

# Siena College Sexual Misconduct Policy

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# Sexual Misconduct Policy

## I. Statement of Basis and Purpose

Siena College is committed to promoting a learning and working environment where sexual misconduct, which includes sexual violence, sexual harassment, and other gender based offenses, is not tolerated. This policy prohibits sexual violence, sexual harassment, and other gender-based offenses 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.

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 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 sexual misconduct
- Providing clear reporting options for all members of our campus and visitors after disclosing a violation of the College's Sexual Misconduct Policy.
- Promptly responding to and investigating allegations of sexual misconduct, including taking steps to eliminate a hostile environment if one has been created and prevent the recurrence of future incidents of sexual misconduct. 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 allegations of retaliation
- Providing ongoing assistance and support to members of our campus who file complaints of sexual misconduct
- Providing awareness and prevention information on sexual misconduct, including disseminating our policies, implementing training and educational programs for all College constituents

For purposes of this policy, sexual misconduct includes sexual violent acts (rape, sexual assault, sexual battery, sexual coercion, sexual exploitation), sexual harassment, and other gender based offenses (dating violence, domestic violence, stalking).

## **II. Title IX and the Title IX Coordinator/EOS (Equal Opportunity Specialist) 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 IX, which prohibits 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.
- B. The Title IX Coordinator/EOS oversees the College's response to reports and complaints that involve possible sex discrimination, 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 sex discrimination, including sexual misconduct
  - Ask questions about the College's policies and procedures related to sex discrimination, including sexual misconduct
- 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:  
John Bebb, Senior Deputy Title IX Coordinator  
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 Affairs Compliance Officer  
Assists with Education and Investigations  
Sarazen Student Union Room 302  
518-783-2421

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

Michelle Barriere, Deputy for Employees  
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2. Assists with Education and Investigations:  
Title IX/EOS Advisors and Educators:  
Jennifer Dorsey, Ph.D.  
Associate Professor of Early American History  
Assists with Education and may serve as an Advisor  
229 Kiernan Hall  
518-783-2319  
[jdorsey@siena.edu](mailto:jdorsey@siena.edu)

Donna McIntosh  
Professor of Social Work  
Assists with Education and may serve as an Advisor  
Rosetti Hall Room 310  
518-783-4261  
[mcintosh@siena.edu](mailto:mcintosh@siena.edu)

Melody Nadeau, Ph.D.,  
Assistant Director of International Programs/ESOL  
Assists in Compliance/training 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

Ron Matos, Associate Director of Public Safety  
Associate Director of Public Safety  
Hines Hall, East Wing, First Floor  
518-783-2376  
[rmatos@siena.edu](mailto:rmatos@siena.edu)

Michael Hicks, Assistant Director of Public Safety  
Assistant Director of Public Safety  
Hines Hall, East Wing, First Floor  
518-783-2376  
[mhicks@siena.edu](mailto:mhicks@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 Incapacitated:

Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent.

Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have known, that the other individual was incapacitated. A person’s responsibility for obtaining consent is not diminished by use of alcohol and or other drugs. Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual misconduct.

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;

D. Definition of Complainant and Survivor:

“Complainant” shall mean a student or employee who has reported sexual misconduct.

Complainants may also be referred to as survivor or victim throughout this policy. In some instances, the College may serve as the complainant (see “Complaints filed by the College” in Section XI - Filing a Complaint - of this policy).

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.

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 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 Review Panel:

The review panel consists of faculty, staff, and administrators selected from the Siena College community. The review panel makes a determination of responsible or not responsible and makes sanctioning recommendations in formal hearings. These panel members are trained annually in the College’s Sexual Misconduct policy and procedures, case review, and adjudication. A review panel member will not participate in a panel meeting should there be a conflict of interest.

