

SUNY Optometry Sexual Violence Response Policy and Procedures

In accordance with the Students' Bill of Rights (), reporting individuals of sexual violence shall have the right to pursue more than one of the following options below or choose not to participate in any of the following options. In addition, reporting individual may withdraw their complaint or involvement at any time.

I. Reporting for Students:

A. Students who are victims/survivors of sexual violence have the right to confidentially disclose the incident to College officials who can assist in obtaining services (more information on confidential report is available in the Options for Confidentially Disclosing Sexual Violence Policy []). They can disclose the incident:

- Anonymously via the internet by using the following URL:
http://www.sunyopt.edu/offices/university_police/report_an_incident;

B. To disclose the incident confidentially and obtain services from New York State or New York City, visit: <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). Alternatively, assistance can also be obtained through:

- Safe Horizon: (212) 227 3000 {SafeHorizon Website Resources}
- 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.glbtqdv.org/>; and
- RAINN: <https://www.rainn.org/get-help>.

The above named organizations are for crisis intervention, resources and referrals only and are not reporting mechanisms. This means that disclosures made during a call to a hotline do not provide any information to the College. When reporting individuals utilize these hotlines, they are also encouraged to contact a College confidential or private resource so that appropriate action can be taken by the College.

C. To disclose the incident to one of the following College officials who can offer privacy and can provide information regarding remedies, accommodations, evidence preservation, and how to obtain resources. Those College officials will also provide 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 College. These 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 process just uses different standards of proof and evidence than internal procedures, and questions about penal law and criminal process should be directed to law enforcement or the district attorney:

- Title IX Coordinator- Ms. Guerda Fils (Office of Human Resources);
- University Police Desk (24 hrs) at 42nd Street Lobby (Lieutenant/Police Officer);
- Vice President for Student Affairs – Dr. Gui Albieri (Office of Student Affairs).

D. Incidents that occur on campus should be reported to University Police. University Police will provide assistance with reporting to local law enforcement when an incident occurs off campus. University Police will coordinate with the New York City Police Department for investigation of all reported on-campus incidents of sexual violence.

- University Police Desk at the 42nd St. Lobby (Lieutenant/Police Officer): ext. 5566
- New York City Police Department, Special Victims Division: (646) 610 7272
- New York State Police dedicated hotline for reporting sexual assaults on college and university campuses: 1-844-845-7269

E. To file a report of sexual assault, domestic violence, dating violence and/or stalking, talk to the Title IX Coordinator for information and assistance. Reports will be investigated in accordance with 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 call the Title IX Coordinator anonymously to discuss the situation and available options

- Ms. Guerda Fils – Deputy Title IX Coordinator, Office of Human Resources, Rm. 933, ext. 5883, GFils@sunyopt.edu

II. Reporting for Employees:

Reporting individuals, who are employees and where the accused is a member of the College Community, may file a report with the Office of Human Resources & Title IX Coordinator or University Police. Disciplinary proceedings for accused employees will be conducted in accordance with applicable collective bargaining agreement.

University Police can explain the criminal justice process to all reporting individuals and also assist employees with reporting off campus incidents to local law enforcement. University Police will provide information regarding filing legal proceedings through the court system.

At a minimum, at the first instance of disclosure by a reporting individual to a College representative, the College will ensure that the following information is presented to the reporting individual: "You have the right to make a report to University Police, New York City Police Department, and/or State Police or chose not to report; to report the incident to the

College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College.”

