



# 2023 ANNUAL SECURITY AND FIRE SAFETY REPORT



## Siena College 2023 Annual Security and Fire Safety Report Statistics from Calendar Years: 2020, 2021, 2022

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## INTRODUCTION

In concert with our Catholic and Franciscan Mission, Siena College strives to create an environment that is respectful of all and conducive to learning and living. Crimes and acts of violence are not tolerated.

In 1990, Congress enacted the *Crime Awareness and Campus Security Act* (Title II of Public Law 101-542), which amended the *Higher Education Act of 1965* (HEA). This act required all postsecondary institutions participating in Title IV student financial aid programs to disclose campus crime statistics and security information. The act has been amended multiple times. The 1998 amendments renamed the law the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* (commonly referred to as “the Clery Act”) in memory of Jeanne Clery who was slain in her dorm room in 1986. The reauthorization of the Violence Against Women Act (VAWA), signed by President Obama in March 2013, which includes the Campus Sexual Violence Elimination Act (Campus SaVE) amended the Clery Act. All incidents of domestic violence, dating violence and stalking must now be reported in addition to reporting incidents of sexual assault.

In compliance with this legislation, Siena College publishes an Annual Security and Fire Safety Report to provide prospective and current students and employees with crime and fire statistics; safety and security related policies and procedures; training and educational programs available; and other available resources in one location.

Siena College Department of Public Safety is responsible for preparing and distributing this report. We work with many other departments on campus and law enforcement agencies to compile the information and crime statistics.

We encourage members of the Siena community to use this report as a guide for safe practices on and off campus. Each member of the Siena community receives an e-mail with the report attached as a .pdf with a description of the report and provides its web address. The printed report is available upon request or may be printed in .pdf format from attachment or from the Department of Public Safety website. The Clery Crime statistics may be viewed directly at

<https://www.siena.edu/offices/public-safety/campus-crime-statistics/>. For more information, contact the Department of Public Safety at 518- 783-2376 or e-mail [rmatos@siena.edu](mailto:rmatos@siena.edu).

## THE DEPARTMENT OF PUBLIC SAFETY

### Mission Statement

The Department of Public Safety at Siena College promotes and maintains a safe campus environment conducive to living, learning, working, and visiting. This is accomplished through the delivery of a variety of programs and services in keeping with Siena’s Franciscan and Catholic values.

### Campus Law Enforcement Authority

Siena College is committed to providing a safe and secure environment for all students, employees, and guests. Siena has policies and procedures that are designed to prevent incidents that may interfere with the normal operations of the College. Prevention of crime on campus is of critical importance to all members of the Siena community and their families.

The Department of Public Safety, which is located in the East wing of Hines Hall, provides a wide range of services designed to meet the needs of the College community. Siena Public Safety is composed of the Assistant Vice President of Student Life/Director of Public Safety, an Associate Director of Public Safety, two Assistant Directors, an office staff, dispatchers, and 18 full-time public safety officers, as well as part-time officers. These men and women are New York State licensed security guards who are certified by the State of New York and are trained in New York State Penal Law and Criminal Procedure Law. Siena College Public Safety officers’ jurisdiction is limited to properties owned or controlled by Siena College. The Security personnel of Siena College are not sworn police officers or peace officers and do not have the powers of arrest under those guidelines. Siena College Public Safety personnel have the same arrest authority granted any citizen of New York State under Article 140 of the New York State Criminal Procedure Law.

In addition, the officers receive training in

emergency procedures, first aid, and CPR/AED. Public Safety conducts proactive patrols of the campus 24 hours a day, seven days a week. Additionally, the Assistant Director of Safety conducts random safety inspections of campus buildings. Public Safety is charged by the College with enforcing policies and regulations and cooperating with State and Municipal authorities.

### **Relationships with Local Law Enforcement**

The Siena College Department of Public Safety works closely with the Colonie Police Department and other Town emergency services. A written Memorandum of Understanding (MOU) is in place between the College and the Colonie police department. This MOU pertains to the investigation of criminal incidents. As part of the MOU, the College reports all violent felonies and missing person reports which occur on campus to the Colonie Police Department. Frequent meetings or telephone conversations between the Colonie Police Department leadership and the Siena College Department of Public Safety Directors allow for exchanges of routine information on a timely basis. The College relies on this relationship for support on several levels: emergencies, criminal investigations, arrests and special events. In cases where additional security is warranted, the College may request additional support from the Town.

Emergency support is requested through the Town of Colonie emergency dispatch center. This arrangement gives the College immediate access to mutual aid and support from Police, Fire and EMS. Public Safety officers are expected to render all possible assistance, provided that such assistance can be given without significantly endangering the lives of officers or others not involved in the crime. All victims are offered an opportunity to report crime to the Colonie Police Department.

### **Addressing Criminal Activity Off-Campus**

All students are subject to and are expected to familiarize themselves with the Siena College Code of Conduct. In addition, any violations of federal, state or local law as determined by the College shall be considered a violation of the Siena College Code

of Conduct. When alleged violations of College regulations or local laws take place off campus and come to the College's attention, the College reserves the right to take appropriate action when, in the judgment of College officials, the alleged conduct has a negative impact on the College community or the pursuit of its mission or the broader community in which we live. The Vice President for Student Life or designee may initiate College disciplinary proceedings, whether or not criminal charges have been filed.

In the event a student also faces criminal charges for any conduct on or off campus, the College reserves the right to bring charges against a student for any violation(s) of the Code of Conduct prior to, concurrent with or following criminal charges being filed in a court of law for the same act(s). All College rules and regulations apply to students and their conduct, behavior and activity, both on and off College premises and at College-sponsored events and activities, regardless of where they are being held.

Student members of the Siena community are expected to act with respect for the safety, personal rights and property of individual groups outside the College as well as to respect the proper authority of local, state and federal officials. The College reserves the right to take disciplinary action against students or student organizations responsible for organizing non-College-sponsored events (dances, theme parties, etc.) that result in underage drinking, misconduct or criminal activity. Hosting a non-College sponsored event at a third-party vendor shall not exonerate the student or student organization from responsibility.

## **REPORTING A CRIME**

### **General Information**

Community members, students, faculty, staff, and guests are strongly encouraged to accurately and promptly report all crimes and public safety related incidents to the Siena College Department of Public Safety. In addition, they are also encouraged to accurately and promptly report all crimes to the appropriate law enforcement agencies. Reporting crimes to the Department of Public Safety and local

law enforcement agencies is encouraged when the victim of such crime elects to, or is unable to, make such a report.

The Department of Public Safety, along with the College, will make every effort to safeguard any personally identifiable information. However, the College may be required to share information, but will only do so when it is necessary or as required by law; therefore, we cannot guarantee confidentiality and/or anonymity in all cases, but will take extra measures to protect privacy. A report allows the college to investigate the incident, conduct any follow-up actions, and help reduce risk and improve your safety as well as the safety of others. With this information, Siena can also keep an accurate record of the number of incidents, determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crime statistics for the College.

### **To report a crime or an emergency on the campus of Siena College:**

**To report an emergency**, call Public Safety at extension 911 from any Siena phone. From outside the Siena phone system, call 518-783-2999.

**To report a non-emergency security or public safety related matter**, call Public Safety at extension 2376 from any Siena phone or, from outside the Siena phone system, 518-783-2376.

In response to a reported crime or emergency, dispatchers are available at these respective telephone numbers 24 hours/day to answer your call. In response to a call, Siena Public Safety will take the required action, dispatching an officer or asking the victim or witness to come to Public Safety to file an incident report. If assistance is required from the Town of Colonie Police Department or Colonie Fire/EMS, Public Safety will contact the appropriate unit. Incidents may also be reported directly to the Colonie Police by calling 518-783-2811 for non-emergency calls. Call 911 from any non-campus phone line for emergencies. Please note, direct 911 calls to Colonie Police from on-campus will generally result in the Police Department calling Public Safety to meet them and guide them onto

campus to the correct location.

Any community member may also report a crime by using any of the emergency call boxes located in strategic areas around campus. The emergency call box locations are identifiable by blue lights displayed above the boxes.

Crimes may also be reported anonymously to Public Safety. Use the anonymous tip page on the Public Safety website or go directly to <https://www.siena.edu/offices/public-safety/anonymous-complaint-tip/>

Crimes may also be reported confidentially as outlined in the following section (See Voluntary Confidential Reporting, page 4).

Any suspicious activity or person seen in the parking lots or loitering around vehicles, inside buildings or around Residential Halls should be reported to Public Safety.

**Any person receiving information about a crime or incident must promptly report the information to Public Safety. Public Safety will review the incident information to determine whether the incident must be included in the annual security and fire report.**

When a crime is reported, the victim will be provided information about reporting options including their right to notify police, their right to have a staff member assist them with notifying the police if they so desire, and their right to not inform the police. Public Safety incident reports and any related investigatory reports will be forwarded to the appropriate College officials.

Information about on-campus and off-campus resources is provided later in this report. The information is made available to provide Siena community members with specific contact information in the event that they become the victim of a crime. Even though victims may reach out to various resources, individuals should still report crimes to the Department of Public Safety to ensure inclusion in the annual crime statistics and to aid in providing timely warning notices (see page 5) to the community, when appropriate.

## Campus Security Authorities

The Clery Act identifies Campus Security Authorities (CSAs) as an official of the institution who has significant responsibility for student and campus activities. This individual has the authority and the duty to take action or respond to particular issues on behalf of the institution. Examples of individuals who meet the criteria of a CSA include but are not limited to Dean of Students, Director of Athletics, team coaches and faculty advisors to a student group/organization.

CSAs are required to report crime statistics. Under Clery, a crime is “reported” when it is brought to the attention of a campus security authority or local law enforcement personnel by a victim, witness, other third party or even the offender. It doesn’t matter whether or not the individuals involved in the crime, or reporting the crime, are associated with the institution. CSAs are responsible for reporting allegations of Clery Act crimes that are reported to them in their capacity as a CSA. This means that CSAs are not responsible for investigating or reporting incidents that they overhear students talking about in a hallway conversation, that a classmate or student mentions in an in-class discussion, that a victim mentions during a speech, workshop or any other form of group presentation; or that a CSA otherwise learns about in an indirect manner.

CSAs must report Clery Act crimes as soon as possible to Public Safety (even if they’ve informed others) and tell Public Safety what happened, when it happened, and where it happened. Reporting may be done by calling Public Safety at extension 2376 or by calling 518-783-2376 from any phone outside the Siena phone system or in person at the Public Safety office located in the East wing of Hines Hall.

When a crime is reported or shared with a CSA, Clery requires that the CSA always let the person know not only do they have the right to report the incident to the police, but that, if they so desire, the College will provide a staff person to assist them. Also that a person who talks to a CSA may not want to talk to police – and doesn’t have to.

At Siena, there are two categories of staff who are not CSAs. They are defined and explained below:

1. Pastoral counselors: A person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling and is functioning within the scope of that recognition as a pastoral counselor. At Siena this would be the Office of the College Chaplain and the Franciscan Friars.
2. Professional Counselors: A person whose official responsibilities include providing mental health counseling to members of the institution’s community and who is functioning within the scope of his or her license or certification. This definition applies even to professional counselors who are not employees of the institution but are under contract to provide counseling at the institution. At Siena this would be the Counseling Center.

Siena College Health Services medical providers, including the Director (who is a practicing Nurse Practitioner), are not considered CSAs by the College. These medical providers are encouraged to report crimes with non-identifying information to Public Safety for the purposes of anonymous statistical reporting under the Clery Act.

**Campus Security Authorities are required to complete training annually.**

## Voluntary Confidential Reporting

If you are the victim of a crime, we strongly encourage you to make a report even if you do not want to pursue action within the Siena College Student Conduct System or the Criminal Justice System. The Department of Public Safety, along with the College, will make every effort to safeguard the privacy of a report. However, the College may be required to share information, but will only do so when it is completely necessary; therefore, we cannot guarantee total privacy and your anonymity, but will take extra measures to protect them. A report allows the Department of Public Safety and other responding College officials to protect your safety as well as the safety of others. With such information, Siena College can keep an accurate record of the number of incidents, determine where there is a pattern of crime with regard to a particular

location, method, or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crimes statistics for the College.

Confidentiality and Confidential Resources:

Confidentiality may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to College officials in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092 (F) and 20 U.S.C. 1681 (A). Licensed mental health counselors, medical providers, and pastoral counselors are examples of College employees who may offer confidentiality.

Confidential Resources are encouraged to submit non-identifying information about violations of this policy to Public Safety for the purposes of anonymous statistical reporting under the Clery Act.

Any member of the College community who is not prepared to make a report or who may be unsure how to label the incident that occurred, but still seeks information and support, is encouraged to contact a Confidential Resource.

At Siena College, the following is the list of Confidential Resources:

Counseling Center: 518-783-2342  
Health Services: 518-783-2554  
Office of the College Chaplain and Siena College Friars: 518-783-2332

These are the only Siena College employees who can offer legally protected confidentiality. These individuals are not required to report any information about an incident to the Title IX Coordinator/EOS without a Complainant's permission. While professional counselors will maintain an individual's confidentiality vis-à-vis the College, they may have reporting or other obligations under New York State law, e.g., mandatory reporting to law enforcement in case of minors, imminent harm to self, or others.

An individual who speaks to a professional and/or pastoral counselor in these specific roles must understand that, if the individual wants to maintain confidentiality, the College will be unable to conduct

an investigation into particular incidents or pursue disciplinary action against the alleged Respondent.

Confidential resources may assist individuals in receiving other necessary protection and support, such as survivor advocacy, academic support or accommodations, disability, health and mental health services, changes in residence halls, working and course schedules in coordination with the Dean of Students Office.

Individuals who initially request confidentiality may later decide to file a complaint with the College and/or report the incident to Colonie or State Police, and thus have the incident investigated. These counselors will provide the individual with assistance in contacting the Title IX Coordinator/EOS if the individual wishes to do so.

Privacy/Non-Confidential:

Privacy may be offered by an individual when such individual is unable to offer confidentiality under the law, but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate College officials.

Even 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 for the Title IX Coordinator/EOS to investigate and/or seek a resolution.

## **TIMELY WARNINGS**

In the event a Clery crime is reported as having occurred within the College's Clery Geography (**see page 9**) that, in the judgment of the Director of Public Safety or his/her designee in his/her absence (who may consult with the Vice President for Student Life and/or Title IX Coordinator), is considered to represent a serious or continuing threat to students and employees, a campus-wide "timely warning" will be issued. The decision to issue a Timely Warning is made on a case-by-case basis considering the nature of the crime and the continuing danger to the campus community. The warning will be provided to students and employees

in a manner that is timely, and that will aid in the prevention of similar occurrences. Timely Warnings will include information about the crime that triggered the Timely Warning but will not include personally identifiable information about the victim of the crime. Timely Warnings are generally written and distributed by the Director of Public Safety (or designee) and are sent via email to students and the Siena Alert System, faculty, staff and administrators. When circumstances leading to the issuance of a Timely Warning are determined to present an elevated serious or continuous threat to the community, a copy of the notice may also be posted on campus buildings.

Timely Warnings are typically issued for the following Uniform Crime Reporting Program (UCR)/National Incident Based Reporting System (NIBRS) crime classifications:

- Murder/Non-Negligent Manslaughter
- Aggravated Assault (cases involving assaults among known parties, such as two roommates fighting, which results in an aggravated injury, will be evaluated on a case-by-case basis to determine if the alleged perpetrator or perpetrators is or are believed to be an ongoing threat to the larger Siena community)
- Robbery involving force or violence (cases including pick-pocketing and purse snatching will typically not result in the issuance of a Timely Warning Notice, but will be assessed on a case-by-case basis)
- Rape, Fondling, Statutory Rape, Incest, Stalking, Dating Violence and Domestic Violence (considered on a case-by-case basis depending on the facts of the case, when and where the incident occurred, when it was reported, and the amount of information known by the Director of Public Safety or designee). In cases involving these crimes, they are often reported long after the incident occurred, thus there is no ability to distribute a “timely” warning notice to the community. All of these crimes, including stranger and non-stranger/acquaintance cases, will be assessed for potential issuance of a

Timely Warning.

- Major incidents of Arson
- Other Clery crimes as determined necessary by the Director of Public Safety, or his or her designee in his or her absence, where they are considered to represent a serious or continuing threat to students and employees.

Anyone with information warranting a Timely Warning should report the circumstance to the Department of Public Safety by phone at (518) 783-2376, (518) 783-2999 or in person at the dispatch center within Public Safety, Hines Hall east wing.

The Director of Public Safety or his/her designee may issue a “Public Safety Advisory” where the precipitating incident(s) is/are not Clery Crimes and/or do not rise to the level of a “Timely Warning.” These Public Safety Advisories may be issued to inform the campus community for their personal safety of ongoing non-Clery crimes or suspicious activity on campus or crimes that do not fall within Siena’s Clery Geography. These “Advisories” may be disseminated to the campus community via email, postings on campus buildings, and/or methods as determined by the Director or designee.

## CAMPUS SECURITY AND ACCESS

Access to campus buildings and grounds is a privilege extended to students, faculty, staff, and authorized visitors. The Public Safety Department operates the Welcome Booth, located at the main entrance to the College off Route 9. The Welcome Booth provides a centralized entrance and visitor reception point ~~check-in~~. The Welcome Booth is ordinarily staffed by Public safety personnel on a 24/7 basis. Campus gates close nightly at 9:00 p.m. The only exceptions are the gates off Fiddlers Lane (Middlefield and St. Francis), which must close at 6:00 p.m. on Friday and remain closed until Monday morning because of town agreements. On Thursday, Friday and Saturday nights from 9:00 p.m. to 4:00 a.m. Public Safety personnel require persons entering at the Welcome Booth to verify their status as a community member or registered guest. Welcome Booth and gate hours are subject to change based on events and programs

on campus. Whenever possible, the Public Safety Department will notify the community of substantial changes in normal operations.

All campus facilities are proactively patrolled by Public Safety and the office is staffed at all times. Campus administrative buildings are open during college business hours and generally locked in the evenings, weekends, and during holiday breaks. Access to campus administrative buildings is authorized to users by an issued key or through the card access system. Some administrative buildings have intrusion alarms that sound in Public Safety and most classrooms have interior door locks. A number of cameras are also positioned throughout the campus and are recorded. The College has also placed Emergency Call Boxes around the campus and they are a direct communications link to the Public Safety Dispatcher at all hours.

Siena residence halls are locked 24 hours a day with access allowed to students and authorized faculty and staff by automated card readers. Students are responsible for upholding the integrity of the residence hall security system by not giving their identification cards to others, using only authorized exit doors, and not allowing unauthorized individuals into the buildings. Each residence room within the dorms is equipped with a key lock and the doors have peepholes. The Townhouse Complex, which houses upper class students, consists of individual housing units that have keyed entrance doors and window locks. If keys are lost, Public Safety should be contacted immediately. Lock changes will be done by Facilities Management and all room or house members are issued new keys.

In each residence hall, a Residence Director, Community Assistants (upper class students residing on each floor), and Friars in Residence are available to assist students. Residence Directors have the overall administrative responsibility for the buildings and their residents. Community Assistants live in the residence halls and are trained by the Community Living staff. They are a direct and ongoing source of information concerning campus procedures and practices. Community Assistants have the authority to enforce campus policies. Throughout the year, Community Living staff conduct programs relating to personal safety. Many are conducted in conjunction with the Department of Public Safety. Students are

also emailed a copy of the College's Emergency Response Guide which provides key telephone numbers and other valuable information in case of an emergency on campus. A hard copy of the guide is also provided in each room and townhouse. Students are an integral part of the security of their residence units and the campus as a whole. They are reminded frequently through Public Safety and Community Living programs and emails to report suspicious activity to Public Safety and to keep doors locked.

In compliance with Article 129-a of the New York State Education Law, Siena College has an Advisory Committee on Campus Safety. Siena College's Public Safety Advisory Committee is comprised of policy level personnel, including faculty, professional staff and students. Chaired by the Assistant Vice President for Student Life/Director of Public Safety, the committee meets at least twice a semester to review the College's sexual assault policies, emergency response procedures, recommend safety improvements to the campus and educational programs which may assist the campus community. The committee also reviews sexual violence policies (sexual assault, domestic violence, dating violence and stalking), procedures and education programs. Members of the committee and representatives from various departments may also conduct an annual survey to ensure campus lighting is adequate and that the landscape is appropriately controlled.

Department of Public Safety members conduct routine checks of lighting on campus during regularly assigned patrol duties. If lights are out or dim, officers will initiate an immediate work order, which is acted upon by a representative of the appropriate maintenance office. Community members are encouraged to report any deficiency in lighting or any concern about physical security to the Public Safety Department at (518) 783-2376.

## **PREPARING AND REPORTING ANNUAL DISCLOSURE OF CRIME STATISTICS**

The Department of Public Safety prepares this report to comply with the Jeanne Cleary Disclosure of Campus Security Policy and Crime Statistics Act. This report is based on all the College's reported crime

and fire statistics. The “Annual Report” is available on the Department’s web site <https://www.siena.edu/offices/public-safety/> and the Clery Crime statistics may be found there as well as on the U.S. Department of Education’s website. The printed report is also available upon request or may be printed in .pdf format from the website. Campus crime, arrest, referral, and fire statistics include those reported to the Department of Public Safety, designated Campus Security Authorities and the local law enforcement agencies.

The Counseling Center staff informs their clients of the procedures to report a crime to the Department of Public Safety on a voluntary or confidential basis, should they feel it is in the best interest of the client. A procedure is in place to anonymously capture crime statistics disclosed confidentially during such a session. Those staff members designated by the College to receive confidential reports are encouraged to report the crime statistic without personally identifiable information.

Each year, an e-mail notification is made to all enrolled students, faculty and staff that provides the website to access this report. In addition, a copy of the report in .pdf format is attached to the email. A postcard containing the information on how and where to obtain a copy of the report and also go directly to the Crime Statistics are given to our contracted bookstore and food service as well as ROTC students from other colleges that belong to the ROTC Battalion housed at Siena.

The email notice to students also includes the “Kerry Rose Sprinkler Notification Act” notification to all students on the college’s Fire Safety and Sprinkler Systems. Copies of the report may also be obtained at the Department of Public Safety located in Hines Hall, East wing or by calling (518) 783-2376.

All prospective employees may obtain a copy from Human Resources in Siena Hall by calling (518) 783-2420 or by accessing their website at <https://www.siena.edu/employment-opportunities/>.

All prospective students may obtain a copy of the report by contacting the Office of Admissions at 1-888-AT-SIENA or by accessing the Life as a Saint link from their website at <https://www.siena.edu/life-as-a-saint/>

### ***How do we compile these statistics?***

The Department of Public Safety collects the crime statistics annually through a number of methods. Public Safety officers enter all reports of crime incidents made directly to the department through Report Exec CAD/RMS integrated record management system. After an officer enters the report in Report Exec, a department administrator reviews the report to ensure it is appropriately classified in the correct crime category. A department administrator also reviews all daily reports filed by the Community Living and Student Life staff via their on-line reporting Maxient software to gather any statistics for crimes reported via this system and to ensure accurate information is reflected on the Daily Crime and Fire Log. The Department of Public Safety also solicits crime statistics from local law enforcement agencies and those are included if provided. The Department of Public Safety, in coordination with the Student Life Compliance Officer, solicits information from all CSAs to see if they have any crimes to report that they hadn’t previously reported. The Department of Public Safety also meets with the College Title IX Officer and the Dean of Students to make sure all crimes and referrals have been reported for the calendar year. The department periodically examines the data to ensure that all reported crimes are recorded in accordance with the crime definitions outlined in the *FBI Uniform Crime Reporting Handbook* and the *FBI National Incident-Based Reporting System Handbook*.

### **Daily Crime and Fire Log**

Siena College maintains a “Daily Crime and Fire Log” which is prepared based on the previous day’s incident reports. The Daily Crime and Fire Log includes the nature of the crime, the date the crime was reported, the date and time the crime occurred, the general location of the crime and the disposition of the complaint, if known. The purpose of this log is to record criminal incidents, alleged criminal incidents and Clery category fires that are reported to Public Safety. The “Daily Crime and Fire Log” for the most recent 60 days is available for public inspection in the Public Safety Office during regular business hours. Daily Crime and Fire Logs older than 60 days are available for inspection within two business days of a request. The most recent seven

days of the “Daily Crime and Fire Log” is posted on the Public Safety web site  
<https://www.siena.edu/crime-report/>

### **Definition of Geography**

Under the Clery Act campuses are required to report campus crime statistics for certain offenses, hate crimes, arrests and disciplinary referrals to the campus conduct process for incidents occurring within specific locations as defined by the Clery Act (known as Clery Geography). In all cases this data must be broken down according to the Clery Geography of the occurrence of the offense.

#### **Clery Geography Used Under the Clery Act On Campus**

Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and

Any building or property that is within or reasonably contiguous to paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

#### **On Campus—in Residential Halls**

“Dormitories or other residential facilities for students on campus” are a subset of the on-campus category. Institutions must disclose the total number of on-campus crimes, including those in dorms or other residential facilities for students on campus, and must also make a separate disclosure limited to the number of crimes occurring in student dorms or residential facilities on campus. As a subset, the number of crimes reported for dormitories or other residential facilities must be less than or equal to the number of reported crimes for the on-campus category.

#### **Non-campus Building or Property**

Any building or property owned or controlled by a student organization that is officially recognized by the institution; or

Any building or property owned or controlled by an

institution that is used in direct support of, or in relation to, the institution’s educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

#### **On Public Property**

All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

#### **Clery Geography for Siena College:**

Using the Clery Geography as defined above, Siena College reports the Clery Crime Statistics for the following locations:

- 504 Loudon Road – Siena Trustco Center
- 515 Loudon Road – Siena Main Campus
- 1 Fiddlers Lane – Thomas More House
- 5 Fiddlers Lane
- 33 Fiddlers Lane
- 1 Middlefield Road

Siena also has 16 non-campus locations where scheduled events are or have been held throughout the year:

- Desmond Hotel, 6 Albany Shaker Road Albany, NY 12211
- MVP Arena (formerly known as the Times Union Center in 2019, 2020,) 51 S. Pearl Street, Albany, NY 12207
- Hilton Albany, 40 Lodge Street, Albany, NY 12207
- Hilton Garden Inn, 62 New Scotland Avenue, Albany, NY 12208
- Hotel Indigo, 254 Wolf Road, Latham, NY 12110
- Albany County Hockey Facility, 830 Albany Shaker Road, Latham, NY 12110
- Dutch Manor Stables, 2331 Western Avenue, Guilderland, NY 12084
- Tri City Fitness Center Inc., 944 New Loudon Road, Latham, NY 12210 (2016-18)
- Afrims, 636 Albany Shaker Road, Colonie, NY 12211 (2107-2018)
- North Colonie Baseball Field, 1155 New Loudon Road, Cohoes, NY 12047 (2017-18)
- North Colonie Soccer Complex, 539 Boght Road, Cohoes, NY 12047 (2017-18)
- Hayner’s Sports Barn, 130 Rt. 236, Clifton Park, NY 12065 (2017-18)

- South Troy, NY Baseball Fields, 85 Thompson St. Troy, NY (2018)
- Clifton Commons Baseball Complex, 85 Thompson Street, Troy, NY 12180 (2018)
- Devilcats Stadium, 91 Williams Road. Troy, NY 12180
- College Suites at Hudson Valley, 100 Morrison Avenue, Troy, NY 12180

Siena College does not have any non-campus student organizations that must be monitored for any criminal activity.

## The Crimes: Definition of Categories

### Definitions of Clery Act Criminal Offenses

The following criminal offenses (as defined under the FBI's Uniform Crime Reporting Handbook) are reportable offenses under the Clery Act.

#### **Criminal Homicide**

- **Murder and non-negligent manslaughter.** The willful (non-negligent) killing of one human being by another.
- **Negligent manslaughter.** The killing of another person through gross negligence.

#### **Sexual Assault\***

An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, a sex offense is: any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent.

- **Rape.** 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.
- **Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- **Incest.** Sexual intercourse between persons who are related to each other within the

degrees wherein marriage is prohibited by law.

- **Statutory rape.** Sexual intercourse with a person who is under the statutory age of consent.

If force was used or threatened, or the victim was incapable of giving consent because of his/her age or temporary or permanent mental impairment, the offense is Rape, not Statutory Rape.

#### **Robbery**

The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

#### **Aggravated Assault**

An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by a means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used that could and probably would result in serious personal injury if the crime were successfully completed.)

#### **Burglary**

The unlawful entry of a structure to commit a felony or a theft. For reporting purposes, this definition includes: unlawful entry with intent to commit a larceny or a felony, breaking and entering with intent to commit a larceny, housebreaking, safecracking, and all attempts to commit any of the aforementioned acts.

#### **Motor Vehicle Theft**

The theft or attempted theft of a motor vehicle. (Motor vehicle theft is classified as any case where an automobile is taken by a person not having lawful access, even if the vehicle is later abandoned, including joy riding.)