#### **IV. Definitions and Behavioral Examples of Sexual Violence, Sexual Harassment, and Other Gender Based Offenses**

A. Sexual Violence:

1. Sexual Violence acts include, but are not limited to, sexual assault, sexual coercion, and sexual exploitation. Sexual violent acts are physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent for reasons, such as, but not limited to, the victim/survivor’s age, the victim/survivor’s use of drugs or alcohol, or the victim/survivor’s inability to give consent due to intellectual or other disability.

2. Sexual assault is an offense that meets the definition of rape, fondling, incest, or statutory rape as stated in the uniform crime reporting system of the Federal Bureau of Investigation.
3. Rape is 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.
4. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will, or not forcibly or against the person's will, in instances where the victim is incapable of giving consent.
5. Sexual coercion is the act of using force, threats, alcohol or drugs, and/or using physical, emotional, or verbal pressure to have sexual contact with someone against his or her will, or where a person is incapable of giving consent for reasons including, but not limited to, the victim/survivor's age, the victim/survivor's use of drugs or alcohol, or the victim'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 victim/survivor feel uncomfortable.
6. 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.

B. Sexual Harassment:

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. 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.

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 Reporting Party 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
- May affect the Reporting Party 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:

- Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements
- 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
- 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.
  - Letters, notes, or electronic communications containing comments, words, or images described above
- d. Quid pro quo conduct:
- 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
  - Making or threatening reprisals after a negative response to sexual advances

## 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. Other Gender Based Offenses**

- A. Dating violence is violence committed by a person who (a) has been in a social relationship of a romantic or intimate nature with the victim and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: length of the relationship, type of relationship, and frequency of interaction between the persons involved in the relationship.
- B. Domestic violence is a felony or misdemeanor crime of violence committed by a current or former spouse of the victim/survivor, by a person with whom the victim/survivor shares a child in common, by a person who is cohabitating with or has cohabitated with the victim/survivor as a spouse, by a person similarly situated to a spouse of the victim/survivor under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim/survivor who is protected from the person's acts under the domestic violence laws of the jurisdiction.
- C. Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

\* see Appendix I – Behavioral Examples of Other Gender Based Offenses

## **VII. Immediate Assistance in Cases of Sexual 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.

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

Siena College is committed to assisting anyone who experiences sexual 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 rapes in particular, immediate treatment and the preservation of evidence of the assault are important for many reasons, including facilitating a criminal investigation. In addition, individuals who have experienced or witnessed sexual misconduct 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](#))

## IX. Choice of Actions in Response to Sexual Misconduct

### A. Options in General:

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

- Confidentially disclose a crime or 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 victim/survivor.
- 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. Victims/Survivors 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)
- 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)

### B. 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.

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 to investigate and/or seek a resolution.

D. 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/EOS. A “responsible” employee is a Siena College employee who has the authority to redress sexual misconduct, who has the duty to report incidents of sexual misconduct or discrimination and harassment, 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, part-time, visiting and volunteer faculty, administrators, staff, coaches, and community assistants 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/EOS and/or Public Safety who will take appropriate action to address the report.

A responsible employee must report to the Title IX Coordinator/EOS and/or Public Safety all relevant details about the alleged sexual misconduct 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.

E. Law Enforcement:

Sexual misconduct 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 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.

In the case of reported sexual misconduct, a law enforcement investigation does not relieve the College of its independent obligation to investigate the report, as specified by Title IX of the Education Amendments of 1972 ("Title IX"). Siena College's investigative and conduct process will run concurrently with a criminal justice investigation and proceeding except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten (10) 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 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 violence, including but not limited to domestic violence, dating violence, stalking, sexual assault, discrimination, or harassment 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, sexual assault, discrimination, or harassment 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, sexual assault, discrimination, or harassment 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, sexual assault, discrimination, or harassment.

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.

## X. **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 a 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), 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 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 Warning Notices are generally written and distributed by the Director of Public Safety (or designee) or the Dean of Students’ Office and are sent via email to students, faculty, staff, and administrators. A copy of the notice may also be posted on campus buildings.
  2. The Director of Public Safety or his designee may issue a “Public Safety Advisory” where the precipitating incident(s) is/are not Clery Crimes and 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.

