

Siena College Discrimination and Harassment Policy

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Discrimination and Harassment Policy

I. Statement of Basis and Purpose

Siena College is committed to promoting a learning and working environment where discrimination and harassment is not tolerated. 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 basis identified in 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 this policy. This policy prohibits discrimination and harassment in all College programs and activities. 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, 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.

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.

Accordingly, Siena College is committed to:

- Defining conduct that constitutes discrimination and harassment
- Providing clear reporting options for all members of our campus and visitors following disclosing a violation of this policy
- Promptly responding to and investigating allegations of discrimination and harassment, including taking steps to eliminate a hostile environment if one has been created and prevent the recurrence of future incidents of discrimination and harassment. The College's response may include pursuing disciplinary action when appropriate, referring the incident to local authorities when appropriate, and acting to investigate and address any allegations of retaliation
- Providing ongoing assistance and support to members of our campus who file complaints of discrimination and harassment
- Providing awareness and prevention information on discrimination and harassment, including disseminating our policies.

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

- A. Siena College's Title IX Coordinator/EOS has primary responsibility for coordinating the College's efforts to comply with and carry out its responsibilities under Title VII and Title IX which prohibits 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 VII and Title IX.
- B. The Title IX Coordinator/EOS oversees the College's response to reports and complaints that involve possible discrimination and harassment, to monitor outcomes, and identify and address any patterns, 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 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 discrimination and harassment
 - Ask questions about the College's policies and procedures related to discrimination and harassment
- 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

 - 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

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

2. Title IX/EOS Advisors and Educators:
Robin MacHattie
Assistant Professor
Assists with Education and may serve as an Advisor
Rosetti Hall Room 304
518-783-4123
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

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

Patrick Donnelly
Assistant Director of Public Safety
Hines Hall, East Wing, First Floor
518-783-2376
pdonnelly@siena.edu

III. Terminology

Definition of Protected Class Groups: Protected class groups are groups of individuals protected from discrimination and harassment. The following protected class groups are legally protected either by Federal or New York State law.

Federal Protected Categories:

Age, Disability, Equal Compensation, Genetic Information, National Origin, Pregnancy, Race/Color, Religion, Retaliation, Sex, Sexual Harassment

New York State Protected Categories:

Age, Race, Creed, Color, National Origin, Ancestry, Military Status, Sex (Self-identified or Perceived Sex), Pregnancy, Disability, Sexual Orientation, Sexual Identity, Gender Expression, Gender Identity, Genetic Predisposition or Carrier Status, Arrest or Conviction, Lawful Off-Duty Activities, Marital Status, Status as Domestic Violence Victim

IV. Legal and Behavioral Definitions of Discrimination and Harassment

- A. Discriminatory Harassment: Discriminatory harassment constitutes a form of discrimination that is prohibited by Siena policy. Discriminatory harassment is defined as harassment by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law. A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive and objectively offensive (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". Siena College has adopted the NY State standard eliminating severe and pervasive requirements in cases where students allege discriminatory harassment by an employee.)

Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of Siena's policy.

Federal and State Law: Under Federal and New York State laws, it is illegal to discriminate against individuals, including:

- Recruitment and selection
- Compensation, assignment, or classification of individuals
- Transfer, promotion, layoff, or recall
- Job advertisements
- Testing
- Use of campus facilities
- Training and apprenticeship programs
- Fringe benefits
- Pay, retirement plans, and disability leave or
- Other terms and conditions of employment or academic standing
- Retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices
- Employment/academic decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, age, sexual orientation, religion, or ethnic group, or individuals with disabilities, and denying employment or academic opportunities to a person because of marriage to, or association with, an individual of a particular race, religion, national origin, an individual with a disability, or other protected category

Examples of harassment based on protected categories include, but are not limited to:

- Racial slurs or epithets

- Treating an individual differently because of the individual's race, sexual orientation, national origin, religion or other protected categories
- Racial graffiti
- Telling jokes pertaining to protected categories
- Suggestive, obscene, or insulting sounds
- Posters, email, cartoons, pictures displayed in the work area that creates an offensive and intimidating environment
- Engaging in threatening, intimidating or hostile acts towards an individual because that individual belongs to or is associated with any protected categories
- Electronic transmission of derogatory, demeaning, or hostile materials

- B. Work/Learning Environments: A hostile work/learning environment results from harassing conduct that has the purpose or effect of unreasonably interfering with an employee's work or student's learning, and creates an intimidating, hostile, or offensive working environment.

