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Community

# Clery Report

## 2022 University Police Annual Security and Fire Safety Report

Utica Campus



SUNY POLY

# Annual Security and Fire Safety Report

## 2022 Report – Issued September 2022

Published in compliance with United States Code Section 1092 (f) the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (hereinafter referred to as the Clery Act) and the Code of Federal Regulations.

As mandated by the Clery Act, colleges must prepare annual Campus Security and Fire Safety reports to the community disseminating certain policies and crime statistics for specific criminal offenses that occurred in designated geographical locations and categories for the prior three calendar years to remain in full compliance with the Clery Act. The crime statistics printed in this Annual Security Report have been collected, counted, and classified based on incidents reported to University Police by a wide variety of people from areas such as: campus offices, including Provost, Student Affairs, Residential Life, Student Conduct, Athletics, and Human Resources; designated Campus Security Authorities, and area police agencies.

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## Our #1 Concern

Many parents are concerned about the safety of their daughter or son on a university campus far from home. SUNY Polytechnic Institute understands that concern and accepts its responsibility to employ security measures to ensure that our students enjoy their years at SUNY Poly as free as possible from any threats to their safety or well-being.

SUNY Poly (Utica) is a community of over 2,500 students, adjacent to Utica and surrounding communities, with a combined population of almost 250,000 residents. As part of that larger community, the Institute shares many of the same interests and problems, including the concern about crime. Crime is a national problem that affects even the rural area in which SUNY Poly is located.

Although the Institute has been fortunate in not experiencing a significant number of assaults, burglaries and acts of criminal trespass in the recent past, it would not be honest to state that such incidents have not taken place, some have. To prevent such incidents, a competent student life staff, a professionally trained University Police force, and the students, themselves, are responsible for a number of measures to ensure that the students and their personal possessions are protected as much as possible.

## General Information

SUNY Polytechnic Institute was created in 2014 from the merger of the College of Nanoscale Science and Engineering of Albany with the SUNY Institute of Technology. In 2021 SUNY Poly (both campuses) enrolled approximately 1744 full-time and 299 part-time undergraduate students. Approximately 264 full-time and 553 part-time graduate students were also enrolled. The campus employs a full and part-time workforce (excluding undergraduate students) of 555 employees. The number of undergraduate students residing in 3 residence halls on the Utica campus in the fall semester of 2021 was 769, and in a cooperative agreement with SUNY Albany, 12 lived in SUNY Albany's Freedom Apartments.

## Crime Prevention

To help prevent crimes, it is always important to secure valuable belongings and be aware of one's surroundings. To emphasize crime prevention awareness, campus educational programs, seminars, videos, posters, brochures, student newspaper articles, messages from administration, etc., address personal safety. Topics such as rape/sexual assault, bystander training, substance use/abuse, importance of locking doors and windows, "buddy" system, etc., fire and property safety and taking belongings home during breaks are covered throughout the year. This information also includes safety services such as the late evening Centro bus transportation service, counseling, mental health services, medical resources, and emergency services. During orientation, even prior to the start of the full semesters, programs are presented which address sexual assault, fire safety and other personal safety topics. Additional information on crime prevention is included later in this report.

## Safety and Security Responsibility

### University Police

Campus safety and law enforcement is jointly coordinated by the University Police Department which has a force of sworn police officers with full arrest powers and a Director of Environmental Health and Safety. SUNY police officers must meet the highest standards in New York State for law enforcement officers. Officers have successfully completed a basic police training program administered by the State University at the New York State Police Academy in Albany, New York, or a local regional police academy, and undergo continuous training to upgrade their skills. University Police Officers are charged with full police officer power under NYS Criminal Procedure Law, Section 120 (34)(S) and NYS Education Law, Section 360(4). Police officers have received firearms training and are armed and have also been trained in emergency medical procedures and first aid. Foot, bike, and vehicle patrols are conducted on campus and in residence hall areas, throughout each day, 365 days a year. The Department's objective is to provide a safe environment and protect the lives and property of students, employees, and visitors, pursued within the framework of the State University of New York rules and regulations and all local, state, and federal laws. The investigation of crimes committed on campus falls under the jurisdiction of University Police. A daily log of incidents that occur on campus is kept and is available for the public to view from 8 a.m. - 4 p.m. Monday through Friday or by request. The log includes the date, time, general location, and disposition of the complaint, and entries are available for review (unless they are deemed "confidential" by the chief of University Police for safety and security reasons).

University Police works closely with the Utica City Police, Oneida County Sheriff's Department, and the New York State Police to assist with incidents that occur off campus, but may involve campus staff, students or clubs. This relationship also involves the sharing of information regarding crime statistics and crime activity on land adjacent to college property. Students involved in off-campus incidents involving criminal activities may be referred to the campus judicial office. The New York State Campus Security Act requires all public, private, and community colleges and universities in New York to have a formal plan that provides for the investigation of missing students and violent felony offenses on campus. This includes written agreements between university and college authorities and the municipal law enforcement agencies having concurrent jurisdiction. The University Police Department at SUNY Poly has a local Mutual Order of Understanding (MOU) with the Utica City Police Department, the Oneida County Sheriff's Department, and the New York State Police in the event that a violent felony or a missing student is reported to campus authorities. Should such a report be received, SUNY Poly's University Police would request assistance from these agencies and would conduct a complete investigation.

*People need to be aware that no matter how safe our community is, the potential for crime exists everywhere, including college campuses. Everyone in the community must do his or her part to keep themselves and others safe. Don't let your behavior put yourself or others at risk.*

## Emergency Preparation and Response

SUNY Poly is committed to supporting the welfare of students, faculty, staff and visitors. Preparing an emergency management plan and allocating resources to respond to possible emergencies is an important mechanism through which SUNY Poly offers this support. In this regard, SUNY Poly has established and maintains an emergency management organizational structure and program that will facilitate the effective direction, management, coordination and implementation of the emergency management plan. The structure includes the University Police, Emergency Response Team and Environmental Health and Safety staff. The College's leadership is trained in assessing emergency situations, appropriately responding to said emergencies, and initiating necessary communication with those immediately impacted by the event and the greater campus community.

The Chief of University Police, in consultation with the Director of Environmental Health and Safety, is responsible for

determining the level of an incident. In the absence of the chief, the lieutenants, or the officer in charge, respectively, will make appropriate consults and level determination. If there were a serious, immediate threat to the health and safety of the campus community, the emergency response protocol would be enacted as appropriate to the situation.

**Emergency Notifications:** Emergency notifications are triggered by a broad range of potential threats. As such, any significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees on the campus may result in an emergency notification being issued. This would include a serious ongoing crime as well as non-criminal incidents such as an outbreak of a communicable illness, an impending weather emergency or a gas leak. Emergency notifications are to be issued without delay upon confirmation of the emergency. Any emergency notification can be tailored to reach only the persons / buildings who may be threatened by the emergency. Emergency Notifications can include activation of RAVE Alert telephone and text notification, campus siren and loudspeaker, the large screen messaging system, an alert message on the campus e-mail system and the SUNY Poly web home page. Such a notice will be sent without delay. Notification to the greater campus community is coordinated between University Police and the University Communications Office pursuant to policies and agreements with local law enforcement agencies and media outlets.

**Timely Warnings:** Timely warnings are triggered when a Clery reportable crime occurs within our Clery Act geography, has been reported and presents a serious or continuing threat to students and/or employees. All timely warnings are broadcast to reach the entire campus. Subsequent to the emergency response and for other non-imminent serious incidents which might pose a threat to the safety and well-being of the campus community, a “Campus Crime Alert” or “Timely Warning Bulletin” would be prepared and distributed through one or more of the following mediums; to the campus web home page, campus e-mail, our large- screen messaging system, building main entrances, and/or the University Police Web site. Standard notification procedures may be altered if, in the emergency response authorities determine it would compromise efforts to assist a victim, or compromise efforts to contain, respond to or otherwise mitigate the emergency.

Note that SUNY Poly tests its entire emergency notification system two times per year, and its siren and fire alarms three times per year. Pursuant to its procedures, fire drills are not announced, and testing of the other emergency systems may be announced or unannounced. For more information on the emergency notification system, contact the University Police Department.

See the “Sexual Offender Notification Registration Act” section later in this document for information on the New York State and campus responsibilities with regard to sexual offenders in the community.

## Reporting Crimes

All members of the campus community are urged to report criminal incidents, emergencies and suspicious activity to University Police. The University Police emergency number is 315-792-7111 or the Oneida County Emergency Center may be contacted by dialing 911. These numbers should be used for all fire, medical, and police emergencies. All reports are classified, logged, and responded to thoroughly. The off-campus emergency number is 911. Crimes in progress and any other emergency on campus can be reported directly by any student or employee to University Police who can also be reached by using the campus emergency blue light phones or any of the red emergency phones located within our academic buildings. University Police officers are dispatched immediately to the site of the complaint. Incident reports are prepared and are kept on file.

For staff and students living off campus, a listing of major area emergency numbers appear later in this report.

## Campus Reporting Agents - Confidentiality & Reporting

Descriptions of incidents are reported to University Police for the purpose of statistics, except those reported to Counseling and Health Services and/or pastoral counselors. These offices may inform the reporting person that their crime may be

**All members of the campus community are automatically signed up to receive email emergency alerts at SUNY Poly with RAVE Alerts. Members can enter their RAVE account at <https://www.getrave.com/login/suny-poly> to add additional methods of receiving messages such as text and phone. All members are advised to also sign up with NY Alert to receive additional emergency notifications.**

**Go online to [www.suny.edu/sunyalertsec](http://www.suny.edu/sunyalertsec) and select SUNY Poly from the drop-down menu. User ID and password is your SUNY Poly log-on. Submit and log off.**

reported to University Police on a voluntary, confidential basis for inclusion in the college's crime statistics only. Campus personnel will assist victims with the on- and off-campus reporting process and provide support.

## Reporting Locations

Federal law requires that campuses report specific criminal activities that occur on campus property and specific areas around those properties. A map which defines these areas is available for viewing in the University Police Office. Crimes occur in the community beyond what is required to be reported in this document. Students are advised to exercise caution in ALL locations.

*On Campus:* includes all offenses reported on the main campus property, in campus buildings and includes residential buildings.

*On-Campus Student Housing:* includes all offenses reported in residential buildings.

*Non Campus:* includes property owned by student organizations officially recognized by the institution and those owned by the University outside campus boundaries. SUNY Poly does not own any buildings or property outside our main campus, nor does it recognize any student organizations that may own property off campus.

*Public Property:* includes thoroughfares, streets, sidewalks, parking facilities, and public park or park-like settings immediately adjacent to and accessible from the campus.