## **XI. Initial Review**

- 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 sexual misconduct. The Title IX Team, led by the Title IX Coordinator/EOS, assists in the review, investigation, and resolution of reports. The team may include the Title IX Coordinator/EOS, Deputy Coordinators, and the Director of Public Safety. Depending on the roles of the parties involved in 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 effective and equitable review and timely 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 sexual misconduct 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.

At the conclusion of the assessment, the Title IX Response Team may refer the report for informal resolution. Informal resolution does not involve disciplinary action against a responding party. Alternatively, the Title IX Team may refer the matter for formal resolution. Formal resolution begins with an investigation. Considering the best interest of the College community, the College may proceed with an investigation without the consent from the potential Complainant, but will, to the extent practicable under the circumstances, maintain the privacy and anonymity of the potential Complainant. The goal of the investigation is to gather all relevant facts and determine if there is sufficient information to refer the report to an adjudication or grievance process in order to determine responsibility and impose disciplinary action if appropriate.

B. Interim Measures:

Upon receipt of a report, the Title IX/EOS Coordinator 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 may provide interim measures regardless of whether the Complainant seeks formal disciplinary action. The Title IX Coordinator/EOS 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
- Arranging for medical services

- 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, i.e. interim suspension or campus restriction pending the outcome of the investigation/process

Both the complainant and the respondent may appeal the need for, and the terms of, an interim measure. The appeal must be within three days of the issue of the measure and must be in writing to the Dean of Students Office.

C. Investigation by Siena College:

1. All reports and complaints of sexual misconduct should be filed with the Title IX Coordinator/EOS, 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.
2. Complainants and Respondents may use an advisor of their choice (including legal counsel) at each point in the Sexual Misconduct procedure. 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, Public Safety Investigators, a Deputy Coordinator, or a combination of these individuals will meet with the Complainant, Respondent, and/or reporting witness and 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, s/he shall make a written statement (which can be either written by the Complainant or dictated and ascribed to) regarding the Sexual Misconduct complaint.
5. A reporting witness or Complainant may choose to withdraw a complaint and/or involvement from the college process at any time.

D. Complaints Filed by the College:

The Title IX Coordinator/EOS or Deputy Coordinator (in consultation with the Title IX Response Team) may file a complaint through these procedures against any individual s/he has a 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 complaints filed against the individual previously, and resolved through informal intervention.



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 Deputy Coordinator 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. In such cases the Title IX Coordinator/EOS 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, one will not be filed by the College and the investigation will close. Otherwise, a complaint will be filed by the College.

When the reporting party is not a student or employee, the College will serve as the Complainant throughout the Resolution process.

- E. Reporting Retaliation:  
Individuals may file a complaint with the Title IX Coordinator/EOS 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. 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 through the student code of conduct or employee disciplinary procedures.

## **XII. Resolution**

- A. Informal Resolution:  
Individuals may seek an informal resolution to end nonviolent conduct that the person believes violated this policy. These interventions include negotiation, shuttle diplomacy, mediation, and restorative justice. Negotiation and mediation will not be used in cases that involve sexual misconduct or any other form of violence.

If the Respondent confirms the allegations and acknowledges responsibility for his/her actions, the Title IX Coordinator/EOS and/or Deputy Coordinator, in consultation with the Complainant and other designated College officials, will determine the most appropriate course of action.

If the Complainant is not in agreement with the outcome of the informal intervention 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 Deputy Coordinator determines that additional inquiry is still appropriate, the Title IX Coordinator/EOS and/or Deputy Coordinator will commence the complaint process. Either party may end the informal resolution process at any time and proceed with the formal process.