III. Resources:

- Members of the college community should visit [SUNY SAVR RESOURCES](#) to obtain access to available on/off campus resources
- To obtain effective intervention services, students may obtain referral to counseling services through the office of student affairs.
- Off campus counseling services may be obtained from local resources, such as: Safe Horizon: (212) 227 3000 {[SafeHorizon Website Resources](#)}
- Employees may access referrals to counseling services through NYS Employee Assistance Program (EAP) at <http://www.worklife.ny.gov/eap/> or 1-800-822-0244
- Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Information about testing for STIs and emergency contraception is available by visiting: <http://www.nyc.gov/html/doh/html/living/std-clinics.shtml>
- Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a designated Center of Excellence 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 these 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 for health care and counseling services, including emergency funds. 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>.
- 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 forensic physical exam has been completed.
- NYC Alliance Against Sexual Assault: [Hospitals in NYC with SAFE Centers of Excellence](#)

IV. Protection and Accommodations:

- The victim has a right to have the College issue a “No Contact Order.” This means that continuing to contact the protected individual is a violation of College policy and subject to additional charges for violation of code of conduct; 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 without directly contacting the protected person. Both the accused/respondent and reporting individual may request for a prompt review of the need for and/or the terms of a

No Contact Order consistent with College policy. Parties may submit evidence in support of their request.

- The victim has a right to have assistance from University Police or other College officials in obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.
- The victim has a right to receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a University Police official who can explain the order and answer any questions about it, including information on the Order about the responsibility of the accused to stay away from the protected person(s). That burden DOES NOT rest with the protected person(s).
- The victim has a right to an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges and interim suspension.
- The victim has a right to have assistance from University Police 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 University Police or, if outside of the jurisdiction 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, the victim has a right to have the accused subject to interim suspension pending the outcome of a conduct process.
- When the accused is not a member of the College community, the victim has a right to have assistance from University Police or other College officials in obtaining a Persona non Grata (PNG) letter, subject to legal requirements and College policy.
- The victim has a right to obtain reasonable and available interim measures and accommodations that effect a change in academic, employment or other applicable arrangements in order to ensure safety, prevent retaliation and avoid an ongoing hostile environment. While victims/survivors may request accommodations through any of the offices referenced in this policy, the following office can serve as a point of contact to assist with these measures:
 - University Police – Assistant Chief Dapo Adurogbola , Rm 3M12, ext. 5578
 - Human Resources – Ms. Guerda Fils, Assistant Vice President of Human Resources FOR HR, Rm. 933, ext. 5883
 - Student Affairs – Dr. Gui Albieri, Vice President, Rm. 1127, ext. 5506

V. When the accused is a Student: Disciplinary Process: Office of Student Affairs – 11th Floor

- To file student conduct charges against the accused. Conduct proceedings are governed by the procedures set forth in the College's Student Handbook Formal Complaint Procedure ([online Student Handbook](#)) as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.
- Throughout conduct proceedings, the accused and the victim/survivor will have:
 - The same opportunity to have access to an advisor of their choice. 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 and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, 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 and is not conducted by individuals with a conflict of interest.
 - The right to receive written or electronic notice of any meeting or hearing they are required to or are eligible to attend.
 - 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 review available evidence in the case file.
 - 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 or past mental health history from admittance in college disciplinary stage that determines responsibility. Past sexual violence findings 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 to 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 sanction(s).
 - The right to know the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding and the reason for the actual sanction imposed. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
 - The right to choose whether to disclose or discuss the outcome of a conduct hearing.

VI. When the accused is an Employee: Formal Complaint- Office of Human Resources – 9th Floor

When the accused is an employee of the College, a victim/survivor may also report the incident to the Office of Human Resources or he or she may request assistance from the Office of Social Work, University Police or the Office of Student Affairs to report to 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 victim/survivor, assist in reporting the incident to the appropriate office of the vendor or affiliated entity. If the response of the vendor or affiliated entity is not sufficient, College officials will assist in obtaining a Persona non Grata (PNG) letter, subject to legal requirements and College policy.