## Standard Facility Access

Students and employees have access to academic, recreational, and administrative facilities and locations hosting cultural and recreational events during scheduled hours. Access to the residence halls is controlled by card access and is limited to students and their guests according to guest procedures (see the Student Handbook's, Residence Hall Policies available on the Web at <https://www.sunypoly.edu/sites/default/files/residential-life/SUNY-Poly-Residential-Life-Policies-2021-2022-final-with-COVID-supplements.pdf> as well as employee personnel in the performance of duties. The public may attend cultural and recreational events on campus with their access limited to only the facilities in which these events are held. To report any violations of this policy or to report suspicious persons, contact University Police at (315) 792-7111.

## Facilities Management

The campus Facilities Department maintains the campus buildings and grounds with a priority of safety and security. Staff inspect campus facilities regularly, promptly make repairs affecting safety and security, and respond immediately to reports of potential safety and security hazards such as broken windows and locks. For concerns about the physical safety of campus buildings and grounds, call the Facilities office (315-792-7456), 8 a.m. – 4:30 p.m. Monday – Friday. Emergencies outside of these hours should be reported to University Police (315-792-7111).

The campus is well lit, and improvements on lighting are a constant consideration. SUNY Poly has high-intensity sodium vapor lights and high visibility LED lighting on buildings, in parking lot areas, in areas with heavy landscaping and trees, and along pathways frequently traveled by students. As noted previously, (28) outdoor emergency blue light phones and (20) interior emergency phone located in residence hall lounges, laundry rooms and academic buildings are connected directly to University Police. In addition, 225 security (closed circuit television) cameras are used to monitor many areas of the campus including computer rooms, hallways and lobbies. CCTV is also used to monitor outside areas of residence halls as well as thirteen major parking lots to observe areas vulnerable to vandalism. Cameras continue to be added to facilities as they are improved and renovated.

## Residence Life & Housing

The residence life program is based on the principles of providing students with a safe, healthy and attractive living environment that supports the academic mission of the college. The residence halls provide an opportunity for interaction among peers of all ethnic and cultural backgrounds. Many aspects of the residence hall living occur simply by the nature of the environment, however many are shaped by the goals of the institution. The SUNY Polytechnic Institute places a high-priority on the concept of our halls serving as living-learning environments. A second component is the high priority placed on the physical condition of our campus. To keep the buildings safe and in good condition, residence life staff work closely with University Police and Facilities departments. While there are many safeguards in place for residence hall students, each student is encouraged to do their part to assure a safe and secure environment by adhering to the safety related policies and procedures. Students are made aware of safety concerns as well as prevention tactics and personal responsibility through a variety of in-hall mediums.

Each residence hall is supervised by a residence hall director – a professional staff member who resides within the hall.

Each building is also staffed with a number of trained resident assistants (RAs). There is a designated residence hall director, or their designee “on duty” at all times. Each residence hall has an RA “on duty” from 6 p.m. to 8 a.m. each weekday and 6 p.m. to 6 a.m. (the following day) on weekends, adjusting to 8 a.m. on Mondays. All residence life staff members undergo thorough training in enforcing residence hall security policies. Off-campus housing, not provided by the university, includes apartments, individual homes and individual rooms in private homes. The college does not provide supervision for off-campus housing. Students have the option to change their living and academic situation should a safety situation occur. Students should speak with the Assistant Vice President for Student Affairs.

Residence hall students should not be lulled into a false sense of security. We all need to be aware of our environment and the possible consequences of our behavior. The college will act as needed to discourage, prevent, correct and, if necessary, discipline behavior that violates this standard of conduct. The University Police Department will promptly investigate allegation of unlawful discrimination based on race, gender, gender identity, religion, sexual orientation, sexual identity, national origin, ethnicity, disability, age or marital status. Allegations or unlawful discrimination can also be discussed/reported with the counseling center, Vice President for Student Affairs, or the university’s Title IX coordinator. Allegations of unlawful discrimination can also be discussed with the counseling center or the Vice President for Student Affairs.

SUNY Poly built its residence halls with safety/security as a high priority. Some specific safety and security features include:

1. Fire extinguishers in all common areas and buildings.
2. Upholstered furniture that is self-extinguishing.
3. Emergency Call Boxes – high visibility – blue lights.
4. “Key-less Locks” on all outside doors – locked 24 hours a day.
5. Door Bell System – all outside doors. (Mohawk & Adirondack Halls)
6. Vision panels on entry doors.
7. Viewers in every suite entry door.
8. Contact switch on all outside doors (alarms ring for door left ajar).
9. Solid wood (bedroom floors); solid metal doors at suite entrances.
10. 145 closed-circuit cameras monitor the residence hall as well as numerous areas of the campus.

Residence hall students are issued a key to their room and use their SUNY Poly ID card for access to their own residence hall main entrance. Hall entrances are locked 24 hours a day. A suite phone is located in each residence; however, few students have campus phones, with most now relying on their personal cell phones. Students are reminded to ensure guests are hosted and escorted as well as complying with the policies of the college while visiting. To view the college’s residence hall guest policies and other residential policies and procedures, visit <https://sunypoly.edu/sites/default/files/2022-07/SUNY-Poly-Residential-Life-Policies-2022-2023.pdf>

The Student Right-to-Know and Campus Security Act was signed into law in November of 1990. Title II of this act was known as the Crime Awareness and Campus Security Act which was amended and renamed in 1998 as the Jeanne Clery Disclosure of Campus Security Policy and Campus Statistics Act. This law mandates that institutions receiving Title IV federal funds disseminate crime statistics for certain serious offenses that occurred on campus and in adjacent areas for the previous three calendar years. The purpose of this report is to provide our current and prospective faculty, staff, and students with campus safety information including crime statistics and procedures to follow to report a crime. This document was compiled by the Chief of University Police and is electronically available in the University Police section of the campus website at <https://sunypoly.edu/sites/default/files/CleryReport2022-Utica.pdf> . Any questions regarding this report should be directed to room B126 of Kunsela Hall, University Police, or telephone (315) 792-7222. The College will not retaliate or allow any retaliation toward a person(s) who reports alleged violations of this act.

## Missing Students

If a member of the University community has reason to believe that a student is missing, he or she should immediately notify the University Police at 315-792-7111. Do not wait if you believe a student is missing. The sooner the investigation begins the better chance of locating the missing person.

In addition to registering a general emergency contact, students have the option to identify, confidentially, an individual to be contacted in the event the student is determined to be missing. A student who wishes to identify a confidential contact can do so through the on-line residential room registration process. A student's confidential "Missing Student" contact information will be accessible only by authorized campus officials and law enforcement in the course of the investigation.

*On campus students:* University Police will generate a missing person report and initiate an investigation. University Police will notify all local police agencies pursuant to the Memorandums of Understanding. University Police will notify the student's "Missing Student" emergency contact or the student's parents/guardian if the student is under 18 years of age (and not considered emancipated) within 24 hours of the University Police determination that the student is officially "missing".

*Off-campus students:* The investigation will be referred to the proper local law enforcement agency and the University Police will assist said agency.

## Alcohol and Other Drugs

Illegal possession and/or use of marijuana, barbiturates, amphetamines, hallucinogenic compounds, narcotics and other controlled substances are violations of state and federal law and College policy. SUNY Poly permits the use of alcoholic beverages on campus by those who comply with state law and who adhere to the guidelines established by the College. Students living in residence halls who are at least 21 years old are allowed to possess and consume alcohol in their rooms in compliance with State law and College regulations. Students should be aware that the campus strictly enforces its policies with regard to alcohol and other drug violations. Members of the campus community in need of assistance with a question or personal problem related to alcohol or other drugs should contact the Health & Wellness Center, Campus Center Suite 217 or call (315) 792-7172. A complete description of alcohol and other drug policies and support services appears in the Student Handbook and/or on the Health & Wellness website at <https://sunypoly.edu/student-life/student-resources/wellness-center.html> . Complying with Section 120(a) through (d) of the HEA, a complete description of alcohol and other drug programs for our campus can be found in the Health and Wellness Center.

**Drug Free Schools and Communities Act (DFSCA)** - The Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act Amendments require SUNY Polytechnic Institute (SUNY Poly) to adopt and put into effect a program to prevent the unlawful manufacture, distribution, dispensation, possession or use of illegal drugs or alcohol by students and employees on SUNY Poly property, in SUNY Poly facilities, or at SUNY Poly activities or events, and to offer an anti-drug and alcohol abuse program.

The State University of New York Polytechnic Institute is committed to maintaining an environment free of illegal drugs and drug and alcohol abuse. In compliance with the Federal Drug-Free Workplace Act of 1988, SUNY Poly prohibits the unlawful manufacture, distribution, possession and/or use of controlled substances or alcoholic beverages on its premises, in its buildings, or at SUNY Poly sponsored events on or off campus. This prohibition also applies to student sponsored social activities or professional meetings attended by employees that the campus authorizes and/or use any campus resources. The Drug-Free Schools and Communities Act Amendments of 1989 (effective

9/1/90) requires the distribution of the following information to all students and employees. Compliance with the provisions of SUNY Poly's drug and alcohol policies is a condition of attendance at SUNY Poly. Violators of these policies are subject to discipline, up to and including expulsion from SUNY Poly and referral to appropriate law enforcement agency and/or discipline, under the judicial procedures specified in the Rules and Regulations for the Maintenance of Public Order and the Student Code of Personal Conduct, and/or corrective action(s) as SUNY Poly deems appropriate, including satisfactory completion of an approved drug or alcohol rehabilitation program.

The full policy, additional information and campus and external resources are available at:

<https://sunypoly.edu/sites/default/files/wellness%20center/AOD-Policy.pdf>

**Alcohol remains the primary drug of choice among college students. Some of the more common date rape drugs are Special K (the street name for ketamine hydrochloride); Rohyponol (roofies, roopies, circles, the forget pills); and GHB (Grievous Bodily Harm, Liquid X, Liquid E. Liquid Ecstasy, Easy Lay, G, Vita-G, G-juice, Georgia Home Boy, Great Hormones, Somatamax, Bedtime Scoop, Soap, Gook Gamma 10, and Energy Drink).**

**Date rape drugs can be difficult or impossible to detect. Don't drink what you don't open yourself and don't share drinks. Bring your own, get your own drink or go with someone who is getting it for you. Don't leave your drink unattended, and don't drink anything that has an unusual taste or appearance (e.g., salty taste, excessive foam, unexplained residue). Don't mix alcohol with other drugs and WATCH OUT FOR YOUR FRIENDS.**

## **Bias Crime Prevention**

### **Hate Crimes and the Law**

It is a State University of New York Polytechnic Institute police mandate to protect all members of the SUNY Poly community by preventing and prosecuting bias or hate crimes that occur within the campus's jurisdiction.

Hate crimes, also called bias crimes or bias-related crimes, are criminal activity motivated by the perpetrator's bias or attitude against an individual victim or group based on perceived or actual personal characteristics, such as their race, religion, ethnicity, gender, gender identity, sexual orientation, or disability. Hate/bias crimes have received renewed attention in recent years, particularly since the passage of the federal Hate/Bias Crime Reporting Act of 1990 and the New York State Hate Crimes Act of 2000 (Penal Law Article 485). Copies of the New York law are available from University Police.