A hostile work/learning environment may exist when verbal and/or nonverbal behavior in the campus/workplace:

- Occurs because of an individual being a member of a protected class (e.g., sex, race, sexual orientation, age)
- Is unwanted or unwelcome
- Is severe or pervasive enough to unreasonably impact a student's learning or unreasonably impact the employee's work

- C. Third Party Harassment: The individual to whom the harassing conduct is aimed is not the only person who can complain about the harassment. Third parties may complain when the harassment directed at others adversely affects the other person's work/learning environment. Third parties may also complain when offensive conduct, even if it is consensual between the parties involved, is creating a hostile work/learning environment for the third party.
- D. Sexual Harassment: The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of New York regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice. Siena has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community. Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. Offenses of this nature will be governed by the [Sexual Misconduct & Interpersonal Violence policy](#) (Non-Title IX Sexual Harassment).

V. Definitions

- A. Definition of Employee Consensual Relationship

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.

1. With other employees:

Consensual romantic or sexual relationships in which one employee retains a direct supervisory 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 direct supervisory 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.

2. 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.

B. Definition of Complainant

“Complainant” shall mean a student or employee who has reported discrimination or harassment. In some instances, the College may serve as the Complainant (see “Complaints Filed by the College” in Section IX - Filing a Complaint - of this policy).

C. 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. A “Respondent” shall mean a person accused of a violation who has entered the College’s conduct process.

D. Definition of Reporting Individual

“Reporting Individual” shall encompass the terms Complainant, witness, and any other term used to reference an individual who brings forth a report of a violation.

E. 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.

F. Definition of Advisor

An advisor is a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process and to advise the party on that process.

G. Definition of Bystander

A “bystander” shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of the College. Anyone witnessing harassment as a bystander is encouraged to report it. An

employee that is a bystander to harassment is **required** to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
3. A bystander can record or take notes on the harassment incident to benefit a future investigation;
4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
5. If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace. Any employee witnessing harassment as a bystander is required to report it.

VI. Immediate Assistance in Cases of Discrimination and Harassment

Students, faculty, staff, administrators, and visitors at Siena College who experience any form of discrimination or harassment 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. Campus public safety officers can also assist the Complainant with filing a complaint both on and off campus, and in obtaining counseling and other services.

VII. Choice of Actions in Response to Discrimination and Harassment

Options in General: Complainants have many options that can be pursued simultaneously, including the following:

- A. Confidentially disclose a violation to the Counseling Center, Health Services, and 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 Complainant.
- B. Anonymously disclose a crime or violation to the Public Safety anonymous tip line: www.siena.edu/anonymous. The College may have a duty to investigate anonymous disclosures to the extent possible, based on the information disclosed.
- C. Submit a Bias Related Incident Report online. (Private, Not Confidential): www.siena.edu/biasreport
- D. Make a report to a College Official/Responsible Employee. 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. (Private, Not Confidential)
 - Public Safety (Private, Not Confidential)
 - Title IX Coordinator/EOS (Private, Not Confidential)
 - Deputy Title IX Coordinators (Private, Not Confidential)

VIII. Reporting

A. Confidentiality and Confidential Resources:

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 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 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.

B. 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.

C. Duty to Report by Responsible Employees:

"Responsible Employees" have a duty to report incidents of discrimination and harassment, 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 discrimination and harassment or sexual misconduct, who has the duty to report incidents of discrimination and harassment or sexual misconduct, or who a student could reasonably believe has the authority or duty. Such employees are not permitted under any circumstances to maintain a Complainant's 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.

Immediately upon learning of potential campus discrimination or harassment, any employee with a duty to report violations of this policy who receives a complaint of discrimination or harassment 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 discrimination or harassment shared by the Complainant 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.

Managers and supervisory personnel are required to report to the Title IX Coordinator/EOS any instance or allegation of prohibited conduct involving any employee that is disclosed to, observed by, or otherwise known to that employee whether or not the employee is a potential Complainant or Respondent and whether or not the employee has any formal connection to the manager or supervisor.

D. 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.

E. 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 discrimination, harassment, 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 discrimination, harassment, 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 who discloses any incident of discrimination, harassment, 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 discrimination, harassment, domestic violence, dating violence, stalking, or sexual assault.