- B. Formal Resolution:  
Siena College generally completes investigations within thirty (30) business days, absent extenuating circumstances. In certain circumstances 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. Once presented with the notice of complaint, the Respondent has four (4) business days to formally accept or deny responsibility for the alleged behavior in writing. Failure to respond by the deadline will be treated as denial of responsibility and the formal process will proceed as outlined.

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

C. Investigation Report:

The Title IX Coordinator/EOS and/or Deputy Coordinator 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 Outcome of Investigation:

1. The Title IX Coordinator/EOS and/or the Deputy Coordinator will present a written notice of the outcome of the investigation to the Complainant and Respondent. This document shall consist of a summary of allegations, a summary of the evidence in support of the complaint, and specific areas/of this policy of which the Respondent is alleged to have violated.
2. Following a notice of outcome of the investigation, the Complainant and their advisor and the Respondent and their advisor may review a redacted copy of the investigation 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 to be reviewed prior to deliberation of sanctions, if any. The Complainant and Respondent have ten (10) business days upon notification of the investigative report’s completion to review and submit a written response and impact statement.

E. Acceptance of Responsibility (Student):

1. If the Respondent accepts responsibility, the Title IX Coordinator/EOS or Deputy Coordinator shall convene a review panel of three (3) to review the case and make recommendations for sanction to the Associate Vice President for Student Life or designee (a Respondent’s previous conduct record will be considered in determining sanction). Generally, reviews should convene within fourteen (14) calendar days of when the Respondent accepted responsibility and the investigation is complete 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.

Within three (3) business days of the completion of the case by a Review Panel, the recommended sanction(s), if any, shall be forwarded to the Associate Vice President for Student Life (AVPSL) or designee who may accept, amend, or reject the sanctions. The Respondent and Complainant 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.

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.

The Associate Vice President for Student Life (AVPSL) or designee will provide written notice of the outcome and sanction(s) to the Complainant, Respondent, and Title IX Coordinator/EOS within seven (7) business days. The AVPSL or designee will make every effort to schedule notice simultaneously to these parties. 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 formal written appeal is submitted to the Title IX Coordinator/EOS. Failure to submit the appeal within five (5) business days waives the right of written appeal.

2. Student Appeal

If the Complainant or Respondent disagrees with the sanction, he/she may make a formal written appeal to the Title IX Coordinator/EOS. 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 will convene a new three (3) person panel to review the sanction(s) imposed and make a sanction(s) recommendation to the Vice President for Student Life or designee. The Vice President for Student Life or designee has seven (7) business days to confirm, amend or reject a recommendation(s). In cases where the Vice President or designee amends or rejects the sanction(s), the Vice President or designee will include in the file a rationale for the decision not to accept the recommendation(s). The Vice President for Student Life or designee will provide written notice of the outcome of the appeal to the Complainant, Respondent, and Title IX Coordinator/EOS. The Vice President for Student Life or designee will make every effort to schedule notice simultaneously to these parties. The decision of the Vice President for Student Life or designee is final.

F. Acceptance of Responsibility (Faculty, Staff or Administrator):

1. If the Respondent accepts responsibility, the Title IX Coordinator/EOS shall convene a review panel of three (3) to review the case and make recommendations for sanction(s) to

the Vice President or designee of the Respondent's work assignment within three (3) business days of review completion. Generally, reviews should convene within fourteen (14) calendar days of when the Respondent accepted responsibility and the investigation is complete 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.

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.

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

The Vice President or designee will provide written notice to the Complainant, Respondent, Human Resources, and Title IX Coordinator/EOS of his/her decision regarding sanction(s) within seven (7) business days of receipt of the recommended sanction(s). The Vice President or designee will make every effort to schedule notice simultaneously to these parties.

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. Failure to submit the appeal within five (5) business days waives the right of written appeal.