Penalties for bias-related crimes are very serious and range from fines to imprisonment for lengthy periods, depending on the nature of the underlying criminal offense, the use of violence or previous convictions of the offender. Perpetrators who are students will also be subject to campus disciplinary procedures where sanctions including dismissal are possible.

In addition to preventing and prosecuting hate/bias crimes, SUNY Poly University Police also assist in addressing bias-related activities that do not rise to the level of a crime. These activities, referred to as bias incidents and defined by the University as acts of bigotry, harassment, or intimidation directed at a member of group within the SUNY Poly community based on national origin, ethnicity, race, age, religion, gender, sexual orientation, gender identity, disability, veteran status, color, creed, or marital status, may be addressed through the State University's Discrimination Complaint Procedure or the campus conduct code. Bias incidents can be reported to University Police, Human Resources, and/or the Title IX coordinator.

If you are a victim of, or witness to, a hate/bias crime on campus, report it to University Police by calling 7111 in an emergency, using a Blue Light or other campus emergency red telephone, calling (315) 792-7111 (Utica), 518-437-8600 (this goes to the Security Department at the Albany campus) or by stopping by University Police. University Police will investigate and follow the appropriate adjudication procedures.

Victims of bias crime or bias incidents can avail themselves of counseling and support services from the campus as follows: Counseling Center, Campus Center, Suite 217, 315-792-7172. Off-campus: Rape Crisis in Utica is on call 24 hours a day at 315-797-7740.

For general information on SUNY Poly security procedures, see <https://sunypoly.edu/university-police.html> or call University Police at (315) 792-7222.

More information about bias-related and bias crimes, including up-to-date statistics on bias crimes is also available from



the office of University Police.

## **Weapons Policy**

Firearms and dangerous weapons of any type are not permitted on campus. Intentional use, possession or sale of firearms or other dangerous weapons by anyone is a violation of state law and College policy.

## **Unfounded Crimes**

If a reported crime is investigated by law enforcement authorities and found to be false or baseless, the crime is “unfounded” and will not be included in our institution’s statistics. **Only sworn or commissioned law enforcement personnel may “unfound” a crime.** All unfounded crimes will be reported to the Department of Education and be disclosed in the Annual Security Report’s Chart of Annual Crime Statistics.

## **Campus Safety Advisory Committee**

The Campus Safety Advisory Committee’s responsibilities are: to advise the president and chief of University Police on matters of campus security, public safety (including signage and parking), and personal safety; to review and suggest improvement in safety and education programs; to assess availability of counseling services for crime victims; to review victim referral and campus response procedures for sexual assault situations; to conduct ongoing assessment of the quality of campus personal safety policies, practices, procedures, and programs; and to conform to the 1990 Amendment to Section 6450 of the Education Law by providing information to incoming students about sexual assault prevention measures, penalties, and related security procedures. Annual reports must be filed with the NYS Commissioner of Education.

## **CARE Team (formerly Behavioral Assessment Team)**

Care is a SUNY Polytechnic Resource Team that addresses challenging, disruptive, or harmful behavior and situations by providing helpful interventions that are aimed at community safety and student success. Care exists to promote and maintain safety and health by identifying and assisting struggling students to become more connected to services. Some referrals may include mental health care and/or safety intervention. Faculty, staff, and students are encouraged to report concerning student behavior so that the student can be assisted. The Care team’s composition includes: the Assistant Vice President for Student Affairs; a full time CARE team case manager; as well as representatives from the Faculty, Health and Wellness/Counseling Center, Residential Life, Community Standards, University Police and Title IX Coordinator. Additional faculty/staff from Utica and Albany are added to the team to ensure a prompt response to impending concerns. Further information about the Care Team can be found at: <https://sunypoly.edu/care.html>

## Introduction: Student Code of Conduct

The State University of New York Polytechnic Institute (“SUNY Poly” or the “College”) is dedicated to the advancement of knowledge and learning and to the development of ethically responsible individuals. As such, students and student organizations are expected to uphold appropriate standards of behavior as outlined in the Student Code of Conduct (the “Code” or “Student Code”) and to respect the rights and privileges of others. The Student Code applies to students and student organizations. All students and student organizations are expected to conduct themselves in accordance with all federal, state and local laws, and Board of Trustees of the State University of New York (“SUNY”) rules, regulations, and policies.

The College President delegates administration of the Student Code of Conduct to the Vice President of Student Affairs, the Director of Community Standards, and their designees. SUNY Poly students are bound by this Student Code of Conduct, as well as other College policies.

This document provides SUNY Poly’s process for investigating allegations of student misconduct and the actions SUNY Poly will take in response to potential violations of the Code. For all conduct determinations, the standard of proof shall be made on the basis of whether there is a preponderance of the evidence that the respondent violated the Student Code of Conduct.

All students at SUNY Poly are provided access to the Student Code of Conduct. This document appears in its entirety in the College publication entitled Student Handbook and is also accessible on the web at <https://sunypoly.edu/student-life/community-standards.html>. Copies of the Student Code are also available at each residence hall, the Office of Community Standards, the Office of the Vice President for Student Affairs, University Police and the Title IX office.

## Section One: Definitions

Unless the context otherwise clearly indicates, words used throughout the Student Code of Conduct in the singular include the plural, the plural includes the singular.

1. **“Accused”** is a person accused of a violating the Student Code of Conduct who has not yet entered SUNY Poly’s conduct process.
2. **“Affirmative consent”** or **“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 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. When consent is withdrawn or can no longer be given, sexual activity must stop.

- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
  - Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
  - Consent cannot be given if any of the parties are under the age of 17.
3. **“Business days”** shall mean days in which the administrative offices of SUNY Poly are officially open for business.
  4. **“Bystander”** is 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 SUNY Poly.
  5. **“Character witness”** shall mean an individual who solely provides information about a respondent’s moral conduct and reputation, and who does not provide any other information that is considered relevant to a conduct matter.
  6. **“Coercion”** is the practice of forcing another person to act in an involuntary manner by the use of force or threats of force.
  7. **“College”, “Institution”, and “SUNY Poly”** shall mean the State University of New York Polytechnic Institute.
  8. **“College official”** and **“SUNY Poly official”** shall mean any person employed by SUNY Poly, performing assigned administrative or professional responsibilities. This term also includes resident advisors while acting within the scope of their duties.
  9. **“Complainant”** is a designated College official who presents the violations of the Student Code of Conduct to the Hearing Board.
  10. **“Complaint”** is a formal allegation of a conduct violation, which is typically documented in writing. A report becomes a complaint when (a) the reporting individual indicates their desire to move forward with the conduct process to a student conduct officer or Title IX Coordinator and/or (b) the College determines the report requires further action under the Code of Conduct.
  11. **“Conduct officer”** or **“student conduct officer”** is a SUNY Poly official authorized by the Vice President for Student Affairs to determine whether one or more students have violated the Student Code and recommend imposition of sanctions. Residential Life professional staff members may be designated to serve as conduct officers.
  12. **“Director of Community Standards”** refers to the Director of Community Standard and their designee(s).

13. **“Hearing Body”** is any person or persons authorized by the President to determine whether one or more students have violated the Student Code of Conduct and recommend imposition of sanctions. “Hearing Body” includes, but is not limited to, student conduct officer in an administrative hearing, the Hearing Board and the Appellate Board.
14. **“Intimate partner violence”** shall encompass dating violence and domestic violence.
15. **“May”** is used in the permissive sense.
16. **“Member of the SUNY Poly community”** is any person who is a student, College official, employee of Research Foundation at a SUNY Poly operating location, employee of another SUNY Poly affiliated organization, or a SUNY Poly visitor. Member of the SUNY Poly community may also include vendors, tenants, and visitors to campus. A person’s status in a particular situation shall be determined by the Director of Community Standards and/or Title IX Coordinator.
17. **“Personal property”** is anything of value to which a person has legal possession or title. Personal property also includes personal data and information stored on electronic or computer media and passwords.
18. **“Policy”** means the written regulations of SUNY Poly including but not limited to those found in the Student Handbook, Student Code of Conduct, graduate and/or undergraduate catalogs, and Residential Housing License.
19. **“Preponderance of the Evidence”** is the standard of proof used in SUNY Poly conduct cases, which asks whether it is more likely than not that the violation occurred. If the evidence presented meets this standard, then the respondent should be found responsible.
20. **“Reasonable Person”** is a hypothetical person that exercises average care, skill and judgment in conduct and who serves as a comparative standard.
21. **“Report”** is an account given of a particular matter related to a potential violation of the Code.
22. **“Reporting Individual”** shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used to reference an individual who experiences and brings forth a report of a violation of the Student Code of Conduct.
23. **“Respondent”** is a person accused of a violation of the Student Code of Conduct who has entered SUNY Poly’s conduct process.
24. **“Retaliation”** is adverse action taken against another person because the person has engaged in protected activities. Retaliation includes harassment and intimidation, including but not limited to violence, threats of violence, property destruction, adverse educational or employment actions, and bullying.
25. **“Sex discrimination”** is any behavior or action that denies or limits a person’s ability to benefit from, fully participate in the educational programs or activities, or the employment opportunities of SUNY Poly because of a person’s sex or gender, including, but not limited to,

all forms of sexual harassment, gender based harassment, sexual misconduct, and other sexual violence by or against employees, students, or third parties.

26. **“Sexual activity”** shall have the same meaning as “sexual act” and “sexual contact” as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3).

27. **“Sexual violence”** is physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent, including, but not limited to, rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

28. **“Shall”** is used in the imperative sense.

29. **“Student”** includes all persons taking SUNY Poly courses, both full-time and part-time, matriculated and non-matriculated, pursuing undergraduate or graduate studies, continuing education and/or professional studies (credit-bearing and non-credit bearing), and certificate program participants. The term includes those who reside in SUNY Poly residence halls, as well as individuals on College premises for any purpose related to registration for enrollment. Persons who are not officially enrolled for a particular term but who have a continuing educational relationship with the College are students.

30. **“Student Organization”** is a group of students who have complied with the appropriate requirements, including both student clubs, organizations and teams, for SUNY Poly recognition and/or registration.

31. **“SUNY Poly premises”** or **“College premises”** includes all land, buildings, space, facilities, and other property in the possession of or owned, used, or controlled by SUNY Poly (including adjacent streets and/or sidewalks) or its affiliated entities.

32. **“SUNY Poly property”** or **“College property”** means all property owned, leased, or on loan to the College. This also includes College data and information stored on electronic or computer media and passwords.

33. **“Title IX Coordinator”** refers to the Title IX Coordinator(s), Deputy Title IX Coordinator(s) and their designee(s).

34. **“Vice President for Student Affairs”** refers to the Vice President for Student Affairs or Assistant Vice President for Student Affairs.