#### **Arson**

Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

#### **Dating Violence\***

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

- i. The existence of such a relationship shall be 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.
- ii. For the purposes of this definition—
  - A) Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - B) Dating violence does not include acts covered under the definition of domestic violence.
  - iii. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

#### **Domestic Violence\***

- i. A felony or misdemeanor crime of violence committed—
  - A) By a current or former spouse or intimate partner of the victim;
  - B) By a person with whom the victim shares a child in common;
  - C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
  - E) By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- ii. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

#### **Stalking\***

- i. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

A) Fear for the person's safety or the safety of others; or

B) Suffer substantial emotional distress.

- ii. For the purposes of this definition—

A) Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- iii. For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

#### **Clery Act Hate Crimes**

A Hate Crime is a criminal offense committed against a person or property which is motivated, in whole or in part, by the offender's bias. Bias is a preformed negative opinion or attitude towards a group of persons based on their actual or perceived race, gender, religion, ethnicity/national origin, sexual orientation, gender identity, age or disability.

For Clery purposes, Hate Crimes include the following offenses when motivated by bias: Murder and Non-negligent Manslaughter, Rape, Statutory Rape, Fondling, Incest, Stalking, Domestic Violence, Dating Violence, Robbery, Aggravated Assault, Burglary, Motor Vehicle Theft, Arson, Larceny-Theft, Simple Assault, Intimidation, and Destruction/Damage/Vandalism of Property.

#### **Clery Act Hate Crime Definitions**

In addition to the Clery crimes defined above, the following offenses are only included in Clery statistics if they are hate crimes.

#### **Larceny-Theft**

Larceny-Theft is the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.

(Larceny and theft mean the same thing in the FBI's UCR.) Constructive possession is the condition in which a person does not have physical custody or possession, but is in a position to exercise dominion or control over a thing.

***Simple Assault***

Simple Assault is an unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

***Intimidation***

Intimidation is to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

***Destruction/Damage/Vandalism of Property***

Destruction/Damage/Vandalism of Property is to willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

***Other offenses***

• **Liquor law violations.** The violation of laws or ordinances prohibiting: the manufacture, sale,

transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned activities. (Drunkenness and driving under the influence are not included in this definition.)

• **Drug abuse violations.** Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

• **Weapon law violations.** The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: the manufacture, sale, or possession of deadly weapons; the carrying of deadly weapons, concealed or openly; the furnishing of deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned acts.

\*Siena College prohibits the crimes of domestic violence, dating violence, sexual assault and stalking as defined by the Clery Act.

## Siena College Clery Crime Statistics

OFFENSE (Reported by Hierarchy)	On-Campus			In Residence Halls			Non-Campus			Public Property			Unfounded Crimes		
	2020	2021	2022	2020	2021	2022	2020	2021	2022	2020	2021	2022	2020	2021	2022
Murder/Non-Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Rape	5	8	5	5	8	4	0	0	0	0	0	0	0	0	0
Fondling	6	5	8	6	3	8	0	2	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0
Burglary	1	1	1	1	1	1	1	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	1	2	0	0	0	0	1	0	0	0	0	0	0	0
Liquor Law Arrests	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Drug Law Arrests	2	0	0	1	0	0	0	0	0	0	0	0	0	0	0
Weapons Law Arrests	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Liquor Law Violations - Disciplinary Referrals	121	306	405	117	304	372	0	0	0	0	0	0	0	0	0
Drug Law Violations - Disciplinary Referrals	23	43	39	20	31	37	0	0	0	0	0	0	0	0	0
Weapons Law Violations - Disciplinary Referrals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OFFENSE (Not Reported by Hierarchy)	On-Campus			In Residence Halls			Non-Campus			Public Property			Unfounded Crimes		
	2020	2021	2022	2020	2021	2022	2020	2021	2022	2020	2021	2022	2020	2021	2022
Arson	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Domestic Violence	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Dating Violence	3	2	2	3	2	0	0	0	1	0	0	0	0	0	0
Stalking	4	2	2	0	1	0	0	0	0	0	0	0	0	0	0

- Residence halls crime statistics are a subset of the On Campus category, i.e. they are counted in both categories.

As required under the Clery Act the following report indicates the number of reported occurrences of the listed offense that manifest evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For the purposes of the Clery Act, the categories of bias that may serve as the basis for a determination that a crime is a hate crime would include the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability. For all offenses reported below, the category of bias will be noted in the table footnotes.

Hate Crime Statistics	
2020	None
2021	None
2022	None

## CRIME PREVENTION EDUCATION AND AWARENESS

**Preventing crime through collaboration and cooperation:** Crime prevention and education is a top priority of the Department of Public Safety. Together with other campus offices, the Department provides programs to enhance personal safety and teaches proactive crime-reduction strategies. The campus's crime-prevention strategy rests on a multilayered foundation of a proactive area patrol of the campus, crime prevention education and training, and building and area surveillance and security surveys. This approach relies on the dual concepts of eliminating or minimizing criminal opportunity whenever possible, and encouraging community members to take responsibility for their own and others' safety. Members of the Department are available to assist any individual or group in planning, presenting, and coordinating programs of interest or concern. Siena College provides an average of ten crime prevention and security awareness programs each academic year. Some of the programs and crime prevention efforts are listed below.

### **Community Liaison Program**

The Community Liaison Program assigns Public Safety Officers to each residential facility on campus. The member serves as the primary liaison for public safety services to that residential facility. These activities include holding special topic and general crime prevention seminars as requested, attending hall meetings, conducting building surveys, distributing literature, solving problems, and developing substantive relationships with members

of the community. Some of the programs offered through the Liaison Program are Operation ID, Operation Lock-It-Up, Alcohol Awareness and Crime Prevention for Personal safety.

### **Operation Identification**

This nationally organized program encourages engraving personal identification numbers on valuable property. Thieves tend to shy away from property with engraved numbers due to the difficulty of selling it on the open market. If an item is stolen and later recovered, the identification number will assist law enforcement agents in returning it to its rightful owner.

### **Crime prevention promotions, flyers, and other advertisements**

The Department provides crime prevention brochures that outline many crime prevention programs and strategies available in the community. In addition, the Department periodically chooses a special topic to highlight in flyers and on the Department website.

### **Public Safety Transport Program**

Siena College Department of Public Safety offers transport services around campus for those students who are disabled, injured or otherwise physically unable to get around campus.

### **Safe Escort Program**

We encourage all members of the campus community to use common sense and practice good personal safety techniques at all times. Students and employees alike are encouraged to walk in pairs and groups especially during the hours of darkness. If someone needs to walk alone and wants an escort,

they can call Public Safety at 518-783-2376. Once available, an officer will accompany the individual to their residence hall or other buildings on campus.

### ***Siena's Bike Patrol***

Siena College's Public Safety bike patrol provides more effective access to residential and academic areas of the campus and gives the community greater access to the officers.

## **NOTIFICATION OF MISSING STUDENTS**

If a member of the Siena College community has reason to believe that a student who resides in on-campus housing is missing, he or she should **immediately** notify Public Safety at 518-783-2999. Siena College Public Safety will generate a report and initiate an investigation.

All students are requested to submit emergency contact information and update it annually. In addition to registering a general emergency contact, students residing in on-campus housing have the option to identify confidentially an individual to be contacted by Siena College in the event the student is determined to be missing for more than 24 hours. After a student has been determined to be missing, the College is required to notify, within 24 hours, the following: the student's missing person contact(s), if provided by the student; the local law enforcement agency, and, if the student is under 18 years of age and not emancipated, a custodial parent or guardian (in addition to notifying any additional contact person or persons designated by the student).

Students are reminded at least two times per year when they log into "Banner Self Service" about the missing person student contact option as well as to review and update their emergency contacts. In addition, reminder emails are sent to all residential students to update their missing student and emergency contact information. If a student has identified such an individual, Siena will notify that individual no later than 24 hours after the student is determined to be missing. A student who wishes to identify a confidential missing person contact can do so through Banner Self Service. All students upon accessing their student account will be prompted to submit an emergency contact and residential students may add a specific missing person contact

only to be contacted in the event of a missing person's report. If no missing person contact is provided, the general emergency contact is the default. A student's missing person contact information will be accessible only by authorized campus officials and law enforcement in the course of an investigation.

## **RESPONSE TO SEXUAL MISCONDUCT**

### **Introduction**

Sexual violence is an issue of significant concern on American college campuses, including Siena College. In keeping with our Franciscan and Catholic Tradition and our core values of respect for the dignity of each individual and care for our community, Siena College is dedicated to providing first-rate information and resources to educate our students, staff and the public about violence prevention and awareness of sexual assault, dating violence, domestic violence and stalking. Detailed information is available at <https://www.siena.edu/offices/title-ix-eeo/sexual-misconduct-title-ix/>

### **Policy Statement**

Siena College prohibits the crimes of sexual assault, domestic violence, dating violence and stalking as defined by the Clery Act. The full policy and detailed procedures for responding to a report are provided in the Sexual Misconduct Policy. The Sexual Misconduct Policy is the Siena College Policy Statement in compliance with the Clery Act. Included in the Sexual Misconduct Policy are:

- The full policy statement prohibiting sexual assault, dating violence, domestic violence and stalking.
- The procedures a victim should follow after an incident including:
  - The importance of preserving evidence and how to do so
  - To whom the alleged offense should be reported
  - Confidential reporting options as well as private, non-confidential reporting options
  - Options for notifying law enforcement and campus authorities; the College will provide assistance in notifying law enforcement if the victim chooses; and

- the right of the victim to decline to notify law enforcement
- Information about how the College will protect the confidentiality of the victim
- Notice regarding non-retaliation
- Information about existing counseling, health, mental health victim advocacy, legal assistance and other services available within the community and on campus
- Notice about options for and available

- assistance in changing academic, living, transportation and working situations
- The definition of consent
- Procedures to follow when the Respondent is Faculty/Staff/Administrator
- Procedures to follow when the Respondent is a Student
- Possible sanctions or protective measures that Siena College may impose following a final determination of an institutional disciplinary procedure

## **SIENA COLLEGE SEXUAL MISCONDUCT RESPONSE GUIDE AND INFORMATION**

**Know your options:** Siena College will seek to maintain your privacy at all times to ensure both individual and community safety. Students who experience an incident of sexual misconduct should consider the following immediate action. An initial choice to use one of these avenues does not preclude a later or simultaneous decision to use one or more of the others. Siena College Public Safety officers can also assist the victim/survivor with filing a complaint both on and off campus, and in obtaining immediate medical attention, counseling and other services

### Emergency Assistance Contact Information

<b>Emergency Response</b>	<b>Health and Safety</b>	<b>Counseling</b>
<b>911 – Colonie Police Dept.</b>	Albany Memorial Hospital <b>518-471-3111</b>	Counseling Center ( <b>confidential</b> ) <b>518-783-2342</b>
Siena College Public Safety <b>518-783-2999</b>	Siena College Health Services ( <b>confidential</b> ) <b>518-783-2554</b>	Office of the College Chaplain and Siena College Friars ( <b>confidential</b> ) <b>518-783-2332</b>
New York State Police-dedicated 24 hour hotline <b>1-844-845-7269</b>		Albany County Crime Victim & Sexual Violence Center Crisis hotline ( <b>confidential</b> ) <b>518-447-7716</b>

### Seek Medical Assistance

Seek medical attention as soon as possible.

1. To treat the full extent of any injury or physical trauma.
2. To consider possibilities of STI/STD and risk of pregnancy.
3. To preserve evidence in case you decide to prosecute.

**IMPORTANT:** If you bathe, douche, brush your teeth, drink or change your clothing, you may destroy evidence. If you think you may want to press charges, try to preserve evidence. If called, an advocate from the Albany County Crime Victim & Sexual Violence Center will meet you at the hospital to assist you through the process and provide support. You may also have a friend and/or RD accompany you.

### Confidential vs. Private Reporting

**Confidentiality** may be offered by an individual who is not required by law to report known incidents of sexual

assault or other crimes to college officials in a manner consistent with state and federal law. Licensed mental health counselors, medical providers and pastoral counselors are examples of college employees who may offer confidentiality. Siena College has designated the Counseling Center, Health Services and the Office of the College Chaplain (and Friars) as confidential resources.

All other college offices and employees cannot provide confidentiality but will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator and/or Public Safety to ensure victim/survivors safety, awareness of resources, and reporting options.

### **Important Considerations**

#### ***Reporting Options***

If you believe that you are the victim of sexual misconduct, you have the right to choose one or more of the following actions:

- Pursue criminal charges through local and/or state law enforcement
- Provide information regarding the incident to the Title IX Coordinator or other appropriate, trained college official and pursue a student conduct case through the Sexual Misconduct Procedures
- Provide information regarding the incident to the Title IX Coordinator or other appropriate, trained college official but decide not to pursue further action at this time
- Utilize a confidential resource
- Decline action
- Delay action until accompanied by an advisor of choice

#### ***Law Enforcement***

We encourage you to report incidents of sexual violence, dating violence, domestic violence, or stalking to the local and/or state police, as well as to college personnel. If you choose, you may also contact the Crime Victims Services Unit of the Albany County District Attorney's office about the process for filing criminal complaints. If you wish, a Siena College staff person will accompany you and assist you in filing a report with the police. You may choose to pursue disciplinary action through the College while criminal action is pending.

#### ***Duty to Report by Responsible Employees***

"Responsible Employees" have a duty to report

incidents of sexual misconduct, including all relevant details, to the Title IX Coordinator and/or Public Safety. Such employees are not permitted under any circumstances to maintain a complainant's confidentiality. Siena has designated all Faculty, Staff and Administrators, with the exception of those designated as a confidential resource, as responsible employees. Immediately upon learning of potential campus sexual misconduct, any employee with a duty to report violations of this policy who receives a complaint of sexual misconduct or who observes or learns of conduct that is reasonably believed to be in violation of this policy, is required to report the alleged conduct to the Title IX Coordinator and/or Public Safety who will take appropriate action to address the report.

#### ***Anonymous Reporting***

Anonymously disclose a crime or violation to the Public Safety anonymous tip line <https://community.siena.edu/offices/public-safety/anonymous-complaint-tip/>. The College may have a duty to investigate anonymous disclosures to the extent possible, based on the information disclosed.

#### ***Prohibition of Retaliation***

Individuals may file a complaint with the Title IX Coordinator if they have been retaliated against for reporting sexual misconduct, assisting someone in making such a report or participating in any manner or refusing to participate in any manner in an investigation or resolution of a sexual misconduct complaint. All retaliation complaints will be investigated in accordance with the investigation procedures set forth in this policy and individuals who have been found to have engaged in retaliation

will be subject to disciplinary action.

### ***Welfare of the Community (Amnesty) Policy***

The health and safety of every student at Siena College is of utmost importance. Siena College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, 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. Siena College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to College 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 college officials or law enforcement will not be subject to Siena's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault. This policy may also be applied, but not limited to: alcohol or drug related incidents, cases of sexual misconduct or situations of vandalism and damage. The policy only applies to the College's Student Code of Conduct and has no status in other jurisdictions such as local or state courts.

### ***Supportive Measures***

If Prohibited Conduct is reported to College authorities, College personnel will work with the reported complainant to determine whether Supportive Measures such as alternative academic, transportation, working and/or living situations and no-contact orders are reasonably available and necessary in their particular case. Supportive measures are nondisciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant or a Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter Prohibited Conduct

### ***Off-Campus Resources***

Siena College partners with many community organizations.

Upon receipt of a report of domestic violence locally you can contact:

- Albany County Crime Victim and Sexual Violence Center—  
[www.albanycounty.com/cvsvc/](http://www.albanycounty.com/cvsvc/)
  - Crisis Hotline—518-447-7716
  - Main Number- 518-447-5500
- Equinox Inc. Domestic Violence Services—  
[www.equinoxinc.com](http://www.equinoxinc.com)
  - Crisis Hotline—518-432-7865
  - Main Number—518-434-6135
- Unity House Domestic Violence Services—  
[www.unityhousesny.org](http://www.unityhousesny.org)
  - Crisis Hotline—518-272-2370
  - Main Number—518-272-5917
- In Our Own Voices- LGBT Domestic Violence Services—
  - 518-432-4341
- The Legal Project (free/low cost legal services)—[www.legalproject.org](http://www.legalproject.org)
  - 518-435-1770
- Albany County District Attorney (Includes Crime Victim Services Unit)
  - 518-487-5460

You can call any of these numbers – day or night. The hotline operators can answer your specific questions and direct you to further resources.

### ***National Resources:***

- Sexual Assault Hotline  
1-800-656-HOPE
- Domestic Violence Hotline  
1-800-799-SAFE
- GLBTQ - Domestic Violence Project  
1-800-832-1901

### ***NYS Domestic and Sexual Violence Hotline Numbers:***

- English: 1-800-942-6906
- TTY: 1-800-818-0656
- Spanish: 1-800-942-6908
- TTY: 1-800-780-7660

### ***Preserving Evidence***

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation,

possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If a victim chooses not to make a complaint regarding an incident, he or she nevertheless should consider speaking with Public Safety or Colonie Police to preserve evidence in the event that the victim decides to report the incident to law enforcement or the College at a later date to assist in proving that the alleged criminal offense occurred or in obtaining a protection order.

### ***Involvement of Law Enforcement and Campus Authorities***

Although the College strongly encourages all members of its community to report violations of the sexual misconduct policy to law enforcement (including Public Safety and/or local police), it is the victim's choice whether or not to make such a report.

Furthermore, victims have the right to decline to notify law enforcement. However, the College Title IX Coordinator/Deputies and/or Public Safety Officers will assist any victim with notifying law enforcement if the victim so desires. The Colonie Police Department may also be reached directly by calling 518-783-2744 or in person at 213 Wolf Road, Latham, NY. Additional information about the Colonie Police Department may be found online at: <http://www.colonie.org/departments/police/>. Reporting persons may also reach the NY State Police at their 24 hour hotline which is, 1 – (844) 845-7269.

### ***Reporting Incidents of Domestic Violence, Dating Violence, Sexual Assault and Stalking***

If you have been the victim of domestic violence, dating violence, sexual assault, or stalking, you should report the incident promptly to the College Title IX Coordinator, Lois Goland, by calling 518-782-6673, in writing or in person and/or to Public Safety (if the victim so desires). Reports of all domestic violence, dating violence, sexual assault and stalking made to Public Safety will automatically be referred to the Title IX Coordinator for investigation regardless of if the complainant chooses to pursue criminal charges.

### ***Rights of Victims and The College's Responsibilities Regarding Orders of Protection, No Contact Orders,***

### ***Restraining Orders, or Similar Orders Issued by a Criminal, Civil or Tribal Court***

If a member of the Siena College Community is in possession of an Order of Protection, they are encouraged to file an informational report with Public Safety. If they do so, Public Safety will keep a copy of the order on file and assist in responding in the event of any violation of the order.

### ***What is the difference between a Family Court, Criminal Court, and Supreme Court order of protection?***

A **Family Court Order of Protection** is issued as part of a civil proceeding. Its purpose is to stop violence within a family, or within an intimate relationship, and provide protection for those individuals affected. **All Family Court proceedings are confidential.**

To obtain an order of protection in the Family Court, your relationship to the other person must fall into one of the following categories:

- Current or former spouse
- Someone with whom you have a child in common
- A family member to whom you are related by blood or marriage
- Someone with whom you have or have had an "intimate relationship." An intimate relationship does not have to be a sexual relationship. A relationship may be considered intimate depending on factors such as how often you see each other, or how long you have known each other. After a petition is filed, the court will decide if it is an intimate relationship.

To start a proceeding in Family Court, you need to file a form called a Family Offense Petition. The person filing the petition is called the "*petitioner*," and the person the petition is filed against is called the "*respondent*." You can contact the Family Court in your county for help completing and filing the petition. You may also wish to speak with an attorney or domestic violence advocate before filing. For further information you may visit the Family Court Website at <http://www.nycourts.gov/courts>.

A **Criminal Court Order of Protection** is issued as a condition of a defendant's release and/or bail in a criminal case. A criminal court order of protection

may only be issued against a person who has been charged with a crime.

Criminal cases are prosecuted for the State of New York by the district attorney. Although the district attorney may start a criminal case before a person is arrested, a criminal case usually begins with a person's arrest. The person charged with abuse is called a "*defendant*." The victim of abuse is called the "*complaining witness*." There does not need to be a relationship between the complaining witness and the defendant.

In a criminal case, the district attorney requests an order of protection for the victim or complaining witness. The judge decides whether to issue the order of protection and what terms and conditions will be included in the order.

A **Supreme Court Order of Protection** can be issued as part of an ongoing divorce proceeding. If you have an ongoing divorce case and would like to request an order of protection, you may do so by making a written request by Motion or Order to Show Cause; or you may make an oral request at a court appearance. If you are represented by an attorney, your attorney may make the written or oral request for you. The judge decides whether to issue the order of protection and what terms and conditions will be included in the order.

***What can I do if someone violates an order of protection?***

It is a crime to violate a temporary or final order of protection. If the subject of the order of protection does not obey the order, then he/she is in violation. If you are on campus, call Public Safety at (518) 783-2376 to immediately report the incident. If you are off campus, call the police (911). The police will probably arrest the individual for violating the order of protection. The individual does not have to hit or harm you to violate the order. If the order states the individual cannot come to your home or place of employment and he/she does, then the order has been violated and you need to contact Public Safety or the police. You also have the right to file a violation of the order in Family Court. Filing a violation in Family Court usually will not result in arrest of the individual who has violated the order. You can choose to go to Family or Criminal Court, or both.

Public Safety can facilitate filing a report with the appropriate authorities. In addition, Siena College can restrict or limit access to campus for individuals who violate an order and then if a party violates the restriction, initiate an arrest for trespass.

**Disclosure to Alleged Victims of Violent Crimes and Non-Forcible Sex Offenses**

Siena College will, upon written request, disclose to the alleged victim of a crime of violence, or non-forcible sex offense, the result of any disciplinary action conducted by the College against the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of the crime or offense, Siena College will provide the results of the disciplinary action to the victim's next of kin, if so requested.

Cases reviewed under the Sexual Misconduct Policy will, as part of written procedures, notify in writing the complainant and respondent (accused individual) of the outcome of the investigation and hearing, if applicable.

## Sexual Misconduct and Interpersonal Violence Policy

### I. Statement of Basis and Purpose

Siena College is committed to promoting a learning and working environment where sexual misconduct (such as sexual harassment and sexual assault), interpersonal violence (such as dating violence, domestic violence and stalking) and other Prohibited Conduct as defined below, is not tolerated. This policy prohibits Prohibited Conduct in all College programs and activities and other circumstances described below. Conduct prohibited by this policy also may violate laws enforced through the public criminal justice system. Individuals may decide to utilize both this policy and the public criminal justice system simultaneously, or to utilize either this policy or the criminal justice system, to address covered conduct. Siena College proceedings that involve alleged violations of this policy will be conducted through a process that is prompt, equitable, fair, impartial, and provides adequate notice and a meaningful opportunity to be heard, as outlined below and in accordance with applicable law.

This policy applies to conduct involving students, employees, or third parties (e.g., contractors, alumni, visitors) that: (a) occurs on College property, (b) takes place in any College-sponsored program or activity such as travel, research, or internship programs or (c) when such conduct may have a continuing adverse effect or could create a hostile environment on campus. This policy also applies to student conduct that occurs off College property.

Our commitment is rooted in the Franciscan and Catholic tradition, which affirms the unique worth of each person and shares a commitment to building a world that is more just, peaceable, and humane. The dignity of the individual should never be violated in any way, and the College community views, with seriousness, violations of this policy against any person.

This policy shall apply regardless of race, color, religion, creed, ethnicity, national origin, gender, age, sexual orientation, gender identity or expression, familial status, veteran status, disability, predisposing genetic characteristics, domestic violence victim status, or other characteristics as protected and defined by federal or state law. Acts of discrimination and harassment, which are offenses directed against persons because of their identification with one of these categories, are prohibited under Siena College's Policy Prohibiting Discrimination and Harassment. Where conduct is covered by both this Sexual Misconduct Policy and the Policy Prohibiting Discrimination and Harassment, the College will use the procedures set forth in this policy to resolve the allegation(s).

Accordingly, Siena College is committed to:

- Defining conduct that constitutes Prohibited Conduct.
- Providing clear reporting options for all members of our campus community and visitors.
- Promptly responding to and investigating allegations of Prohibited Conduct, including taking steps to eliminate a hostile environment if one has been created, prevent the recurrence of future incidents of Prohibited Conduct, and to restore or preserve a Complainant's equal access to the College's education programs or activities. The College's response may include pursuing disciplinary action when appropriate, referring the incident to local authorities when appropriate, and taking action to investigate and address any substantiated reports of retaliation.
- Providing ongoing assistance and support to members of our campus community who file complaints of Prohibited Conduct.
- Providing awareness and prevention information on Prohibited Conduct, including disseminating our policies, implementing training and educational programs for all College constituents.

## II. Title IX and the Title IX Coordinator/EOS (Equal Opportunity Specialist) Responsibilities

- A. Siena College has designated and authorized its Title IX Coordinator/Equal Opportunity Specialist (EOS) as the College employee who has primary responsibility for coordinating the College's efforts to comply with and carry out its responsibilities under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., and related regulations issued by the U.S. Department of Education in May 2020, 34 C.F.R., Part 106 ("May 2020 Title IX regulations") to implement Title IX, which prohibit sex discrimination in all of the College's programs and activities, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX or the May 2020 Title IX regulations.
- B. The Title IX Coordinator/EOS oversees the College's response to reports and complaints that involve possible Prohibited Conduct, to monitor outcomes, identify and address any patterns, and assess effects on the campus climate, so the College can address issues that affect the wider College community.
- C. An individual should contact the Title IX Coordinator/EOS in order to:
- Seek information or training about rights and courses of action available to resolve reports or complaints that involve potential violations of this policy.
  - Make a report that involves potential violations of this policy.
  - Get information about available resources (including confidential resources) and support services relating to Prohibited Conduct.
  - Ask questions about the College's policies and procedures regarding Prohibited Conduct.
- D. The Title IX Coordinator/EOS at Siena College is:

Lois Goland, JD  
Sarazen Student Union Room 235  
Siena College 515  
Loudon Road  
Loudonville, NY 12211-1462  
518-782-6673  
lgoland@siena.edu

- E. The following individuals serve as Deputy Title IX/EOS Coordinators, Title IX/EOS Investigators or Title IX/EOS Advisors and Educators:

1. Deputy Title IX/EOS Coordinators and Associates:

John Bebb, Senior Deputy Title IX Coordinator Senior  
Associate Dean of Students  
Student Specialist for Compliance/Education and Investigations Sarazen  
Student Union Room 302  
518-783-2328  
[jbebb@siena.edu](mailto:jbebb@siena.edu)

Jeanne Obermayer, Deputy for Students Student Life Compliance Officer  
Assists with Education and Investigations  
Sarazen Student Union Room 302  
518-783-2421

[obermayer@siena.edu](mailto:obermayer@siena.edu)

Danielle Joyce, Title IX Associate Assists with  
Education and Investigations Sarazen  
Student Union Room 235  
518-782-8924  
[djoyce@siena.edu](mailto:djoyce@siena.edu)

2. Assists with Education and Investigations:  
Robin MacHattie  
Assistant Professor  
Assists with Education and may serve as an Advisor  
Rosetti Hall Room 304  
518-783-4123  
[rmachattie@siena.edu](mailto:rmachattie@siena.edu)

Melody Nadeau, Ph.D.,  
Assistant Director of International Programs/ESOL Assists  
with Education and may serve as an Advisor Foy Hall Room  
301  
518-786-5047  
[mnadeau@siena.edu](mailto:mnadeau@siena.edu)

3. Title IX/EOS Investigators  
  
Michael Hicks, Associate Director of Public Safety Hines  
Hall, East Wing, First Floor  
518-783-2376  
[mhicks@siena.edu](mailto:mhicks@siena.edu)

Patrick Donnelly, Assistant Director of Public  
Safety Hines Hall, East Wing, First Floor  
518-783-2376  
[pdonnelly@siena.edu](mailto:pdonnelly@siena.edu)

### **III. Terminology**

#### **A. 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.

Consent will be determined with the following principles in mind:

- 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.
- Consent is required regardless of whether the person initiating the act is under the

influence of drugs and/or alcohol.

- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated (see definition below).
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

B. Definition of Incapacitation:

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.

For purposes of determining whether a Respondent is responsible for a violation of this policy due to their engaging in sexual activity without consent with a person who was incapacitated, the College will assess whether a Respondent knew or a reasonable, sober person in the Respondent's circumstances should have known, that the other individual was incapacitated. A person's responsibility for obtaining consent is not diminished by their use of alcohol and or other drugs. Being intoxicated or impaired by drugs or alcohol is never an excuse for Prohibited Conduct.

C. Definition of Sexual Activity:

"Sexual Activity" shall have the same meaning as "sexual act" and "sexual contact" as defined below:

1. contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;
2. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
3. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person; or
4. the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person.

