College's programs or activities; or otherwise treated differently because of their sexual orientation or gender identity.
- **Sexual Harassment:** conduct on the basis of sex that satisfies one or more of the following:
 - an employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct
 - unwelcome conduct determined by a reasonable person to be severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's educational program or activity
 - sexual assault, dating violence, domestic violence, or stalking.
- **Supportive measures:** non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed, which may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Title IX Reporting Violations

Each member of the College community plays a significant role in ensuring that the College is free from all forms of sexual harassment, and that any incidents of sexual harassment are promptly reported. The College cannot take action to punish and deter sexual harassment if it is not aware that it has occurred. If a Person believes he or she has been subjected to a violation under Title IX, the matter should be reported to:

Amy Kotowski
Title IX Coordinator
akotowski@nycollege.edu
516-364-0808 ext. 507

Jacqueline McIntyre
Title IX Deputy
jmcintyre@nycollege.edu
516-364-0808 ext. 505

A report of a Title IX violation may also be made to any Dean or Assistant Dean, referred to as a responsible person. These individuals are required to report any alleged violations to the Title IX Coordinator as promptly as possible and may be subject to disciplinary action for failure to do so. The College may also choose to pursue an investigation regarding an incident without a formal complaint as determined by the Title IX Coordinator. The College may not be able to investigate anonymous complaints unless sufficient information is provided to enable the College to conduct a meaningful investigation.

When the Title IX Coordinator is aware of a complaint, the Complainant must be promptly contacted to discuss the availability of supportive measures.

After conducting a safety and risk analysis, a determination may be made by the Title IX Coordinator that emergency removal of the Respondent is appropriate due to the immediate threat to the physical health or safety of any student or other individual arising from the allegation of sexual harassment. The Respondent must be given notice of the action and an opportunity to challenge the decision immediately following the removal.

A non-student employee may be placed on administrative leave during the pendency of the investigation and hearing process.

Filing a Formal Complaint

A Person who has reported a Title IX violation either directly or through a responsible person, the Complainant will be sent an incident form by the Title IX Coordinator or Deputy. The Complainant must complete the form and send it to the Title IX Coordinator or Deputy. The Complainant must sign the complaint form.

After the formal complaint has been submitted to the Title IX Coordinator, the Title IX Coordinator will provide the Complainant and Respondent with a Notice of Allegations. Said notice will provide details of the investigation and hearing process, the allegations of sexual harassment and known details, to include the identity of the Complainant and Respondent, the date and location of the alleged conduct.

The Title IX Coordinator may institute supportive measures to the Complainant or the Respondent. Every effort will be made to keep supportive measures provided to the Complainant or Respondent confidential.

Investigation of a Formal Complaint

After submission of a formal complaint, the Title IX Coordinator will investigate the complaint. The Title IX Coordinator will interview the complainant, respondent, and any witnesses. The Title IX Coordinator has the responsibility of gathering evidence sufficient to make the determination of responsibility. The Title IX Coordinator will review documents and evidence relevant to the complaint.

The Title IX Coordinator will provide to the Complainant and Respondent all evidence obtained as part of the investigation whether or not relied on by the investigator. After receipt of the information, the Complainant and Respondent will have 14 days to submit a written response to the evidence which the investigator will consider before issuing the investigative report.

After the investigation has been completed, the Title IX Coordinator will issue an investigative report to the Complainant and the Respondent.

A complaint is dismissed where the act:

- Does not constitute sexual harassment
- Did not occur in the College's education program or activity
- Did not occur against a person in the United States
- Complainant withdraws the complaint, in writing
- Respondent is no longer enrolled at or employed by the College. Insufficient evidence to make a determination

Hearing

If the complaint is not dismissed, the Complainant and Respondent can agree to an informal resolution or proceed to a live hearing, which includes an opportunity for direct or indirect cross-examination before a neutral adjudicator and a live testimony. The Committee on Academic Policy (CAP) will conduct the hearing and permit each party's advisor to cross-examine the other party and any witnesses in the live hearing directly, orally, and in real time. Cross-examination must be conducted by the party's advisor of choice and not by a party personally. Before a party or witness answers the cross-examination, the decision-maker must determine if the question is relevant. The decision-maker must explain any decision to exclude a question as not relevant. At the hearing, the Title IX Coordinator will present all evidence pertaining to the case. An audio, audiovisual recording, or transcript of the live hearing will be made available to the parties for inspection and review. The Committee will objectively evaluate all relevant evidence and make a determination of responsibility.

Following the hearing, the Committee on Academic Policy will issue a written determination of responsibility and provide a copy to the Title IX Coordinator, the Complainant, and the Respondent. The standard of evidence used to make a determination of responsibility is a preponderance of the evidence.

Appeal

Both the Complainant and the Respondent may appeal the determination of the decision maker. The appeal must state the basis for the appeal.

Conflict of Interest

The Title IX Coordinator, Title IX Deputy, investigator, advisors, and the decision maker(s) cannot have a conflict of interest.

Submission of Materials

All documents may be submitted or exchanged via hard copy or electronically.

Retaliation Prohibited

Any action taken by the College, any employee, or agent of the College, or a student to restrain, interfere, coerce, or otherwise adversely affect an individual's employment, personal safety, academic efforts, or participation in College-sponsored activities as a result of that person's allegation of sexual harassment or cooperation in an investigation or adjudication regarding such an allegation is strictly prohibited. Retaliation may be found even where the underlying complaint was not sustained.

No faculty member, administrator, or staff (including student-employees), applicant for employment, or student may be subject to retaliation 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.

It shall not be retaliation, however, for an accused to defend himself/herself against a charge of sexual harassment under this policy. Nor shall it be considered retaliation to discipline an individual for false and malicious accusations. Retaliation, if established, may result in disciplinary action against the offending party up to and including discharge from employment or dismissal/expulsion from the College, as applicable.

Confidentiality

It is to be expected that, at all stages of any proceedings under this policy, confidentiality will be maintained to the greatest extent possible. Consistent with their obligations, all roles described herein are expected to maintain the highest standards of confidentiality. Communication by these persons with others with regard to sexual harassment complaints can be only on a required "need to know" basis.

Others necessarily involved, such as the Complainant, the Respondent, witnesses, and College staff involved in the investigation will be provided the standards of confidentiality and encouraged to keep confidential, to the greatest extent possible, matters about which they or others provide testimony or information. With regard to such individuals, however, the College has no means by which to ensure strict confidentiality other than by providing notice of the standards of confidentiality by which the College expects all individuals involved to abide.