## Section Two: Student Conduct System Authority and Jurisdiction

### Applicability Policy and Jurisdiction

The Student Code of Conduct is applicable to all SUNY Poly students regardless of the number of credits for which the person has enrolled. Students are responsible for their conduct upon their acceptance of admittance to SUNY Poly and this responsibility continues through the award of a degree.

The student conduct process may be initiated regardless of a student's current enrollment status. This includes conduct that occurs before classes begin or after classes end as well as during the academic year and during periods between terms of actual enrollment.

The Student Code of Conduct applies even if the student withdraws while a conduct matter is pending. The College can proceed with the conduct process following the withdrawal. Should suspension or expulsion take place as a result of the conduct process, these sanctions supersede a student's voluntary withdrawal from SUNY Poly. If a student who has completed degree requirements is charged with a violation prior to graduation or the conferral of the degree, the student will be ineligible to graduate until student conduct action is completed and eligibility to graduate is confirmed. If conduct action results in suspension, the student will be ineligible to graduate until the term of the suspension has been served. SUNY Poly may withhold issuing a degree, diploma or transcript pending compliance with SUNY Poly rules, regulations, or policies or pending completion of the process set forth in this Code of Conduct, including the completion of all imposed sanctions.

The Student Code of Conduct applies to conduct which occurs on SUNY Poly sites, international and exchange programs, and at SUNY Poly sponsored or supervised functions. When a nexus between the behavior and SUNY Poly exists and the College is aware of the behavior, a student or student organization may be subject to action under the Student Code of Conduct.

In cases in which the prohibited behavior occurs off campus, the conduct officer will consult the Vice President of Student Affairs, to determine if conduct action is warranted under the circumstances. SUNY Poly will consider certain factors in its decision to take action for alleged violations of the Student Code of Conduct that occur off campus when there is sufficient information available to conduct a hearing. The factors include but are not limited to:

- The incident involves endangering behavior (which includes but is not limited to physical assault, sexual misconduct, intimate partner violence, stalking, hazing, arson, distribution of illegal drugs or other serious offenses that constitute threat or harm to the personal safety of others); and/or
- The incident involves an alleged Category II violation (as defined herein); and/or
- There has been significant loss of or damage to property; and/or
- Alcoholic beverages are sold or made available to underage persons.

## Violations & Law

SUNY Poly's student conduct process may be initiated against a student charged with violation of a law. Generally, proceedings under this Student Code of Conduct will be pursued without regard to pending civil litigation or criminal prosecution.

When a student is charged by federal, state, or local authorities with a violation of law, SUNY Poly will not request or agree to special consideration for that individual because of their status as a student. If the alleged offense is also the subject of a proceeding before a hearing body under the Student Code of Conduct, SUNY Poly may advise off-campus authorities of the existence of the Student Code of Conduct and of how such matters will be handled internally within the SUNY Poly community. SUNY Poly will cooperate with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators. Individual students and SUNY Poly community members, acting in their personal capacities, remain free to interact with governmental representatives, as they deem appropriate.

### Section Three: Prohibited Behavior

The following behaviors violate SUNY Poly's Student Code of Conduct:

1. Acts of dishonesty, including, but not limited to:
  - a. Furnishing false information to a SUNY Poly official;
  - b. Forgery, alteration, or misuse of any SUNY Poly document, record, or instrument of identification;
  - c. Tampering with, impeding, or coercively influencing the election process related to any SUNY Poly student organization.
2. Disruption, including, but not limited to:
  - a. Disruption or obstruction of teaching, research, administration, or other College sponsored or supervised functions;
  - b. Leading or inciting others to disrupt College operations or College sponsored or supervised functions;
  - c. Intentional obstruction that unreasonably interferes with freedom of movement, either pedestrian or vehicular traffic, on College premises or at College sponsored or supervised functions.
3. Harassment, which is unwelcome behavior that demeans, threatens, or offends, and results in a hostile environment for the affected person, no matter the medium (including social media). Harassing behaviors may include bullying, verbal abuse, threats, intimidation, coercion and/or other conduct which directly threatens or endangers the health or safety of any reasonable person.
4. Physical assault, which is an intentional or reckless act that causes physical injury, bodily harm, or subjects another to unwanted physical contact.
5. Hazing, which is, regardless of intent, any action that degrades, humiliates, abuses or endangers the mental, emotional, or physical health or safety of a person, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group, team or

organization whether or not officially recognized by SUNY Poly. The express or implied consent of the affected person(s) is irrelevant when determining whether or not hazing occurred.

6. Bias/hate incident, which is harassment, physical assault, or threats of violence perpetrated against another person on the basis of the person's race, color, ethnicity, national origin, ancestry, religion, religious practice, creed, sexual orientation, disability, age, sex, gender or other protected characteristics as designated under New York State and federal law.
7. Theft, damage, and/or unauthorized possession of College property, the personal property of a member of the SUNY Poly community, or other personal or public property.
8. Key & Card Access:
  - a. a. Unauthorized possession, duplication, use or transfer of any key, I.D. badge/proximity card, key card or combination to a College building or space.
  - b. b. Unauthorized tampering to include but not limited to: refocus, reposition, cover, manipulate, disconnect, or otherwise tamper with or disable a security or surveillance camera and/or door access security system.
9. Trespassing and/or unauthorized use of SUNY Poly facilities and services, including but not limited to:
  - a. Entering or remaining, without authorization, in any College building, facility, or space;
  - b. Entering or remaining in any private space or office of a student or College official without express or implied permission of person(s) authorized to use or occupy that space.
10. Alcohol violations:
  - a. Consumption under twenty-one (21) years of age;
  - b. Possession under twenty-one (21) years of age;
  - c. Distribution to someone under twenty-one (21) years of age;
  - d. Purchase of alcoholic beverages by any persons less than twenty-one (21) years of age;
  - e. Possession of alcohol paraphernalia (e.g., funnels and kegs);
  - f. Participation in drinking games, contests, and other activities that induce, encourage, or result in the rapid consumption of alcohol (e.g., beer pong, flip cup);
  - g. Public intoxication, regardless of age;
  - h. Driving While Intoxicated (DWI) or Driving While Ability Impaired (DWA/Alcohol) as defined in NYS Vehicle and Traffic Law.
11. Controlled substances (as defined in NYS Public Health Law 3306) violations:
  - a. Unlawful possession of a controlled substance;
  - b. Unlawful purchase of a controlled substance;
  - c. Manufacture of a controlled substance;
  - d. Distribution of a controlled substance;
  - e. Sale of a controlled substance;



- f. Unlawful use or being under the influence of any controlled substance or synthetic cannabinoids;
- g. Abuse of over-the-counter drugs/medications;
- h. Possession of drug paraphernalia which includes any items that can be utilized for, designed for, or are fashioned for the use of drugs (e.g., bowls, bongs);
- i. Driving While Ability Impaired (DWAI/Drug) as defined in NYS Vehicle and Traffic Law.

***Good Samaritan Policy***

At SUNY Poly the health and safety of the members of the SUNY Poly community is of primary importance and all students are strongly encouraged to be active bystanders who respond in potentially dangerous situations without fear of reprisal from the College. Therefore, a student or student organization seeking medical treatment or emergency help for themselves or for any other person who is in immediate medical need, will not be subject to student conduct action related to the violation of using or possessing alcohol or other prohibited controlled substances. This policy applies to emergencies both on and off campus. The positive impact of reporting a medical emergency will always hold the highest priority when determining the appropriate response for policy violations. Repeated use of the Good Samaritan policy may be cause for concern for the well-being of the student and amnesty in such cases will be individually reviewed.

- 12. Illegal or unauthorized use, possession, or storage of any weapon or reasonable copy of a weapon including, but not limited to, firearms and ammunition, stun guns, air guns, paintball guns, pellet guns, bb guns, clubs, crossbows, archery equipment, slingshots, martial arts weapons, swords, knives, fireworks and other explosives, and/or dangerous chemicals is prohibited on SUNY Poly premises and at SUNY Poly sponsored or supervised functions.
- 13. Misuse or abuse of the College computer system, voicemail, or telephone services, including but not limited to:
  - a. Unauthorized use or abuse of a SUNY Poly issued computer account, including failure to safeguard user IDs and passwords;
  - b. Accessing a student, SUNY Poly official, or institutional account without authorization;
  - c. Using a student, SUNY Poly official, or institutional account to send message(s) without authorization;
  - d. Failure to comply with College technology policies;
  - e. Illegal use of copyrighted materials including but not limited to downloading, uploading, or use of file sharing programs.
- 14. Fire Safety violations:
  - a. Actions that cause or attempt to cause a fire or explosion;
  - b. Falsely reporting a fire, explosion or an explosive device;
  - c. Tampering with fire safety equipment;
  - d. Inappropriate and/or unauthorized activation of the fire alarm system;
  - e. Failure to evacuate SUNY Poly buildings during a fire alarm.
  - f. Smoking within a College building, facility or space including, but not limited to: residence halls, academic spaces, and dining halls. Smoking is defined as

inhaling, exhaling, burning, of tobacco and tobacco-derived products and marijuana intended for human consumption. Smoking also includes the use of an electronic smoking device, which creates an aerosol or vapor of any form.

15. Conduct that is disorderly, lewd, indecent, or constitutes a breach of peace.

***Important Note Regarding Procedures that Apply to Prohibited Behavior #16 and #17***

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972. In compliance with the Final Rule, which went into effect on August 14, 2020, Category II violations (#16 and #17 below) may be subject to the procedures set forth in SUNY Poly's Title IX Grievance Policy, instead of the procedures set forth within SUNY Poly's Student Code of Conduct. For more information as to when the Title IX Grievance Policy is applicable, please reference SUNY Poly's Title IX Grievance Policy available here: <https://sunypoly.edu/titleix/policies-procedures>. If an allegation of a Prohibited Behavior #16 or #17 violation falls outside the scope of the violations defined in the Title IX Grievance Policy, the Category II procedure described in this Code (Section Six: Student Conduct Procedures, Part B) may be applicable.

16. Category II Sexual and/or Gender Based Discrimination and Misconduct: Sexual Misconduct Violations (for the prohibited behaviors below SUNY Poly's Affirmative Consent standard shall be used)

- a. **Non-consensual sexual contact** is the touching of a person's intimate parts (defined as genitalia, groin, breast, or buttocks), however slight, with any object including but not limited to parts of a person's body, whether directly or through clothing, without affirmative consent. Non-consensual sexual contact also includes; (1) touching another person using any intimate parts without affirmative consent, or (2) forcing an unwilling person to touch another's intimate parts, (3) disrobing of another or intentional exposure of one's intimate parts to another without affirmative consent.
- b. **Non-consensual sexual intercourse** is sexual intercourse or any sexual penetration, however slight, of another person's oral, anal, or genital opening with any object (an object includes but is not limited to the parts of a person's body) without affirmative consent.
- c. **Sexual exploitation** is non-consensual behavior that takes sexual advantage of another person, and does not otherwise constitute another sexual misconduct violation. Examples of sexual exploitation include but are not limited to: intentional, nonconsensual tampering with or removal of condoms, other methods of birth control and/or sexual transmitted infection (STI) prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the non-consenting party; engaging in sexual activity with another person while knowingly infected with a STI and without informing the other person of the infection; non-consensual video taping, audio taping, or photographing sexual activity; non-consensual intentional sharing or publication of a sexually explicit still or video image of another person consistent with NYS S.1719C/ A.5981; observing others engaged in dressing/undressing or in sexual acts without their knowledge or

consent; trafficking people to be sold for sex; and inducing incapacitation with the intent to initiate in sexual activity.