"Sexual contact" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person.

"Sexual activity" also includes sexual acts and sexual contact as described in the definitions of Title IX Sexual Harassment and Non-Title IX Sexual Misconduct below.

D. Definition of Complainant and Survivor:

"Complainant" shall mean a student or employee who has reported sexual misconduct. Depending on the context, Complainants may also be referred to in the abstract as "survivors" or "victims" throughout this policy (that is context-dependent and is not intended to suggest that the College has pre-judged the outcome of any individual case). In some instances, the College may proceed with an investigation and resolution process without a named Complainant (see Section X).

E. Definitions of Accused and Respondent:

1. "Accused" shall mean a person accused of a violation under this policy who has not yet entered the College's conduct process. A person accused under this policy who is not a student or employee of Siena or whose identity is unknown shall also be referred to as

accused.

2. "Respondent" shall mean a person accused of a violation who has entered the College's conduct process.

F. Definition of Reporting Individual:

"Reporting Individual" shall encompass the terms victim, survivor, Complainant, witness with victim status, and any other term used to reference an individual who brings forth a report of a violation or is reported by another person to have been subjected to Prohibited Conduct.

G. Definition of Witness:

A "witness" is defined as an individual who has knowledge of facts that may be relevant to the resolution of an allegation.

H. Definition of Bystander:

A "bystander" shall mean a person (who may also be a "witness") who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of the College.

I. Definition of Appeal Panel:

The appeal panel consists of faculty, staff, and administrators selected from the Siena College community, and/or external individuals retained by the College to serve as appeal panel members. The appeal panel makes determinations regarding appeals, as outlined below. Appeal panel members are trained annually regarding the College's Sexual Misconduct and Interpersonal Violence policy and procedures, case review, and adjudication. An appeal panel member will not participate in a panel meeting if there is a conflict of interest.

#### **IV. Definitions and Behavioral Examples of Prohibited Conduct (Title IX Sexual Harassment and Non-Title IX Misconduct)**

This policy prohibits the following forms of misconduct, collectively referred to throughout the policy as "Prohibited Conduct". Due to certain requirements in the May 2020 Title IX regulations and the College's desire to define and address Prohibited Conduct consistently with its institutional values and practices, the definitions of Prohibited Conduct set forth below are grouped into two general categories, as follows:

**Title IX Sexual Harassment** (i.e., Quid Pro Quo Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual Assault, and Domestic Violence, Dating Violence and sex-based Stalking that fall within the scope of Title IX); and

**Non-Title IX Misconduct** (i.e., Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking that fall outside the scope of Title IX, Sexual Exploitation, Sexual Coercion, and Retaliation, as defined below).

Specifically, Title IX Sexual Harassment and Non-Title IX Misconduct are defined as follows for purposes of this Policy:

##### **Title IX Sexual Harassment**

"Title IX Sexual Harassment" is a subset of Prohibited Conduct. Under the May 2020 Title IX regulations, the College is required to prohibit certain forms of sexual harassment as defined in those regulations. Title IX Sexual Harassment is Prohibited Conduct of the following types committed by or against students and/or employees in an education program or activity of the College, in the United States. Further, in order for the College to consider a Formal Complaint of such misconduct as falling within its Title IX Sexual Harassment policy and procedures, the Complainant must be participating in or attempting to participate in a College program or activity at the time the complaint is filed.

Conduct takes place within the College’s “programs and activities” when that conduct occurs: (1) in a location, at an event, or in a circumstance where the College exercises substantial control over both the Respondent and the context in which the conduct occurs; or (2) in any building owned or controlled by a student organization recognized by the College. Conduct that occurs off campus in locations or at events with no connection to the College is unlikely to have occurred in a program or activity of the College.

A complaint about conduct that does not meet this strict definition for Title IX Sexual Harassment is still prohibited by this policy if it otherwise constitutes Prohibited Conduct within the definition of Non-Title IX Misconduct as defined below.

The following Prohibited Conduct definitions apply for purposes of the definition of Title IX Sexual Harassment:

#### **Title IX Quid Pro Quo Sexual Harassment**

Quid pro quo sexual harassment for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of the College in the United States by which an employee of the College conditions the provision of an aid, benefit, or service of the College on a student’s or employee’s participation in unwelcome sexual conduct.

#### **Title IX Severe, Pervasive and Objectively Offensive Sexual Harassment**

Severe, pervasive and objectively offensive sexual harassment for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of the College in the United States that constitutes unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a student or employee equal access to the College education program or activity.

#### **Title IX Sexual Assault**

**As required by the May 2020 Title IX regulations, the College’s definition of Title IX Sexual Assault incorporates the definitions of the FBI’s Uniform Crime Reporting (NIBRS) program, and is defined as follows:**

- **Rape:**<sup>1</sup>
  - The carnal knowledge of a person (i.e., penile-vaginal penetration), without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (it should be noted that any individual, regardless of gender identity, could be Complainants under this definition);
  - Oral or anal sexual intercourse (i.e., penile penetration) with another person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - To use an object or instrument (e.g., an inanimate object or body part other than a penis) to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their

temporary or permanent mental or physical incapacity (for purposes of this definition, “private body parts” includes breasts, buttocks, or genitals, whether clothed or unclothed);

- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

<sup>1</sup> Both completed rape and attempted rape are prohibited by this policy.

Sexual assault can be committed by any person against any other person, regardless of gender, gender identity, sexual orientation, or past or current relationship status. Sexual assault may occur with or without physical resistance or violence.

Any incident falling within this definition is a violation of College policy and is prohibited.

### **Title IX Dating Violence**

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Title IX Dating Violence for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of the College in the United States that constitutes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. 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.

For the purposes of this definition—

- (A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse
- (B) Dating violence does not include acts covered under the definition of domestic violence.

Any incident falling within this definition is a violation of College policy and is prohibited.

### **Title IX Domestic Violence**

Title IX Domestic Violence for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of the College in the United States that constitutes a felony or misdemeanor crime of violence committed—

- (A) By a current or former spouse or intimate partner of the victim;
- (B) By a person with whom the victim shares a child in common;
- (C) By a person who is cohabiting with, or has cohabited with, the victim as a spouse or intimate partner;
- (D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- (E) By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Any incident falling within this definition is a violation of College policy and is prohibited.

## **Title IX Stalking**

Title IX stalking for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of the College in the United States that constitutes engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) Fear for the person’s safety or the safety of others; or

(B) Suffer substantial emotional distress.

(ii) For purposes of this definition—

(A) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.

(B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Examples of stalking behaviors or activities include, but are not limited to the following, if they occur in the context of stalking as defined above (i.e., the behaviors or activities would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress): (1) non- consensual communication, including face-to-face communication, telephone calls, voice messages, e- mails, text messages, written letters, gifts, or any other communications that are unwelcome; (2) use of online, electronic or digital technologies, such as posting pictures or text in chat rooms or on websites, sending unwanted or unsolicited e-mail or talk requests, posting private or public messages on Internet sites, social networks, and/or school bulletin boards, installing spyware on a person’s computer, or using Global Positioning Systems (GPS) or similar technology to monitor a person; (3) pursuing, following, waiting for, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person; (4) surveillance or other types of observation, including staring and voyeurism;(5) trespassing; (6) vandalism; (7) non-consensual touching; (8) direct verbal or physical threats against a person or a person’s family member, pet or personal property; (9) gathering information about a person from friends, family, or co-workers; (10) accessing private information through unauthorized means; (11) threats to harm self or others; (12) defamation and/or lying to others about the person; and (13) using a third party or parties to accomplish any of the above.

Behaviors or activities that fall within this definition are violations of College policy and are prohibited.

## **Non-Title IX Misconduct**

Non-Title IX Misconduct is Prohibited Conduct that falls within the scope of this policy and the definitions below but that does not fall within the definition of Title IX Sexual Harassment, either due to the nature of the conduct or because it did not reportedly occur within a program or activity of the College in the United States. Behavior that falls within the definition of Non-Title IX Misconduct violates College policy and is prohibited. Such conduct is defined for purposes of this policy as:

## **Non-Title IX Sexual Harassment**

Non-Title IX Sexual Harassment is any unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and or other verbal, nonverbal, or physical conduct of a sexual nature, that does not fall within the definition of Title IX Sexual Harassment stated above. Non- Title IX Sexual Harassment occurs when any of the following conditions are present:

- Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition

of an individual's employment, evaluation of academic work, or participation in any aspect of a college program or activity; or,

- Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, e.g. it is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both the subjective perspective of the person who experiences such conduct and objective standard of a reasonable person's perception of such conduct. A single isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to establish the existence of a hostile environment, particularly if the harassment is physical. Conduct which is pervasive or persistent, even if not severe, may also create a hostile environment. Sexual harassment may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender, sex or gender, and/or sex or gender stereotyping, even if those acts do not involve conduct of a sexual nature (NY State law has eliminated the "severe and pervasive" standard, requiring only that an employee show that alleged harassment or retaliation rises above the level of "petty slights and trivial inconveniences").

#### 1. Sexual harassment:

- May be blatant and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated;
- May or may not include intent to harm, be directed at a specific target, or involve repeated incidents;
- May be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships, harassment can occur in any context;
- May be committed by a stranger, an acquaintance, or someone with whom the Complainant has an intimate or sexual relationship;
- May be committed by or against an individual or group;
- May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation;
- May occur in the classroom, in the workplace, in athletic facilities, in residential settings, or in any other setting;
- May be a one-time event or part of a pattern of behavior;
- May be committed in the presence of others, when the parties are alone, or through the use of technology; and/or
- May affect the Complainant and/or third parties who witness or observe harassment and are affected by it.

Examples of conduct that may constitute sexual harassment as defined above may include a severe, persistent, or

pervasive pattern of unwelcome conduct that includes one or more of the following:

- a. Physical conduct that does not meet the Title IX Sexual Harassment definition and that involves:
  - Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements; and/or
  - Unwanted sexual advances.
- b. Verbal conduct:
  - Making or using derogatory comments, epithets, slurs, or humor;
  - Intentionally using incorrect pronouns or an incorrect name when a person has clearly stated their preferred name and pronouns;
  - Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes, or invitations; and/or
  - Objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes.
- c. Visual conduct:
  - Leering, making sexual gestures, displaying of suggestive or demeaning objects or pictures, cartoon or posters in a public space or forum;
  - Severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading images. This example should not be understood to constrain academic freedom in teaching, research, or creative activity, or to limit intellectual and or expressive rights; and/or
  - Letters, notes, or electronic communications containing comments, words, or images described above.
- d. Quid pro quo conduct that does not meet the definition of Title IX Sexual Harassment stated above:
  - Direct propositions of a sexual nature between those for whom a power imbalance, supervisory, or other authority relationship exists;
  - Offering educational or employment benefits in exchange for sexual favors;
  - Making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose; and/or
  - Making or threatening reprisals after a negative response to sexual advances.

#### **Non-Title IX Sexual Assault**

Sexual Assault (i.e., rape, fondling, incest or statutory rape) as defined in the Title IX Sexual Assault definition above that did not reportedly occur in a program or activity of the College in the United States, and attempts to commit such misconduct.

### **Non-Title IX Domestic Violence**

Domestic violence as defined in the Title IX Domestic Violence definition above that did not reportedly occur in a program or activity of the College in the United States.

### **Non-Title IX Dating Violence**

Dating violence as defined in the Title IX Dating Violence definition above that did not reportedly occur in a program or activity of the College in the United States.

### **Non-Title IX Stalking**

Stalking as defined in the Title IX Stalking definition above that did not reportedly occur in a program or activity of the College in the United States, or that otherwise fits within the definition of stalking but does not fall within the Title IX Stalking definition because the reported conduct is not directed at the Complainant on the basis of sex.

### **Non-Title IX Sexual Exploitation**

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute another form of sexual misconduct. Examples of sexual exploitation include, but are not limited to, prostitution, non-consensual video or audio-taping of sexual or other private activity, exceeding the boundaries of consent (e.g., permitting others to hide in a closet and observe consensual sexual activity, videotaping of a person using a bathroom), engaging in voyeurism, or engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of such infection.

### **Non-Title IX Sexual Coercion**

Acts constituting sexual coercion are acts that do not fall within the definitions of Title IX Sexual Harassment or Non-Title IX Misconduct stated above and that involve using force, threats, alcohol or drugs, and/or using physical, emotional, or verbal pressure to have sexual contact with someone against their will, or where a person is incapable of giving consent for reasons including, but not limited to, the Complainant's age, the Complainant's incapacitation due to drugs or alcohol, or the Complainant's inability to give consent due to intellectual or other disability. Sexual contact includes kissing, patting, fondling, oral sex, genital touching, and any other sexual behavior that makes the Complainant feel uncomfortable.

### **Retaliation**

Retaliation means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or the May 2020 Title IX regulations or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing regarding Prohibited Conduct (including both Title IX Sexual Harassment and Non-Title IX Misconduct). Retaliation is strictly prohibited. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, constitute retaliation, as do any adverse action taken against a person because they have made a good faith report of Prohibited Conduct or participated in any proceeding under this Policy. Retaliation may include intimidation, threats, coercion, harassment, or adverse employment or educational actions that would discourage a reasonable person from engaging in activity protected under this policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process under this policy does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility is not alone sufficient to establish that any party made a materially false statement in bad faith.

The College will not engage in, and will investigate and address, reports of retaliatory conduct. Retaliation under this policy may be found whether or not the underlying complaint is ultimately found to have merit.

## **V. Definition of Employee Consensual Relationships**

Siena College does not intrude upon private choices regarding personal relationships when these relationships do not violate the policies of the College, cause harm to the safety and wellbeing of members of the campus community, or increase the risk of harm to the safety and wellbeing of members of the campus community.

Should an employee be found in violation of the consensual relationship policy and charges of sexual harassment are made, it shall not be a defense to allege that the relationship was consensual in any proceeding brought under these procedures.

### **A. With other employees:**

Consensual romantic or sexual relationships in which one employee retains a supervisory line or evaluative role over another employee are unethical, create a risk for real or perceived coercion, and are expressly a violation of this policy. Therefore, persons with a supervisory line and/or evaluative responsibilities who are involved in such relationships must bring those relationships to the attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory and/or evaluative responsibilities.

### **B. With students:**

Unique relationships exist between students and certain employees of the College, such as faculty members, administrators, and staff who serve in such roles as educator, counselor, evaluator, advisor, or who exercise other types of control over students. Given the possibility that abuse of this relationship or the appearance of abuse may occur, the College views it as unacceptable if faculty members or other instructional personnel, administrators, or staff members engage in amorous relationships with students enrolled in their classes or subject to their supervision, control, or authority, even when both parties appear to have consented to the relationship.

## **VI. Immediate Assistance in Cases of Prohibited Misconduct**

Students, faculty, staff, administrators, and visitors at Siena College who experience any form of sexual misconduct on or off-campus (including Siena-sponsored trips and events) are strongly encouraged to immediately report the incident by contacting Siena College's Department of Public Safety (518-783- 2376 or 518-783-2999), which is available 24 hours a day, 7 days a week, and/or local law enforcement, by calling 911. In addition, the New York State Police has a dedicated 24-hour hotline: 1- 844-845-7269. An initial choice to use one of these avenues does not preclude a later or simultaneous decision to use one or more of the others. Campus public safety officers can also assist the Complainant with filing a complaint both on and off campus, and in obtaining immediate medical attention, counseling, and other services.

## **VII. Obtaining Immediate Medical Attention and Emotional Support**

Siena College is committed to assisting anyone who experiences Prohibited Misconduct to seek comprehensive medical attention as soon as possible to treat injuries, obtain preventative treatment for sexually transmitted diseases, and preserve evidence, among other things. For sexual assaults in particular, immediate treatment and the preservation of evidence of the assault are important for many reasons, including facilitating a criminal investigation, in the event the Complainant decides to pursue one. In addition, individuals who have experienced or witnessed Prohibited Conduct are encouraged to seek emotional support as soon as possible, either on or off-campus.

- A. On-campus resources include nurses at Siena's Health Services and counselors in Siena's Counseling Center. Counselors are trained to provide crisis intervention.

- B. For off-campus resources, Siena maintains a list of providers, including rape crisis centers and domestic violence shelters, available throughout the Capital District. This list includes information about St. Peter's Health Partners, which is specially equipped to handle sexual misconduct and trained to gather evidence from such assaults. The SANE program at local hospitals provide medical exams to victims/survivors of sexual assault. As part of this program, an advocate is available to assist and support victims/survivors through the process. ([Community Resources](#))

### **VIII. Reporting, Confidentiality, Privacy and Choice of Actions in Response to Prohibited Misconduct**

Any individual may make a report to College officials and/or law enforcement officials that they have experienced, observed, or have information about Prohibited Conduct.

A. Options in General:

Victims/Survivors/Complainants have many options that can be pursued simultaneously, including the following:

- Confidentially disclose a crime or violation to the Counseling Center, Health Services, or the Office of the College Chaplain and Siena College Friars. Confidential resources can share options and advice without any obligation to tell anyone, and will not share information without the consent of the victim/survivor/Complainant.
- Anonymously disclose a crime or violation to the Public Safety anonymous tip line: [www.siena.edu/anonymous](http://www.siena.edu/anonymous). The College may have a duty to investigate anonymous disclosures to the extent possible, based on the information disclosed.
- Make a report to a College Official/Responsible Employee/Law Enforcement. Victims/Survivors/Complainants have the right of privacy when reporting to College officials/responsible employees, to the extent possible under the circumstances. However, information must be shared with other administrators who have a need to know. Reports to College officials, responsible employees and law enforcement officers serving in such capacity are known as private but not confidential, as described further below.
  - Public Safety (Private, Not Confidential)
  - Local Law Enforcement (Private, Not Confidential)
  - New York State Police (Private, Not Confidential)
  - Title IX Coordinator/EOS (Private, Not Confidential)
  - Deputy Title IX/EOS Coordinators (Private, Not Confidential)
- Reports to the College's Title IX Coordinator/EOS and/or Deputy Title IX Coordinators may be made by any individual 24 hours per day/7 days per week via email to Lois Goland, Title IX Coordinator/EOS ([lgoland@siena.edu](mailto:lgoland@siena.edu), 518-782-6673) or John Bebb, Deputy Coordinator ([jbebb@siena.edu](mailto:jbebb@siena.edu), 518-783-2328) or during business hours at the contact information provided above, and to College Public Safety 24 hours per day/7 days per week at 518-783-2999.
- Individuals with a disability may request accommodations to ensure their full and equal participation in reporting incidents of Prohibited Conduct, as well as the investigatory and adjudicatory process under this policy. Requests for accommodations in connection with the reporting, investigatory and/or adjudicatory process are determined on an individual basis by the Title IX Coordinator/EOS or designee, in consultation with the College's ADA/Section 504 Coordinator as appropriate.

Reports of Prohibited Conduct should be filed with the Title IX Coordinator/EOS or designee, Public Safety, or Deputy Coordinator as soon as possible after the incident(s) occurred or in a timely manner. While Complainants are welcome to file a report or complaint at any time, Complainants are encouraged to come forward as soon as possible because a delay in reporting or making a complaint may impact the effectiveness of the investigation.

Delays in reporting may impair the College's ability to investigate due to, but not limited to, fading memories and the availability of witnesses and evidence.

If the accused is an employee of the College, Complainants may also disclose a report to the College's Associate Vice President for Human Resources or designee, and Complainants may request that a private or confidential employee resource assist them in doing so.

B. Confidentiality and Confidential Resources:

May 2020 Title IX regulations contemplate that certain information will generally be treated confidentially, except as qualified by statements in those regulations. For example, the regulations provide that colleges must maintain as confidential any supportive measures provided to a Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the supportive measures. The regulations also provide that institutions must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of the Title IX regulations, including the conduct of any investigation, hearing, or judicial proceeding arising under those regulations.

In accordance with the May 2020 Title IX regulations, the College will not access, consider, disclose, or otherwise use a party's privileged records or require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Confidentiality may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to College officials in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092 (F) and 20 U.S.C. 1681 (A). Licensed mental health counselors, medical providers, and pastoral counselors are examples of College employees who may offer confidentiality.

Confidential Resources are encouraged to submit non-identifying information about violations of this policy to Public Safety for the purposes of anonymous statistical reporting under the Clery Act.

Any member of the College community who is not prepared to make a report or who may be unsure how to characterize the incident that occurred, but who still seeks information and support, is encouraged to contact a Confidential Resource.

At Siena College, the following is the list of Confidential Resources:

Counseling Center: 518-783-2342

Health Services: 518-783-2554

Office of the College Chaplain and Siena College Friars: 518-783-2332

These are the only Siena College employees who can offer legally protected confidentiality. These individuals are not required to report any information about an incident to the Title IX Coordinator/EOS or designee without a Complainant's permission. While professional counselors will maintain an individual's confidentiality vis-à-vis the College, they may have reporting or other obligations under New York State law, e.g., mandatory reporting to law enforcement in case of minors, imminent harm to self, or others. An individual who speaks to a professional and/or

pastoral counselor in these specific roles must understand that, if the individual wants to maintain confidentiality, the College will be unable to conduct an investigation into particular incidents or pursue disciplinary action against the alleged Respondent.

Confidential resources may assist individuals in receiving other necessary protection and support, such as survivor advocacy, academic support or accommodations, disability, health and mental health services, changes in residence halls, working and course schedules and other Supportive Measures, in coordination with the Dean of Students Office.

Individuals who initially request confidentiality may later decide to file a complaint with the College and/or report the incident to Colonie or State Police, and thus have the incident investigated. These counselors will provide the individual with assistance in contacting the Title IX Coordinator/EOS or designee if the individual wishes to do so.

C. Privacy/Non-Confidential:

Privacy may be offered by an individual when such individual is unable to offer confidentiality under the law, but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate College officials.

Even 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 for the Title IX Coordinator/EOS or designee to investigate and/or seek a resolution.

If a Complainant or other individual discloses an incident of Prohibited Conduct to a responsible employee but the Complainant wishes to maintain confidentiality or does not consent to the College's request to initiate an investigation, the Title IX Coordinator/EOS or designee must weigh the request against the College's obligation to provide a safe, non-discriminatory environment for all members of its community. As noted in the Supportive Measures section below, the College shall assist with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of reporting choices.

D. Duty to Report by Responsible Employees:

"Responsible Employees" have a duty to report incidents of Prohibited Conduct, including all relevant details, to the Title IX Coordinator/EOS or designee. A "responsible employee" is a Siena College employee who has the authority to redress Prohibited Conduct or who has the duty to report incidents of Prohibited Conduct. Such employees will be discreet and will respect a Complainant's wish for privacy as described in this policy, but they are not permitted under any circumstances to maintain a Complainant's complete confidentiality.

With the exception of those serving in their role as a confidential resource, Siena has designated all full-time and part-time faculty, administrators, staff, coaches, and community assistants as responsible employees.

Any responsible employee with a duty to report violations of this policy who receives a complaint of Prohibited Conduct or who observes or learns of conduct that is reasonably believed to be in violation of this policy, is required to report the alleged conduct to the Title IX Coordinator/EOS or designee and/or Public Safety who will take appropriate action to address the report.

A responsible employee must report to the Title IX Coordinator/EOS or designee and/or Public Safety all relevant details about the alleged Prohibited Conduct shared by the Complainant or other individual and that the College will need to determine what happened, including the names of the Complainant and alleged Respondent, any witnesses and any additional relevant information,

including the date, time, and specific location of the alleged incident.

E. Law Enforcement:

Some or all of the Prohibited Conduct described above is prohibited, in separate ways, by New York State Law and Siena College policy. Thus, offenders may be prosecuted under New York State criminal statutes and also be subject to disciplinary action by the College. The College may choose to pursue disciplinary action while criminal action is pending, or even if criminal justice authorities choose not to prosecute.

The College will assist Complainants in contacting law enforcement and/or other appropriate authorities for the purpose of obtaining orders of protection or other similar relief available through the court system, and will, to the extent that it is able, facilitate the implementation of any on-campus or College program-related restrictions imposed by such orders.

Siena College will investigate Prohibited Conduct in accordance with this policy even if a law enforcement investigation is also occurring. Siena College's investigative and conduct process will run concurrently with any criminal justice investigation and proceeding except for temporary delays as requested by external law enforcement entities while law enforcement gathers evidence. Temporary delays should not last more than ten (10) business days except when law enforcement specifically requests and justifies a longer delay.

F. Anonymous Reporting:

If a Complainant self-identifies but asks to remain anonymous during the investigation, the Title IX Coordinator/EOS or designee will consider how to proceed, taking into account the Complainant's wishes, the College's commitment to provide a safe environment, and the Respondent's right to have specific notice of the allegations if the College were to take action that affects the Respondent.

G. Welfare of the Community (Amnesty) Policy:

The health and safety of every student at Siena College is of utmost importance. Siena College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that Prohibited Conduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Siena College strongly encourages students to report Prohibited Conduct to College officials. A bystander acting in good faith or a reporting individual acting in good faith who discloses any incident of Prohibited Conduct to College officials or law enforcement will not be subject to disciplinary action under Siena's code of conduct for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the Prohibited Conduct.

This policy may also be applied, but not limited to: alcohol or drug related incidents, and situations of vandalism and damage. The policy only applies to the College's Student Code of Conduct and has no status in other jurisdictions such as local or state courts.

H. Exception to Obligation to Investigate:

If an individual discloses information through a public awareness event such as candlelight vigils, protests, or other public event, the College is not obligated to begin an investigation based on such information. The College may use the information provided at such an event to inform efforts for additional education and prevention efforts.

**IX. Jeanne Clery Act and Timely Warning**

A. Jeanne Clery Act:

In concert with our Catholic and Franciscan Mission, Siena College strives to create an environment that is respectful of all and conducive to learning and living. Crimes and acts of violence are not tolerated. In 1990, Congress enacted the Crime Awareness and Campus Security Act (Title II of

Public Law 101–542), which amended the Higher Education Act of 1965 (HEA). This act required all postsecondary institutions participating in Title IV student financial aid programs to disclose campus crime statistics and security information. The act has been amended multiple times. The 1998 amendments renamed the law the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (commonly referred to as “the Clery Act”) in memory of Jeanne Clery who was slain in her dorm room in 1986. The reauthorization of the Violence Against Women Act (VAWA), signed by President Obama in March 2013, which includes the Campus Sexual Violence Elimination Act (Campus SaVE) amended the Clery Act. All incidents of domestic violence, dating violence, and stalking must now be reported in addition to reporting incidents of sexual assault. These statistics can be found in the Annual Security and Fire Safety Report. The report includes statistics for the previous three years concerning reported crimes and institutional policies addressing campus security. To obtain a copy of this report contact the Director of Public Safety or visit: <https://www.siena.edu/offices/public-safety/campus-crime-statistics/>

**B. Timely Warning:**

1. In the event a situation arises within the College’s Clery Geography that, in the judgment of the Director of Public Safety or designee (who may consult with the Vice President for Student Life, Dean of Students and/or Title IX Coordinator/EOS or designee), which may pose a serious or continuing threat to students and employees, a campus-wide “Timely Warning” will be issued. The decision to issue a Timely Warning is made on a case-by- case basis considering the nature of the crime and the continuing danger to the campus community. The warning will be provided to students and employees in a manner that is timely, and that is designed to aid in the prevention of similar occurrences. Timely Warnings will include information about the crime that triggered the Timely Warning but will not include personally identifiable information about the victim of the crime. Timely Warnings are generally written and distributed by the Director of Public Safety (or designee) and are sent via email to students and the Siena Alert System , faculty, staff and administrators. When circumstances leading to the issuance of a Timely Warning are determined to present an elevated serious or continuous threat to the community, a copy of the notice may also be posted on campus buildings.
2. The Director of Public Safety or their designee may issue a “Public Safety Advisory” where the precipitating incident(s) is/are not Clery Crimes and/or do not rise to the level of a “Timely Warning.” These Public Safety Advisories may be issued to inform the campus community for their personal safety of ongoing non-Clery crimes, suspicious activity on campus, or crimes that do not fall within Siena’s Clery Geography. These “Advisories” may be disseminated to the campus community via email and/or postings on campus buildings.

**X. Initial Assessment, Initial Contact with Complainant, Supportive Measures and Emergency Removal/Administrative Leave**

- A. Upon receipt of a report of alleged sexual misconduct, the College's Title IX Response Team will conduct an initial assessment within 72 hours. The goal of this assessment is to provide an integrated and coordinated response to reports of Prohibited Conduct. The Title IX Team, led by the Title IX Coordinator/EOS or designee, assists in the review, investigation, and resolution of reports. The team may include the Title IX Coordinator/EOS or designee, Deputy Coordinators, Associate Coordinator and the Director of Public Safety. Depending on the roles of the parties involved in responding to a report, other designees (Dean of Students, College Counsel) may join the team. In all cases, the Title IX Response Team will be limited to a small number of individuals who need to be informed in order to provide an effective and equitable review and timely response to and resolution of reports, while protecting the privacy of parties as fully as possible. Regular members of the Title IX Response Team receive annual training in strategies to protect parties who experience Prohibited Conduct and to promote individual and institutional accountability.

