



New York
COLLEGE
of Health Professions

Title IX Policy

2024 02

I. Title IX Policy Statement

The New York College of Health Professions (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.

II. 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.

III. 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.

IV. Reporting Obligations

Obligations to Report Sexual Harassment

In order to take appropriate corrective action, the College must have actual knowledge of the sexual harassment and related retaliation that occurs in college employment, educational programs, and activities.

The following individuals are considered officials with authority and have a duty to report whenever they witness, receive notification of, or otherwise have knowledge of an incident of discrimination, harassment, or related retaliation that occurred in the course of college employment, educational programs, or activities:

- All College Officers
- Academic Deans
- Directors
- Chairs
- Administrative Department Heads
- The Title IX Coordinator

Where to Report

Anyone who believes that they experienced, witnessed, or otherwise have knowledge of sexual harassment shall immediately report such behavior to the:

- Title IX Coordinator
- Human Resources (for employees)

An individual may choose to share concerns involving sexual harassment with a faculty or staff member. All employees are encouraged to report and inform the reporting individual that:

- You are not a confidential source; and
- You will report their concerns to the Title IX

All reports or complaints 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

When to Report

All reports or complaints shall be made as promptly as possible after the occurrence. For students, while they should expect that faculty and staff would inform the Title IX Coordinator, students are strongly encouraged to contact the Title IX Coordinator directly.

Right to File Criminal Complaint

A complainant has the right to file a criminal complaint before, during or after the College's Title IX investigation.

Right to File an External Complaint

A complainant who has filed a Title IX formal (written) complaint with NYCHP, has the option to:

- Withdraw their complaint from the process at any time and to file a complaint with an external agency or other antidiscrimination agency or
- The complainant may continue with their formal(written) complaint at NYCHP while simultaneously filing a complaint with an outside agency. Depending on the circumstances, NYCHP may determine to continue with its review of the initially alleged incidents if the Complainant decides to withdraw their complaint.

Zero-Tolerance for Retaliation

The College will not tolerate retaliation by any employee or student. Retaliation is a serious violation of this policy, as well as of federal, state, and local law. Anyone who believes they have been retaliated against should report the matter immediately according to the same procedure provided in this policy for making complaints of discrimination, harassment, or sexual assault.

V. Prohibited Conduct

Sexual Harassment (defined by Title IX)

Unwelcome conduct determined by a reasonable person on the basis of sex that is so severe, pervasive, and objectionably offensive that it effectively denies a person equal access to the school's education program or activity; or an employee of the school conditioning the provision of aid, benefit, or service of the school's on an individual's participation in unwelcome sexual conduct (quid pro quo); or sexual assault (as defined by the Clery Act), dating violence, domestic violence, or stalking (as defined by the Violence Against Women the Act (VAWA)). The conduct occurs in the United States and within the College's "education program or activity."

Sexual Assault

1. Sexual Assault–Non-consensual Sexual Contact:

Behavior including any intentional touching of a sexual nature, however slight, whether clothed or unclothed, with any object or body part by a person against another person that is without Affirmative Consent and/or by force. Examples include, but are not limited to:

- Intentional contact with the breasts, buttocks, groin, or genitals
- Intentional touching of another with breasts, buttocks, groin, or genitals
- Compelling someone to touch another person or oneself in a sexual manner
- Any intentional bodily contact in a sexual manner.

2. Sexual Assault–Non-consensual Sexual Intercourse:

Behavior including any sexual intercourse, however slight, with any object or body part by a person against another person that is without Affirmative Consent and/or by force.

- Examples include, but are not limited to:
- Vaginal penetration by a penis, object, tongue or finger
- Anal penetration by a penis, object, tongue or finger
- Oral copulation (mouth-to-genital contact or genital-to-mouth contact)

Sexual Exploitation

When an individual takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and the behavior does not otherwise constitute another form of prohibited conduct as defined by this policy.

Examples include, but are not limited to:

- Invasion of sexual privacy
- Prostituting another person
- Non-consensual taking and/or distributing photography, video, or audiotaping of sexual activity
- Allowing others to observe sexual activities without Consent
- Engaging in voyeurism
- Knowingly transmitting a sexually transmitted infection or human immunodeficiency virus (HIV) to another person
- Exposing one's genitals in non-consensual circumstances
- Inducing another to expose their genitals

Domestic Violence

Violence committed against a person by: a current or former spouse or intimate partner; a person with whom the recipient of the conduct shares a child in common; a person who is cohabiting with or has cohabited with the recipient of the conduct as a spouse or intimate partner; a person similarly situated to a spouse of the recipient of the conduct under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or by any other person against an adult or youth person who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the violence occurred.