- d. **Sexual harassment** as defined in SUNY Poly's sexual harassment policy at <https://sunypoly.edu/sites/default/files/Title%20IX/Sexual%20Harassment%20Prevention%20Policy.pdf>

17. Category II Sexual and/or Gender Based Discrimination and Misconduct: Intimate Partner Violence and Stalking Violations

- a. **Dating violence** is any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the reporting individual. Dating violence can occur as a single act, or it can consist of a pattern of violent, abusive, or coercive acts that serve to exercise power and control in the context of a romantic or intimate relationship. The existence of such a relationship shall be determined based on the reporting individual's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. This definition does not include acts covered under domestic violence.
- b. **Domestic violence** is any violent felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim/reporting individual, by a person sharing a child with the victim/reporting individual or by a person cohabiting or has cohabitated with the victim/reporting individual as a spouse or intimate partner, by a person similarly situated to a spouse of the victim/reporting individual under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth victim/reporting individual who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- c. **Stalking** is intentionally engaging in a course of conduct (two or more acts, in which the stalker directly, indirectly, or through third parties and by any method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with their property), directed at a specific person, which is likely to cause a reasonable person to fear for their safety or the safety of others or causes that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means with such person(s) in a manner likely to intimidate, annoy or alarm them. Stalking does not require direct contact between parties, it may include the use of electronic media and devices.

18. Failure to comply, which includes, but is not limited to:

- a. Failure to comply with a reasonable and lawful request or directive of a SUNY Poly official acting in performance of their duties;
- b. Interference with a SUNY Poly official acting in the performance of their official duties;
- c. Failure to identify oneself to a SUNY Poly official when requested to do so.

19. Abuse of the student conduct system, including, but not limited to:
  - a. Failure to comply with the instructions of a conduct officer, the Hearing Board or College official;
  - b. Disruption or interference with the orderly conduct of a student conduct or SUNY Poly's Title IX grievance proceeding;
  - c. Falsification, distortion or misrepresentation of information to the conduct officer, College official or the Hearing Board;
  - d. Discouraging an individual's participation in, or use of, the student conduct system or SUNY Poly's Title IX grievance Policy through intimidation;
  - e. Retaliation against an individual who made a report/complaint, served as a witness, opposed the reported behavior, is a friend or acquaintance of the reporting individual or respondent, or participated in the investigation and/or conduct or SUNY Poly's Title IX grievance process;
  - f. Violation of any conduct sanction imposed in accordance with the Student Code of Conduct or SUNY Poly's Title IX Grievance Policy.
20. Violation of any provision of the Residence Hall License or rules contained in the Residential Hall Policies and Procedures.
21. Violation of SUNY Poly policies, rules, or regulations.
22. Violation of local, state, or federal law, rules, regulations or directives.
23. Aiding, abetting, or procuring another person to violate a SUNY Poly policy or local, state or federal law.
24. Attempting to violate SUNY Poly policy or local, state or federal law.

#### **Section Four: Temporary and Administrative Directives**

In certain circumstances, appropriate SUNY Poly officials may issue temporary and/or administrative directives prior to the Administrative or Board Hearing.

##### **Temporary Directives**

SUNY Poly utilizes three types of temporary directives; temporary suspension, temporary removal from residence halls, and temporary removal from campus building, SUNY Poly program/event or service.

The Director of Community Standards may implement a temporary directive immediately if they reasonably believe that:

1. The student's continued presence would constitute a danger to the health and/or safety to a member(s) of the SUNY Poly community; or
2. The student's continued presence would constitute a danger to the preservation of SUNY Poly property or premises; or
3. The behavior of the student significantly detracts from the educational environment and/or poses a disruption of normal SUNY Poly operations.

The terms of the temporary suspension and/or removal shall be specified in the temporary directive notice letter issued. A student who has been issued a temporary directive shall be entitled to a prompt review of the need for and/or terms of the temporary directive. The accused/respondent seeking a review shall submit a written request with supporting documentation to the Vice President for Student Affairs.

The decision of the Vice President for Student Affairs shall be made within two (2) business days of the receipt of the written request and shall be final. The accused/respondent shall be notified of the decision regarding the temporary directive in writing.

Absent a reversal or amendment on appeal, the temporary directive shall remain in place pending the resolution of the administrative hearing or Board Hearing as outlined in Section 5: Student Conduct Procedures.

### **Temporary Suspension**

During the temporary suspension, the student shall be restricted from all SUNY Poly premises, including classes, access to residence halls and other campus facilities. Temporary suspension also includes restriction from attendance at all College sponsored or supervised functions and the temporary loss of privileges for which the student might otherwise be eligible.

### **Temporary Removal from Residence Halls**

During the temporary removal from the residence halls, the student may be removed from campus housing and restricted from buildings and grounds of the residential complexes.

### **Temporary Removal from Campus Building(s)/Service(s)/Program(s)**

Other restrictions may be imposed such as denial of access to a specified campus building, service, program and/or SUNY Poly sponsored or supervised functions. A student may also be restricted from hosting guests on campus for a specified period of time as deemed to be appropriate by the Director of Community Standards.

### **Administrative Directives**

If there is a concern for the well-being of a member of SUNY Poly community, or to prevent disruption to SUNY Poly operations, an appropriate College official may issue an administrative directive. SUNY Poly utilizes three types of administrative directives: cease and desist order, no contact order, and persona non grata status.

The terms of the administrative directive shall be specified in the administrative directive notice letter issued. A student who has been issued an administrative directive, or has requested and been denied an administrative directive, shall be entitled to a prompt review of the need for and/or terms of the administrative directive. Any party seeking a review shall submit a written request with supporting documentation to the Vice President for Student Affairs. The decision of the Vice President for Student Affairs shall be made within two (2) business days of the receipt of the written request and shall be final. The party who submitted the request shall be notified of the decision regarding the administrative directive in writing.

### **Cease and Desist Order**

A Cease and Desist Order is a written directive issued between two parties which prohibits contact, either directly or through a third party. A Cease and Desist Order is considered mutual in that it applies to both the parties and does not restrict the movement of either party on campus.

A College official under the direction of the Vice President for Student Affairs may issue a Cease and Desist Order between any two parties even if there is no investigation in progress and/or no conduct charges pending. A Cease and Desist Order can also be issued in cases in which conduct proceedings have concluded and did not result in a finding of responsibility.

A Cease and Desist Order shall remain in place until it is amended or withdrawn. Any intentional violation of a Cease and Desist Order may be considered a separate violation of the Student Code of Conduct.

### **No Contact Order**

A No Contact Order is a written directive prohibiting contact through any means with a protected person, either directly or through a third party. If the accused/respondent and the protected person observe each other in a public place, it is the responsibility of the accused/respondent to leave the area immediately and without directly contacting the protected person.

In Category II Level II cases (as described in Section Six: Student Conduct Procedures Part B) that are advancing through the conduct process, SUNY Poly shall automatically issue a No Contact Order. If SUNY Poly finds it appropriate, it may make a schedule for the reporting individual and the accused/respondent to use the same College facilities and services, while maintaining the terms of the No Contact Order.

A No Contact Order issued as an administrative directive is considered temporary pending the resolution of the administrative hearing or Board Hearing as outlined in Section Six: Student Conduct Procedures.

In cases in which a respondent is found not responsible following an administrative hearing or Board Hearing, the No Contact Order shall be withdrawn. The student conduct officer or designee may, at their discretion, issue a Cease and Desist Order between the two parties.

Any intentional violation of a No Contact Order may be considered a separate violation of the Student Code of Conduct.

### **Persona Non Grata**

A persona non grata letter is an order which prohibits a person's presence from SUNY Poly premises and College sponsored or supervised functions. When the accused is not a member of the College community and presents a threat to the health and safety of a member of the College community, University Police or other College officials may provide assistance to the reporting individual in obtaining a persona non grata letter, subject to legal requirements and College policy.

## Section Five: Student Conduct Process Rights

Each accused/respondent or reporting individual shall have the following rights:

- The right to a prompt response to any complaint. SUNY Poly strives to complete the investigation and conduct process (excluding the appeals process) within sixty (60) calendar days from the date of the complaint, absent extenuating circumstances. Timelines may vary based on the complexity of the case, number of witnesses, and nature of the academic calendar.
- The right to an investigation and conduct process conducted in a manner that recognizes the legal and policy requirements of due process, including fairness, impartiality, and a meaningful opportunity to be heard and is not conducted by individuals with a conflict of interest.
- The same opportunity to be accompanied by an advisor of their choice who may assist and advise the accused/respondent and reporting individual throughout the conduct process and any related hearings or meetings. Participation of the advisor in any proceeding is governed by state and federal law and the Student Code of Conduct.
- The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing the accused/respondent and reporting individual are required to or are eligible to attend. The accused/respondent will also be provided the factual allegations concerning an violation, a reference to the specific Code provisions alleged to have been violated, and possible sanctions.
- The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
- The right to offer evidence during an investigation and to review available relevant evidence in the case file (or otherwise held by SUNY Poly).
- The right to present evidence and testimony at a hearing, when appropriate.
- The right to decline to testify against oneself. Silence will not be considered an admission of responsibility by the hearing body.
- The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
- The right to ask questions of the decision-maker and via the decision-maker indirectly request responses from either the reporting individual or respondent and any other witnesses present.
- The right to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest.
- The right to have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least seven (7) years. To access the file, please contact:
  - Director of Community Standards, 315-792-7535  
Residential Life Suite #229, Campus Center, Utica Site
- The right to choose whether to disclose or discuss the outcome of the conduct process.
- The right to have all non-public evidence obtained during the course of the conduct process protected from public release until final determination, including any appeal determination, if applicable, unless otherwise required by law.

**The accused/respondent and reporting individual to Category II Sexual and/or Gender Based Discrimination and Misconduct cases are afforded the following additional rights throughout the student conduct process:**

- The right to have their complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations and reviewing cases of sexual misconduct, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made, and other issues including but not limited to sexual misconduct, domestic violence, dating violence, and stalking.
- The right to exclude prior sexual history with persons other than the other party in the student conduct process or their own mental health diagnosis and treatment from admittance in the conduct stage that determines responsibility. Past findings of sexual misconduct, dating or domestic violence, or stalking may be admissible in the student conduct stage that determines sanction.
- The right to simultaneous (among the respondent and the reporting individual) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanction(s), and the rationale for the decision and any sanctions.
- The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.