The assessment will consider the nature of the report(s), any witness statements obtained, the safety of the individual and of the campus community, and the Reporting Party's expressed preference for resolution in determining the appropriate course of action to eliminate the conduct at issue, prevent its recurrence, and address its effects.

The College's procedures for determining whether and how to proceed with the offering of supportive measures and/or the initiation of a formal or informal resolution process are outlined below.

**B. Initial Communication with a Complainant**

If a report alleges conduct that would, if proved, constitute Prohibited Conduct, the Title IX Coordinator/EOS or designee will:

- promptly contact the Complainant to discuss the availability of supportive measures as defined below;
- consider the Complainant's wishes with respect to supportive measures;
- inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint; and
- explain to the Complainant the process for filing a formal complaint.

**C. Supportive Measures**

If Prohibited Conduct is reported to College authorities, College personnel will work with the reported Complainant to determine whether supportive measures such as alternative academic, transportation, working and/or living situations and no-contact orders are reasonably available and necessary in their particular case. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant or a Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter Prohibited Conduct.

The Title IX Coordinator/EOS or designee will work collaboratively with the Dean of Students, Assistant Vice President for Human Resources, and Associate Vice President for Academic Affairs in providing supportive measures.

Interim measures may include, but are not limited to:

- Access to counseling services and assistance in arranging an initial appointment;
- Rescheduling of exams and assignments;
- Change in class schedule;
- Change in work schedule or job assignment;
- Residential accommodations, including but not limited to arranging for new College housing or for a temporary change in College housing;
- Arranging for medical services;
- Imposition of mutual restrictions on contact between the parties, known as a "no contact order"; a no contact order is an administrative remedy designed to curtail contact and communications between two or more individuals; no contact orders are not disciplinary in nature, though violation of no contact orders could result in College

- discipline;
- Providing the Complainant assistance with filing a criminal complaint and seeking an order of protection;
- Assistance in obtaining a sexual assault nurse examination
- Other academic accommodations, such as extensions of deadlines or other course-related adjustments, course changes or late drops, or other arrangements as appropriate;
- Campus escort services and safety planning steps;
- Leaves of absence;
- Increased security and monitoring of certain areas of campus;
- Referral to resources which can assist with financial aid, visa, or immigration concerns;
- No trespass notices prohibiting the presence of an individual on College property; and
- Other similar measures that can be used to achieve the goals of this policy (e.g., interim suspension or campus restriction pending the outcome of the investigation/process).

The Title IX Coordinator/EOS or designee will decide what supportive measures are reasonably available and necessary. Both the Complainant and the Respondent may appeal the need for, and the terms of, a supportive measure. The appeal must be made within three business days of when the measure was issued, and must be in writing to the Dean of Students Office. If parties wish to revisit the terms of supportive measures that have been provided or request additional supportive measures, they should contact the Title IX Coordinator/EOS or designee. The Title IX Coordinator/EOS or designee is ultimately responsible for coordinating the effective implementation of supportive measures.

All individuals are encouraged to report to the Title IX Coordinator/EOS or designee any concerns about the failure of another person to abide by any restrictions imposed through a supportive measure. In the event of an immediate health or safety concern, individuals should contact 911 immediately. The College will take immediate prompt action to enforce a previously implemented measure, and disciplinary penalties can be imposed for failing to abide by a College-imposed supportive measure.

D. Interim Suspension, Emergency Removal and Administrative Leave

Interim Suspension of Students in Non-Title IX Misconduct Cases

The College may decide at its discretion to suspend a student Respondent on an interim basis, that is, while an investigation is pending, in cases that fall within the definition of Non-Title IX Misconduct outlined above. The determination of whether to impose an interim suspension will be made by the Title IX Coordinator/EOS or designee in consultation with other College officials as appropriate. A Respondent may be suspended on an interim basis when the College has received information which indicates that the Respondent's continued presence on campus will likely have a serious effect on the physical, mental, or emotional health, safety or well-being of another person, when physical safety is seriously threatened, or when the ability of the College to carry out its operations is threatened or impaired. The College may permit written challenges to such decisions at its discretion.

E. Emergency Removal of Students or Employees in Title IX Sexual Harassment Cases

When the College determines that there is an immediate threat to the physical health or safety of

any student or other individual arising from reported conduct that falls within the definition of Title IX Sexual Harassment in this policy, the College can remove a student or employee Respondent from its education program or activity (which may include removing an employee Respondent from their employment at the College) and issue any necessary related no-trespass and no-contact orders. The College will make the decision to remove a Respondent from its education program or activity based on an individualized assessment and risk analysis.

If the College makes such a decision, the Respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal. Specifically, the Respondent shall have forty-eight hours in which to submit a letter to or appear personally or virtually before a College administrator to be designated by an identified high-level official who won't be on the emergency removal team to contest the emergency removal (though a meeting could be scheduled sooner if requested by the Respondent, if practicable).

F. Administrative Leave in Title IX Sexual Harassment Cases

The College always maintains the discretion to place non-student employee Respondents on paid administrative leave during the pendency of an investigation and resolution process conducted under this policy.

The College may also place a non-student employee Respondent on unpaid administrative leave during the pendency of an investigation and resolution process. In those instances in which the College determines that an administrative leave will be unpaid and the Respondent was not offered the opportunity to challenge the suspension without pay before it was imposed through some other process, the Respondent may present a written challenge regarding the need for or the adequacy of the unpaid administrative leave to the Vice President of Finance or their designee. The College may place student-employee Respondents on administrative leave from their employment during the pendency of an investigation and resolution process where deemed appropriate as a supportive measure, under circumstances where it can do so without unreasonably burdening the student-employee Respondent.

G. Initial Determinations of Applicable Procedures, Dismissals, Transfers and Appeals of Such Determinations

When a Complainant requests an investigation, the Title IX Coordinator/EOS or designee will promptly upon receipt of a formal complaint:

1) determine whether the conduct alleged would, if proved, constitute Title IX Sexual Harassment (i.e., Quid Pro Quo Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual Assault, or sex-based Domestic Violence, Dating Violence or Stalking) as defined in the Title IX Sexual Harassment definition stated above;

2) determine whether the conduct allegedly occurred in College's education program or activity;

3) determine whether the conduct allegedly occurred in the United States; and

4) determine whether at the time the formal complaint was made, the Complainant was participating or attempting to participate in a College program or activity.

If a formal complaint of conduct that would, if proved, satisfy all four of these elements and constitute Title IX Sexual Harassment as defined in this policy is filed by a Complainant or signed by the Title IX Coordinator/EOS or designee, it will be investigated and resolved through the

procedures applicable to Title IX Sexual Harassment matters as outlined below.

The College will investigate alleged Title IX Sexual Harassment when a Complainant submits a signed or electronically-submitted formal complaint to the Title IX Coordinator/EOS or designee and requests an investigation. The Title IX Coordinator/EOS or designee may also choose at their discretion to sign a formal complaint and initiate an investigation, even if the Complainant chooses not to do so. Again, if a reporting individual discloses Prohibited Conduct to a responsible employee but wishes to maintain confidentiality or does not consent to the College's request to initiate an investigation, the Title IX Coordinator/EOS or designee must weigh the request against the institution's obligation to provide a safe, non-discriminatory environment for all members of its community.<sup>2</sup> In cases where the Complainant does not wish to submit a formal complaint but the Title IX Coordinator/EOS or designee decides in their discretion to sign a complaint and initiate an investigation and resolution process, the Title IX Coordinator/EOS or designee will not be a Complainant or otherwise a party to the matter.

If some but not all of the conduct alleged in the complaint satisfies all four of these elements and a formal complaint is received from a Complainant or signed by the Title IX Coordinator/EOS or designee, the College will address the entire matter through the procedures applicable to Title IX Sexual Harassment matters as outlined below (that is, it will as required by federal regulations follow Title IX Sexual Harassment procedures to address the alleged Title IX Sexual Harassment, and it will, to promote efficiency, choose to follow Title IX Sexual Harassment procedures to address Non-Title IX Misconduct and other non- Title IX alleged misconduct in such mixed cases, so that all related misconduct may be addressed through one investigation and resolution process).

If it appears based upon initial review or upon information gathered during an investigation that the matter does not satisfy and/or no longer satisfies all four of these elements, the College will, as required by the May 2020 Title IX regulations, dismiss the matter for purposes of the Title IX Sexual Harassment process, and will transfer it for handling under the Non-Title IX Prohibited Conduct procedures outlined here or in other College procedures, as deemed appropriate by College. Investigation and resolution of a matter that does not fall within Title IX may be pursued, dismissed altogether, or transferred to another College process, as deemed appropriate in the College's discretion and/or as appropriate under applicable law.

Even if the initial allegations of a matter fall within the definition of Title IX Sexual Harassment, the College may (but is not required to) dismiss a formal complaint or any allegations therein if at any time during the investigation or resolution process:

- A Complainant notifies the Title IX Coordinator/EOS or designee in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
- The Respondent is no longer enrolled at or employed by the College; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

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<sup>2</sup> Should the Title IX Coordinator/EOS or designee become aware of Prohibited Conduct, even if the person potentially subject to such conduct has not reported it or is unwilling to pursue a complaint, the College may conduct an investigation, as appropriate and as permitted by applicable law, and take any necessary action. In such cases the Title IX Coordinator/EOS or designee will convene an ad hoc advisory group of three (3) Deputy Coordinators and/or Title IX/EOS Advisors and Educators to review the investigative report. If, after review, the ad hoc advisory group unanimously determines that there is not enough evidence to support a complaint, the investigation will be closed. Otherwise, a complaint will be filed by the College as deemed appropriate.

If a formal complaint is dismissed by the College under the circumstances described above, the College will simultaneously provide to the parties written notice (by electronic or other means) of the dismissal and the reasons for the dismissal, and notice of the parties' opportunity to appeal such dismissal through the Title IX Sexual Harassment appeal procedures outlined below.

If the Respondent is a student and an employee, the Title IX Coordinator/EOS or designee will determine which procedures apply based upon the facts and circumstances, such as whether the Respondent's status as a student or an employee predominates in the context of the Prohibited Conduct. If a student-employee is found to have engaged in Prohibited Conduct, the student-employee may be subject to sanctions both in connection with their employment, and in connection with their student status, as appropriate under these and other applicable procedures.

In Non-Title IX Misconduct cases, the College will request that the Complainant provide a written complaint regarding the allegations, which may be submitted by the Complainant or dictated to a College official and ascribed to by the Complainant.

#### H. Notice

If the College initiates an investigation of Title IX Sexual Harassment or Non-Title IX Prohibited Conduct it will provide to the parties a written notice (by electronic or other means) that includes:

- Information about the College's formal and informal resolution processes;
- A statement of the allegations of behavior potentially constituting Prohibited Conduct, including sufficient details known at the time and with sufficient time to prepare a response before any initial post-intake interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Prohibited Conduct, and the date and location of the alleged incident, if known;
- 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;
- Information regarding the College's presumption of good faith reporting and a summary of the College's false information policy;
- Notification that parties may have an advisor of their choice, who may be, but is not required to be, an attorney. Costs incurred for having such an advisor are parties' responsibility. If parties are unable to procure an advisor of their choice, Siena has trained a number of faculty and staff as advisors. These advisors are available for either party throughout the investigative process and for the purpose of conducting cross examination (under the Title IX regulations) within the hearing process.
- Notification of existing counseling, health and mental health services available on campus and/or in the community;
- Notification that taking any retaliatory action (directly or through others) against any person involved in the investigation is prohibited and will be considered a separate violation of College policy; and
- Notification that parties may inspect and review evidence during the investigation and resolution process, as provided below.

If in the course of an investigation the College decides to investigate allegations about any party that are not included in the notice described above, it will provide notice of the additional allegations to the parties whose identities are known.

If at any point a student or employee Respondent chooses, after having received formal notice of the allegations and after having confirmed in writing that they understand and are choosing to waive their rights under the formal procedures provided otherwise in this policy, to accept responsibility for the conduct as described in such notice, then the formal investigation process will be ended with a finding of responsibility and the matter will proceed to the sanctioning phase, as described in the applicable sanctioning section below. Both parties will receive notice that a finding of responsibility has been made in this matter, and will receive notice of the sanction(s). Both the Complainant and the Respondent may appeal the sanction(s) on the ground that the sanction(s) imposed are disproportionate to the violation of policy, under the appeals procedures outlined below.

I. Consolidation of Formal Complaints

The College may consolidate formal complaints as to allegations of Title IX Sexual Harassment and/or Non-Title IX Misconduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of such Prohibited Conduct arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

J. Investigations

If an investigation is to be conducted, the Title IX Coordinator/EOS or designee will appoint an investigator or investigators (referred to in the singular here for convenience), who will conduct the investigation. Investigators may be College employees or third-party contractors, as determined at the College’s discretion. The College will provide notice to the parties of the identities of the investigators. If a party believes that an investigator has a bias against or for Complainants or Respondents generally or them particularly as a party, or a conflict of interest, the party may submit a written objection to the Title IX Coordinator/EOS or designee within three (3) business days that outlines the basis for their objection to the investigator’s service. The Title IX Coordinator/EOS or designee will make a decision on such objections, and will appoint any alternate investigator, and follow this process as necessary, until an investigator is selected to conduct the investigation.

To the extent permitted by law, the Complainant and Respondent will be afforded the same rights and opportunities throughout the investigation and adjudication process, including the opportunity to recommend witnesses and submit evidence. However, investigation logistics, including but not limited to the sequence of interviews, the decision to interview particular witnesses, and the decision to allow or consider evidence offered by the parties, are within the discretion of the investigator.

The Complainant and Respondent will be asked to identify, preserve and submit all evidence pertaining to the matter under investigation, and to identify witnesses they believe may have relevant testimony to share. The investigator is not required to consider the evidence submitted or interview any particular witness, even if identified by one of the parties.

Complainants and Respondents are entitled to the same opportunities to have an advisor of their choice present at any interviews, meetings, or proceedings that they are attending related to the investigation and adjudication process under this policy. The advisor may advise the Complainant or

Respondent privately, but cannot act as a speaking advocate at a meeting. An investigator or other College representative may terminate meetings, and/or proceed with the investigation or adjudication based on otherwise-available information, if an advisor is disruptive or otherwise refuses to comply with the requirements of this policy. While each party may have an advisor of choice, they may not compel any specific person to serve as their advisor. The College's faculty and/or staff may be available to serve as advisors, but none are required to do so.

The College will endeavor to complete the investigation portion of the process within 90 business days of issuing a notice of investigation as described above, but this may be extended at the College's discretion due to factors such as the complexity of the matter, the availability of witnesses, requests by law enforcement agency for a temporary delay in the investigation process, College breaks, and other legitimate reasons.

A Complainant may choose to withdraw a complaint and/or involvement from the College process at any time. In such circumstances, the College will determine whether or not to sign and file a complaint and continue with the investigation in its discretion, weighing the Complainant's choosing to withdraw the complaint against the College's obligation to provide a safe, non-discriminatory environment for all members of its community.

**K. Reporting Retaliation:**

Individuals may file a complaint with the Title IX Coordinator/EOS or designee if they have been retaliated against for reporting sexual misconduct, assisting someone in making such a report, or participating in any manner in an investigation or resolution of a sexual misconduct complaint. Individuals may file a complaint with the Title IX Coordinator/EOS or designee if they have been subjected to retaliation as defined above. Student retaliation complaints will be referred to the Dean of Students who will adjudicate them pursuant to the Student Code of Conduct. All employee retaliation complaints will be referred to the Office of Human Resources who will adjudicate them pursuant to the applicable employee handbook.

**XI. Resolution**

The preponderance of evidence or "more likely than not" standard of review will be used during the formal resolution process.

**General Investigation-Related Provision**

- Parties' equal opportunity to present witnesses may include evidence from fact and expert witnesses; and
- Parties are not restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence; and
- Parties whose participation is invited or expected will receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

**Preliminary Investigative Report**

In both Title IX Sexual Harassment matters and Non-Title IX Prohibited Conduct matters, when the investigator has gathered all of the information that they determine should be gathered for purposes as an initial matter, the investigator and/or the Title IX Coordinator/EOS or designee will prepare a preliminary investigative report. The preliminary investigative report will summarize relevant evidence but will not contain any recommendations regarding whether the Respondent violated this policy or any other College

policy at issue.

- The College will provide each party with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised, including the evidence upon which College does not intend to rely in reaching a determination regarding responsibility and/or which the investigator does not deem relevant, and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Such evidence will not include un-redacted privileged records or information that may have been gathered or received during the investigation, absent written consent from the party holding the privilege.
- The College will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy.
- Parties and advisors are not permitted to download, print or copy such evidence subject to inspection and review, and are not permitted to re-disclose such evidence without the College's permission. Parties and advisors will be required to sign an acknowledgment form indicating that they understand these prohibitions. Violations of these prohibitions may subject parties to College discipline under applicable conduct codes.

#### Review and Response to Preliminary Investigation Report

At the conclusion of the investigation, the investigator will prepare a preliminary investigation report that fairly summarizes the relevant evidence and outlines the contested and uncontested information. The preliminary investigation report will not include any findings. In both Title IX Sexual Harassment and Non-Title IX Prohibited Conduct matters, the Complainant and the Respondent will have an opportunity to review the preliminary investigative report and provide written responses to the report.

The investigator will provide each party and their advisor, if any, with an opportunity to review the preliminary investigation report with electronic access to the evidence file. The evidence file includes any evidence obtained as part of the investigation that is directly related to the allegations, including evidence upon which the investigator does not intend to rely as well as inculpatory and exculpatory evidence obtained from a party or other source.

During the review period, the parties will have an opportunity to meet with the investigator; submit additional comments and information to the investigator; identify any additional witnesses or evidence for the investigator to pursue; and submit any further questions that they believe should be directed by the investigator to another party or to any witness.

The parties will have ten (10) business days to review and submit an optional written response including any challenges to the relevance of evidence, to the investigator. Any response submitted will become part of the evidence file and will be made available to the other party. The investigator will consider any response(s) submitted prior to completing the final investigative report. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the investigator during the designated review and response period will **not** be considered in the determination of responsibility for a violation of the Policy, and will **not** be considered by the hearing officer.

#### Final Investigative Report

##### Final Investigative Report Generally

In both Title IX Sexual Harassment matters and Non-Title IX Prohibited Conduct matters, after considering any written response submitted by either party, or after the ten (10) business day comment period has lapsed without receiving a written response or responses, the investigator will address any relevant issues identified by the Complainant and/or the Respondent, and as appropriate, pursue any additional investigative steps as needed. The final investigative report will be reviewed by the Title IX Coordinator/EOS or designee before it is issued. Final investigative reports will be provided simultaneously to the parties and their advisors, if any. The College will give each party an opportunity to review the other party's written response, if any.

Additionally:

- The final investigative report created by the investigator and/or Title IX Coordinator/EOS or designee will fairly summarize relevant evidence and include as exhibits evidentiary materials as deemed appropriate by the investigator;
- At least ten (10) business days prior to the hearing referenced below, the College will send to each party and the party's advisor, if any, the final investigative report and exhibits in an electronic format or a hard copy, for their review and written response;
- Any written response a party wishes to provide must be submitted to the Title IX Coordinator/EOS or designee within ten (10) business days of receiving the final investigative report and exhibits; and
- The final investigative report and the parties' written responses, if any, will be provided to the hearing officer in advance of the hearing.

#### A. Hearings

Hearing and Resolution Provisions Applicable Only to Title IX Sexual Harassment Matters

##### Hearings

Live hearings, conducted via Zoom, will be provided in Title IX Sexual Harassment matters, as required by the May 2020 Title IX regulations.

##### Hearing Officers

Hearings will be presided over by a hearing officer, who will make the decision by a preponderance of the evidence as to whether or not the Respondent violated the policy provisions at issue. The hearing officer has broad authority to determine the process, timing and conduct of a hearing. For example, the hearing officer will determine the order of presentation, timing and overall duration of the hearing, what information and evidence will be heard, what information and questions are relevant to the determination of the matter, and what cross-examination questions will or will not be permitted.

Hearing officers will be appointed by the Title IX Coordinator/EOS or designee. In selecting a hearing officer for a particular matter, the Title IX Coordinator/EOS or designee will take care to select an individual who does not have a conflict of interest or bias against Complainants or Respondents generally or an individual Complainant or Respondent. The College will notify the parties of the identity of the hearing officer in advance of the hearing, and parties may, within three (3) business days of such notice, object to the service of the hearing officer by providing a written statement (which may be transmitted electronically) as to why the party believes that the hearing officer has a conflict of interest or bias. The Title IX Coordinator/EOS or designee will make decisions regarding such objections and the appointment of an alternate hearing officer, as necessary.

### Advisors

Each party may have an advisor of their choice present at a hearing for the limited purpose of conducting cross-examination on behalf of that party. Advisors may be, but are not required to be, attorneys. If a party does not have an advisor of their choice present at a hearing, the College will without fee or charge to the party provide an advisor of the College's choice, again for the limited purpose of conducting cross-examination on behalf of that party. No later than ten (10) business days before the hearing, parties should inform the Title IX Coordinator/EOS or designee of the identity of any advisor of choice who will accompany them to the hearing, so that the College will know whether or not it needs to arrange for the presence of a College-provided advisor.

At a time and manner deemed appropriate by the hearing officer, the advisor for each party will be permitted to ask the other party and any witnesses all relevant cross-examination questions and follow-up questions, including those challenging credibility. Except for that limited role, advisors may not participate actively in the hearing and may not speak or otherwise communicate on the part of the party that the advisor is advising. However, the advisor may consult privately in a non-disruptive manner with their advisee during and/or at a recess in the hearing. Scheduling accommodations generally will not be made for advisors if they unduly delay the process. The College reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the hearing officer, which may include exclusion of the advisor from the hearing and the appointment of an alternate College-provided advisor.

### Requests for Appearance of Witnesses

If a party wishes to have an individual appear at the hearing as a witness, they must provide notice of the identity of the proposed witness and a brief description of the subject matter of the witnesses' testimony to the Title IX Coordinator/EOS or designee at least ten (10) business days before the date of the hearing. The Title IX Coordinator/EOS or designee, in consultation with the hearing officer as necessary, will determine whether the witness is likely to have information that is relevant to the hearing, and if it is determined that the witness is likely to have relevant information, the Title IX Coordinator/EOS or designee will inform the witness that their presence at the hearing is required (to the extent that the College has jurisdiction to require the presence of the witness) or requested.

### Conduct of Hearings and Relevance

At or before the hearing, the hearing officer will receive a copy of the final investigative report, any attachments thereto, and copies of the parties' written responses to the final investigative report, if any, which will be part of the information of record to be considered by the hearing officer.

Hearings will ordinarily begin with introductory remarks by the hearing officer. The College policy does not allow for opening and closing statements. Following introductory remarks, the hearing officer will ask relevant initial questions of the parties as deemed appropriate. During this portion of the hearing, advisors may confer privately and in a non-disruptive manner with their advisee, but they are not allowed to address the hearing officer or anyone else present at the hearing.

After the hearing officer has asked their initial questions of the parties, the hearing officer will permit each party's advisor to ask the other party all relevant questions and follow-up questions, including those challenging credibility.

Subject to the discretion of the hearing officer, questioning of witnesses will generally follow a similar process, whereby the hearing officer will pose relevant questions to each witness, then the parties' advisors will be permitted to ask relevant questions of witnesses.

In accordance with May 2020 Title IX regulations, such cross-examination by advisors will be conducted directly,

orally, and in real time by the party's advisor of choice and never by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Advisors are not permitted to object to hearing officer decisions regarding relevance during a hearing.

Regarding the evidence subject to inspection and review that was provided to the parties and their advisors under the Title IX Sexual Harassment matter-specific investigation procedures outlined above, all such evidence will be made available at the hearing via a shared Zoom screen, and each party and/or their advisor will have an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

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.

Information protected under a legally recognized privilege (such as, for example, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), is not relevant unless the person holding the privilege has waived the privilege.

If a party or witness does not submit to cross-examination at the live Zoom hearing, the hearing officer will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live Zoom hearing or refusal to answer cross-examination or other questions.

In addition, before the hearing begins, both the Complainant and the Respondent may provide to the Title IX Coordinator/EOS or designee, in person or via email, a written impact/mitigation statement that addresses how the alleged Prohibited Conduct has impacted them and/or that addresses any mitigating factors that should be considered in the event that the Respondent is found responsible for the alleged conduct at issue. The impact statement will only be considered by the hearing officer and sanctioning officer if there is a finding of responsibility.

#### Record of Hearings

The College will create an audio or audiovisual recording and/or transcript, of any live hearing, and will make it available to the parties for inspection and review in the event of an appeal by either party.

#### Determinations Regarding Responsibility

Within ten (10) business days after the hearing, the hearing officer (and if necessary the sanctioning officer, as provided below) will prepare and issue a written determination regarding responsibility and sanctions. In determining responsibility, the hearing officer will apply the preponderance of the evidence standard. The written determination will include:

- Identification of the section(s) of the College's Title IX Sexual Harassment policy definition alleged to have been violated;
- A description of the procedural steps taken from the receipt of the complaint through the determination, including but not limited to, as applicable, any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;

- Findings of fact supporting the determination;
- Conclusions regarding the application of definitions of sexual harassment in the College's Title IX Sexual Harassment Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility and, where necessary and in collaboration with the sanctioning officer, a statement regarding any sanctions and the rationale therefor;
- The hearing officer's non-binding recommendations regarding sanctions, if applicable; and
- Identification of the College's procedures and permissible bases for the Complainant and Respondent to appeal (as outlined below).

The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

The determination will also notify the parties whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant, but will not provide details about any such remedies.

If sanctions are necessary, they will be assigned in accordance with the Sanctions section below. The parties will receive notice simultaneously of the written determination regarding responsibility and, if necessary, any sanctions as determined through the procedures outlined below.

#### Resolution and Other Provisions Applicable Only to Non-Title IX Misconduct Matters

##### Hearings

Live hearings, conducted via Zoom, will be provided in Non-Title IX Misconduct matters.

##### Hearing Officers

Hearings will be presided over by a hearing officer, who will make the decision by a preponderance of the evidence as to whether or not the Respondent violated the policy provisions at issue. The hearing officer has broad authority to determine the process, timing and conduct of a hearing. For example, the hearing officer will determine the order of presentation, timing and overall duration of the hearing, what information and evidence will be heard, what information and questions are relevant to the determination of the matter, and the nature and substance of any questions asked of parties and/or witnesses.

Hearing officers will be appointed by the Title IX Coordinator/EOS or designee. In selecting a hearing officer for a particular matter, the Title IX Coordinator/EOS or designee will take care to select an individual who does not have a conflict of interest or bias against Complainants or Respondents generally or an individual Complainant or Respondent. The College will notify the parties of the identity of the hearing officer in advance of the hearing, and parties may, within three (3) business days of such notice, object to the service of the hearing officer by providing a written statement (which may be transmitted electronically) as to why the party believes that the hearing officer has a conflict of interest or bias. The Title IX Coordinator/EOS or designee will make decisions regarding such objections and the appointment of an alternate hearing officer, as necessary.

##### Advisors

Each party may have an advisor of their choice present at a hearing. Advisors may not participate actively in the

hearing and may not speak or otherwise communicate on the part of the party that the advisor is advising. However, the advisor may consult privately in a non-disruptive manner with their advisee during and/or at a recess in the hearing. Scheduling accommodations generally will not be made for advisors if they unduly delay the process. The College reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the hearing officer, which may include exclusion of the advisor from the hearing and the alternate appointment of a College-provided advisor.

#### Requests for Appearance of Witnesses

If a party wishes to have an individual appear at the hearing as a witness, they must provide notice of the identity of the proposed witness and a brief description of the subject matter of the witnesses' testimony to the Title IX Coordinator/EOS or designee at least ten (10) business days before the date of the hearing. The Title IX Coordinator/EOS or designee, in consultation with the hearing officer as necessary, will determine whether the witness is likely to have information that is relevant to the hearing, and if it is determined that the witness is likely to have relevant information, the Title IX Coordinator/EOS or designee will inform the witness that their presence at the hearing is required (to the extent that the College has jurisdiction to require the presence of the witness) or requested.

#### Conduct of Hearings

At or before the hearing, the hearing officer will receive a copy of the final investigative report, any attachments thereto, and copies of the parties' written responses to the final investigative report, if any, which will be part of the information of record to be considered by the hearing officer.

Hearings will ordinarily begin with introductory remarks by the hearing officer. The College policy does not allow for opening and closing statements. Following introductory remarks, the hearing officer will ask relevant initial questions of the parties as deemed appropriate. During this portion of the hearing, advisors may confer privately and in a non-disruptive manner with their advisee, but they are not allowed to address the hearing officer or anyone else present at the hearing.