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged recipient of the conduct. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

Sexual Harassment other than as defined by Title IX

Unwelcome, verbal or physical conduct that is based on sex/gender or is of a sexual nature and that has the purpose or effect of unreasonably interfering with a student's ability to participate in or benefit from the educational programs or activities and conduct that unreasonably interferes with a person's work performance or creates an intimidating, hostile or humiliating or offensive work environment. The unwelcome behavior may be based on power differentials (quid pro quo) or create a hostile environment.

VI. 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.
- **Advisor:** any complainant or respondent may be accompanied by an advisor or their choosing to any meetings, hearing, or interviews pertaining to the investigation or resolution of a formal complaint. In most cases, an advisor's role is limited to observing, consulting with, and providing support to the party, unless otherwise expressly written.
- **Complainant:** an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- **Decision Makers/Hearing Officers:** College officials or designee who preside over live hearings and make a determination regarding responsibility with respect to Title IX allegations.
- **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.
- **Employee:** both staff and faculty members at the main campus, branch or site, or online learning. Where an employee is also a student, their primary relationship with the College takes precedence in determining which policies and procedures apply.
- **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.
- **Live Hearing:** Live hearings are held in-person or virtually. All parties and witnesses are present with their advisors and the hearing officer(s)/decision maker(s).

- **Preponderance of the Evidence** (whether it is more likely than not that the conduct occurred): the evidentiary standard used to determine responsibility with respect to sexual harassment complaints.
- **Person:** student, faculty, and staff; contractors and visitors engaged in an activity on a College campus, site, or event.
- **Report:** any incident or concern regarding gender-based misconduct that is disclosed to the Title IX coordinator, Title IX Deputy, or any other College employee.
- **Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- **Reporting party:** any individual that is alleging that misconduct has occurred but was not the complainant.
- **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.
- **Student:** matriculated and non-matriculated students participating or attempting to participate in any College education program or activities on campus and online learning. Where a student is also an employee, their primary relationship with the College takes precedence in determining which policies and procedures apply.
- **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.
- **Witness:** any individual who witnessed an incident of misconduct or has information regarding an incident

VII. Evaluation of the Complaint

Upon notification of a potential Title IX violation, the Title IX Coordinator will promptly contact the complainant to discuss:

- Supportive measures
- Consider the complainant's wishes with respect to supportive measures
- Inform the complainant of the availability of these measures with or without the filing of a formal complaint
- And explain the grievance process and the procedure for filing a formal complaint.

Emergency removal of a student-respondent may still be appropriate, provided the College does an individualized safety and risk analysis; determines there is an immediate threat to the physical health or safety of students or employees that justifies removal; and provides notice and an opportunity for the respondent to challenge the decision immediately following removal. Non-student employees may be placed on administrative leave during investigations.

The complainant or Title IX Coordinator files an incident report alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment, known as a "formal complaint." A complainant may only file a formal Title IX complaint under this policy if the complainant is participating in or attempting to participate in an education program or activity of the College. When a formal complaint is filed, the Title IX Coordinator or Deputy Title IX Coordinator must evaluate the complaint to determine whether the allegations may be investigated and adjudicated under the Title IX Grievance Process

Mandatory Dismissal: If the conduct alleged in the formal complaint would not constitute sexual harassment as defined above, or did not occur in the college's education program or activity, or did not occur against a person in the United States, then the Title IX Coordinator must dismiss the formal complaint. Such dismissal does not preclude action under another policy or provision of the college's code of conduct. Upon dismissal, the Title IX Coordinator must promptly send written notice of the dismissal and reason for the dismissal simultaneously to the parties. Both parties will have a right to appeal the dismissal pursuant to the appeal procedures described below.

Discretionary Dismissal: The Title IX Coordinator may dismiss the formal complaint, if at any time during the investigation or hearing: the complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint; the respondent is no longer enrolled or employed by the college; or circumstances prevent the gathering of evidence sufficient to reach a determination regarding responsibility. Both parties will have a right to appeal the dismissal pursuant to the appeal procedures described below.