## 2. Staff and Administrator Appeal

If the Complainant or Respondent disagrees with the sanction, he/she may make a formal written appeal to the Title IX Coordinator/EOS. 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 will convene a new three (3) person panel to review the sanction imposed and make a sanction recommendation to a different Vice President as designated by the Title IX Coordinator/EOS within 3 business days. The Vice President has seven (7) 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, and Title IX Coordinator/EOS. 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 or designee 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 will provide written notice of the request for an appeal to the Complainant.

G. Denial of Responsibility:

If the Respondent denies responsibility, a formal review panel will be convened.

Formal Review

Once a Respondent denies responsibility and the investigation is complete, the Title IX Coordinator/EOS will convene a three (3) person Review Panel. The purpose of the review is for the Review Panel to determine whether it is more likely than not that the facts established constitute a violation of this policy. The Panel will examine all testimony and documentary evidence it deems relevant, including the investigation report, where appropriate. Privacy and confidentiality shall be protected to the extent practicable, given the College's need to administer the process.

- Generally, reviews should convene within fourteen (14) calendar days of when the Respondent denied responsibility and the investigation is complete 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.
- The Review Panel will render a finding regarding responsibility based on the evidence using a "preponderance of the evidence" standard, which reviews whether it is more likely than not that a violation of this Policy has or has not occurred. The panel will normally render a finding based upon unanimity. In those instances where unanimity is unavailable, a majority vote may be used to render the decision.

The Respondent and Complainant 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 admittance in the College disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the adjudication stage that determines responsibility and a Respondent's entire previous conduct record will be considered in determining sanction.

For information on possible sanctions, Student Respondents may refer to Section E: Acceptance of Responsibility (Student); Faculty, Staff and Administrators may refer to Section F: Acceptance of Responsibility (Faculty, Staff or Administrator)

H. Hearing Outcome Notifications – Students:

1. Within three (3) business days of the completion of the case by a Review Panel, the recommended finding(s) and sanction(s), if any, shall be forwarded to the Associate Vice President for Student Life (AVPSL) or designee who may accept, amend, or reject the findings and/or sanctions. The AVPSL or designee will provide written notice of the outcome and sanction(s), if any, to the Complainant, Respondent, and Title IX Coordinator/EOS within seven (7) business days. The AVPSL or designee will make every effort to schedule notice simultaneously to these parties.
2. Student Appeal  
All sanction(s), except for suspension, dismissal, or expulsion from the College will take effect immediately pending appeal and shall become final five (5) business days after

written notice of said decision was sent to the Respondent unless a formal written appeal is submitted. 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. If an appeal is granted due to a procedural error or new information criteria, the case will be re-heard by a new review panel. Complainant(s) and Respondent(s) will be afforded the same appellate rights.

Complainant(s) and Respondent(s) may also appeal sanction(s) 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. 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 will convene a new Review Panel of three (3) to review the case and make a recommendation to the Vice President for Student Life or designee whose decision is final.

The Title IX Coordinator/EOS will provide written notice to the Vice President for Student Life or designee of the findings of the Appellate Review Panel within three (3) business days of receipt of the findings.

The Vice President for Student Life or designee will provide written notice of the outcome of the appeal to the Complainant(s), Respondent(s), and Title IX Coordinator/EOS within seven (7) business days. The Vice President for Student Life or designee will make every effort to schedule notice simultaneously to these parties.

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

I. Hearing Outcome - Faculty, staff, or administrator:

1. Within three (3) business days of the completion of the review of the case by a Review Panel, the recommended finding(s) and sanction(s), if any, shall be forwarded to the Vice President or designee of the Respondent's work assignment who may accept, amend, or reject the findings and/or sanctions. The Vice President or designee will provide written notice to the Complainant, Respondent, Human Resources, and Title IX Coordinator/EOS of his/her decision regarding findings and sanction(s) within seven (7) business days of receipt of the recommended findings and sanctions. The Vice President or designee will make every effort to schedule notice simultaneously to these parties.