After the hearing officer has asked their initial questions of the parties, the hearing officer will permit each party to submit to the hearing officer proposed questions that they would like the hearing officer to pose to the other party. The hearing officer may at their discretion pose, rephrase, or decline to pose any and all such proposed questions. Subject to the discretion of the hearing officer, questioning of witnesses will generally follow a similar process, whereby the hearing officer will pose relevant questions to each witness, then the parties may submit to the hearing officer proposed questions that they would like the hearing officer to pose to each witness. The hearing officer may at their discretion pose, rephrase, or decline to pose any and all such proposed questions. No direct cross-examination of parties or witnesses by parties or their advisors will be permitted.

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.

Information protected under a legally recognized privilege (such as, for example, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), is not relevant unless the person holding the privilege has waived the privilege.

Formal rules of evidence do not apply to hearings under these procedures. The hearing officer will accept, consider and give weight to information as deemed appropriate at the discretion of the hearing officer.

In addition, before the hearing begins, both the Complainant and the Respondent may provide to the Title IX Coordinator/EOS or designee, in person or via email, a written impact/mitigation statement that addresses how the alleged Prohibited Conduct has impacted them and/or that addresses any mitigating factors that should be considered in the event that the Respondent is found responsible for the alleged conduct at issue. The impact statement will only be considered by the hearing officer and sanctioning officer if there is a finding of responsibility.

#### Record of Hearings

The College will create an audio or audiovisual recording and/or transcript, of any live hearing, and will make it available to the parties for inspection and review in the event of an appeal by either party.

#### Determinations Regarding Responsibility

Within ten (10) business days after the hearing, the hearing officer (and if necessary the sanctioning officer, as provided below) will prepare and issue a written determination regarding responsibility and sanctions. In determining responsibility, the hearing officer will apply the preponderance of the evidence standard. The written determination will include:

- Identification of the section(s) of the College's Non-Title IX Misconduct policy definition alleged to have been violated;
- A description of the procedural steps taken from the receipt of the complaint through the determination, including but not limited to, as applicable, any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of definitions of sexual harassment in the College's Non-Title IX Misconduct Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility and, where necessary and in collaboration with the sanctioning officer, a statement regarding any sanctions and the rationale therefor;
- The hearing officer's non-binding recommendations regarding sanctions, if applicable; and
- Identification of the College's procedures and permissible bases for the Complainant and Respondent to appeal (as outlined below).

The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

If sanctions are necessary, they will be assigned in accordance with the Sanctions section below. The parties will receive notice simultaneously of the written determination and, if necessary, any sanctions as determined through the procedures outlined below.

#### B. Sanctions: Student Respondent Cases (Title IX and Non-Title IX Misconduct)

If the hearing officer determines that a student Respondent is responsible for a violation of this policy, the Title IX Coordinator/EOS or designee shall notify the Associate Vice President for Student Life or designee to determine sanctions.

Complainants are insured their right to exclude their own prior sexual history with persons other than the other party in the conduct process, or their own mental health diagnosis and/or treatment, from use in the review process prior to adjudication. Any sanction takes into account the Respondent's prior record and any prior complaints involving similar allegations as well as the severity of the incident and the outcome sought by the Complainant.

The hearing officer and sanctioning officer will consider impact statements submitted from both parties at this juncture. Student Respondents may have sanctions administered, including but not limited to: expulsion, dismissal, suspension, withholding degree, revocation of admission and/or a degree, disciplinary probation, suspension or dismissal from College housing, social/residence hall probation, housing relocation, restriction from privileges, student reprimand, warning, or discretionary sanctions. This may also include restriction from contact with the Complainant or restriction from parts of, or the entire campus. Student Respondents who are sanctioned with expulsion, suspension, or dismissal from college may be subject to a notation on their official college transcript as required by law.

All sanction(s), except for suspension, dismissal, or expulsion from the College will take effect immediately pending appeal. The sanction(s) shall become final five (5) business days after written notice of said findings was provided to the parties unless a formal written appeal is submitted to the Title IX Coordinator/EOS or designee. Failure to submit an appeal within five (5) business days waives the right of written appeal.

C. Sanctions: Staff, Administrator and Faculty Respondent Cases (Title IX and Non-Title IX Misconduct)

If a staff, administrator or faculty Respondent is found responsible for a violation of this policy, the Title IX Coordinator/EOS or designee shall notify the Vice President or designee of the Respondent's work assignment to determine sanctions. Any sanction takes into account the Respondent's prior record and any prior complaints as well as the severity of the incident and the outcome sought by the Complainant. The hearing officer and sanctioning officer will consider impact statements submitted from both parties at this juncture.

Faculty, staff, or administrator Respondents may have sanctions administered that include, but are not limited to: the Respondent's participation in counseling or individualized training as a corrective action; prohibition of the Respondent from participating in grading, honors, and recommendations; reappointment and promotion decisions or other evaluations of the Complainant; letter of reprimand; restriction of the Respondent's access to College resources, such as salary increase for a specific period; or suspension or dismissal from employment at the College. For a faculty Respondent, notice of suspension and/or termination shall be made pursuant to the applicable provisions of the Faculty Handbook.

The sanction(s) shall become final five (5) business days after written notice of said findings was provided to the parties unless formal written appeal is submitted to the Title IX Coordinator/EOS or designee. Failure to submit the appeal within five (5) business days waives the right of written appeal.

D. Appeals: Student Respondent Cases (Title IX and Non-Title IX Misconduct)

Each party to a case falling under this policy has a right to appeal the Title IX Coordinator/EOS or designee's dismissal of a formal complaint for Title IX purposes or a determination regarding responsibility and/or sanctions on the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator/EOS or designee, investigator(s), or hearing officer(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual

Complainant or Respondent that affected the outcome of the matter; and/or

- The sanction(s) imposed are disproportionate to the violation of policy.

The Complainant and Respondent may submit an additional statement regarding the case within three (3) business days upon notification that either party has submitted an appeal.

The Title IX Coordinator/EOS or designee will convene an appeal panel to review an appeal. The appeal panel will, within (7) business days, make a decision on the appeal. The appeal panel may confirm, amend or reject actions taken by the College earlier in the process, and as necessary, send the matter back to other College officials as appropriate to correct any issues that affected the outcome of the matter. The parties will be provided simultaneously with notice of the appeal panel's decision and the rationale therefor.

E. Staff and Administrator Respondent Case Appeals (Title IX and Non-Title IX Misconduct)

Each party to a case falling under this policy has a right to appeal the Title IX Coordinator/EOS or designee's dismissal of a formal complaint for Title IX purposes or a determination regarding responsibility and/or sanctions on the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator/EOS or designee, investigator(s), or hearing officer(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; and/or
- The sanction(s) imposed are disproportionate to the violation of policy.

The Complainant and Respondent may submit an additional statement regarding the case within three (3) business days upon notification that either party has submitted an appeal.

The Title IX Coordinator/EOS or designee will convene an appeal panel to review the appeal. The appeal panel will, within (7) business days, make a decision on the appeal. The appeal panel may confirm, amend or reject actions taken by the College earlier in the process, and as necessary, send the matter back to other College officials as appropriate to correct any issues that affected the outcome of the matter. The parties will be provided simultaneously with notice of the appeal panel's decision and the rationale therefor.

F. Faculty Appeal (Title IX and Non-Title IX Misconduct)

Each party to a case falling under this policy has a right to appeal the Title IX Coordinator/EOS or designee's dismissal of a formal complaint for Title IX purposes or a determination regarding responsibility and/or sanctions on the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator/EOS or designee, investigator(s), or hearing officer(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; and/or

- The sanction(s) imposed are disproportionate to the violation of policy.

The Complainant and Respondent may submit an additional statement regarding the case within three (3) business days upon notification that either party has submitted an appeal.

The Title IX Coordinator/EOS or designee will convene an appeal panel to review the appeal. The appeal panel will, within (7) business days, make a decision on the appeal. The appeal panel may confirm, amend or reject actions taken by the College earlier in the process, and as necessary, send the matter back to other College officials as appropriate to correct any issues that affected the outcome of the matter. The parties will be provided simultaneously with notice of the appeal panel's decision and the rationale therefor.

Further, in faculty Respondent cases, a faculty member may be entitled to proceedings before the Faculty Grievance Committee through procedures outlined in the Faculty Handbook.

**G. Dispositions/Compliance Monitoring:**

The Dean of Students or designee is responsible for monitoring student compliance, if applicable.

Written notification of findings that trigger monitoring responsibilities shall be provided to the person responsible for monitoring compliance. Other parties may be notified, as deemed necessary, to ensure compliance.

Failure to observe the terms and/or conditions of any informal resolution or sanctions imposed in formal resolutions constitutes grounds for new action under either the procedures outlined in this policy or those identified for addressing matters of student misconduct.

The Deputy Coordinator, in consultation with the Title IX Coordinator/EOS or designee, the Complainant and/or person responsible for monitoring compliance, will determine which procedures shall be applied for investigation and response.

**H. Records of Complaints/Reports:**

A copy of the investigation report and the final decision shall be maintained by the College and included in the Conduct or Human Resources file of the Respondent only if the determination concludes that the Respondent engaged in prohibited conduct.

Complaints against students will be held in the Respondent's file in accordance with the policy as stated in the Retention and Release of Student Disciplinary Records.

No record of a complaint is kept in the Complainant's Human Resources file or student file unless the investigation concludes that the complaint was knowingly false and malicious.

The Title IX Coordinator/EOS or designee shall keep a record of all reports and complaints made under the Sexual Misconduct policy, regardless of the outcome.

All documents prepared and maintained pursuant to the Sexual Misconduct Policy and Procedures shall conform to all applicable governing law.

Record retention and release by the College shall be in conformance with applicable law and regulations, including those established by the 2020 Title IX regulations.

**XII. Informal Resolution (Title IX and Non-Title IX Sexual Misconduct)**

At any time after a formal complaint has been filed and before a hearing commences, the parties may seek to resolve a report of Prohibited Conduct through informal resolution, an administrative process.

Participation in informal resolution is entirely voluntary; the Title IX Coordinator/EOS or designee will neither pressure nor compel either party to participate in the process or to agree to any specific terms and the process itself does not involve any

in-person or face-to-face meetings between the parties. The informal process can be engaged only by mutual agreement by both parties and with the approval of the Title IX Coordinator/EOS or designee before or at any time during the investigation of the complaint. All parties must agree in writing to participate before the informal process can commence.

In every case, the Title IX Coordinator/EOS or designee has discretion to determine whether the matter is appropriate for informal resolution and to determine the appropriate terms. Before the Title IX Coordinator/EOS or designee approves the informal resolution process or the terms of any informal resolution, the Title IX Coordinator/EOS or designee will determine that they have sufficient information about the matter to make these decisions.

The parties are strongly encouraged, although not required, to consult with their advisors and any support persons during the entire informal resolution process.

If the process is terminated for any reason, the matter will be re-evaluated for resolution pursuant to the formal complaint resolution process under these procedures.

The Title IX Coordinator/EOS or designee will oversee the informal resolution process and have access to all College records in the matter, including any records or reports prepared during an investigation.

The Title IX Coordinator/EOS or designee will consult separately with both parties and recommend to the parties the terms of a potential informal resolution agreement. Such terms may include, but are not limited to, any sanctions or remedies that could be recommended by a hearing officer after a hearing under these proceedings.

Both parties must agree to the terms before an informal resolution agreement becomes effective.

At any time before a written agreement is effective (see below), the Complainant or the Respondent may withdraw from the informal resolution process, and the Title IX Coordinator/EOS or designee may also, at their discretion, terminate the process.

If the Respondent agrees to an informal resolution that provides for a suspension, withdrawal, or dismissal (i.e. expulsion) from the College, there will be a transcript notation consistent with College policy and New York State's Enough is Enough Law. The Title IX Coordinator/EOS or designee cannot advise any party as to whether they should pursue, agree, or reject an agreement or proposed remedy, stipulation, or sanction therein.

If both parties are satisfied with the Title IX Coordinator/EOS or designee's recommendation, the matter will be resolved with a written agreement, signed by both parties and the Title IX Coordinator/EOS or designee, with the Title IX Coordinator/EOS or designee to coordinate implementation.

Once a party has returned the signed agreement to the Title IX Coordinator/EOS or designee, the party has two (2) business days to reconsider and withdraw from the agreement by notifying the Title IX Coordinator/EOS or designee in person or in writing.

Within the two (2) business days, if either party withdraws from the agreement, the matter would be returned for resolution of the formal complaint.

After the two (2) business days, if neither party withdraws, the terms of the agreement will become effective and the Title IX Coordinator/EOS or designee will promptly notify both parties in writing that the agreement is final.

Once the agreement is effective, the parties may not appeal the agreement and the Complainant may not seek to refile the formal complaint absent new allegations of misconduct. The parties are expected to honor and comply with the terms of the informal resolution. Noncompliance by a student may be subject to proceedings under the Student Code of Conduct. Noncompliance by employees will be adjudicated by the Office of Human Resources pursuant to the applicable employee handbook. A written copy of the agreement involving students will be provided to the Dean of Students Office, agreements involving employees will be provided to the Office of Human Resources. The Title IX Office will maintain a copy for record keeping, pattern tracking, and sharing with College personnel as needed for implementation.

If the process is terminated and the matter resolved pursuant to the formal complaint resolution process, neither the Title IX Coordinator/EOS or designee nor the parties will disclose to the hearing officer or appeal panel either the fact that the parties had participated in the informal resolution process or any information learned during the process.

While the parties are exploring informal resolution, the investigation will pause for up to ten (10) business days which may be extended by agreement from both parties, and the time spent pursuing resolution in this way will not count toward the investigation time limit.

As a necessary precondition of an informal resolution, the Respondent **must** accept responsibility for all or part of the alleged prohibited conduct and may be required to submit a letter of apology to Complainant. The parties will then have an opportunity to negotiate with Title IX Coordinator/EOS or designee what they believe the appropriate sanction should be. In support of their position, parties will submit impact/mitigation information they believe the Title IX Coordinator/EOS or designee should consider in evaluating any sanction. The Title IX Coordinator/EOS or designee has the discretion to propose other terms for the resolution that may be appropriate to address the prohibited conduct for which the Respondent has accepted responsibility.

Regardless of whether Respondent accepts all or part of the alleged prohibited conduct, the agreement must adequately address the rights and concerns of the Complainant, and Respondent, and the overall intent of the College to stop, remedy and prevent sexual and gender-based misconduct as outlined in the College's Title IX policy or related policies.

With the approval of all parties, an informal resolution could include but is not limited to, remedies such as:

- Implementing agreed upon measures or sanctions, such as:
  - No contact order
  - Counseling and/or professional assessment
  - Voluntary personal leave
  - Change in student housing
  - Change in on-campus work schedule or job assignment
  - Change in class schedule or other academic measures (in conjunction with and approval by the appropriate faculty or academic office)
  - Community service
  - One-time or recurring meetings with an appropriate administrator
  - Other specific measures or restrictions, such as
    - Schedules for when certain buildings/facilities/services can be accessed
    - Schedules for when certain off-campus buildings, establishments, and other locations can be accessed
    - Limitations on participating in clubs, activities, sports teams, or other College programs
    - Reimbursement for lost or damaged property
    - Increasing monitoring or security at specific locations
    - Other sanctions as stated in the Title IX policy
    - Any other remedy that can be tailored to the parties to achieve the goals of the Policy.

Please note that any type of monetary offering or settlement would be prohibited in any agreement with the exception of a reimbursement of lost or damaged property related to the complaint.

If the Complainant is not in agreement with the outcome of the informal resolution process or chooses to end it and proceed to the formal process, if the issue cannot be resolved informally, or if the Title IX Coordinator/EOS or designee determines that additional inquiry is still appropriate, the Title IX Coordinator/EOS or designee will commence the complaint process. Either party may end the informal resolution process at any time and proceed with the formal process.

The College will not offer to facilitate an informal resolution process in any matter (Title IX Sexual Harassment or Non-Title IX Misconduct) that involves allegations that an employee sexually harassed a student. Any agreement reached is under the purview of Siena College and does not affect or preclude any parties ability to pursue a complaint with law enforcement or another external entity.

### **XIII. Annual Reporting**

The Title IX Coordinator/EOS or designee shall provide the President of the College and the Cabinet with an annual confidential report, detailing the number and disposition of different types of incidents, allegations, reports, and complaints of sexual misconduct that have come to their attention each year. Information that could identify Complainants, or Respondents against whom no finding has been made, shall not be included. A summary may be provided to the College community so long as confidentiality of individuals' identities is not breached. The President shall determine the propriety of a report to the entire College community. In addition, the Title IX Coordinator/EOS or designee shall file a report annually of the aggregate data to the New York State Department of Education as required by New York State law.

### **XIV. Resolution Through Other Means**

Complainants and Respondents have the right to seek resolution through other sources, for example, the New York State Division of Human Rights, the Equal Employment Opportunity Commission, or Office of Civil Rights of the United States Department of Education (1-800-421-3481).

### **XV. Revocation by Operation of Law**

If any portion of the Title IX Final Rule is stayed or held invalid by a court of law, then the invalidated elements of this policy will be deemed revoked as of the publication date of the opinion or order.

### **XVI. Modifications**

Final substantive policy changes are to be approved by the President, President's Cabinet, and Board of Trustees. However, modifications to the policy concerning changes in personnel and routine procedural changes shall only require approval of the President and the President's Cabinet.

Last Modified: June 2022

## Appendix I: Student Bill of Rights

The following rights are in accordance with New York law, and are incorporated into the policies above in student cases as applicable. In the application of the College's Sexual Misconduct and Interpersonal Violence policy, no provision of the policy should be interpreted so as to be inconsistent with the Student Bill of Rights as defined in New York law.

### A. Student Bill of Rights:

Siena College is committed to maintaining a community environment that fosters respect for the dignity and worth of each individual. The dignity of the individual should never be violated in any way, and the College community views with seriousness offenses against any person. Siena College is committed to providing options, support, and assistance to victims/survivors of sexual misconduct, sexual harassment, domestic violence, dating violence, and/or stalking so that they can continue to participate in college-wide and campus programs, activities, and employment. Siena College is committed to addressing reports of sexual misconduct, sexual harassment, domestic violence, dating violence, and/or stalking in a prompt, fair, equitable, and impartial manner. All victims/survivors of these crimes and violations have the following rights regardless of whether the crime or violation occurs on campus, off-campus, or while studying abroad.

The rights listed below are afforded to all students reporting sexual violence, as well as all students accused of sexual misconduct, 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, status as a domestic violence victim, or criminal conviction.

Students have the right to:

1. Make a report to the Campus Title IX Coordinator/EOS or designee and/or Campus Public Safety and/or local law enforcement and/or state police.
2. Have disclosures of domestic violence, dating violence, stalking, and sexual violence treated seriously;
3. Make decision about whether or not to disclose a crime or violation and participate in the conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard; Respondents are presumed not responsible until the grievance process has concluded;
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 institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, 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 determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused or Respondent throughout the conduct process including during all meetings and hearings related to such process;

11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of the institution.
12. Be provided with a written copy of the College’s policy and procedures regarding sexual misconduct.

Victims/Survivors/Complainants have many options that can be pursued simultaneously, including the following:

- Receive resources, such as counseling and medical attention on or off-campus.
- Confidentially disclose a crime or violation to a Counselor in the Counseling Center, Health Services, or the College Chaplain. Confidential resources can share options and advice without any obligation to tell anyone, and will not share information without the consent of the victim/survivor.
- Anonymously disclose a crime or violation to the Public Safety anonymous tip line. The College does have a duty to investigate anonymous disclosures to the extent possible, based on the information disclosed.
- Make a report with privacy (Victims/Survivors/Complainants have the right of privacy when reporting to College officials, to the extent possible under the circumstances. However, information must be shared with other members of the community if there is a need to know.) to:
  - Any employee with the authority to address complaints, all Faculty, Staff, and Administrators, including the Title IX Coordinator/EOS or designee, Dean of Students Office, Community Living Staff, or a Human Resources employee;
  - Public Safety

**Appendix II: Resources**

**Important Resources for Victim/Survivors:**

<b>On-Campus</b>	<b>Off-Campus</b>
Public Safety 24-hour emergency: 518-783-2999 (non-emergency: 518-783-2376) (private, non-confidential)	Police 24-hour: 911
Title IX Coordinator/EOS: 518-782-6673 (private, non-confidential)	Albany County Crime Victims and Sexual Violence Center crisis hotline: 518-447-7716 (main number: 518-447-7100)

Counseling Center: 518-783-2342 (confidential)	St. Peter’s Health Partners Sexual Assault & Crime Victims Assistance Program 24 Hour Hotline: 518-271- 3257
Health Services: 518-783-2554 (confidential)	In Our Own Voices – LGBT Domestic Violence Support Line: 518-432-4341
College Chaplain: 518-783-2332 (confidential)	New York State Police Campus Sexual Assault Victims Unit Dedicated 24-hour hotline: 1-844-845- 7269
Anonymous Tip Line: <a href="http://www.siena.edu/anonymous">www.siena.edu/anonymous</a>	Equinox Inc. Domestic Violence Services crisis hotline: 518-432-7865 (main number: 518-434-6135)

### **Important Resources for Respondents On-Campus:**

Public Safety 24-hour emergency: 518-783-2999 (non-emergency: 518-783-2376) (private, non-confidential)

Title IX Coordinator/EOS: 518-782-6673 (private, non-confidential)

Counseling Center: 518-783-2342 (confidential)

College Chaplain: 518-783-2332 (confidential)

### **Programs to Prevent Domestic Violence, Dating Violence, Sexual Assault and Stalking**

The College engages in comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end sexual violence, sexual assault, sexual coercion, sexual exploitation, sexual harassment, dating violence, domestic violence, and stalking that:

- 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; and
- consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.

Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students and that includes:

- A statement that the institution prohibits acts of sexual violence, including but not limited to sexual assault, sexual coercion, and sexual exploitation; sexual harassment; and the gender based offenses of domestic violence, dating violence, and stalking (as defined by the Clery Act).
- The definitions of sexual violence, sexual assault, sexual coercion, sexual exploitation, sexual harassment, domestic violence, dating violence, and stalking according to any applicable jurisdictional definitions of these terms;
- What behavior and actions constitute affirmative consent, in reference to sexual activity, in the State of New York;
- A description of safe and positive options for bystander intervention. Bystander intervention means 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 sexual violence, sexual assault, sexual coercion, sexual exploitation, sexual harassment, domestic violence, dating violence, or stalking .

Bystander intervention includes 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;

- Information on risk reduction. Risk reduction means options designed to decrease perpetration and bystander inaction and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.
- Information regarding
  - procedures victims should follow if a crime of sexual violence, sexual assault, sexual coercion, sexual exploitation, sexual harassment, domestic violence, dating violence, and stalking occurs
  - how the institution will protect the confidentiality of victims and other necessary parties;
  - existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community; and
  - options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures;
  - procedures for institutional disciplinary action in cases of alleged sexual violence, sexual assault, sexual coercion, sexual exploitation, sexual harassment, dating violence, domestic violence, or stalking.

Siena College encourages all members of the

community to be active, engaged bystanders to promote an end to sexual violence, sexual assault, sexual coercion, sexual exploitation, sexual harassment, dating violence, domestic violence, and stalking. Additional information is provided below.

**Primary Prevention Education and Awareness Campaigns that address Sexual Assault, Dating Violence, Domestic Violence, and Stalking**

At Siena College our prevention education programs and awareness campaigns are rooted in the bystander intervention model of education, which teaches people to become active bystanders who challenge problematic behaviors that they witness, and social structures that support such behaviors. Our programs are also built around our college-wide Recognize, Report, Prevent campaign.

**Specifically, the College offered the following primary prevention and awareness programs for all new students:**

***Sexual Assault Prevention for Undergraduates via Everfi/Vector:*** This online course is meant to engage undergraduate students in fostering healthy relationships and prepare them to recognize and respond to sexual assault and harassment when it occurs. The training is delivered to all incoming new, visiting and transfer students. Students were required to complete it prior to the start of the classes.

**“Hot Topics” Orientation Program:**

At Orientation, all incoming first year and transfer students attend a mandatory program by Dorian Solot. He does a Hot Topics presentation then the students are broken up into smaller groups and SAINTS facilitated discussion.

**Specifically, the College offered the following on-going prevention and awareness programs for current students:**

**"Recognize, Report, Prevent" Training Workshops:** Community Assistants (CAs) received training regarding how to recognize, report and prevent sexual assault, dating violence, domestic violence, and stalking. The training is customized to the CA role and builds upon the active bystander pedagogical model. Additional groups of students who receive customized, annual “Recognize, Report, Prevent” training included: all athletes, international students and student leadership groups. Orientation leaders were exposed to this information as well.

Program facilitators (faculty and administrators) were also trained.

**Additional Outreach to Students:**

Siena College officials - Dean of Students, Director of Public Safety, the Title IX Coordinator etc. – may meet annually with Athletics teams and Club Sports teams, ROTC Cadets, leadership of student groups, and campus center leaders to provide important information about sexual assault, dating violence, domestic violence, and stalking. There is also on-line training available for student leaders.

**Awareness Campaigns and Additional Programming for All Students:**

Community Living Staff, the Office of Health Promotion and the Siena College Campus Coalition provide a number of hall and community programs that raise awareness about issues like sexual assault, dating violence, domestic violence, and stalking; and teach students pro-social behaviors such as healthy relationship programming.

**Print and Electronic Education for All Students:**

The Siena College “Recognize, Report, Prevent” campaign features a comprehensive website [www.siena.edu/SexualViolencePrevention](http://www.siena.edu/SexualViolencePrevention) and resource pamphlets. All materials are designed to educate and empower the community to work together to recognize, report, and prevent sexual assault, dating violence, domestic violence, and stalking. Materials include active bystander messaging. The New York State mandated Student Bill of Rights is also posted in each Residence Hall and in the College’s Campus Center.

**Specifically, the College offered the following primary prevention and awareness programs for all new employees:**

Primary Prevention Education Programs for New Faculty/Staff/Administrators was provided by the Title IX Coordinator during new employee Orientation sessions and via on-line Title IX training.

**Harassment, Discrimination and Sexual Misconduct:** All in-coming faculty, staff and administrators receive training during onboarding. Topics covered include: Federal protected categories, New York State protected categories, Sexual Misconduct, Discrimination and Harassment policies, filing complaints, informal and formal resolutions of complaints, confidentiality of procedures, retaliation

prohibited by Campus as well as federal and state laws, overview of Campus SaVE, VAWA, TITLE IX, Clery Reporting, NotAlone, behavioral examples to accompany legal definitions of misconduct, including stalking, domestic violence, dating violence, rape, discussion of consent, incapacitation, definition of Responsible Employees, confidential in-take individuals, impact of harassment, discrimination and sexual misconduct on individuals and campus.

## SEXUAL OFFENDER REGISTRY: SEX OFFENDER REGISTRATION ACT (SORA)

The Sex Offender Registration Act requires the Division of Criminal Justice Services (DCJS) to maintain a Sex Offender Registry. The Registry contains information on sex offenders classified according to their risk of reoffending: low-risk (Level 1), moderate-risk (Level 2) and high-risk (Level 3). The Act requires that the Division also maintain a Subdirectory of Level 3 Sex Offenders. The DCJS Sex Offender Registry site may be found on the web and contains their Subdirectory of Level 3 Sex Offenders as well as other information regarding New York State's Sex Offender Registry.

Sex offenders registered in New York are now required to notify the Registry of any institution of higher education at which he or she is, or expects to be, whether for compensation or not, enrolled, attending or employed, and whether such sex offender resides or expects to reside in a facility operated by the institution. Changes in status at the institution of higher education must also be reported to the Registry no later than ten days after such change. The College shall comply with federal and state law concerning the Sex Offender Registration Act (SORA), and should the Vice President for Student Affairs or designee be informed that a student is listed as part of a sex offender registry; the College reserves the right to take immediate action, to include temporary suspension pending a College administrative hearing. The College also reserves the right to take immediate action, to include the right to suspend or dismiss the student from the College where the student represents a risk to the health, safety or welfare of the community, or to any person or property. Registry information can be accessed in several ways:

- **Telephone:** Information about offenders of all risk levels, including those whose risk

levels are pending, is available by calling 1-800-262-3257, Option 2. Callers must have an individual's name and one of the following – an exact address, date of birth, driver's license number, or Social Security number – to learn if the individual is on the Registry.

- **Internet:** Information regarding high risk sex offenders (Level 3) may be accessed through the DCJS (Division of Criminal Justice Services) website:  
<http://www.criminaljustice.ny.gov/nsor/>
- **Local Police Department:** Each month, local police agencies receive updated copies of the *Subdirectory of High-Risk (Level 3) Sex Offenders*, which lists all level 3 offenders in New York State. The *Subdirectory* is made available for review by the general public, along with photographs of those offenders. Contact your local police agency for further information. In the Town of Colonie, the town in which Siena College is located, one should contact the Colonie Police Department at 518-783-2811. Their investigative division has access to the *Subdirectory* and can supply information relative to any registered sex offenders in the vicinity of Siena College.