This policy may also be applied, but not limited to: alcohol or drug related incidents, 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.

F. 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.

G. Interim Measures:

Upon receipt of a report, the Title IX Coordinator/EOS or designee may provide reasonable and appropriate interim measures designed to preserve the Complainant's educational experience, the safety of all parties and the broader campus community, maintain the integrity of the investigative and/or resolution process, and deter retaliation. The Title IX Coordinator/EOS or designee may provide interim measures regardless of whether the Complainant seeks formal disciplinary action. 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 interim 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
- Change in housing
- Imposition of an on-campus "no contact order," an administrative remedy designed to curtail contact and communications between two or more individuals
- Providing the Complainant assistance with filing a criminal complaint and seeking an order of protection
- Other remedies 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)

IX. Filing a Complaint

A. Investigation by Siena College:

1. All reports and complaints of discrimination and harassment 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. Complaints may be filed in person, via email, or by using the complaint form attached as appendix III in the Sexual Misconduct & Interpersonal Violence policy.
2. Complainants and Respondents may use an advisor of their choice (including legal counsel) at each point in these proceedings. The advisor may serve only in an advisory role and may not directly represent either party.
3. Upon receiving information of an alleged violation of this policy, either the Title IX Coordinator/EOS or designee, Public Safety Investigators, a Deputy Coordinator, or a combination of these individuals will conduct an investigation (interview parties, take or receive statements). Generally, once contacted, the Complainant, Respondent and witnesses have seven (7) business days to take or provide statements to the investigator. The College reserves the right to move forward with case resolution should parties fail to

adhere to this time frame. In certain circumstances these time frames may need to be extended (e.g., during July and August students and faculty members are often not available; significant number of witnesses to interview; multiple allegations in a single complaint). However, every effort will be made to conclude the investigation as expeditiously as possible.

4. If the reporting witness or Complainant chooses to pursue action under this policy, they will be interviewed as part of the investigative process.
5. A reporting witness or Complainant may choose to withdraw a complaint and/or involvement from the College process at any time.

B. Complaints Filed by The College:

The Title IX Coordinator/EOS or designee may file a complaint through these procedures against any individual they have reason to believe has engaged in conduct in violation of this policy where doing so is deemed appropriate. By way of example but not limitation, where it appears that the individual may have engaged in a pattern of conduct in violation of this policy, based upon the number of informal complaints previously filed against the individual, the College may proceed through its formal complaint process in such instances.

Additionally, often individuals are reluctant to pursue the remedies provided in this policy even when the individual perceives they have been subjected to conduct prohibited by this policy. Should the Title IX Coordinator/EOS or designee become aware of conduct potentially in violation of this policy, 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 take any necessary action. Additionally, on the occasions where the reporting party is not a student or employee, the College will serve as the Complainant throughout the Resolution process. Upon completion, a general summary of the outcome of the investigation will be reported to reporting parties and affected individuals (individuals directly impacted by the behavior under investigation).

C. Reporting Retaliation:

Individuals may file a complaint with the Title IX Coordinator/EOS or designee if they have been retaliated against for reporting discrimination, harassment, assisting someone in making such a report, or participating in any manner in an investigation or resolution of a discrimination or harassment 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.

X. **Resolution**

A. Informal Resolution:

At any time after a formal complaint has been filed and before a Review Panel is convened, 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.

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.

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.

The Title IX Coordinator/EOS or designee will provide each party, separately, with a copy of the proposed agreement for the party to review, sign, and return.

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 any adjudicating body or appeal officer 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 discrimination and bias as outlined in the College's Discrimination and Harassment 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 orders
 - 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
- 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.

Any agreement reached is under the purview of Siena College and does not affect or preclude any party's ability to pursue a complaint with law enforcement or another external entity.

B. Formal Resolution:

Siena College generally completes investigations within thirty (30) business days, absent extenuating circumstances. In certain circumstances the time frames may need to be extended (e.g., during July and August; students and faculty members are often not available, significant number of witnesses to interview, multiple allegations in a single complaint). However, every effort will be made to resolve cases as expeditiously as possible. The preponderance of evidence or "more likely than not" standard of review will be used during the investigatory process.

The Respondent shall be provided with a notice of complaint describing the date, time, location, and factual allegations, a reference to the specific policy violations alleged together with possible sanctions.

The Complainant and Respondent shall be advised periodically of the status of the investigation.