VIII. The Grievance Process

The complainant and respondent are treated equitably while addressing allegations of sexual harassment. Equitable remedies should include supportive measure for parties that are non-disciplinary, non-punitive in nature and designed to restore or preserve equal access to education programs and activities while addressing the allegations through a fair and unbiased grievance process.

1. The Complaint

- The College has actual knowledge of a potential Title IX violation when notification is given to the Title IX Coordinator or any official who has the authority to institute corrective measures.
- Upon notification of a potential Title IX violation, the Title IX Coordinator will promptly contact the complainant to discuss supportive measures; to consider the complainants wishes with respect to supportive measures; to inform the complainant of availability of these measures with or without the filing of a formal complaint; and to explain the grievance process and the procedure for filing a formal complaint.
- Emergency Removal of a student-respondent may still be appropriate, provided the college does an individualized safety and risk analysis; determines there is an immediate threat to the physical health or safety of students or employees that justifies removal; and provides notice and an opportunity for the respondent to challenge the decision immediately following removal. Non-student employees may be placed on administrative leave during investigations.
- The complainant or Title IX Coordinator file a document alleging sexual harassment against a respondent and requesting that the college investigate the allegation of sexual harassment, known as a "formal complaint." A complainant may only file a formal complaint under this policy if the complainant is participating in or attempting to participate in an education program or activity of the college.
- The college treats the complainant and respondent equitably throughout the grievance process. All officials involved in the grievance process must not have a conflict of interest or bias for or against either party. The respondent is presumed not to be responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. The parties are advised as to the range of possible disciplinary sanctions and remedies that the college may implement following any determination of responsibility. The college will determine responsibility based on the evidentiary standard of Preponderance of the Evidence and both parties are permitted to appeal the final decision.
- The college will provide for an informal resolution process such as mediation after the filing of a formal complaint. Informal resolution does not involve a full investigation and adjudication. The informal resolution process may begin at any time prior to a determination regarding responsibility. The college must provide the parties with written notice as to the allegations and the requirements of the informal resolution process. The parties must voluntarily agree and provide written consent to the Informal resolution process. The parties have the right to withdraw from the informal process and participate in the formal grievance process any time prior to a determination regarding responsibility. Informal resolution is not permitted in cases of harassment of a student by an employee.

2. Title IX Investigation

- Initiating the investigation. Upon receipt of a formal complaint, the Title IX Coordinator will provide written notice to the parties of the allegations of sexual harassment, including sufficient details known at the time of filing and allowing sufficient time to prepare a response before the initial interview. The details include the identity of the parties, the alleged conduct constituting sexual harassment, the date, and location of the alleged conduct. The written notice must contain a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney. The notice must inform the parties of the section of the Student Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- Time Frame: The college will endeavor to complete its investigation in sixty (60 days). However, there may be reasonable delays or extensions as circumstances arise.
- Standard of Proof: The “preponderance of the evidence” standard shall be applied to sexual harassment complaints. This standard requires a finding that it is more likely than not that sexual harassment occurred in order to assign responsibility to the respondent.
- Gathering information: The college will conduct prompt and thorough interviews of the complainant, the respondent, and any witnesses. Both parties will have an opportunity to suggest witnesses. The investigator will interview the suggested witnesses unless the investigator determines that the information that the party claims the witness will share is not relevant. The burden of gathering both inculpatory and exculpatory evidence and proof sufficient to reach a determination of responsibility is on the college. The college will not restrict the ability of either party to discuss the allegations under investigation or gather and present relevant evidence. The parties are both allowed to have their advisor of choice present during any grievance proceeding. The college may restrict the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties. Written notice of the date, time, location, participants, and purpose of all hearings, interviews or meetings must be provided to a party whose participation is invited or expected with sufficient time for the party to prepare to participate. An investigative report will be generated at the end of the investigation. Prior to completion of the investigative report, the Title IX Coordinator will send each party and their advisors any evidence gathered that is directly related to the allegations for their inspection and review with ten (10) days-notice to submit a written response, prior to completion of the final investigative report. The final investigative report is sent to the parties and their advisors ten (10) days prior to the live hearing.

Once the Title IX Coordinator is satisfied that the investigation is completed, the Title IX Coordinator will notify the complainant and the respondent as to the live hearing.