Siena College Public Safety maintains on their website a listing of any registered sexual offenders reported to the College as being enrolled, attending or employed at the College. *If additional information is needed, contact Siena College Public Safety at 518-783-2376.*

## NEW YORK STATE SEXUAL OFFENSES AND PENALTIES

NYS Penal Law ARTICLE 130

### ***S 130.00 Sex offenses; definitions of terms.***

The following definitions are applicable to this article:

1. "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight.
2. (a) "Oral sexual conduct" means conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina.  
(b) "Anal sexual conduct" means conduct between persons consisting of contact between the penis and anus.

3. "Sexual contact" means any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed.

4. For the purposes of this article "married" means the existence of the relationship between the actor and the victim as spouses which is recognized by law at the time the actor commits an offense proscribed by this article against the victim.

5. "Mentally disabled" means that a person suffers from a mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct.

6. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent.

7. "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

8. "Forcible compulsion" means to compel by either:

- a. use of physical force; or
- b. a threat, expressed or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped.

9. "Foreign object" means any instrument or article which, when inserted in the vagina, urethra, penis, rectum or anus, is capable of causing physical injury.

10. "Sexual conduct" means sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact.

11. "Aggravated sexual contact" means inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis, rectum or anus of a child, thereby causing physical injury to such child.

12. "Health care provider" means any person who is, or is required to be, licensed or registered or holds himself or herself out to be licensed or registered, or provides services as if he or she

were licensed or registered in the profession of medicine, chiropractic, dentistry or podiatry under any of the following: article one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, or one hundred forty-one of the education law.

13. "Mental health care provider" shall mean a licensed physician, licensed psychologist, registered professional nurse, licensed clinical social worker or a licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker.

#### ***S 130.05 Sex offenses; lack of consent.***

1. Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without the consent of the victim.

2. Lack of consent results from:

- (a) Forcible compulsion; or
- (b) Incapacity to consent; or
- (c) Where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct; or
- (d) Where the offense charged is rape in the third degree as defined in subdivision three of section 130.25, or criminal sexual act in the third degree as defined in subdivision three of section 130.40, in addition to forcible compulsion,

circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances.

3. A person is deemed incapable of consent when he or she is:

- (a) less than seventeen years old; or
- (b) mentally disabled; or
- (c) mentally incapacitated; or
- (d) physically helpless; or
- (e) committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee who knows or reasonably should know that such person is committed to the care and custody or

supervision of such department or hospital. For purposes of this paragraph, "employee" means (i) an employee of the state department of corrections and community supervision who, as part of his or her employment, performs duties: (A) in a state correctional facility in which the victim is confined at the time of the offense consisting of providing custody, medical or mental health services, counseling services, educational programs, vocational training, institutional parole services or direct supervision to inmates; or (B) of supervising persons released on community supervision and supervises the victim at the time of the offense or has supervised the victim and the victim is still under community supervision at the time of the offense; or (ii) an employee of the office of mental health who, as part of his or her employment, performs duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law in which the inmate is confined at the time of the offense, consisting of providing custody, medical or mental health services, or direct supervision to such inmates; or (iii) a person, including a volunteer, providing direct services to inmates in a state correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the state department of corrections and community supervision or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or

(f) committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state department of corrections and community supervision or a local health, education or probation agency, providing

direct services to inmates in the local correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the local correctional department or, in the case of such a volunteer or government employee, a written agreement with such department, provided that such person received written notice concerning the provisions of this paragraph; or

(g) committed to or placed with the office of children and family services and in residential care, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to or placed with such office of children and family services and in residential care. For purposes of this paragraph, "employee" means an employee of the office of children and family services or of a residential facility in which such person is committed to or placed at the time of the offense who, as part of his or her employment, performs duties consisting of providing custody, medical or mental health services, counseling services, educational services, vocational training, or direct supervision to persons committed to or placed in a residential facility operated by the office of children and family services; or

(h) a client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree as defined in section 130.25, criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination; or

(i) a resident or inpatient of a residential facility operated, licensed or certified by (i) the office of mental health; (ii) the office for people with developmental disabilities; or (iii) the office of alcoholism and substance abuse services, and the actor is an employee of the facility not married to such resident or inpatient. For purposes of this paragraph, "employee" means either: an employee of the agency operating the residential facility, who knows or reasonably should know that such person is a resident or inpatient of such facility and who provides direct care services, case management services, medical or other clinical services, rehabilitative services or direct supervision of the

residents in the facility in which the resident resides; or an officer or other employee, consultant, contractor or volunteer of the residential facility, who knows or reasonably should know that the person is a resident of such facility and who is in direct contact with residents or inpatients; provided, however, that the provisions of this paragraph shall only apply to a consultant, contractor or volunteer providing services pursuant to a contractual arrangement with the agency operating the residential facility or, in the case of a volunteer, a written agreement with such facility, provided that the person received written notice concerning the provisions of this paragraph; provided further, however, "employee" shall not include a person with a developmental disability who is or was receiving services and is also an employee of a service provider and who has sexual contact with another service recipient who is a consenting adult who has consented to such contact; or

(j) detained or otherwise in the custody of a police officer, peace

officer, or other law enforcement official and the actor is a police

officer, peace officer or other law enforcement official who either: (i)

is detaining or maintaining custody of such person; or (ii) knows, or

reasonably should know, that at the time of the offense, such person was

detained or in custody.

**S 130.10 Sex offenses; limitation; defenses.**

1. In any prosecution under this article in which the victim's lack of consent is based solely upon his or her incapacity to consent because he or she was mentally disabled, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he or she engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.
2. Conduct performed for a valid medical or mental health care purpose shall not constitute a violation of any section of this article in which incapacity to consent is based on the

circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article.

3. In any prosecution for the crime of rape in the third degree as defined in section 130.25, criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55 in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article it shall be an affirmative defense that the client or patient consented to such conduct charged after having been expressly advised by the health care or mental health care provider that such conduct was not performed for a valid medical purpose.

4. In any prosecution under this article in which the victim's lack of consent is based solely on his or her incapacity to consent because he or she was less than seventeen years old, mentally disabled, a client or patient and the actor is a health care provider , detained or otherwise

in custody of law enforcement under the circumstances described in

paragraph (j) of subdivision three of section 130.05 of this article, or

committed to the care and custody or supervision of the state department

of corrections and community supervision or a hospital and the actor is

an employee, it shall be a defense that the defendant was married to the

victim as defined in subdivision four of section 130.00 of this article.

**S 130.16 Sex offenses; corroboration.**

A person shall not be convicted of any offense defined in this article of which lack of consent is an element but results solely from incapacity to consent because of the victim's mental defect, or mental incapacity, or an attempt to commit the same, solely on the testimony of the victim, unsupported by other evidence tending to: (a) Establish that an attempt was made to engage the victim in sexual intercourse, oral sexual conduct, anal sexual conduct, or sexual contact,

as the case may be, at the time of the occurrence; and (b) Connect the defendant with the commission of the offense or attempted offense.

**S 130.20 Sexual misconduct.**

A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person without such person's consent; or
2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or
3. He or she engages in sexual conduct with an animal or a dead human body.

*Sexual misconduct is a class A misdemeanor.*

**S 130.25 Rape in the third degree.**

A person is guilty of rape in the third degree when:

1. He or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;
2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old; or
3. He or she engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

*Rape in the third degree is a class E felony.*

**S 130.30 Rape in the second degree.**

A person is guilty of rape in the second degree when:

1. being eighteen years old or more, he or she engages in sexual intercourse with another person less than fifteen years old; or
2. he or she engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It shall be an affirmative defense to the crime of rape in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

*Rape in the second degree is a class D felony.*

**S 130.35 Rape in the first degree.**

A person is guilty of rape in the first degree when he or she engages in sexual intercourse with another person:

1. By forcible compulsion; or

2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

*Rape in the first degree is a class B felony.*

**S 130.40 Criminal sexual act in the third degree.**

A person is guilty of criminal sexual act in the third degree when:

1. He or she engages in oral sexual conduct or anal sexual conduct with a person who is incapable of consent by reason of some factor other than being less than seventeen years old;
2. Being twenty-one years old or more, he or she engages in oral sexual conduct or anal sexual conduct with a person less than seventeen years old; or
3. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

*Criminal sexual act in the third degree is a class E felony.*

**S 130.45 Criminal sexual act in the second degree.**

A person is guilty of criminal sexual act in the second degree when:

1. being eighteen years old or more, he or she engages in oral sexual conduct or anal sexual conduct with another person less than fifteen years old; or
2. he or she engages in oral sexual conduct or anal sexual conduct with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It shall be an affirmative defense to the crime of criminal sexual act in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

*Criminal sexual act in the second degree is a class D felony.*

**S 130.50 Criminal sexual act in the first degree.**

A person is guilty of criminal sexual act in the first degree when he or she engages in oral sexual conduct or anal sexual conduct with

another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

*Criminal sexual act in the first degree is a class B felony.*

**S 130.52 Forcible touching.**

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose,

1. forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire; or
2. subjects another person to sexual contact for the purpose of gratifying the actor's sexual desire and with intent to degrade or abuse another person while such person is a passenger on a bus, train, or subway car operated by any transit agency, authority or company, public or private, whose operation is authorized by New York State or any of its political subdivisions

For the purposes of this section, forcible touching includes squeezing, grabbing or pinching.

*Forcible touching is a class A misdemeanor.*

**S 130.53 Persistent sexual abuse.**

A person is guilty of persistent sexual abuse when he or she commits the crime of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree, as defined in section 130.55 of this article, or sexual abuse in the second degree, as defined in section 130.60 of this article, and, within the previous ten year period, has been convicted two or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree as defined in section 130.55 of this article, sexual abuse in the second degree, as defined in section 130.60 of this article, or any offense defined in this article, of which the commission or attempted commission thereof is a felony.

*Persistent sexual abuse is a class E felony.*

**S 130.55 Sexual abuse in the third degree.**

A person is guilty of sexual abuse in the third

degree when he or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person.

*Sexual abuse in the third degree is a class B misdemeanor.*

**S 130.60 Sexual abuse in the second degree.**

A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Less than fourteen years old.

*Sexual abuse in the second degree is a class A misdemeanor.*

**S 130.65 Sexual abuse in the first degree.**

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old; or
4. When the other person is less than thirteen years old and the actor is twenty-one years old or older.

*Sexual abuse in the first degree is a class D felony.*

**S 130.65-a Aggravated sexual abuse in the fourth degree.**

1. A person is guilty of aggravated sexual abuse in the fourth degree when:

(a) He or she inserts a foreign object in the vagina, urethra, penis or rectum of another person and the other person is incapable of consent by reason of some factor other than being less than seventeen years old; or

(b) He or she inserts a finger in the vagina, urethra, penis or rectum of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than

seventeen years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

*Aggravated sexual abuse in the fourth degree is a class E felony.*

***S 130.66 Aggravated sexual abuse in the third degree.***

1. A person is guilty of aggravated sexual abuse in the third degree when he inserts a foreign object in the vagina, urethra, penis or rectum of another person:

- (a) By forcible compulsion; or
- (b) When the other person is incapable of consent by reason of being physically helpless; or
- (c) When the other person is less than eleven years old.

2. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis or rectum of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.

3. Conduct performed for a valid medical purpose does not violate the provisions of this section.

*Aggravated sexual abuse in the third degree is a class D felony.*

***S 130.67 Aggravated sexual abuse in the second degree.***

1. A person is guilty of aggravated sexual abuse in the second degree when he inserts a finger in the vagina, urethra, penis, or rectum of another person causing physical injury to such person:

- (a) By forcible compulsion; or
- (b) When the other person is incapable of consent by reason of being physically helpless; or
- (c) When the other person is less than eleven years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

*Aggravated sexual abuse in the second degree is a class C felony.*

***S 130.70 Aggravated sexual abuse in the first degree.***

1. A person is guilty of aggravated sexual abuse in the first degree when he inserts a foreign object in the vagina, urethra, penis or rectum of another person causing physical injury to such

person:

- (a) By forcible compulsion; or
- (b) When the other person is incapable of consent by reason of being physically helpless; or
- (c) When the other person is less than eleven years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

*Aggravated sexual abuse in the first degree is a class B felony.*

***S 130.75 Course of sexual conduct against a child in the first degree.***

1. A person is guilty of course of sexual conduct against a child in the first degree when, over a period of time not less than three months in duration:

- (a) he or she engages in two or more acts of sexual conduct, which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than eleven years old; or
- (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct, which include at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than thirteen years old.

2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.

*Course of sexual conduct against a child in the first degree is a class B felony.*

***S 130.80 Course of sexual conduct against a child in the second degree.***

1. A person is guilty of course of sexual conduct against a child in the second degree when, over a period of time not less than three months in duration:

- (a) he or she engages in two or more acts of sexual conduct with a child less than eleven years old; or
- (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct with a child less than thirteen years old.

2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.

*Course of sexual conduct against a child in the second degree is a class D felony.*

**S 130.85 Female genital mutilation.**

1. A person is guilty of female genital mutilation when:
  - (a) a person knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not reached eighteen years of age; or
  - (b) being a parent, guardian or other person legally responsible and charged with the care or custody of a child less than eighteen years old, he or she knowingly consents to the circumcision, excision or infibulation of whole or part of such child's labia majora or labia minora or clitoris.
2. Such circumcision, excision, or infibulation is not a violation of this section if such act is:
  - (a) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or
  - (b) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.
3. For the purposes of paragraph (a) of subdivision two of this section, no account shall be taken of the effect on the person on whom such procedure is to be performed of any belief on the part of that or any other person that such procedure is required as a matter of custom or ritual.

*Female genital mutilation is a class E felony.*

**S 130.90 Facilitating a sex offense with a controlled substance.**

A person is guilty of facilitating a sex offense with a controlled substance when he or she:

1. knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and

2. commits or attempts to commit such conduct constituting a felony defined in this article.

*Facilitating a sex offense with a controlled substance is a class D felony.*

**S 130.91 Sexually motivated felony.**

1. A person commits a sexually motivated felony when he or she commits a specified offense for the purpose, in whole or substantial part, of his or her own direct sexual gratification.
2. A "**specified offense**" is a felony offense defined by any of the following provisions of this chapter: assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10, gang assault in the second degree as defined in section 120.06, gang assault in the first degree as defined in section 120.07, stalking in the first degree as defined in section 120.60, strangulation in the second degree as defined in section 121.12, strangulation in the first degree as defined in section 121.13, manslaughter in the second degree as defined in subdivision one of section 125.15, manslaughter in the first degree as defined in section 125.20, murder in the second degree as defined in section 125.25, aggravated murder as defined in section 125.26, murder in the first degree as defined in section 125.27, kidnapping in the second degree as defined in section 135.20, kidnapping in the first degree as defined in section 135.25, burglary in the third degree as defined in section 140.20, burglary in the second degree as defined in section 140.25, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, arson in the first degree as defined in section 150.20, robbery in the third degree as defined in section 160.05, robbery in the second degree as defined in section 160.10, robbery in the first degree as defined in section 160.15, promoting prostitution in the second degree as defined in section 230.30, promoting prostitution in the first degree as defined in section 230.32, compelling prostitution as defined in section 230.33, disseminating indecent material to minors in the first degree as defined in section 235.22, use of a child in a sexual performance as defined in section 263.05, promoting an obscene sexual performance by a child as defined in section 263.10, promoting a sexual performance by a child as defined in section 263.15, or any felony attempt or conspiracy to commit any of the foregoing

offenses.

**S 130.92 Sentencing.**

1. When a person is convicted of a sexually motivated felony pursuant to this article, and the specified felony is a violent felony offense, as defined in section 70.02 of this chapter, the sexually motivated felony shall be deemed a violent felony offense.
2. When a person is convicted of a sexually motivated felony pursuant to this article, the sexually motivated felony shall be deemed to be the same offense level as the specified offense the defendant committed.
3. Persons convicted of a sexually motivated felony as defined in section 130.91 of this article, must be sentenced in accordance with the provisions of section 70.80 of this chapter.

**S 130.95 Predatory sexual assault.**

A person is guilty of predatory sexual assault when he or she commits the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and when:

1. In the course of the commission of the crime or the immediate flight therefrom, he or she:
  - (a) Causes serious physical injury to the victim of such crime; or
  - (b) Uses or threatens the immediate use of a dangerous instrument; or
2. He or she has engaged in conduct constituting the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, against one or more additional persons; or
3. He or she has previously been subjected to a conviction for a felony defined in this article, incest as defined in section 255.25 of this chapter or use of a child in a sexual performance as defined in section 263.5 of this chapter.

*Predatory sexual assault is a class A-II felony.*

**S 130.96 Predatory sexual assault against a child.**

A person is guilty of predatory sexual assault against a child when, being eighteen years old or more, he or she commits the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or

course of sexual conduct against a child in the first degree, as defined in this article, and the victim is less than thirteen years old.

*Predatory sexual assault against a child is a class A-II felony.*

**New York State Stalking Laws and Penalties:**

**S 120.45 Stalking in the fourth degree.**

A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

1. is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
2. causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or
3. is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

For the purposes of subdivision two of this section, "following" shall include the unauthorized tracking of such person's movements or location through the use of a global positioning system or other device.

S 120.50

**Stalking in the third degree.**

A person is guilty of stalking in the third degree when he or she:

1. Commits the crime of stalking in the fourth degree in violation of section [120.45](#) of this article against three or more persons, in three or more separate transactions, for which the actor has not been previously convicted; or
2. Commits the crime of stalking in the fourth degree in violation of section [120.45](#) of this article against any person, and has previously been convicted, within the preceding ten years of a

specified predicate crime, as defined in subdivision five of section [120.40](#) of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or

3. With intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or

4. Commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

Stalking in the third degree is a class A misdemeanor.

#### S 120.55 **Stalking in the second degree.**

A person is guilty of stalking in the second degree when he or she:

1. Commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 of this article and in the course of and in furtherance of the commission of such offense: (i) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, shotgun, machine gun, electronic dart gun, electronic stun gun, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slungshot, shirken, "Kung Fu Star", dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapon; or (ii) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or

2. Commits the crime of stalking in the third degree in violation of subdivision three of section [120.50](#) of this article against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime as defined in subdivision five of section [120.40](#) of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or

3. Commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree as defined in subdivision four of section [120.50](#) of this article against any person; or

4. Being twenty-one years of age or older,

repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or

5. Commits the crime of stalking in the third degree, as defined in subdivision three of section [120.50](#) of this article, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

Stalking in the second degree is a class E felony.

#### S 120.60 **Stalking in the first degree.**

A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree as defined in subdivision three of section [120.50](#) or stalking in the second degree as defined in section [120.55](#) of this article and, in the course and furtherance thereof, he or she:

1. intentionally or recklessly causes physical injury to the victim of such crime; or

2. commits a class A misdemeanor defined in article one hundred thirty of this chapter, or a class E felony defined in section [130.25](#), [130.40](#) or [130.85](#) of this chapter, or a class D felony defined in section [130.30](#) or [130.45](#) of this chapter.

Stalking in the first degree is a class D felony.

#### **New York State Domestic Violence Laws and Penalties:**

Domestic violence is dealt with under the penal law based upon the type of conduct (stalking, harassment assault, etc.); it doesn't have a separate specific law.

#### **New York State Dating Violence Laws and Penalties:**

Dating violence is dealt with under the penal law based upon the type of conduct (stalking, harassment assault, etc.); it doesn't have a separate specific law.

## **ALCOHOL AND DRUG POLICIES**

**Siena College Drug and Alcohol Policy for Students**  
**Siena College's Drug and Alcohol Policy for students is outlined in the Code of Conduct in the *Siena Life Student Handbook***

#### **Drug and Alcohol Policy:**

The problems associated with drug and alcohol abuse are a major concern in this country. As such, the passage of the Drug-Free Schools and Communities Act Amendments has placed requirements on institutions of higher education to develop policies and to provide information to students on drug and alcohol abuse, which Siena College has done herein.

This section provides students with the College's alcohol and drug policy, as well as information on the health risks associated with drug and alcohol abuse. This section also provides information, counseling and rehabilitation services available, and the federal, state and College sanctions that may be imposed for violations. The College collaborates with civil authorities. Violations of the Siena College alcohol and drug policy that are also violations of federal, state or local law may be referred to the appropriate law enforcement agencies. In such situations, cases may proceed concurrently at the College and in the criminal justice system.

1. Recreational Cannabis and Medical Cannabis (Marijuana): Federal laws (including the Controlled Substances Act and the Drug Free Schools and Communities Act) prohibit Cannabis use, possession and/or cultivation at educational institutions and on the premises of recipients of federal funds. New York State prohibits the possession of Cannabis by anyone under the age of 21 and in schools or workplaces.

The use, possession, or cultivation of Cannabis for medical or recreational purposes is not allowed in any Siena College housing or on any other Siena College property; nor is it allowed at any College sponsored event or activity off campus.

Students who have valid medical Cannabis prescriptions may petition the College for a waiver of their requirement to live on campus.

Students' use of Cannabis (and/or any other illegally or falsely obtained drug) on College premises is strictly forbidden and subject to action under the Code of Conduct.

Therefore, even students with medical Cannabis prescriptions are prohibited from possessing or using marijuana on Siena College property.

## 2. Drugs:

Siena College students are subject to all applicable drug regulations as outlined in the Code of Conduct or other applicable rules when adopted. Sanctions imposed by the College for violations of the drug policy may include drug education programs, substance abuse assessment and treatment, suspension, dismissal or expulsion.

Possession or use of illegal drugs, narcotics, synthetic drugs or mind altering substances (such as but not limited to K2, salvia, spice), controlled substances.

Intended or actual sale or distribution of illegal drugs, narcotics, controlled substances or prescription drugs to those other than prescribed.

Presence anywhere there is obvious illegal drug use and/or the presence of actual drugs/paraphernalia.

Possession and/or use of prescription drugs which have not been prescribed for you.

Misuse of prescription drugs or any controlled substance.

Paraphernalia under federal law means "any equipment, product or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance." Paraphernalia includes, but not limited to, bongos, pipes, hookahs and scales.

## Alcohol:

Siena College has established an alcohol policy in accordance with New York state law and based on the unique needs of the Siena College community. It is students' responsibility to know and obey the law and campus policies.

The legal age for alcohol possession, procurement and consumption in New York State is 21. Anyone who gives or sells an alcoholic beverage to a person under 21 is in violation of the law. Siena expects all members of the College community to comply with the law and College policies. New York State explicitly forbids the sale of alcoholic beverages unless the seller holds a state liquor license. The College's liquor license is the responsibility

of our food service vendor, which is solely responsible for the sale and distribution of alcohol at all College-sponsored events.

a. Alcohol Policy Violations Specifically for Individuals Under the Age of 21:

- i. Possession: Individuals under the age of 21 may not purchase, possess or consume alcohol in accordance with New York state law.
- ii. Presence: Students under the age of 21 may not be in a residential room, suite or townhouse where alcohol is visible and/or being consumed. The only exception is the underage student who resides with students of legal drinking age who may be in the presence of alcohol in their assigned residence.
- iii. Empty Containers: No empty alcohol containers are allowed for persons under the age of 21, including empty alcohol containers for decorative or keepsake purposes.

b. Alcohol Policy Violations Specifically for Individuals 21 Years of Age or Older:

- i. Alcohol in the Presence of Individuals Under 21: Students of legal drinking age may not have students under the age of 21 in their residential room, suite or townhouse where alcohol is being consumed, with the exception of underage roommate(s).
- ii. Quantity Limit: Students of legal drinking age may possess what College officials determine to be a reasonable quantity of alcohol for their personal consumption only. College officials may consider empty alcohol containers in determining whether this standard has been violated or if they suspect underage drinking and/or excessive alcohol consumption has occurred. Community Living and Public Safety staff may consider empty alcohol containers when documenting quantity-limit violations if they suspect underage drinking and/or excessive alcohol consumption has occurred.

- iii. Open Container: Students are prohibited from possessing open containers of alcoholic beverages in common areas of the College, including, but not limited to, hallways, lounges, bathrooms, campus grounds, athletic events, classrooms and townhouse stoops/front steps. A container is any bottle, can, glass, cup or similar receptacle designed to hold or capable of holding a liquid. College Officials acting in their official capacity may require individuals to discard or pour out any container in their possession if they believe it contains alcohol. Individual(s) acting in a manner that is inconsistent with College policies, including, but not limited to, disorderly conduct and/or public intoxication will be expected to empty all containers in their possession and are subject to violations of the Code of Conduct.

c. Alcohol Policy Violations – General:

- i. Gift, Sale or Distribution of Alcohol: Gift, sale or distribution of alcohol to anyone under the age of 21 is prohibited. Note: If an individual under 21 years of age is in possession of alcohol in a student room and is not a resident of that room, a charge of “gift, sale or distribution of alcohol” will be brought against the residents of the room. The person who supplied the alcohol may accept responsibility for the “gift, sale or distribution of alcohol” charge if they provided the alcohol.
- ii. Communal Source: Kegs, mini-kegs, beer balls and large communal sources of alcohol (trashcan punch, punch bowls, etc.) are prohibited. Sanctions apply to all residents of the space who are present at the time of the infraction or were involved in any way with the planning, purchase, etc. Use of empty beer balls or kegs as decorations or furnishings is prohibited.
- iii. Rapid Consumption Devices: Objects used as drinking apparatuses that promote rapid consumption of alcohol

- such as, but not limited to, funnels, beer bongs, ice block tunnels, and Beirut tables.
- iv. “Beer pong” and “water pong” or other simulated devices are prohibited. All residents of the space who are present are responsible.
  - v. Public Intoxication: Public intoxication is strictly prohibited. The College states that public drunkenness will not be tolerated since intoxicated students act in a manner that is inconsistent with the values of the College, pose a threat to themselves and others and make life unpleasant and difficult for those with whom they live. A judgment as to whether a student is intoxicated may be made on the basis of the following factors related to the use of alcohol, including, but not limited to, whether the student is:
    - unable to walk without assistance
    - speaking incoherently
    - unconscious
    - vomiting
    - emitting a strong odor of alcohol and/ or has bloodshot/ glassy eyes
    - behaving in a loud and/or disorderly manner
  - vi. Alcohol-Related Transports: If a student is found to be intoxicated to the point that medical attention is warranted, they may be transported to a local hospital for evaluation and treatment, if necessary. Further, in alcohol-related situations in which emergency medical attention is necessary, the recipient of medical attention may be referred for an alcohol/drug assessment and be required to comply with the recommendations resulting from this assessment. Any student transported multiple times for alcohol-related treatment may be charged in a formal conduct review action. The College encourages students who have concerns regarding the immediate health of a student in an intoxicated state to contact the appropriate College authorities.
  - vii. Guests and Alcohol: Guests are not permitted to bring alcohol on campus, regardless of their age or the age of the host.
- d. Alcohol Policy Violations and Events:
    - i. Dispensing of Alcohol on Campus: No alcoholic beverages may be sold anywhere on the Siena campus or dispensed outdoors or in public areas except under direct supervision of the College’s food service vendor. Strategies such as the sale of tokens, tickets or any article that may be redeemed for alcoholic beverages are the equivalent of paying money and are prohibited.
    - ii. Events with Alcohol: Events with Alcohol: Alcoholic beverages may not be served at any student event without specific approval of the Director of Student Activities and Leadership Development or designee, to be confirmed in writing. No privately obtained alcoholic beverages may be brought into an organized event. Any organization or group that fails to comply with these regulations may lose its privilege of serving alcoholic beverages at events and/or the right to schedule facility use at Siena. No club or organization may sponsor events off campus where alcohol may be served with the exception of authorized Senior Class events.
    - iii. Tailgating: To ensure the College is able to provide a safe, healthy, and welcoming environment for all fans and athletes, alcoholic beverages are prohibited at all on campus athletic and club sports venues, parking lots, and the designated tailgate area. This policy is consistent with the open container policy in the student code of conduct which prohibits students from possessing open containers of

alcoholic beverages in common areas of the College and the College's Facilities Guidelines which prohibits dispensing or consumption of alcoholic beverages in outdoor or public areas except under the direct supervision of the College food service vendor.

- iv. Advertising: Advertising for College-sponsored events shall not emphasize the availability of alcoholic beverages and must be pre-approved by the Director of Student Activities and Leadership Development or designee prior to posting. Advertising for off-campus alcohol-related events and/or establishments must be approved by the Director of Student Activities and Leadership Development or designee prior to posting/distribution.
  - v. Restriction from Campus Events: The College reserves the right to prevent any visibly intoxicated person from entering a campus activity or event and to require persons who appear visibly intoxicated to leave an event/activity.
- e. Sanctioning for Alcohol and Drug Policy Violations:  
Sanctions are designed to foster an environment that reduces the risks of high risk drinking and promotes responsible behavior while holding individuals accountable for their choices. Hearing officers will take into account prior conduct record, mitigating circumstances, alcohol abuse issues and high risk drinking factors in determining the appropriate in order to best educate the student(s) while maintaining community standards when assigning sanctions.
- f. Health Risks Associated with the Use of Illegal Drugs and the Abuse of Alcohol: Alcohol consumption causes a number of marked changes in behavior. Even low doses significantly impair the judgment and coordination required to drive a car

safely, increasing the likelihood that the driver will be involved in an accident. Low to moderate doses of alcohol also increase the incidence of a variety of aggressive acts, including spouse and child abuse. Moderate to high doses of alcohol cause marked impairments in higher mental functions, severely altering a person's ability to learn and remember information. Very high doses of alcohol may cause respiratory depression and death. If combined with depressants that affect the central nervous system, much lower doses of alcohol will produce the effects just described.