In cases where the Vice President or designee amends or rejects a recommended finding and/or sanction as presented by the Review Panel, the Vice President or designee will include in the file a written notice and rationale for the decision not to accept the recommendation.

2. Staff and Administrators Appeal

The decision of appropriate Vice President or designee and sanction imposed shall become final five (5) 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.

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. If an appeal is granted due to a procedural error or new information criteria, the case will be re-heard by a new review panel. Complainant(s) and Respondent(s) will be afforded the same appellate rights.

Complainant(s) and Respondent(s) may also appeal sanction(s) 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. 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 will convene a new Review Panel of three (3) to review the case and make a recommendation to a different Vice President as designated by the Title IX Coordinator/EOS whose decision is final.

The Title IX Coordinator/EOS will provide written notice to the appropriate Vice President of the findings of the Appellate Review Panel within three (3) business days of receipt of the findings.

The Vice President will provide written notice to the Complainant(s), Respondent(s), Human Resources, and Title IX Coordinator/EOS of his/her decision regarding findings and sanction(s) within seven (7) business days of receipt of the recommended findings and sanctions. The Vice President or designee will make every effort to schedule notice simultaneously to these parties.

In cases where the Vice President amends or rejects a recommendation, they 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 will provide written notice of the request for an appeal to the Complainant.

J. 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, the Complainant and/or person responsible for monitoring compliance, will determine which procedures shall be applied for investigation and response.

K. Dismissal of Tenured Faculty:

In cases where complaints against tenured faculty members are found to have merit and where dismissal is the decision, the 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.

L. 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 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.

### **XIII. Annual Reporting**

The Title IX Coordinator/EOS 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 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. 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: May 2019

### **Appendix I: Behavioral Examples of Other Gender Based Offenses**

- A. Dating Violence:  
Dating violence is a pattern of coercive behaviors that serves to exercise control and power in an intimate relationship. The coercive and abusive behaviors can be physical, sexual, psychological, verbal, and/or emotional. Relationship abuse can occur between current or former intimate partners who have dated, lived together, currently reside together on or off-campus, or who otherwise connected through a past or existing relationship.
- B. Dating violence can occur in other-sex and same-sex relationships as well as in transgender relationships:  
Coercive and abusive behavior includes, but is not limited to: attempting to cause or causing bodily injury by hitting, slapping, punching, hair pulling, kicking, and/or other forms of unwanted physical contact that causes harm; knowingly restricting the movements of another person; isolating or confining a person for a period of time; controlling or monitoring behavior; being verbally and/or emotionally abusive; exhibiting extreme possessiveness or jealousy.
- C. Domestic Violence:  
Domestic violence includes, but is not limited to: attempting to cause or causing bodily injury by hitting, slapping, punching, hair pulling, kicking, and/or other forms of unwanted physical contact that causes harm; knowingly restricting the movements of another person; isolating or confining a person for a period of time; controlling or monitoring behavior; being verbally and/or emotionally abusive; exhibiting extreme possessiveness or jealousy.
- D. Stalking:  
Examples of stalking behavior include, but are not limited to: unwelcome communication that can be face-to-face, phone, text, email, voice messages, written messages, gifts, etc.; pursuing and/or following another person or group; surveillance; trespassing; gaining unauthorized access to personal, medical, financial or any other identifying piece of information without

explicit permission; accessing email, phone or other forms of personal communication in order to follow or monitor another's activity.

Cyber-stalking is an extension of the physical form of stalking and is unacceptable at any level. Using electronic media such as the Internet, social networking sites, cell phones, or similar devices or mediums to pursue, track, harass, monitor, or make unwanted contact with another person is a violation of the stalking policy.

## **Appendix II: Student Bill of Rights**

### **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 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;
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.

Options in General: Victims/survivors have many options that can be pursued simultaneously, including one of 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 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, Dean of Students Office, Community Living Staff, or a Human Resources employee;
  - Public Safety

### Appendix III : 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)