C. Investigation Report:

The Title IX Coordinator/EOS or designee will prepare a written report following the completion of the investigation. Except in certain circumstances, the report should be completed within five (5) business days after the completion of the investigation. The report, at a minimum, must include a:

1. Summary of the complaint.
2. Summary of the response by the individual against whom the complaint was made.
3. Summary of the statements and evidence obtained during the investigation.
4. Summary of prior settlements or substantiated complaints against the Respondent.

D. Notice of Investigative Report:

Once the investigative report is completed the Complainant and their advisor and the Respondent and their advisor may review a redacted copy of the investigative report. Following this review the Complainant and/or Respondent may provide an additional written response to be included in the materials for informal or formal resolution. Both the Complainant and Respondent may also submit a written impact statement to the Title IX Coordinator/EOS or designee to be reviewed prior to deliberation of sanctions, if any. The Complainant and Respondent have ten (10) business days upon notification of completion of the investigative report to review and submit a written response, including acceptance or denial responsibility, and an impact statement.

E. Student Cases:

Upon completion of the final investigative report by the Title IX/EOS Office, the matter will be referred to the Student Conduct Review Board for adjudication pursuant to its policy and procedures. Please refer to the “Student Conduct Review Board Process” link at:

www.siena.edu/sienalife

F. Faculty, Staff or Administrator Cases:

Acceptance of Responsibility

1. Upon completion of the final investigative report by the Title IX/EOS Office, if the Respondent accepts responsibility, the Title IX Coordinator/EOS or designee shall refer the matter to an administrative team¹ from the Office of Finance and Administration for sanctioning recommendation. The administrative team will work in consultation with the Vice President or designee of the Respondent’s work assignment to determine final sanction. Generally, the administrative team will review the matter within ten (10) business days except for good cause, or by agreement of the parties. Written notice of the date, time, and location of the review will be provided to the Complainant and Respondent. 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.

In cases where the Vice President or designee of the Respondent’s work assignment amends or rejects a recommendation by the administrative team, the Vice President or designee of the Respondent’s work assignment will include in the file a rationale for the decision not to accept the recommendation.

The Vice President or designee of the Respondent’s work assignment will send written notice to the Complainant, Respondent, Human Resources, and the Title IX Coordinator/EOS or designee of their decision regarding sanction(s) within five (5) business days of receipt of the recommended sanctions. The Vice President or designee of the Respondent’s work assignment will make every effort to schedule notice simultaneously to these parties.

The sanction(s) shall become final six (6) 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.

¹ Two or more employees from Administration and Finance, at least one of whom will be from the Office of Human Resources. In cases involving a faculty member, a faculty member will be included in the administrative team.

2. Staff and Administrator Appeal

Complainant(s) and Respondent(s) may appeal sanction(s) based on grounds that 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 refer the matter to a different Vice President as designated by the Title IX Coordinator/EOS or designee. The Vice President has five (5) business days to confirm, amend or reject a recommendation(s). The Vice President's sanction decision is final. The Vice President will provide written notice of the outcome of the appeal to the Complainant, Respondent, Human Resources and the Title IX Coordinator/EOS or designee. The Vice President will make every effort to schedule notice simultaneously to these parties.

In cases where the Vice President amends or rejects a recommendation, the Vice President will include in the file a rationale for the decision not to accept the recommendation.

3. Faculty Appeal

Where a complaint is made against a faculty person and that faculty person is seeking the appeal, appellate review shall be provided through the Faculty Grievance Committee pursuant to the procedures in the Faculty Handbook. The Title IX Coordinator/EOS or designee will provide written notice of the request for an appeal to the Complainant.

Denial of Responsibility:

1. Upon completion of the final investigative report by the Title IX/EOS Office, if the Respondent denies responsibility, the Title IX Coordinator/EOS or designee shall refer the matter to an administrative team² from the Office of Finance and Administration for finding(s) and sanctioning recommendation. Generally, the administrative team will review the matter within ten (10) business days except for good cause, or by agreement of the parties. Written notice of the date, time, and location of the review will be provided to the Complainant and Respondent. 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.

In cases where the Vice President or designee of the Respondent's work assignment amends or rejects a recommendation by the administrative team, the Vice President or designee of the Respondent's work assignment will include in the file a rationale for the decision not to accept the recommendation.