3. Live Hearing

- After reviewing the investigative report and all the evidence, the Hearing Officer(s) will facilitate a live hearing, which will be presided over by the Hearing Officer or a panel of Hearing Officers, each of whom has received relevant training and does not have bias or conflict of interest related to the particular case.
- At the live hearing, both parties have the opportunity to present their position to the Hearing Officer(s). The Hearing Officer(s) will ask any relevant questions to the parties and witnesses. During the hearing, the Hearing Officer(s) must permit each party's advisor to ask both parties and any witnesses all relevant questions, including those challenging credibility. Such examination at the Live Hearing must be conducted directly, orally, and in real-time by the party's advisor and never by a party personally.
- Before a complainant, respondent, or witness answers a question posed by the advisor of the other party, the Hearing Officer(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The hearing officer(s)/decision-maker(s) may rely on any statement of any party or witness in reaching a determination regarding responsibility. If a party or witness chooses not to answer questions, including questions from the other party's advisor or is absent from the live hearing, the hearing officer(s)/decision-maker (s) cannot draw an inference about responsibility based solely on the refusal to answer questions or based solely on their absence from the live hearing.
- There may be restrictions on evidence considered by the Hearing Officer(s), such as, for example, evidence related to prior sexual activity, and accounts of character witnesses. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- Neither the Hearing Officer(s) nor the advisor may request or demand that either party provide evidence that is subject to a legal privilege, unless the party has waived the privilege. At the request of either party, the college will provide for the Live Hearing to occur with the parties located in separate rooms with technology enabling the Hearing Officer(s) and parties to simultaneously see and hear the party or the witness answering questions. During the Live Hearing, both Page 12 of 15 parties and their advisors will have access to all the evidence gathered during investigative process for their reference. During the Live Hearing, either party may request a break at any time to confer with their advisor, and/or to examine the evidence. The Live Hearing will be recorded or transcribed, and such recording or transcription will be made available to both parties. The Hearing Officer(s)' findings of fact, conclusion, and determinations must be based on the preponderance of the evidence standard, and should be the result of an evaluation of all evidence,¹⁰ including inculpatory and exculpatory evidence. Determinations regarding credibility may not be based on a person's status as a complainant, respondent, or witness.

- After the Live Hearing, the Hearing Officer(s) will provide a final written report to the parties simultaneously within seven business days after the conclusion of the Live Hearing.
 - The written report will include: the allegations potentially constituting sexual harassment; the procedural steps taken from the receipt of the formal(written) complaint through the determination; findings of fact supporting the determination, conclusions regarding the application of College’s Title IX Policy to the facts; a statement of, and rationale for, the result as to each allegation; a determination regarding responsibility; and whether remedies designed to restore or preserve equal access to the college’s program or activity will be provided to the complainant.
 - For employee-related matters, the Hearing Officer will share the draft of the report with the relevant administrators or supervisors for them to determine the applicable disciplinary sanctions, if any. The final report will also include procedures and permissible bases for appeal of the Hearing Officer(s)’s determination.

4. Appeal

- Both respondent and complainant may appeal a determination regarding responsibility and from a dismissal of a formal complaint based on:
 - Procedural irregularity that affected the outcome
 - New evidence not previously available that could affect the outcome
 - Bias or conflict of interest on the part of a Title IX official that affected the outcome.
- The parties must submit the appeal, which must be in writing and signed, within ten calendar days of the determination to the Title IX Coordinator.
- The Title IX Coordinator will assign the appeal to a trained Appeal Officer, who will then review and make a determination. The Appeal Officer must provide both parties with a copy of the appeal. The party who did not file the appeal will then have ten (10) calendar days to submit any written responses to the appeal. The Appeal Officer, after reviewing all the information provided, will then issue a written decision to both parties simultaneously, including the rationale for their findings on appeal. The decision of the Appeal Officer is final.

IX. Record Retention

The College must maintain records for seven years of all sexual harassment investigations, appeals, informal resolutions, all materials used to train Title IX officials and make such materials available on its website, hearing recordings and transcripts, records of any actions, including supportive measures, taken in response to reports or formal complaint of sexual harassment.

X. Submission of Materials

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

XI. 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.

XII. Annual Report

For the purposes of the Clery Report, the College shall maintain an annual report containing the:

- Number of reports or complaints received pursuant to this policy
- Categories of those involved in the allegations
- Number of policy violations found
- Examples of sanctions imposed for policy violations.

The annual report does not contain any personally identifying information regarding the complainant or the respondent.

XIII. Education

The College will broadly disseminate this policy, distribute a list of resources available to respond to concerns of Protected Class discrimination, harassment, and related retaliation and develop and present appropriate educational programs for students and employees.