- Human Resources Office:
Deputy Title IX Coordinator - Ms. Guerda Fils, Rm. 933 or Ext. 5883

Definition of terms used:

- **Accused, or accused individual:** shall mean a person accused of a violation who has not yet entered the College's judicial or conduct process.
- **Advisor:** any individual who provides the accused or victim/survivor with support, guidance and/or advice.
- **Bystander:** shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of an institution.
- **Bystander intervention:** a bystander's safe and positive actions to prevent harm or intervene when there is a risk posed to another person. Bystander intervention includes recognizing situations of potential harm, identifying safe and effective intervention options, and taking action to intervene.
- **Code:** As used here, this refers to the College's Student Code of Conduct for which changes are subject to the approval of the College Council.
- **Dating violence:** violent act committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim/survivor. The existence of the relationship is determined by the victim's statement and investigation into a number of factors such as the length of the relationship, the type of the relationship, and frequency of the relationship.
- **Domestic violence:** any misdemeanor or felony crime committed by the current or former spouse of intimate partner. It can also involve a person sharing a child with the victim/survivor and a person cohabitating with or has cohabitated with the victim/survivor as a spouse or intimate partner.
- **Order of Protection:** an official order issued by the court to limit the behavior of someone who harms or threatens to harm another person. In most cases in NYS, the order is issued by a criminal court or family court to address situations involving domestic violence.
- **Preponderance of the Evidence:** the standard of proof in sexual harassment and sexual assault cases, which asks whether it is "more likely than not" that the sexual harassment or sexual violence occurred. If the evidence presented meets this standard, then the accused should be found responsible.
- **Privileged or Confidential Resources:** Individuals that, with very few exceptions, are confidential resources to those wishing to disclose sexual violence. Such resources include licensed medical professionals, licensed mental health counselors, and clergy.
- **Protected person/individual:** a person protected by an Order of Protection, which is issued by the court to limit the behavior of someone who harms or threatens to harm another person.
- **Reporting Individual:** shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by the College to reference an individual who brings forth a report of a violation.

- **Respondent:** shall mean a person accused of a violation who has entered the College’s judicial or conduct process
- **Responsible employee:** an employee with the authority to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or other appropriate College designee; or whom a student could reasonably believe has this authority or duty. If a responsible employee is aware of sexual violence, then the college is considered on notice of that sexual violence.
- **Retaliation:** adverse action against another person for reporting a violation or for participating in any way in the investigation or conduct process. Retaliation includes harassment and intimidation, including but not limited to violence, threats of violence, property destruction, adverse educational or employment consequences, and bullying.
- **Sex discrimination:** includes all forms of sexual harassment, sexual assault, and other sexual violence by employees, students, or third parties against employees, students, or third parties. Students, employees, and third parties are prohibited from harassing others whether or not the harassment occurs on the College campus or whether it occurs during work hours. Sex discrimination can be carried out by other students, college employees, or third parties. All acts of sex discrimination, including sexual harassment and sexual violence, are prohibited by Title IX.
- **Sexual Activity:** shall have the same meaning as “sexual act” and “sexual contact” as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3).
- **Sexual assault:** a physical sexual act or acts committed against another person without consent. Sexual assault is an extreme form of sexual harassment. Sexual assault includes what is commonly known as “rape” (including what is commonly called “date rape” and “acquaintance rape”), fondling, statutory rape and incest. For statutory rape, the age of consent in New York State is 17 years old.
- **Sexual harassment:** unwelcome, gender-based verbal, non-verbal, or physical conduct that is sexual in nature and sufficiently severe, persistent, or pervasive that it unreasonably interferes with, denies, or limits someone’s ability to participate in or benefit from the College’s educational program and/or activities, and is based on power differentials, the creation of a hostile environment, or retaliation.
- **Sexual violence:** physical sexual acts perpetrated against a person’s will or perpetrated where a person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.
- **Title IX Coordinator:** is a designated college official responsible for tracking sex discrimination complaints and spotting patterns. The Coordinator needs to know that the victim/survivor was provided with all the necessary and required information about resources, remedies, and accommodations, and will assist in filing complaints, reaching out to law enforcement, and organizing accommodations.
- **Victim/survivor:** a person who suffers personal, physical, or psychological injury. The policies use “victim/survivor,” and College officials will ask each individual disclosing or reporting sexual violence how that person wants to be identified--whether as victim, survivor, witness, or another term.

Definition of Affirmative Consent:

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 Clarification of Consent:

- 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.