## **Section Six: Student Conduct Procedures**

### **Introduction**

SUNY Poly’s student conduct procedures have been developed with an emphasis on student involvement and fundamental fairness. The hearing bodies are not courts of law; hence, the formal court rules of evidence and procedures used in the courts do not apply. For a better understanding of the differences between the student conduct process and criminal process, see <http://system.suny.edu/sexual-violence-prevention-workgroup/College-and-Criminal-Resource/>

In order to comply with FERPA and provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process for individual students and student organizations are not open to the general public.

Any notices or notifications outlined in the Student Code of Conduct will be sent to the student’s SUNY Polytechnic assigned email account, unless extenuating circumstances dictate otherwise as determined by the College. Each student is responsible for monitoring their SUNY Poly email account on a regular basis. The conduct officer or Title IX Coordinator, at their discretion, may utilize additional delivery. Charges against student organizations will be delivered to the president of the student organization.

The student conduct process is divided into two distinct parts: Category I and Category II. Category I procedures provide guidance related to general student conduct cases. Category II provides guidance for Sexual and/or Gender Based Discrimination and Misconduct cases that do not fall within the scope of SUNY Poly’s Title IX Grievance Policy (<https://sunypoly.edu/titleix/policies-procedures>). Category II policies and procedures comply with Violence Against Women Act (VAWA) reauthorization, the Clery Act, Office for Civil



Rights guidance, and New York State law, including New York Education Law, Article 129-B.

## **PART A: CATEGORY I - GENERAL STUDENT CONDUCT PROCEDURES**

### **Complaint**

Any member of the SUNY Poly community may make a complaint or provide information concerning a potential violation(s) of the Student Code of Conduct. Allegations of prohibited behavior may be submitted to any of the following offices:

**Office of Community Standards** - Campus Center, Residential Life Suite #229 (Utica), 315-792-7535;

**Residential Life & Housing** - Campus Center, Residential Life Suite #229 (Utica), 315-792-7810;

**Student Services** - Nano Fab South, 3rd Floor, Suite 309 (Albany), 518-956-7337;

**University Police** - Kunsela Hall B126, 315-792-7222 (Utica); Nano Fab East Suite 1701 (Albany), (518) 437-8600.

### **Advisor**

The reporting individual and respondent are permitted to have one advisor of their choice present with them at any investigation meeting, conduct meeting, and/or at a hearing. An advisor may privately consult with and advise their advisee throughout the investigation and conduct process, but may not speak on behalf of the student, question witnesses, disrupt the proceeding, present information to the hearing body, or otherwise directly participate in any investigation or conduct process. An advisor may be any person the reporting individual or respondent chooses. During all investigation and conduct meetings and hearings, the reporting individual and respondent may request a brief recess to consult with their respective advisor, which may be granted at the discretion of the conduct officer or chairperson of the Hearing Board, unless the recess would be unreasonably disruptive.

### **Investigation and Notice of Charge**

A conduct officer shall investigate the report to determine whether further action is necessary and may bring charges against the accused/respondent if sufficient information exists. All investigations will occur within a reasonable timeframe and every effort will be made to keep investigations private to the greatest extent possible. If the conduct officer determines that there is sufficient information that warrants further action, the conduct officer shall initiate either an administrative hearing or Board Hearing.

A student or student organization charged with an alleged violation of the Code will be provided written notice of the charge(s) and will be required to meet with a conduct officer. Unless circumstances prohibit, the respondent shall be provided notice of the charges within ten (10) business days of the Office of Community Standards receiving documentation. For cases referred to University Police or the Title IX Office, the ten (10) business days begin upon the Office of Community Standards' receipt of the official report from those offices. Written notice of charges includes information about the circumstances surrounding the potential violation including, where available, the date, time, location and factual allegations, as well as a student's rights under SUNY Poly's conduct process. In the notice, the case will be assigned either Level I or Level II status depending on the nature of the violations.

Both the reporting individual and respondent will receive the name of the conduct officer assigned to the case in their notice of charge letter. Within 24 hours of this notice, the reporting individual or respondent may request in writing that the conduct officer be removed on the basis of bias or conflict of interest, and set forth the specific basis for the request with supporting information. The Vice President of Student Affairs will determine whether the challenge has merit and respond to the request in writing within two (2) business days.

### **Case Level Status**

A conduct case in which potential sanctions do not include suspension, expulsion or removal from College housing will be designated as a **Level I case**. Level I cases are resolved through an administrative hearing.

A conduct case in which potential sanctions include but are not limited to suspension, expulsion or removal from College housing will be designated as a **Level II case**. Level II cases are resolved through a Board Hearing.

### **Student Conduct Hearings**

A hearing provides both the reporting individual and respondent the opportunity to present information for review by either a conduct officer or the Board. There are two types of hearings: administrative hearings and Board Hearings.

All hearings will be recorded by the Office of Community Standards. Deliberations held during a Board Hearing shall not be recorded. The reporting individual or respondent to a conduct case may request in writing to review the hearing record. Cameras or other reproduction equipment, other than SUNY Poly's recording device, are not permitted in a student conduct hearing, unless as a result of a preapproved reasonable accommodation.

### **Administrative Hearing**

An administrative hearing is a hearing in which a conduct officer meets with the respondent to review the relevant information, charges, and the student conduct process. During the administrative hearing, the conduct officer will determine whether the respondent violated the Code and will assign sanctions if appropriate.

The respondent is required to schedule an administrative hearing with the conduct officer within five (5) business days from the date of the notice of charge letter. If the respondent needs to reschedule the administrative hearing, the respondent must notify the conduct officer no less than 24 hours prior to the scheduled hearing and request to reschedule. In the event a respondent does not schedule, reschedule, or fails to attend an administrative hearing, an additional conduct charge of "failure to comply" (Student Code of Conduct Prohibited Behavior #18) may be added.

Should the respondent fail to schedule or attend an Administrative hearing, the conduct officer will give the respondent two (2) additional business days, with written notice, before proceeding. An additional charge of failing to comply may be added to the charge(s). The Administrative hearing will then be held in the student's absence. The student will be assumed to have entered a claim of Not Responsible to each allegation and forfeits their ability to present evidence on their behalf. Findings and sanctions, if applicable, will be based on the information and not upon the accused student's failure to appear. A student may

submit a written request with supporting documentation to the conduct officer showing good cause for failing to appear. The conduct officer will review and make a determination as to whether a new hearing will be granted, otherwise, the decision of the hearing shall stand.

Except in the case of a student charged with failing to obey the summons of a hearing body or College official, no respondent may be found to have violated the Student Code of Conduct solely because the student failed to appear before the hearing body.

At the hearing, the conduct officer will ask the respondent if they are responsible or not responsible for the alleged charge(s). If the respondent accepts responsibility, the conduct officer will assign sanctions.

If the respondent does not accept responsibility, the conduct officer will review the case and based on preponderance of the evidence will make a decision, including assignment of sanction(s), when necessary.

The conduct officer will send a letter documenting the outcome and any sanctions imposed within five (5) business days of the administrative hearing, except when additional time is necessary for extenuating circumstances as determined by the Vice President for Student Affairs. The respondent and reporting individual, if any, may appeal the outcome and/or sanctions as outlined in Section Eight: Appeals.

SUNY Poly may place a hold on the records or registration of any accused or respondent who fails to respond to a SUNY Poly investigation or conduct notice or fulfill any sanctions previously issued. SUNY Poly may take other action necessary for resolution of a case prior to the accused's or respondent's enrollment in a subsequent semester, transfer or graduation. All pending conduct matters must be resolved prior to a student's graduation, transfer from or continued education at SUNY Poly.

### **Board Hearing**

The Board Hearing will be conducted by a panel ("the Board") comprised of students, faculty and/or staff which reviews student conduct cases. The Board is appointed by the Vice President of Student Affairs on an annual basis. A quorum of five (5) Board members to include at least two (2) students and two (2) staff and/or faculty members shall be required for a Board Hearing. One member of the Board will be designated as chair by the Director of Community Standards.

Level II cases are resolved through a Board Hearing, except in cases where the respondent accepts responsibility for the alleged violation(s). When a respondent accepts responsibility for a Category I Level II violation, an administrative hearing will be used instead of the Board Hearing.

Prior to the Board Hearing, the respondent is instructed to schedule a pre-hearing meeting with the conduct officer within five (5) business days from the date of the notice of charge letter. If the respondent needs to reschedule the pre-hearing meeting, the respondent must notify the conduct officer no less than forty-eight (48) hours prior to the scheduled meeting and request to reschedule the meeting. In the event a respondent does not schedule, reschedule, or fails to attend the pre-hearing meeting, the conduct officer will move forward with scheduling the Board Hearing.

Under the Board Hearing process, if there is a reporting individual, that individual will also be instructed to schedule in a pre-hearing meeting.

At the pre-hearing meeting, the following information related to the Board Hearing is reviewed:

- **List of Hearing Board members:** The reporting individual and the respondent will be provided with the names of the Hearing Board members and an opportunity to challenge the participation of any board member on the basis of bias or a conflict of interest. A challenge of a Board member must be made in writing to the conduct officer within 24 hours of receipt of the Notice of Hearing and must state the specific reason(s) for the challenge. The conduct officer will determine whether the challenge has merit and notify the reporting individual and the respondent of the decision within two (2) business days. The College reserves the right to change the board composition at any time, with notice and an opportunity to challenge a Hearing Board member's participation.
- **Case specific information:** The conduct officer will provide the reporting individual and respondent with a final opportunity to review the Board Hearing case file, which includes relevant evidence and a list of witnesses if applicable, which will be presented during the Board Hearing, if any. The reporting individual and the respondent shall be permitted to submit additional information, if deemed relevant by the conduct officer, for the Hearing Board case file no later than the three (3) days prior to the hearing. The other party shall be provided the opportunity to review the information prior to the hearing. Other relevant documents, or evidence the reporting individual and/or the respondent submits less than three (3) business days prior to the hearing will be reviewed by the conduct officer who can a) exclude evidence that has not been shared with the other party or b) adjourn the hearing to afford all parties the opportunity to review evidence to be presented c) and/or to conduct further investigation. The conduct officer will make the final decision related to the admissibility of all information and/or evidence.
- **Witnesses:** The reporting individual and the respondent may request that witnesses attend the Board Hearing if it can be shown that such witnesses have relevant information. The Director of Community Standards will be responsible for the notification of witnesses to attend the Board Hearing. The reporting individual and respondent will be permitted to ask questions of the witnesses through the Hearing Board, via the chairperson. All witnesses are subject to the right of questioning by the Hearing Board, and may be recalled at any time during the hearing for additional questions. While character witnesses are prohibited from participating in an administrative or board hearing, written statements prepared by character witnesses will be considered during the sanctioning phase of a hearing. Character witnesses' written statements must be submitted no later than three days prior to the hearing and shall not exceed one page each.
- **Accommodations:** The conduct officer or Hearing Board, for good cause, may accommodate concerns for the personal safety, well-being, and/or fear of confrontation of any party during the Board Hearing by providing separate facilities, using a visual screen, and/or permitting participation by telephone, videotape, or other means as determined by the conduct officer. These alternative arrangements are subject to the

rights of both the reporting individual and respondent, and must enable the Hearing Board, respondent, and reporting individual to communicate in real time.