The Vice President or designee of the Respondent's work assignment will send written notice to the Complainant, Respondent, Human Resources, and the Title IX Coordinator/EOS or designee of their decision within five (5) business days of receipt of the recommendations from the administrative team. The Vice President or designee of the Respondent's work assignment will make every effort to schedule notice simultaneously to these parties.

2. Staff and Administrators Appeal

The decision of appropriate Vice President or designee and sanction imposed shall

² Two or more employees from Administration and Finance, at least one of whom will be from the Office of Human Resources. In cases involving a faculty member, a faculty member will be included in the administrative team.

become final six (6) business days after written notice of said decision was sent to the Respondent unless a 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.

Complainant(s) or Respondent(s) may submit an appeal based on the findings. Appeals of the finding(s) of responsibility must be based on procedural error or new information that was not available at the time of the Formal Review, could not have been produced by a reasonable effort, and could reasonably have impacted findings; and/or based on grounds that the sanction(s) imposed are disproportionate to the violation of policy that was found to have occurred.

The Complainant(s) or Respondent(s) may make a formal appeal in writing to the Title IX Coordinator/EOS or designee. The Complainant(s) and Respondent(s) may submit an additional statement within three (3) business days upon notification that either party has submitted an appeal. The Title IX Coordinator/EOS or designee has five (5) business days to grant or reject the appeal. If an appeal is granted by the Title IX Coordinator/EOS or designee, the case will be referred back to the administrative team for review of any supplemental information. Within ten (10) business days of receipt of the appeal, the administrative team will forward its recommendations to the VP of Respondent's work area or designee who may accept, amend or reject the administrative team's final recommendations. The VP of the Respondent's work area or designee will provide written notice of the outcome to the Complainant, Respondent, Human Resources and Title IX Coordinator within five (5) business days; every effort will be made to schedule notice simultaneously to the parties. All sanctions will take effect immediately. This decision is final; further appeal is not available.

3. Faculty Appeal:

Where a complaint is made against a faculty person and that faculty person is seeking the appeal, appellate review shall be provided through the Faculty Grievance Committee pursuant to the procedures in the Faculty Handbook. The Title IX Coordinator/EOS or designee will provide written notice of the request for an appeal to the Complainant.

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. Dismissal of Tenured Faculty:

In cases where complaints against tenured faculty members are found to have merit and

where dismissal is the decision, the Provost/Senior Vice President for Academic Affairs shall provide a Notice of Termination to the tenured faculty member which shall be effective two (2) weeks after served or mailed to the Respondent, unless, during the two (2) week time frame, the Respondent submits a written request for a dismissal hearing by the Faculty Grievance Committee.

Upon the submission of a request for a dismissal hearing, the procedures set forth in the Faculty Handbook shall be followed.

Tenured faculty members shall have no additional appeal rights under this policy and procedures other than those provided under the Faculty Handbook.

I. 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 Discrimination and Harassment Policy, regardless of the outcome.

All documents prepared and maintained pursuant to the Discrimination and Harassment 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.

XI. 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 discrimination 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 as long as confidentiality of individuals' identities is not breached. The President shall determine the propriety of a report to the entire College community.

XII. Resolution Through Other Means

Complainants and Respondents have the right to seek resolution through other sources.

Harassment is not only prohibited by Siena College, but it is also prohibited by state, federal, and, where applicable, local law.

The internal process outlined in the policy above is one way for employees to report harassment. Employees and covered individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may also seek the legal advice of an attorney.

New York State Division of Human Rights:

The New York State Human Rights Law (HRL), N.Y. Executive Law, art. 15, § 290 *et seq.*, applies to all employers in New York State and protects employees and covered individuals, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the New York State Division of Human Rights (DHR) or in New York State Supreme Court.

Go to dhr.ny.gov/complaint for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.

Call the DHR sexual harassment hotline at **1(800) HARASS3** for more information about filing a sexual harassment complaint. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.

The United States Equal Employment Opportunity Commission:

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 U.S.C. § 2000e *et seq.* An individual can file a complaint with the EEOC anytime within 300 days from the most recent incident of harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred. If the EEOC determines that the law may have been violated, the EEOC will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred by does not file a lawsuit.

Individuals may obtain relief in mediation, settlement or conciliation. In addition, federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with the New York State Division of Human Rights, DHR will automatically file the complaint with the EEOC to preserve the right to proceed in federal court.

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact their local police department.

XIII. 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.