Repeated use of alcohol can lead to dependence. Sudden cessation of alcohol intake is likely to produce withdrawal symptoms, including severe anxiety, tremors, hallucinations and convulsions. Alcohol withdrawal can be life-threatening. Long-term consumption of large quantities of alcohol, particularly when combined with poor nutrition, can also lead to permanent damage to vital organs such as the brain and the liver.

- g. Services Available:  
The Health Promotion Office, Counseling Center, and Health Services provide students with information on drug and alcohol abuse. In addition, assessment, education and referral services are provided.

### **Legal Sanctions**

Please note that the Siena College alcohol policy (which does not allow for any individual under the age of 21 to possess or consume alcohol, regardless of who provided the alcohol to that individual) and related sanctions are in effect for violations of College policy.

This section describes the applicable legal sanctions under Federal and State laws for the unlawful possession or distribution of illegal drugs and alcohol, and the penalties that may be imposed by

the College upon employees who violate the Drug and Alcohol Policy.

**Sanctions under federal law for the unlawful possession or distribution of illegal drugs:**

**See Exhibit II for Federal Trafficking Penalties**

**Federal Penalties and Sanctions for Illegal Possession of a Controlled Substance**

21 U.S.C. 844(a)

1<sup>st</sup> conviction: Up to 1 year imprisonment and fined at least \$1,000 but not more than \$100,000, or both.

After 1 prior drug conviction: At least 15 days in prison, not to exceed 2 years and fined at least \$2,500 but not more than \$250,000, or both.

After 2 or more prior convictions: At least 90 days in prison, not to exceed 3 years and fined at least \$5,000 but not more than \$250,000, or both.

Special sentencing provisions for possession of crack cocaine: Mandatory at least 5 years in prison, not to exceed 20 years and fined up to \$250,000, or both if:

- a) 1<sup>st</sup> conviction and the amount of crack possessed exceeds 5 grams.
- b) 2<sup>nd</sup> crack conviction and the amount of crack possessed exceeds 3 grams.
- c) 3<sup>rd</sup> or subsequent crack conviction and the amount of crack possessed exceeds 1 gram.

21 U.S.C. 853(a) and 881(a)(7)

Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than 1 year imprisonment. (See special sentencing provisions re: crack.)

21 U.S.C. 881(a)(4)

Forfeiture of vehicles, boats, aircraft or any other conveyance used to transport or conceal a controlled substance.

21 U.S.C. 844(a)

Civil fine of up to \$10,000

21 U.S.C.862

Denial of federal benefits, such as student loans, grants, contracts, and professional and commercial licenses, up to 1 year for first offense, up to 5 years for second and subsequent offenses.

18 U.S.C. 922(g)

Ineligible to receive or purchase a firearm.

*Miscellaneous*

Revocation of certain Federal licenses and benefits, e.g. pilot's license, public housing tenancy, etc., are vested within the authorities of individual Federal agencies.

**B. Sanctions under state law for the unlawful possession or distribution of illegal drugs and alcohol:**

**See Exhibit III for Legal Sanctions under New York State Law for the Unlawful Possession and Distribution of Illegal Drugs**

Alcohol:

No person under the age of 21 years shall possess any alcoholic beverage with the intent to consume unless (1) the alcohol is given to that person by a parent or guardian or (2) the alcohol is consumed as part of a class registered by the New York State Education Department. If summoned before the court and a determination is made sustaining such charge, the court may impose a fine not exceeding fifty dollars.

In addition, it is unlawful for a person to sell, deliver or give away or cause to permit or procure to be sold, delivered or given away any alcoholic beverages to (1) any person under the age of 21, (2) any intoxicated person or (3) any "habitual drunkard." Violation of the law is a class B misdemeanor.

**Health Risks Associated with the Use of Illegal Drugs and the Abuse of Alcohol**

For up to date information on the effects of commonly misused drugs and treatment options, please visit the National Institute on Drug Abuse website <https://www.drugabuse.gov/drugs-abuse/commonly-abused-drugs-charts>

**Alcohol & Other Drugs Prevention / Education Programs**

2022-2023

The College offers ongoing prevention programming to increase alcohol and other drug education and outreach. Individuals may contact the Office of Health Promotion or the Dean of Students Office for additional information.

#### DFSCA (Drug Free Schools and Communities Act) Task Force

A partnership with the Dean of Students Office, the Office of Health Promotion, campus stakeholders and students, the DFSCA Task Force serves as an advisory committee to reduce harmful and promote healthy behaviors on campus through comprehensive programming and prevention strategies. The task force offers advising on key campus policies, reporting, programming and prevention initiatives throughout the year. The DFSCA task force meets 1-2 times each semester.

#### EverFi / AlcoholEdu

Incoming students are required to participate in an interactive online education program that provides comprehensive information regarding alcohol and other drugs. AlcoholEdu, Everfi's alcohol education program, is evidence-based and used by colleges and universities nation-wide to provide alcohol education and alcohol abuse prevention strategies. It customizes messaging for incoming students who abstain from alcohol, who use light to moderate amounts, as well as those who use on a more frequent basis. All first-year students are required to successfully complete the course and the follow-up survey in an allotted amount of time. Results help inform programming led by the Office of Health Promotion in partnership with the Dean of Students, Community Living, and campus partners.

#### BASICS and Risk Reduction Dialogues

The Office of Health Promotion provides BASICS (Brief Alcohol Screening and Intervention for College Students) and risk reduction dialogues tailored to the unique needs and behaviors of students referred for assessment from the Dean of Students Office. Each encounter affords the student an opportunity to reflect on alcohol and/or other drug use behaviors, to receive information and education about protective strategies, and to access campus and community resources to help promote and sustain healthy choices and lifestyles.

#### Cannabis and Vaping Education

The Office of Health Promotion continues to partner with St. Peter's Health Partners, students and campus and community stakeholders to provide education and harm reduction strategies involving the use of cannabis and nicotine products. Referrals for cessation programs and services to community education providers through the St. Peter's Health Partners network is an ongoing initiative.

#### 1<sup>st</sup> Birthday at Siena College

The Office of Health Promotion delivers birthday bags to all students celebrating a first birthday at Siena. Student wellness leaders working with the Office of Health Promotion personally deliver packages that include safe and sober ways to celebrate a birthday at Siena. An invitation is extended to each student to make a connection with Health Promotion and learn more about protective strategies regarding alcohol and other drug use and how to create a holistic plan for health and well-being.

#### 21<sup>st</sup> Birthday at Siena College

The Office of Health Promotion delivers birthday cards to all students experiencing a 21st birthday at Siena. Information is personally delivered by students working with the Office of Health Promotion that includes safe ways to celebrate a 21st birthday. An invitation is extended to each student to make a connection with Health Promotion and learn more about protective strategies regarding alcohol and other drug use and how to create a holistic plan for health and well-being.

#### Alcohol 101 Workshop

The Office of Health Promotion offers an Alcohol 101 workshop that can be shared with student leaders from various campus offices who use a peer to peer approach to train other students around alcohol, alcohol use patterns, and protective strategies to help promote health and safety.

#### Tabling and Outreach Events

The Office of Health Promotion, in partnership with the Counseling Center, Accessibility Services and Health Services, has a presence in the lives of students throughout the year at various events. Education and outreach led by students through various modalities is extended to the campus community to maximize protective strategies and

reduce high risk behaviors around alcohol and other drug use. Examples include Albany College of Pharmacy and Health Sciences partnerships, Alcohol and Other Drugs Awareness Weeks, Health Jeopardy Nights, Wheels of Wellness and others. During these events, information is provided by peer health educators to raise awareness and promote healthy choices and healthy behaviors.

#### Student Athlete Collaborations on Alcohol Education and Prevention

The Office of Health Promotion works closely with student athletes, coaches, and administrators in the Department of Athletics to provide information and education about alcohol and other drugs. Wellness sessions and prevention programs are offered in a customized way to each team upon request, and partnerships with the Athletic Department's Life Skills Coordinator on alcohol and other drug prevention efforts at key times during the year include collaboration with SAAC (Student Athlete Advisory Committee) and SAM (Student Athlete Mentors) - the athletic department's student leadership groups. Examples of past programs include the "Sober Tailgate", guest speakers on alcoholism and risk reduction strategies (ie, Mike Green), and "AOD (Alcohol and Other Drug Fast Facts) Jeopardy" night.

#### Student Life Plays

Members of Stage III, Siena's student theater group, present a series of vignettes to increase awareness of some of the difficult situations a college student may face. These vignettes include issues such as alcohol and other drug use, sexual misconduct, discrimination, roommate dynamics and college adjustment issues. A brief conversation with the Dean's Office and Public Safety has historically preceded the performance.

#### New Student Orientation – Keynote Speaker, Jamie del Rosario

All new students attend a keynote address by Jamie delRosario (Class of 2020) who shares a personal story about alcohol and other drug use, addiction, and the road to recovery and well-being. Students have the opportunity to become more aware of alcohol and other drug safety and risk reduction strategies, understand the intersection between mental health and alcohol and other drug use behaviors, and seek help and support by accessing campus and community resources.

#### Healthy Hangouts

The Office of Health Promotion, in collaboration with the counseling center, campus partners and certified peer health educators, provides groups open to all students to improve coping strategies to support their holistic health and well-being. Sessions are psychoeducational in structure and offer students opportunities to learn and practice mindfulness-based stress reduction and cognitive behavioral skills, to understand the role that alcohol and other drug use behaviors can have on physical and mental health, and to promote healthy choices and lifestyles. Healthy hangouts are offered weekly throughout the academic year or as determined based on evolving student needs and certified peer health educator availability.

#### **Siena College Drug and Alcohol Policy for Employees**

The problems associated with drug and alcohol abuse are a major concern in this country.

The passage of the Drug-Free Workplace Act and the Drug-Free Schools and Communities Act Amendments have placed requirements on institutions of Higher Education to develop policies and to provide information to employees on drug and alcohol abuse.

This brochure is designed to provide all faculty, administrators, staff and student employees with a copy of the College's Drug and Alcohol Policy, as well as information on (1) the health risks associated with drug and alcohol abuse, (2) the information, counseling and rehabilitation services available, (3) the federal, state and College sanctions that may be imposed for violations and (4) faculty, administrators, staff and student employer responsibility and standards of conduct.

#### **I. SIENA COLLEGE DRUG AND ALCOHOL POLICY**

The unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs and alcohol by employees of Siena College in the workplace, on its property, or as a part of any of its activities is prohibited. In addition, reporting for work under the influence of alcohol or illegal drugs is prohibited.

#### **II. HEALTH RISKS ASSOCIATED WITH THE USE OF ILLEGAL DRUGS AND THE ABUSE OF ALCOHOL**

## See Exhibit I for Uses and Effects of Controlled Substances

### Effects of Alcohol

Alcohol consumption causes a number of marked changes in behavior. Even low doses significantly impair the judgment and coordination required to drive a car safely, increasing the likelihood that the driver will be involved in an accident. Low to moderate doses of alcohol also increases the incidence of a variety of aggressive acts, including spouse and child abuse. Moderate to high doses of alcohol cause marked impairments in higher mental functions, severely altering a person's ability to learn and remember information. Very high doses cause respiratory depression and death. If combined with other depressants of the central nervous system, much lower doses of alcohol will produce the effects just described.

Repeated use of alcohol can lead to dependence. Sudden cessation of alcohol intake is likely to produce withdrawal symptoms, including severe anxiety, tremors, hallucinations, and convulsions. Alcohol withdrawal can be life-threatening. Long-term consumption of large quantities of alcohol, particularly when combined with poor nutrition, can also lead to permanent damage to vital organs such as the brain and the liver.

Mothers who drink alcohol during pregnancy may give birth to infants with fetal alcohol syndrome. These infants have irreversible physical abnormalities and mental retardation. In addition, research indicates the children of alcoholic parents are at a greater risk than other youngsters of becoming alcoholics. (Source: Federal Register Vol.55, No. 159)

### III. SERVICES AVAILABLE

Upon request, the Counseling Center and Health Services provide faculty, administrators, staff and student employees with information on drug and alcohol abuse. In addition, referrals to off-campus providers are available.

Off-campus treatment and rehabilitation services are available to faculty, administrators and staff who are members of the College's health insurance plans. For information on the services provided, refer to the plan documents or contact the Human Resources Office.

## IV. SANCTIONS

This section describes the applicable legal sanctions under Federal and State laws for the unlawful possession or distribution of illegal drugs and alcohol, and the penalties that may be imposed by the College upon employees who violate the Drug and Alcohol Policy.

### A. Sanctions under federal law for the unlawful possession or distribution of illegal drugs:

#### See Exhibit II for Federal Trafficking Penalties

#### Federal Penalties and Sanctions for Illegal Possession of a Controlled Substance

21 U.S.C. 844(a)

1<sup>st</sup> conviction: Up to 1 year imprisonment and fined at least \$1,000 but not more than \$100,000, or both.

After 1 prior drug conviction: At least 15 days in prison, not to exceed 2 years and fined at least \$2,500 but not more than \$250,000, or both.

After 2 or more prior convictions: At least 90 days in prison, not to exceed 3 years and fined at least \$5,000 but not more than \$250,000, or both.

Special sentencing provisions for possession of crack cocaine: Mandatory at least 5 years in prison, not to exceed 20 years and fined up to \$250,000, or both if:

- d) 1<sup>st</sup> conviction and the amount of crack possessed exceeds 5 grams.
- e) 2<sup>nd</sup> crack conviction and the amount of crack possessed exceeds 3 grams.
- f) 3<sup>rd</sup> or subsequent crack conviction and the amount of crack possessed exceeds 1 gram.

21 U.S.C. 853(a) and 881(a)(7)

Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance if that offence is punishable by more than 1 year imprisonment. (See special sentencing provisions re: crack.)

21 U.S.C. 881(a)(4)

Forfeiture of vehicles, boats, aircraft or any other conveyance used to transport or conceal a controlled substance.

21 U.S.C. 844(a)

Civil fine of up to \$10,000

21 U.S.C. 853(a)

Denial of federal benefits, such as student loans, grants, contracts, and professional and commercial licenses, up to 1 year for first offense, up to 5 years for second and subsequent offenses.

18 U.S.C. 922(g)

Ineligible to receive or purchase a firearm.

#### *Miscellaneous*

Revocation of certain Federal licenses and benefits, e.g. pilot's license, public housing tenancy, etc., are vested within the authorities of individual Federal agencies.

### **B. Sanctions under state law for the unlawful possession or distribution of illegal drugs and alcohol:**

**See Exhibit III for Legal Sanctions under New York State Law for the Unlawful Possession and Distribution of Illegal Drugs**

Alcohol:

No person under the age of 21 years shall possess any alcoholic beverage with the intent to consume unless (1) the alcohol is given to that person by a parent or guardian or (2) the alcohol is consumed as part of a class registered by the New York State Education Department. If summoned before the court and a determination is made sustaining such charge, the court may impose a fine not exceeding fifty dollars.

In addition, it is unlawful for a person to sell, deliver or give away or cause to permit or procure to be sold, delivered or given away any alcoholic beverages to (1) any person under the age of 21, (2) any intoxicated person or (3) any "habitual drunkard." Violation of the law is a class B misdemeanor.

### **C. Employment Sanctions:**

The penalties that may be imposed upon employees, including student employees, for violations of the College's Drug and Alcohol Policy include, but are not limited to appropriate personnel action against employees, up to and including termination, referral for prosecution and/or mandatory participation in a drug or alcohol abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement or other appropriate agency.

### **V. FACULTY, STAFF AND STUDENT EMPLOYEE RESPONSIBILITY AND STANDARDS OF CONDUCT**

The Drug-Free Workplace Act requires, as a condition of employment, that all employees abide by the terms of the Drug and Alcohol Policy and notify the College of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction. Notifications should be presented in writing to the Assistant Vice President for Human Resources or the appropriate Vice-President within the required time period.

Faculty, staff and student employees who have questions regarding the Drug and Alcohol Policy, the requirements of the Drug-Free Workplace Act or the Drug-Free Schools and Communities Act Amendments, or any information should contact the Human Resources Office.

## **EMERGENCY EVACUATION PROCEDURES AND POLICIES**

### ***Emergency Notification***

The Department of Public Safety will immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus. Upon receiving information of an emergency incident, the Dispatcher will send a Public Safety Officer to the incident or vicinity to confirm there is a significant emergency or dangerous situation by personal observation and/or investigation. If emergency responders are required, the Dispatcher will also call 911 to notify Town of Colonie emergency services. In the event of a fire alarm received over the central monitoring station, the fire department is notified immediately upon receipt of the alarm and a public safety officer is dispatched to confirm the source of the alarm.

If a Department of Public Safety officer confirms (with or without the assistance of key campus administrators, local first responders or the National Weather Service) that there is an emergency or dangerous situation that poses an immediate threat to the health or safety of some or all members of the Siena community, the Department of Public Safety will collaborate with Marketing and Communications

to determine the content of the message and will use some or all of the systems described below to communicate the threat to the Siena community or only those segments potentially affected by the situation. Siena College will, without delay, taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to or otherwise mitigate an emergency.

### **College Notification System Operations**

The College has several means of communications available to notify members of the college community. During an emergency, emergency messages may be transmitted to inform the community. It is critical that if members of the community hear the message, they immediately follow the instructions and/or seek further information.

The Public Safety staff will utilize the College communications systems in order to transmit the brief urgent message(s) to the College Community. Depending on the emergency incident, the following communications means may be utilized:

- **Siena Alert:** This email and text messaging system will be used for distribution of emergency alerts to students, faculty, and staff that would be affected directly by a critical incident/emergency. All faculty, staff, administrators and students have their Siena email addresses automatically enrolled into the system. They are requested to register their cell phones in order to receive text messages as well. To register for the Siena Alert System, visit: <https://community.siena.edu/portal-home/siena-alert-system>. An alert will be sent out via the Siena Alert System to all users by a designated staff member (Public Safety). The Siena Alert System (SAS) enables officials from Public Safety, Student Life, or Academic Affairs to communicate on matters of CRITICAL EMERGENCIES with all members of the College community who sign up for this service. This system enables the College to send urgent text alerts to cell phones with text message capability, e-mail

The departments and positions listed in the chart below will typically be responsible for developing the content and distributing the notifications as described.

accounts, and web pages within moments of a critical incident. The purpose of these messages is to alert, inform, and reassure the community during emergencies.

**Students, faculty, staff and administrators are strongly encouraged to subscribe to the Siena Alert System. Siena Alert messages will be sent only in cases where there is a need to provide immediate information to the Siena College community.**

- **CALL 24 (Emergency Strobe/Siren Call Boxes):** These call boxes with strobe lights and speakers have been installed at various outdoor locations across the campus. The AVPSA/Director of Public Safety or designee will activate the strobe/siren call boxes. Pre-recorded messages will be transmitted to the college community.
- **Building Notification:** Staff members working in campus buildings should attempt to notify occupants if the situation allows. In those buildings with PA Systems, the staff member should use that method. In addition to the PA systems, the following buildings have indoor speakers which will broadcast the same pre-recorded messages as the exterior CALL 24 boxes:
  - Clare Center
  - Colbeth Hall
  - Foy Hall
  - Kiernan Hall
  - Kuhn Hall
  - Lonnstrom Dining Hall
  - MAC
  - MacCloskey Commons
  - Sarazen Student Union
  - Siena Hall
  - St. Thomas More House
- **E-mail:** A campus wide e-mail will be sent via the Siena Alert system to all campus constituents by designated staff member (Public Safety or Marketing and Communications).
- **Website:** The emergency notice will be posted on the campus website by a designated staff member.
- **Media:** The Director of Marketing and Communications serves as media contact and will coordinate all communication to news media.

System Used	Primary Creator	Approval for Sending Message	Primary Sender	Backup Sender
Siena Alert System Text & Email	Public Safety Administrator or Officer in Charge	Public Safety Administrator or Officer in Charge	Public Safety	Communications
Email Messages	Public Safety Administrator or Officer in Charge	Public Safety Administrator or Officer in Charge	Public Safety	Communications
Emergency Call Boxes (Strobe/Siren)	Public Safety Administrator or Officer in Charge	Public Safety Administrator or Officer in Charge	Public Safety	Communications
Web-site	Communications	Communications	Communications	ITS
Media	Communications	Communications	Communications	VP for Student Life or designee

Follow up information pertaining to a significant emergency or dangerous situation on campus will be sent using some or all of the systems listed above, as deemed appropriate. The larger community, such as neighbors, parents, etc. can receive information about emergencies on campus via the website or local/national media.

Parents of current students can be enrolled in the Siena Alert System if their student chooses so.

**Emergency Notification Terms to Know**

*The following directions may be issued in the event of an emergency. Always use your best judgment, based upon the specific situation, as to whether it is safe to do as directed. It is important to assess your location compared to the incident location before you take appropriate action.*

- **Evacuate:** Move out of an unsafe location into safety. Walk quickly in an orderly fashion to the nearest safe exit. If evacuating a building because of a fire, close all doors between you and the fire, and DO NOT use elevators.
- **Seek Shelter:** If outside during an incident, drop to the ground immediately, lying face down as flat as possible. If within 15-20 feet of a safe place or cover, stay close to the ground and run to it. Attempt to move or crawl away from the threat, trying to utilize any obstruction between you and the threat. The ultimate goal is to put as much distance between you and the shooter. When you reach a relatively safe place, stay down and do not move. If possible, seek shelter in a building and shelter-in-place.
- **Shelter-in-Place:** You may have to Shelter-in-Place when an evacuation is not safe (e.g. severe weather, hostile intruder, or hazardous material spills). Seek immediate

shelter and remain there during an emergency rather than evacuate the area. In a hostile intruder scenario, you should lock the door and barricade yourself in the room with the furniture or anything you can push against the door. The preferred Shelter-in-Place location would be an interior room or hallway.

**Hostile Intruder/Active Shooter Response Guide**

These situations are dynamic and evolve rapidly. IF you hear gunfire or see a person with a gun, take immediate steps to protect yourself. The steps below are a guide – but you need to use good judgment and common sense based on YOUR SPECIFIC LOCATION.

- **Run:** Try to escape the area if safely possible
- **Hide:** You may have to Shelter in Place when an evacuation is not safe.
- If HIDING/SHELTERING IN PLACE, lock yourself in the room you’re in or move to the nearest location that can be secured and turn off all lights.
- Seek a corner NOT visible through a window
- Silence cell phones and remain quiet
- **Fight:** If suspect is in close proximity, the Department of Homeland Security recommends you may have to **FIGHT** as a

last resort, only when your life is in imminent danger **and self-protection is your final option for survival (use your own discretion with engaging a shooter for survival)**

- Attempt to incapacitate the shooter. Act with physical aggression and throw items at the shooter
- When the threat is over, a Public Safety or Colonie Police officer or College Official will notify everyone by giving an area “All Clear” message. A message will also be sent via Siena Alert.

### ***Emergency Response and Evacuation Testing***

Siena College has developed a comprehensive Emergency Operations Plan (EOP) to ensure the community can appropriately respond to various emergency incidents. The Siena EOP is comprised of a comprehensive central plan and individual annexes for responding to specific emergencies on campus.

Additionally, all departments of the College that provide essential support must develop business continuity plans which will complement and support the College’s EOP. Together, these documents provide a management framework for responding to, recovering from, and continuation of business during and after an emergency. They provide the overall emergency plan for the entire campus.

The college Emergency Operation Plan outlines procedures which must be followed in order to inform the campus community of an emergency. Siena College’s Emergency Operations Plan includes information about the Emergency Operations Team, Incident Commander, notification procedures, evaluating severity of incidents, response protocols, and shelter-in-place and evacuation guidelines. College departments are responsible for developing and updating internal response plans and business continuity plans for their staff and areas of responsibility.

Under the guidance of the Emergency Operations Team, various departments and offices work together to ensure the College is doing all it can to prepare for, prevent, respond to, and recover from emergency situations. The designated college officials train with the Colonie Police Department, Colonie EMS, Shaker Road-Loudonville Fire Department, Latham Fire Department and the Town

of Colonie Emergency Management Coordinator so that the College is well-prepared to respond to a full range of critical incidents. The Office of Student Life and the Department of Public Safety work together to ensure our emergency operations plan is updated, as needed, and are applicable as new risks are identified.

### ***Testing/Training***

The text messaging system is utilized and tested by all Public Safety Officers at least once a month. This not only ensures that the system is operating properly but it also keeps the officers proficient in operating the system. The call box system is tested once each semester while the students are on campus. Fire drills are conducted four times a year in all residential buildings as well.

The purpose of evacuation drills is to prepare occupants of a building for evacuation if necessary. During drills, occupants familiarize themselves with exits and evacuation procedures while providing the College with the opportunity to test the fire alarm systems and evaluate egress and behavioral patterns. Emergency response and evacuation procedures are posted in each classroom and disseminated annually in written and electronic form to all students and employees.

The Emergency Operations Team conducts table top training exercises a minimum of once a year; one exercise includes local emergency response and law enforcement personnel. In addition, the college conducts numerous announced and unannounced drills and exercises to assess the thoroughness and capabilities of the emergency response plans and business continuity plans.

Fire safety education programs for all students living in on-campus student housing and all employees that have any association with on-campus student housing are held at the beginning of each semester. These programs are designed to: familiarize everyone with the fire safety system in each housing facility, train everyone on the procedures to be followed in case there is a fire and distribute information on the College’s fire safety policies. Evacuation maps illustrating evacuation routes and fire alarm equipment locations are posted in strategic locations throughout buildings.

## ANNUAL FIRE SAFETY REPORT

### **Overview**

The Higher Education Opportunity Act (Public Law 110-315) became law in August 2008, and requires institutions that maintain on campus housing facilities to publish an annual fire safety report which outlines fire safety practices, standards, and all fire related on campus statistics. The following public disclosure report details all information required by this law as it relates to Siena College.

### **Reporting a Fire**

If a fire occurs in a Siena College building, community members should immediately notify the Department of Public Safety at 911 from any campus phone or (518) 783-2999 if from a cell phone. If a member of the Siena College community finds evidence of a fire that has been extinguished, and the person is not sure whether the Department of Public Safety has already responded, the community member should immediately notify the Department of Public Safety to investigate and document the incident. This will ensure the fire is included in the fire statistics published in the Annual Fire Safety Report, as required by law.

### **Smoking/Tobacco-Free Campus**

Siena College is a tobacco free campus. As such, Siena prohibits the use of any tobacco product in any College facility or outdoor area, including, chewing

tobacco, and the act of smoking or carrying a lighted cigar, cigarette, pipe or any other smoking material or device.

### **Fire Safety in the Residence Halls**

Siena College fully recognizes its responsibility to provide both awareness and safety training for its resident students and undertakes an ambitious program each year. Fire safety and emergency training for students begins with discussions about fire prevention and safety during the freshman orientation programs. Information regarding fire safety is also highlighted when students check into the residence halls and during the Community Assistant opening meetings that occur each semester. Students are further reminded about fire safety and evacuation procedures in the Emergency Response Guide. The Department of Public Safety sponsors a Safety Awareness Day in conjunction with the New York State Office of Fire Prevention (when available) and the Shaker Road Fire Department in which fire safety techniques are displayed. The students have the opportunity to learn the proper fire safety measures and the proper use of fire extinguishers.

Emergency procedures are reviewed periodically with residents by way of hall fire drills. The drills are conducted in a realistic manner to enable student, faculty and staff residents and employees to be prepared in the event of an actual emergency. Staff members themselves are trained concerning fire safety and evacuation procedures during their staff training and these procedures are highlighted in the Emergency Response Guide. Students and employees are advised to adhere to the following procedures in case of a fire:

- If you hear the fire alarm, immediately evacuate the building using the nearest available exit. Do not attempt to fight a fire unless you have been trained to do so.
- Awaken any sleeping roommates or suitemates. Prepare to evacuate by putting on shoes and coat if necessary. Feel the doorknob and the door. If they are hot, do not open the door. If they are cool, open slowly, if heat or heavy smoke

rushes in, close the door immediately and remain inside.