- **Role of the Complainant:** The complainant acting on behalf of the College presents evidence and witnesses pertaining to the case.
- **Procedure for Multiple Students Accused:** In cases involving more than one respondent, the Director of Community Standards will generally conduct the Board Hearings jointly. A respondent may submit a written request for an individual hearing to the Director of Community Standards. If a separate hearing is granted, information obtained in one respondent's hearing may be used at another respondent's hearing provided that each respondent has the opportunity to review and respond to the information.

The conduct officer shall schedule a Board Hearing within ten (10) business days of the pre-hearing meeting unless special periods (e.g., holidays, breaks) dictate otherwise. The reporting individual and respondent shall be notified of the time and place of the Board Hearing at least four (4) business days prior to the hearing.

During the hearing the respondent, complainant, and reporting individual, if any, will be given the opportunity to make opening and closing statements, present witnesses, and ask relevant questions. Following the closing statements, the Board will begin their deliberations.

All deliberations are closed and shall include only the Hearing Board members. The chairperson of the Board will serve as a facilitator during the deliberation. A review of information will be conducted by the Hearing Board to determine the respondent's non-responsibility/responsibility as to each of the charges. The decision shall be made by a majority vote (abstentions are not permitted) of the Hearing Board. A decision of responsibility shall be made only if the allegations contained in each charge have been established by a preponderance of the evidence.

If the Board has found the respondent responsible for one or more violations, the chairperson will then summon the conduct officer. The conduct officer will provide the Board with a student's conduct record, if any, for consideration by the Board for the purposes of issuing sanctions. The conduct officer will be dismissed by the chairperson prior to the start of the deliberations. The Board shall agree by majority vote (no abstentions) on appropriate sanction(s) as outlined in the Sanctioning Guidelines document. The chairperson will communicate the Board's decision regarding the respondent's responsibility and a recommendation of appropriate sanction(s) to the Director of Community Standards. The Director of Community Standards is required to accept the Hearing Board's decision with respect to responsibility/non-responsibility, unless the decision is arbitrary and capricious. Where the respondent is found responsible for one or more charges, the Director of Community Standards is not required to accept the Hearing Board's recommendation of appropriate sanctions. Specifically, the Director of Community Standards may reduce the sanctions recommended by the Hearing Board, but may not increase the sanctions.

Within five (5) business days following the adjournment of the hearing, the Hearing Board's decision will be communicated in writing to the respondent by the Director of Community Standards. Written notification will contain the name of the respondent; whether the

respondent has been found responsible or not responsible for the charge(s), the rationale for the decision, and the sanction imposed, if any. If the violation is a crime of violence under the Clery Act (20 U.S.C. § 1092 (f)(1)(F)(i)(I)-(VIII) Part 1) or is a Category II violation, the reporting individual will also receive written notification of this information. College policy neither encourages nor discourages further disclosure of the decision letter by either student. The notification shall also inform both the reporting individual and the respondent of the appeal process, which includes any possible changes to the outcome that may occur before it becomes final, and when the outcome becomes final.

## **PART B: CATEGORY II: SEXUAL AND/OR GENDER BASED DISCRIMINATION AND MISCONDUCT PROCEDURES**

This section sets forth the manner in which allegations of sexual misconduct, intimate partner violence, and stalking, that do not fall within the scope of SUNY Poly's Title IX Grievance Policy (<https://sunypoly.edu/titleix/policies-procedures>), will be addressed by the Office of Community Standards in consultation with the Title IX Coordinator.

### **Students' Bill of Rights**

The Students' Bill of Rights, incorporated herein by reference, is distributed annually to students, is made available on SUNY Poly's Title IX website ([www.sunypoly.edu/titleix](http://www.sunypoly.edu/titleix)), and is posted throughout campus, including in each campus residence hall and dining hall.

### **Policy for Alcohol and/or Drug Use Amnesty**

The health and safety of every student at SUNY Polytechnic Institute is of the utmost importance. SUNY Poly recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual misconduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. SUNY Poly strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual misconduct to College officials. A bystander or a reporting individual acting in good faith that discloses any incident of intimate partner violence, stalking, or sexual misconduct to SUNY Poly officials or law enforcement will not be subject to SUNY Poly's Student Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual misconduct.

### **Confidentiality: How SUNY Poly Will Weigh the Request and Respond**

If a reporting individual discloses an incident to a SUNY Poly employee who is responsible for responding to or reporting a Category II violation, but wishes to maintain confidentiality or does not consent to the College's request to initiate an investigation, the Title IX Coordinator must weigh the request against SUNY Poly's obligation to provide a safe, non-discriminatory environment for all members of the campus community, including the reporting individual.

SUNY Poly will assist with academic, housing, employment, and other reasonable and available accommodations to the reporting individual regardless of their reporting choice. While reporting individuals may request accommodations through several College offices, the Title IX Coordinators will serve as primary point of contact to assist with these measures.

SUNY Poly also may take proactive steps to combat prohibited behavior in a general way that does not identify the reporting individual or the situation that was disclosed. Because SUNY Poly is under a continuing obligation to address the issue of sex discrimination campus-wide, reports of Category II prohibited behavior (including non-identifying reports) may also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the prohibited behavior occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessment surveys; and/or revisiting College policies and practices.

SUNY Poly will seek consent from a reporting individual of an alleged Category II violation prior to conducting an investigation. A reporting individual may decline to consent to an investigation and can request confidentiality, even if SUNY Poly has received notice of the incident. The request for confidentiality will be honored unless SUNY Poly's failure to act does not adequately mitigate the risk of harm to the reporting individual or other members of the SUNY Poly community. Honoring a reporting individual's request for confidentiality may limit SUNY Poly's ability to meaningfully investigate and pursue conduct action against the accused.

When weighing an individual's request for confidentiality, SUNY Poly will review the available information and consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- Whether the accused has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation in prohibited behavior on behalf of the accused from previously noted behavior;
- Whether there is increased risk that the accused will commit additional acts of violence;
- Whether the accused used a weapon or force;
- Whether the reporting individual is a minor;
- Whether SUNY Poly possesses other means to obtain relevant evidence such as security footage or physical evidence;
- Whether the report reveals a pattern of perpetration at a given location or by a particular group;
- Whether the prohibited conduct was committed by multiple respondents;
- Whether the respondent has admitted to the conduct.

In cases in which the Title IX Coordinator grants the reporting individual's request for confidentiality, the alleged incident will be documented with the Title IX office. If a future pattern develops, SUNY Poly has the right to re-examine the incident.

When the Title IX Coordinator has sufficient information to demonstrate SUNY Poly has a responsibility to address the prohibited behavior, SUNY Poly may move forward with a full investigation and conduct process. SUNY Poly will not require a reporting individual to participate in any investigation or conduct proceeding. SUNY Poly will inform the reporting individual prior to starting a full investigation and will take immediate action as necessary to protect and assist them.

## **Report/Complaint**

Any member of the SUNY Poly community may make a complaint or offer information concerning a potential Category II violation of the Student Code of Conduct. A student may make a report against another student, an employee, a student organization or group, or a third party. The procedure SUNY Poly utilizes to address these reports may vary, depending on who the report is against.

Allegations of prohibited behavior may be submitted to SUNY Poly's Title IX Coordinators or the Director of Community Standards:

Katie Tynan-Simon, Title IX Coordinator  
Student Center S228  
100 Seymour Road  
Utica, NY 13502  
315-792-7235  
[ktynan@sunypoly.edu](mailto:ktynan@sunypoly.edu)

Dr. Mark Montgomery, Deputy Title IX Coordinator  
Kunsela Hall B233  
100 Seymour Road  
Utica, NY 13502  
315-792-7338  
[montgom@sunypoly.edu](mailto:montgom@sunypoly.edu)

Megan Lennon, Director of Community Standards  
Campus Center, Residential Life Suite #229  
100 Seymour Road  
Utica, NY 13502  
315-792-7535  
[wyettm@sunypoly.edu](mailto:wyettm@sunypoly.edu)

*Students who wish to speak **confidentially** about an incident may contact a confidential resource as designated in SUNY Poly's Options for Confidentially Disclosing document available at <https://sunypoly.edu/titleix/policies-procedures>.*

## **Privacy vs. Confidentiality**

SUNY Poly offices and employees who cannot guarantee confidentiality will maintain a reporting individual's privacy to the greatest extent possible. The information a reporting individual provides to a non-confidential resource will be relayed to the Title IX Coordinator. SUNY Poly will limit any disclosure as much as possible, even if the Title IX Coordinator determines that a request for confidentiality cannot be honored.

## **The Role of the Title IX Coordinator**

The Title IX Coordinator is responsible for the investigation of Category II violations as outlined in the Student Code of Conduct. The Title IX Coordinator(s) will collect and review the information available. The Title IX Coordinators are not advocates or advisors, but will assist both the reporting individual and respondent by providing information about support and advocacy services and available accommodations. The Title IX Coordinator does not



serve as a member of the Administrative or Hearing Board that determines if the complaint is substantiated.

### **Advisor**

The reporting individual and respondent are permitted to have one advisor of their choice present with them at any investigation meeting, conduct meeting, and/or at a hearing. An advisor may privately consult with and advise their advisee throughout the investigation and conduct process, but may not speak on behalf of the student, question witnesses, disrupt the proceeding, present information to the hearing body, or otherwise directly participate in any investigation or conduct process. An advisor may be any person the reporting individual or respondent chooses. During all investigation and conduct meetings and hearings, reporting individual and respondent may request a brief recess to consult with their respective advisor, which may be granted at the discretion of the conduct officer or chairperson of the Hearing Board, unless the recess would be unreasonably disruptive.

### **Accommodations**

SUNY Poly will take steps, where necessary, to support the reporting individual throughout the investigation and conduct process, including implementing appropriate temporary or administrative measures, as outlined in Section Four: Temporary and Administrative Directives. SUNY Poly will also take appropriate action to support the respondent throughout the process.

SUNY Poly may grant reasonable and available accommodations that effect a change in academic, housing, SUNY Poly employment, transportation and other applicable arrangements in order to address safety concerns, separate the reporting individual and respondent, prevent retaliation, and avoid an ongoing hostile environment. Accommodation requests can be made to the Title IX Coordinator or Director of Community Standards, and are subject to their review and approval.