- When leaving your room, be sure to take your key in case it is necessary to return to the room should conditions in the corridor deteriorate. Make sure to close the door tightly when evacuating.
- Community Living staff members who are present on their floors should facilitate the evacuation of their floor/section if possible. When the alarm sounds, shout (Example: There is an emergency in the building, leave by the nearest exit) and knock on doors as they make their way to the nearest exit and out the building.
- When exiting in smoky conditions keep your hand on the wall and crawl to the nearest exit. Always know more than one path out of your location and the number of doors between your room and the exit.
- DO NOT USE ELEVATORS. Elevator shafts may fill with smoke or the power may fail, leaving you trapped. Elevators have features that recall and deactivate the elevator during an alarm. Standing and waiting for an elevator wastes valuable time.
- Each resident should report to their assigned assembly area. Residence life staff should report to their assigned assembly area and make sure that students have cleared the building. Conduct a head count and do not allow re-entry into the building until directed to do so by emergency personnel.

In accordance with New York State Education Law and New York State Fire Code, four fire drills are conducted each year in the residence halls by the Department of Public Safety in coordination with the facilities department. There are two scheduled drills in the fall semester and two scheduled drills in the spring for every Residence Hall on campus. In conjunction with these drills, the local fire department routinely contacts Siena for specific fire training on campus. Siena College's Assistant Director of Safety administers an aggressive program of ongoing inspection, testing and maintenance of all college premises to ensure compliance with applicable fire and life safety codes and standards, conducting regular egress drills and providing a variety of educational and training programs in fire

safety and prevention techniques for students, faculty and staff. All residence halls meet or exceed local and national fire safety codes and are equipped with modern fire alarm systems including smoke detectors and sprinkler systems which are monitored by the Department of Public Safety 24 hours a day, seven days a week. Students are always required to evacuate a building when the alarm sounds.

#### ***Specific Fire Prevention Related Policies***

Siena College does not allow smoking in any campus building or Residence Hall. It is the policy of the College to provide faculty, staff, students and visitors with the safest possible environment, free from potential fire hazards. Periodic fire inspections of all campus buildings are conducted by the Department of Public Safety, Campus Facilities and the New York State Office of Fire Prevention and Control.

To minimize the potential for fires, it is Siena's policy to prohibit open burning at all times. Open burning as defined by Siena is any open/exposed flame or combustion that produces heat, light or smoke, and has the potential to cause a fire. Examples of open burning include, but not limited to, candles, incense and related accessories such as gasoline and lighter fluid.

In addition, the following items are prohibited in the Residence Halls.

1. Cooking including the use of toaster ovens or grills.
2. Space heaters except when issued by Campus Facilities.
3. Halogen lamps or halogen light bulbs.

The Terms and Conditions of the Residence Hall License set forth a list of prohibited items including:

#### **Prohibited Appliances:**

- Microwave ovens with a maximum wattage of 900w are limited to 1 per room in residence halls (except for townhouses)
- Hot plates, personal sandwich makers, grills (George Foreman, etc.) and waffle makers
- Toasters and toaster ovens (except in townhouses)
- Space heaters
- Deep Fryers (grease)
- Appliances with exposed heating elements
- Commercial type popcorn makers
- Air conditioners

- Iron without auto shut-off
- Curling irons without auto shut-off
- Smoke/fog machines
- Motorized exercise equipment, treadmills

**Prohibited Decor/Furnishings:**

- Curtains/window treatments (the College has installed blinds in all resident spaces to ensure privacy)
- Personal furniture- No personal furniture (couches, futons, chairs, etc.) is allowed in College housing unless manufactured and clearly labeled by the manufacturer as flame retardant.
- Lofts (unless constructed and provided by Siena), homemade beds and water beds
- Halogen lamps (floor or desk) and 5 light/arm floor lamp
- Candles (with or without wicks) and incense (used and unused.) If discovered, candles are confiscated by College officials and disposed of immediately.
- Bed/furnishings placed in such a way as to require residents to stand on the furnishings to open or close the window or impeded emergency access/egress
- Live greens, evergreen decorations, Christmas trees, cut greens, wreaths
- Decorative electric lights (i.e. rope lights, string lights, holiday lights) are prohibited in residential facilities with the exception of Battery-operated string lights that are UL-approved Battery-operated. String lights may not be mounted on doors or door frames or placed over doorways, on ceilings, go through windows or wrapped around any sprinkler piping, furniture or other cloth items. String lights may not be attached with nails or staples.
- Large or bulky paper or fabric decorations (tapestries, large flags, sheets, etc.) hanging from ceiling, walls or windows are not permitted nor are items, other than those originally provided by the College, that divide a room or take up a significant amount of space (such as room dividers, bars, etc.)
- Pets (other than fish in 5 gal. aquariums). This prohibition is not inclusive of Emotional Support or Service animals

**Fire/Safety:**

- Items placed on or over smoke/heat detectors, sprinkler piping or heads: no item may obstruct airflow or water disbursement for fire safety equipment
- Items too close to sprinkler heads (18" minimum clearance required): no item may obstruct airflow or water disbursement for fire safety equipment
- Multiple electrical connectors (other than breaker equipped outlet strips)
- Splicing electrical extension cords into lighting or other fixtures
- Hookahs
- Fireworks
- Flammable liquids (gasoline, kerosene, charcoal lighter fluid, etc.) and machines that use them
- Propane and gas grills
- Butane and butane torches

***Electric scooters, bicycles, skateboards and similar transportation devices are prohibited on all campus roadways, pathways, parking lots, green spaces and campus buildings including residence halls.***

***Residential Fire Safety Precautions***

The Residence Director, accompanied by the Siena College Safety Officer, may conduct an inspection of student rooms and townhouses at least once each semester. The inspection team will look for various fire and life safety hazards, proper waste disposal and other prohibited items. Students will be notified of any safety concerns/violations and will be directed on how to correct them. Failure to comply will result in disciplinary action. In the interest of safety and protection of property, Siena students are urged to exercise caution in the use of all electrical appliances. Each residence hall room and townhouse is equipped with a smoke detector and sprinkler system. These early warning devices are not to be covered and/or tampered with under any circumstances.

Each townhouse is provided a fire extinguisher and students should become familiar with its proper use. Townhouse residents must immediately report discharged fire extinguishers to Public Safety. Failure to do so will result in the residents of the townhouse

being charged with violations of established residence hall living guidelines and billed for recharging the extinguisher. During regularly scheduled safety inspections, fire extinguishers in each townhouse will be checked to make sure they are in operating order.

- Access to the room must be kept unobstructed for emergency first responders
- No furniture may block hallways, corridors, walkways, fire lanes and/or stoops
- In addition, no furnishings will be allowed to reduce the normal height and width of the door opening
- The College may require students to remove any item blocking any area or any items considered safety hazards. This includes residence hall and townhouse areas, interior and exterior.

**ALL FIRES MUST BE REPORTED IMMEDIATELY TO PUBLIC SAFETY AND TO THE RESIDENCE DIRECTOR.**

#### ***General Statement of College Owned Student Housing***

All Residence Hall rooms are provided with a copy of the Emergency Response Guide which includes information on fire safety and what appropriate action to take during a fire alarm or fire emergency. On every floor there will be a fire evacuation plan posted which also gives information as to what to do in the event of a fire. A copy of the Emergency Response Guide is also available on the Department of Public Safety's website or a hard copy may be obtained at the Public Safety Office located in the

East wing of Hines Hall.

Additional information on fire safety can be found on the Siena College Department of Public Safety website.

#### ***Campus Fire Emergencies – Evacuation and Assembly Points***

##### **Steps to follow if you become aware of a fire:**

- In a building, activate the nearest fire alarm and call the Public Safety at 911 from any campus phone or (518) 783-2999 from a cell phone.
- Do not attempt to extinguish the fire if you have not been trained to do so.
- Sounding the alarm and making the call can save lives and property by giving firefighters the maximum amount of response time and building occupants the maximum amount of time to evacuate the building.
- Calmly assist others in evacuating the building by following exit signs to the nearest safe exit. The nearest exit may not be the one you use to enter the building. DO NOT use any elevator.
- If possible, assist any person with disabilities who may need assistance in evacuating the building.
- Remain outside the building at a safe distance to wait for Public Safety, police and fire departments.
- Give any information you have to the responding Public Safety, police or fire officials and then report to the designated staging area.

## ASSEMBLY POINTS

<u>Building Name</u>	<u>Assembly Point</u>
<b>Hennepin Hall</b>	Lawn area between Plassmann Hall and Lonnstrom Hall If inclement weather, Sarazen Student Union, Room 240
<b>Hines Hall</b>	Lawn area between Padua and Sarazen Student Union If inclement weather, Sarazen Student Union, Room 240
<b>Padua Hall</b>	Lawn area between Padua and Sarazen Student Union If inclement weather, Sarazen Student Union, Room 240
<b>Plassmann Hall</b>	Lawn area between Lonnstrom Hall and the Standish Library If inclement weather, Sarazen Student Union, Room 240
<b>Ryan Hall</b>	Lawn area between Padua and Sarazen Student Union If inclement weather, Sarazen Student Union, Room 240
<b>Snyder Hall</b>	Parking Lot B
<b>MacClosky Townhouses</b>	Lawn area in front of townhouse If inclement weather, MacClosky Square Commons
<b>Cushing Village Townhouses</b>	Lawn area in front of townhouse If inclement weather, Cushing Village Commons

### ***Fire Safety Training for Academic Buildings***

Three drills are conducted in the academic buildings annually. Local Fire Department routinely contacts Siena for specific training on campus.

### ***Plans for Future Improvements in Fire Safety***

Siena continually evaluates the fire protection systems in all campus buildings. Upgrades occur through ongoing testing and inspection of the life safety systems and equipment with deficiencies being repaired or replaced through building renovations. At this time, however, there are no planned improvements to fire safety.

### ***Residence Halls – Fire Protection Systems***

Each of the six traditional residence halls as well as all 108 town houses are equipped with a sprinkler system with flow and valve tamper switches monitored by the fire alarm panel system. The building fire alarm panel is hardwired to smoke/heat detectors. With the exception of Cushing Village, which has locally announced systems, fire alarm panels announce directly to the Siena Public Safety dispatch center which maintains coverage 24/7.

Under the “Kerry Rose Sprinkler Notification Act,” Siena College notifies all students on the College’s

**Overview of Fire Protective Systems in the Siena College Residence Halls**

All facilities are located at 515 Loudon Road, Loudonville, NY 12211 except for 5 Fiddlers Lane, which is located at 5 Fiddlers Lane, Loudonville, NY 12211.

5 Fiddlers Lane stopped serving as a residential facility in 2016.

<b>Facility</b>	<b>Fire Alarm Monitoring Done on Site</b>	<b>Full Sprinkler System</b>	<b>Smoke Detection</b>	<b>Fire Extinguisher Devices</b>	<b>Evacuation Plans and Placards</b>	<b>Number of Evacuation (Fire) Drills Each Calendar Year</b>
Hines Hall	Yes	Yes	Yes	Yes	Yes	4
Plassmann Hall	Yes	Yes	Yes	Yes	Yes	4
Hennepin Hall	Yes	Yes	Yes	Yes	Yes	4
Padua Hall	Yes	Yes	Yes	Yes	Yes	4
Ryan Hall	Yes	Yes	Yes	Yes	Yes	4
Snyder Hall	Yes	Yes	Yes	Yes	Yes	4
MacClosky Townhouses	Yes	Yes	Yes	Yes	No	0
Cushing Village Townhouses	No	Yes	Yes	Yes	No	0

<b>Facility</b>	<b>Local Alarm</b>	<b>Strobes</b>	<b>Fire Doors</b>	<b>Fire Walls</b>
Hines Hall	Yes	Yes	Yes	Yes
Plassmann Hall	Yes	Yes	Yes	Yes
Hennepin Hall	Yes	Yes	Yes	Yes
Padua Hall	Yes	Yes	Yes	Yes
Ryan Hall	Yes	Yes	Yes	Yes
Snyder Hall	Yes	Yes	Yes	Yes
MacClosky Townhouses	Yes	Yes	Yes	Yes
Cushing Village Townhouses	Yes	No	Yes	No

## 2022 RESIDENTIAL FIRE REPORTS

Residence Hall	Fires	Cause of Fire	Injuries	Deaths	Property Damage
<b>Cushing Village</b>					
2020	1	Fire inside of oven was extinguished by students	0	0	\$0-\$99
2021	1	Dishtowel caught fire while using stove. Extinguished by Student.	0	0	\$0-\$99
2022	0	0	0	0	0
<b>Hennepin Hall</b>					
2020	1	Electrical box malfunctioned & caught fire	0	0	\$100-\$999
2021	0	0	0	0	0
2022	0	0	0	0	0
<b>Hines Hall</b>					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
Residence Hall	Fires	Cause of Fire	Injuries	Deaths	Property Damage
<b>MacClosky Square</b>					
2020	1	Food inside of oven caught fire and was extinguished by students	0	0	\$0-\$99
2021	0	0	0	0	0
2022	0	0	0	0	0
<b>Snyder Hall</b>					
2020	0	0	0	0	0
2021	2	<ol style="list-style-type: none"> <li>1. Candle ignited rose pedals in a bowl.</li> <li>2. Paper towel burnt coving food in microwave</li> </ol>	0	0	\$0-\$99
2022	0	0	0	0	0
<b>Padua Hall</b>					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
<b>Plassmann Hall</b>					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	1	Trash fire	0	0	\$0-99
<b>Ryan Hall</b>					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0

Controlled Substances – Uses and Effects										
DRUGS CBA SCHEDULES	TRADE OR OTHER NAMES	MEDICAL USES	DEPENDENCE Physical Psychological	TOLER- ANCE	DURATION N (hours)	USUAL METHODS OF ADMINIS- TRATION	POSSIBLE EFFECTS	EFFECTS OF OVERDOSE	WITHDRAWAL SYNDROME	
<b>MARCOTICS</b>										
Opiun	II, III, IV Oxycotin, Percocet, Percopac, Percocet- Percocet	Analgesic, Anesthetical	High	High	Yes	3-6	Oral, smoked	Euphoria, drowsiness, respiratory depression, constipated bowels, nausea	Stomach ache, sweating, breathing difficulty, skin, convulsions, coma, possible death	Watery eyes, runny nose, sweating, loss of appetite, irritability, tremors, persi- cations, cramps, nausea, chills, and sweating
Morphine	II, III Morphin, MS-Contin, Roxicotin, Roxicotin- SR	Analgesic, Antitussive	High	High	Yes	3-6	Oral, sublingual, injected			
Codone	II Tylenol w/Codone, Endin w/Codone, Roxicotin A-C, Roxicotin w/Codone	Analgesic, Antitussive	Moderate	Moderate	Yes	3-6	Oral, injected			
Heroin	I Diacetylmorphine, Heroin, Smack	Nause	High	High	Yes	3-6	Injected, sniffed, smoked			
Hydrocodone	II Dihydrod	Analgesic	High	High	Yes	3-6	Oral, injected			
Meperidine (Pardine)	II Demoran, Mepergan	Analgesic	High	High	Yes	3-6	Oral, injected			
Meperidine	II Darvon, Meperdon, Meperdon	Analgesic	High	High-Low	Yes	12-36	Oral, injected			
Other Narcotics II, III, IV, V	Naropin, Percodan, Percocet, Tylox, Tussionc, Fentanyl, Duron, Lunel, Talen	Analgesic, anesthetic, antitussive	High-Low	High-Low	Yes	Variable	Oral, injected			
<b>DEPRESSANTS</b>										
Chloral Hydrate	IV Noclor	Hypnotic	Moderate	Moderate	Yes	5-8	Oral	Sound sleep	Stupor, incontin- ence, slurred speech, weak and rigid pulse, coma, possible death	Anxiety, irritation, tremor, diarrhea, convulsions, possible death
Barbiturates	II, III, IV Ampal, Butal, Fiorinal, Lorazepam, Nembutal (Sodium Tibral, Pentobarbital	Anesthetic, sedative, anxiolytic, hypnotic, ventilatory substance agent	High- Med	High-Med	Yes	1-16	Oral			
Barbiturates	IV Aquan, Aquasol, Chloral, Lorazepam, Nembutal, Tibral, Pentobarbital	Anesthetic, anxiolytic, sedative, hypnote	Low	Low	Yes	4-8	Oral			
Methyprylon	I Quaalude	Sedative, hypnotic	High	High	Yes	4-8	Oral			
Quaaludes	III Dorlon	Sedative, hypnotic	High	Moderate	Yes	4-8	Oral			
Other Depressants III, IV	Esanol, Mevon, Noludol, Ruscyl, Valmid	Anesthetically, sedative, hypnotic	Moderate	Moderate	Yes	4-8	Oral			

Controlled Substances - Uses and Effects

DRUGS CSA SCHEDULES	TRADE OR OTHER NAMES	MEDICAL USES	DEPRESSION Physical Psychological	TOLER- ANCE	DURAT- ION (Hours)	USUAL METHODS OF ADMINI- STRATION	POSSIBLE EFFECTS	EFFECTS OF OVERDOSE	WITHDRAWAL SYMPTOMS
<b>STIMULANTS</b>									
Cocaine	Coke, Flak, Snow, Crack	Local anesthetic	Possible	Yes	1-2	Sniffed, smoked, injected	Increased appetite, excitation, euphoria, increased pulse rate and blood pressure, insomnia, loss of appetite	Agitation, increase in body temperature, hallucinations, convulsions, possible death	Anxiety, long periods of sleep; irritability, depression, disorientation
Amphetamines	Biphentin, Dexedrine, Dexylin, Dexedrine, Orladin	Attention deficit disorder, narcolepsy, weight control	Possible	Yes	2-4	Oral injection			
Phenethylamine	Phedrin	Weight control	Possible	Yes	2-4	Oral injection			
Methylphenidate	Ritalin	Attention deficit disorder, narcolepsy	Possible	Yes	2-4	Oral injection			
Other Stimulants	Adipen, Cybin, Difen, Ieranth, Mefin, Pagine, Senerin, Tenuin, Tenuil, Tenu-2	Weight control	Possible	Yes	2-4	Oral injection			
<b>HALLUCINOGENS</b>									
LSA	Acid, Mescalot	None	None	Yes	8-12	Oral	Illusions and hallucina- tions, poor perception of time and distance	Larger, more intense "trip" episodes, psychosis, possible death	Withdrawal episodes not reported
Mescaline and Peyote	Mescal, Buttons, Cactus	None	None	Yes	8-12	Oral			
Acetylstrophanthidin	25-ORF, PMA, STP, NDA, NDA, TMK, ODA, ODB	None	Unknown	Yes	Variable	Oral injection			
Phencyclidine	PCP, Angel Dust, Hog	None	Unknown	Yes	Days	Smoked, oral, injected			
Phencyclidine Analogue	PCP, PCPy, TSP	None	Unknown	Yes	Days	Smoked, oral, injected			
Other Hallucinogens	Bolazine, Bogema, DM7, DET, Pallopylin, Pilocylin	None	None	Possible	Variable	Smoked, oral, injected, sniffed			
<b>CANNABIS</b>									
Marijuana	Pat, Acapulco Gold, Green, Reefin, Siamilla, Thai Sticks	None	Unknown	Moderate	Yes	Smoked, oral	Euphoria, relaxed inhibition, increased appetite, disturbed behavior	Fatigue, paranoia, possible psychosis	Insomnia, hyperactivity, and decreased appetite occasionally reported
Tetrahydrocannabinol	THC, Marbud	Cancer chemotherapy, anorexia	Unknown	Moderate	Yes	Smoked, oral			
Hashish	Hash	None	Unknown	Moderate	Yes	Smoked, oral			
Hashish Oil	Hash Oil	None	Unknown	Moderate	Yes	Smoked, oral			
Designated a narcotic under the CSA. Not designe d a narcotic under the CSA.									

**Exhibit II – U.S. Drug Enforcement Administration - Federal Trafficking Penalties**

DRUG/SCHEDULE	QUANTITY	PENALTIES	QUANTITY	PENALTIES
Cocaine (Schedule II)	500 - 4999 gms mixture	<p>First Offense: Not less than 5 yrs, and not more than 40 yrs. If death or serious injury, not less than 20 or more than life. Fine of not more than \$2 million if an individual, \$5 million if not an individual</p> <p>Second Offense: Not less than 10 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$4 million if an individual, \$10 million if not an individual</p>	5 kgs or more mixture	<p>First Offense: Not less than 10 yrs, and not more than life. If death or serious injury, not less than 20 or more than life. Fine of not more than \$4 million if an individual, \$10 million if not an individual.</p> <p>Second Offense: Not less than 20 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$8 million if an individual, \$20 million if not an individual.</p> <p>2 or More Prior Offenses: Life imprisonment</p>
Cocaine Base (Schedule II)	5-49 gms mixture		50 gms or more mixture	
Fentanyl (Schedule II)	40 - 399 gms mixture		400 gms or more mixture	
Fentanyl Analogue (Schedule I)	10 - 99 gms mixture		100 gms or more mixture	
Heroin (Schedule I)	100 - 999 gms mixture		1 kg or more mixture	
LSD (Schedule I)	1 - 9 gms mixture		10 gms or more mixture	
Methamphetamine (Schedule II)	5 - 49 gms pure or 50 - 499 gms mixture		50 gms or more pure or 500 gms or more mixture	
PCP (Schedule II)	10 - 99 gms pure or 100 - 999 gms mixture		100 gm or more pure or 1 kg or more mixture	
<b>PENALTIES</b>				
Other Schedule I & II drugs (and any drug product containing Gamma Hydroxybutyric Acid)	Any amount	<p>First Offense: Not more that 20 yrs. If death or serious injury, not less than 20 yrs, or more than Life. Fine \$1 million if an individual, \$5 million if not an individual.</p> <p>Second Offense: Not more than 30 yrs. If death or serious injury, not less than life. Fine \$2 million if an individual, \$10 million if not an individual</p>		
Flunitrazepam (Schedule IV)	1 gm or more			
Other Schedule III drugs	Any amount	First Offense: Not more than 5 years. Fine not more than \$250,000 if an		

		individual, \$1 million if not an individual.  Second Offense: Not more 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if not an individual
Flunitrazepam (Schedule IV)	30 to 999 mgs	
All other Schedule IV drugs	Any amount	First Offense: Not more than 3 years. Fine not more than \$250,000 if an individual, \$1 million if not an individual.  Second Offense: Not more than 6 yrs. Fine not more than \$500,000 if an individual, \$2 million if not an individual.
Flunitrazepam (Schedule IV)	Less than 30 mgs	
All Schedule V drugs	Any amount	First Offense: Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual.  Second Offense: Not more than 2 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.

**Exhibit II, cont.**

**U.S. Drug Enforcement Administration - Federal Trafficking Penalties**

**Federal Trafficking Penalties - Marijuana**

DRUG	QUANTITY	1st OFFENSE	2nd OFFENSE
Marijuana	1,000 kg or more mixture; or 1,000 or more plants	<ul style="list-style-type: none"> <li>● Not less than 10 years, not more than life</li> <li>● If death or serious injury, not less than 20 years, not more than life</li> <li>● Fine not more than \$4 million if an individual, \$10 million if other than an individual</li> </ul>	<ul style="list-style-type: none"> <li>● Not less than 20 years, not more than life</li> <li>● If death or serious injury, mandatory life</li> <li>● Fine not more than \$8 million if an individual, \$20 million if other than an individual</li> </ul>
Marijuana	100 kg to 999 kg mixture; or 100 to 999 plants	<ul style="list-style-type: none"> <li>● Not less than 5 years, not more than 40 years</li> <li>● If death or serious injury, not less than 20 years, not more than life</li> <li>● Fine not more than \$2 million if an individual, \$5 million if other than an individual</li> </ul>	<ul style="list-style-type: none"> <li>● Not less than 10 years, not more than life</li> <li>● If death or serious injury, mandatory life</li> <li>● Fine not more than \$4 million if an individual, \$10 million if other than an individual</li> </ul>
Marijuana	more than 10 kgs hashish; 50 to 99 kg mixture	<ul style="list-style-type: none"> <li>● Not more than 20 years</li> <li>● If death or serious injury, not less than 20 years, not more than life</li> </ul>	<ul style="list-style-type: none"> <li>● Not more than 30 years</li> <li>● If death or serious injury, mandatory life</li> <li>● Fine \$2 million if an</li> </ul>

	more than 1 kg of hashish oil; 50 to 99 plants	<ul style="list-style-type: none"> <li>● Fine \$1 million if an individual, \$5 million if other than an individual</li> </ul>	individual, \$10 million if other than individual
Marijuana	1 to 49 plants; less than 50 kg mixture	<ul style="list-style-type: none"> <li>● Not more than 5 years</li> <li>● Fine not more than \$250,000, \$1 million other than individual</li> </ul>	<ul style="list-style-type: none"> <li>● Not more than 10 years</li> <li>● Fine \$500,000 if an individual, \$2 million if other than individual</li> </ul>
Hashish	10 kg or less		
Hashish Oil	1 kg or less		

Source: <http://www.usdoj.gov/dea/agency/penalties.htm>

**Exhibit III: Legal Sanctions under New York State Law for the Unlawful Possession and Distribution of Illegal Drugs**

The unlawful possession, use or distribution of illicit drugs and alcohol is punishable by sanctions imposed by the United States Government and by the State of New York. These sanctions can include imprisonment, fines, assigned community service, and loss of federal student financial aid eligibility.

**New York State Sanctions for Possession of Concentrated Cannabis** (See NYS Penal Law Section 222.00 ~~See~~)

- Up to 3 ounces of cannabis or up to twenty-four grams of concentrated cannabis – legal for those 21 or older
- 4 to 8 ounces – up to one year in jail and /or \$1,000 fine
- 8 to 16 ounces – 1-4 years in prison and/or up to \$5,000 fine
- 16 ounces to 10 pounds – 1-7 years in prison and/or up to \$5,000 fine
- 10 pounds or more – 1-15 years in prison and/or up to \$5,000 fine

**New York State Sanctions for Criminal Possession and Sale of Concentrated Cannabis** (See NYS Penal Law Article 222 )

(Degree depends upon amount of substance seized and age requirements)

- 3<sup>rd</sup> Degree – Class A Misdemeanor; face up to one year in jail.
- 2<sup>nd</sup> Degree – E Felony; one to one-and one-half year in custody.
- 1<sup>st</sup> Degree – D Felony; one to two-and one-half years in prison.
- Aggravated Criminal Sale of Cannabis – C Felony; one-and one-half to five years in prison.

**New York State Sanctions for Possession and Sale of Controlled Substances:** (See NYS Penal Law Article 220)

“Controlled substance” means any substance listed in schedule I, II, III, IV or V of section thirty-three hundred six of the public health law other than marijuana, but including concentrated cannabis as defined in paragraph (a) of subdivision four of section 3302 of such law. This includes, but is not limited to: methamphetamine, heroin, cocaine, PCP, LSD, Fentanyl, and Fentanyl analogue.

**New York State Sanctions for Criminal Possession and Sale of Controlled Substances**

(Degree depends upon substance, amount of substance, age of purchaser and prior record)

- 7th Degree-Class A Misdemeanor; imprisonment up to 1 year
- 5th Degree-Class D Felony; imprisonment up to 7 years
- 4th Degree-Class C Felony; imprisonment up to 15 years
- 3rd Degree-Class B Felony; up to 25 years imprisonment
- 2nd Degree-Class A-II Felony; up to life imprisonment
- 1st Degree-Class A-1 Felony; up to life imprisonment

It is also a violation of state law to appear in public under the influence of narcotics or a drug other than alcohol to a degree that it may endanger him/herself or other persons or property, or annoy persons in his/her vicinity. Penalty could include 15 days' imprisonment and a \$250 fine.

**State Alcohol Abuse Penalties:** 1. Unlawfully Dealing with a Child - It is unlawful to give or serve alcohol (or cause it to be given or sold) to a person under the age of 21. This is a Class A misdemeanor. Penalty could be up to one year's imprisonment and a \$1000 fine. 2. DWI-Driving While Intoxicated (by drugs or alcohol) is a misdemeanor punishable by up to a year in prison and up to a \$500 fine. 3. DWAI-Driving While Ability Impaired by Alcohol is a violation punishable by up to 15 days' imprisonment and up to a \$350 fine. 4. Liability of One Serving a Person Under Age 21-Anyone who furnishes or assists a person under 21 years of age in procuring alcoholic beverages is liable for any damages caused by that underage person while under the influence. 5. Dram Shop Liability-Any person who sells alcoholic beverages or unlawfully assists an intoxicated person to procure alcoholic beverages is liable for any damages caused by that person while under the influence. 6. Fraudulent Document - It is in violation of state law for a person under the age of 21 years to present false evidence of age to procure alcoholic beverages. Possessing such false evidence may also be criminal possession of a forged instrument within the meaning of the penal law. The penalty for using fraudulent means to obtain alcoholic beverages may include probation up to a year and a fine up to \$100.

Marijuana Reform Act of 1977 has classified possession of lesser amounts of marijuana, up to 25 gm (about 7/8 of an ounce or 25-30 cigarettes), as a violation; penalties range from \$100 to \$250 fine and/or up to 15 days in jail, depending on whether it is first, second, or third offense.