As the investigation and conduct process for a Category II case is advancing, the Title IX Coordinator may, at their discretion, put restrictions in place when providing an accommodation. These restrictions may include, but are not limited to, altering a student's academic schedule, restricting parties from attending class/classes, re-assigning parties to a different class section, allowing parties to attend their scheduled class but with restrictions, restricting parties from certain areas of campus, restricting parties from campus but allowing parties to fulfill class requirements via internet, restricting or altering the dates/times/locations/hours permitted to work, scheduling the use of specific spaces (i.e. dining halls), restricting attendance at SUNY Poly sponsored or supervised functions, graduation or other ceremonies.

A student who has been issued a directive as a result of an accommodation shall be entitled to a prompt review of the need for and terms of the directive. Any party seeking a review shall submit a written request with supporting documentation to the Vice President for Student Affairs. The decision of the Vice President for Student Affairs shall be final.

## **Retaliation**

No member of the SUNY Poly community shall retaliate, intimidate, threaten, coerce or otherwise discriminate against a person who reports a Category II violation, files a complaint, serves as a witness, or assists or participates in the investigation or conduct process in any manner. Participants who experience retaliation should report the incident to the Title IX Coordinator, Director of Community Standards, or Vice President for Student Affairs. Any substantiated act of retaliation may result in sanctions or other student conduct action as outlined in the Code, College policies, and/or the conduct procedures pursuant to the applicable collective bargaining agreements.

## **Investigation**

A preliminary investigation of a report may precede a full investigation. During the preliminary investigation, the Title IX Coordinator will provide the reporting individual with information about the investigation and conduct process and will seek the reporting individual's consent to investigate (as outlined in the Confidentiality: How SUNY Poly Will Weigh the Request and Respond portion of this section). The Title IX Coordinator will interview the reporting individual and collect information relevant to the incident.

In cases in which (1) the reporting individual elects to file a formal complaint or (2) the reporting individual requests confidentiality but the College has determined it has a responsibility to address the prohibited behavior, the Title IX Coordinator will review the information and determine if there is sufficient information available to move forward with the conduct process. If adequate information was obtained in the preliminary investigation to give reasonable cause to believe a Category II violation may have occurred, the Title IX Coordinator will proceed with a full investigation.

Notice of Potential Conflict: If a full investigation is being pursued, both the reporting individual and respondent will receive notification in writing, of the name of the Title IX Coordinator assigned to the investigation of the case. Within 24 hours of this notice, the reporting individual or respondent may request in writing that the Title IX Coordinator be removed on the basis of bias or conflict of interest, and set forth the specific basis for the request with supporting information. The Vice President of Student Affairs will determine whether the challenge has merit and respond to the request in writing within two (2) business days.

The preliminary review of a complaint, including any temporary or administrative directives to be put in place, will generally be completed within 20 days of receipt of the complaint. The subsequent, comprehensive review and investigation of the complaint, including interviews and gathering of evidence, will generally be completed within 40 days of receipt of the complaint.

The full investigation will not begin until the reporting individual files a formal complaint with the Title IX Coordinator. In cases in which the reporting individual has requested confidentiality but SUNY Poly has determined an obligation to address the prohibited behavior, the full investigation will not begin until written notification of this determination has been issued to the reporting individual.

After the Title IX Coordinator understands the nature and scope of the complaint, they will send notice to the accused that a complaint has been filed and will include the date, time, location, and factual allegations concerning the violation(s), as well as the respondent's rights and other information about the investigation and conduct processes. The respondent will be instructed to contact the Title IX Coordinator within 48 hours of receiving the notice to schedule an initial interview. If the respondent fails to contact the Title IX Coordinators within 48 hours of the notice, the Title IX Coordinator may proceed with the investigation.

The Title IX Coordinator will meet with the reporting individual and accused separately when conducting the investigation. Both the reporting individual and respondent will be asked to provide any relevant documentation or supporting information (including but not limited to text messages, phone logs, video or audio recordings, photographs, social media posts or messages, letters, emails) and identify potential witnesses relevant to the complaint.

The Title IX Coordinator will interview witnesses deemed relevant to the complaint and will collect and review documentation and evidence provided by the witnesses.

### **Production and Review of the Investigation Report**

Where a full investigation is being pursued, the Title IX Coordinator will produce a written investigation report, which both the reporting individual and the respondent will be provided an opportunity to review in draft form. The report will include a summary of the statements of each person interviewed, the relevant documentation, and other information reviewed by the Title IX Coordinator. The reporting individual and respondent will be permitted to provide clarifying comments to the portions of the report in which their own statements are summarized. They will also be permitted to respond to the content of the report and to propose questions to be asked of the witnesses and the other party to the complaint. The Title IX Coordinator will review the comments and questions submitted by the reporting individual and the respondent, if any, and will determine whether the report should be modified and/or if further investigation is necessary.

All information and documentation provided by either the reporting individual or the respondent, or by a witness(es) interviewed in the course of an investigation, may be included in the final investigation report and shared with the reporting individual, respondent, and appropriate College officials.

Once the investigation is complete and a final report is generated, the report is provided to the Director of Community Standards. The Director of Community Standards will review the report and determine if conduct action will be taken. If conduct action is pursued, the Director of Community Standards will provide the accused with notice of applicable charges and shall initiate an Administrative or Board Hearing.

### **Notice of Charge**

A student or student organization charged with an alleged violation of the Code will be provided written notice of the charge(s) and will be required to meet with a conduct officer. Unless circumstances prohibit, the respondent shall be provided notice of the charges within ten (10) business days of the Office of Community Standards' receipt of the final investigation

report from the Title IX Coordinator. Written notice of charges includes information about the circumstances surrounding the potential violation including, where available, the date, time, location and factual allegations, as well as a student's rights under SUNY Poly's conduct process. In the notice, the case will be assigned either level I or level II status depending on the nature of the violations:

- a. **Category II Level I** - A Category II conduct case in which potential sanctions do not include suspension, expulsion or removal from College housing will be designated as a Level I case. Cases involving an allegation of sexual harassment, sexual exploitation or non-consensual sexual contact may be assigned a Level I status, which would be resolved through an administrative hearing. The conduct officer will review the severity of the alleged conduct for sexual harassment, sexual exploitation, and non-consensual sexual contact cases and determine whether, based on the information obtained through the investigation, the case should be elevated to a Level II charge.
- b. **Category II Level II**- A Category II conduct case in which possible sanctions include but are not limited to suspension, expulsion or removal from College housing will be designated as a Level II case. Any case involving an allegation of non-consensual sexual intercourse, dating violence, domestic violence, or stalking will be automatically assigned Level II case status. These cases are assigned to a Board Hearing, except in cases in which the respondent accepts responsibility. If a respondent accepts responsibility for a Category II Level II violation, an administrative hearing will be used instead of the Board Hearing.

Both the reporting individual and respondent will receive the name of the conduct officer assigned to the case in the notice of charge letter. Within 24 hours of this notice, the reporting individual or respondent may request in writing that the conduct officer be removed on the basis of bias or conflict of interest, and set forth the specific basis for the request with supporting information. The Vice President of Student Affairs will determine whether the challenge has merit and respond to the request in writing within two (2) business days.

### **Student Conduct Hearings**

A hearing provides both the reporting individual and respondent the opportunity to present information for review by either a conduct officer or the Board. There are two types of hearings: Administrative Hearings and Board Hearings.

All hearings will be recorded by the Office of Community Standards. Deliberations held during a Board Hearing shall not be recorded. The reporting individual or respondent to a conduct case may request in writing to review to the hearing record. Cameras or other reproduction equipment, other than SUNY Poly's recording device, are not permitted in a student conduct hearing, unless as a result of a preapproved reasonable accommodation.

### **Administrative Hearing**

An administrative hearing is a hearing in which a conduct officer meets with the respondent to review the relevant information, including the final investigative report prepared by the Title IX Coordinator, charges, and the student conduct process. During the administrative hearing, the conduct officer will determine whether the respondent violated the Code and will assign sanctions if appropriate.

The respondent is required to schedule an administrative hearing with the conduct officer within five (5) business days from the date of the notice of charge letter. If the respondent needs to reschedule the administrative hearing, the respondent must notify the conduct officer no less than 24 hours prior to the scheduled hearing and request to reschedule. In the event a respondent does not schedule, reschedule, or fails to attend an administrative hearing, an additional conduct charge of “failure to comply” (Section Three: Prohibited Behavior, #18) may be added.

Should the respondent fail to schedule or attend an Administrative Hearing, the conduct officer will give the respondent two (2) additional business days, with written notice, before proceeding. An additional charge of failing to comply may be added to the charge(s). The Administrative Hearing will then be held in the student's absence. The student will be assumed to have entered a claim of Not Responsible to each allegation and forfeits their ability to present evidence on their behalf. Findings and sanctions, if applicable, will be based on the information and not upon the accused student's failure to appear. A student may submit a written request with supporting documentation to the conduct officer showing good cause for failing to appear. The conduct officer will review and make a determination as to whether a new hearing will be granted; otherwise, the decision of the hearing shall stand.

Except in the case of a student charged with failing to obey the summons of a hearing body or College official, no respondent may be found to have violated the Student Code of Conduct solely because the student failed to appear before the hearing body.

At the hearing, the conduct officer will ask the respondent if they are responsible or not responsible for the alleged charge(s). If the respondent accepts responsibility, the conduct officer will assign sanctions.

If the respondent does not accept responsibility, the conduct officer will review the case and based on preponderance of the evidence will make a decision, including assignment of sanction(s), when necessary.

If the respondent has been found responsible for one or more violations, the reporting individual and the respondent each shall have the opportunity to provide an impact statement prior to the conduct officer's deliberation on appropriate sanctions. Impact statements outline the reporting individual's or respondent's thoughts or opinions regarding an appropriate sanction. The conduct officer is not bound by these statements in determining sanctions.

The conduct officer will send a letter to the respondent and the reporting individual documenting the outcome and any sanctions imposed within five (5) business days of the administrative hearing, except when additional time is necessary for extenuating circumstances as determined by the Vice President for Student Affairs. The respondent and reporting individual may appeal the outcome and/or sanctions as outlined in Section Eight: Appeals.

SUNY Poly may place a hold on the records or registration of any accused or respondent who fails to respond to a SUNY Poly investigation, conduct notice, or fulfill any sanctions previously issued. SUNY Poly may take other action necessary for resolution of a case prior

to the accused's or respondent's enrollment in a subsequent semester, transfer or graduation. All pending conduct matters must be resolved prior to a student's graduation, transfer from or continued education at SUNY Poly.

### **Board Hearing**

The Board Hearing will be conducted by a panel ("the Board") comprised of students, faculty and/or staff which reviews student conduct cases. The Board is appointed by the Vice President of Student Affairs on an annual basis. A quorum of five (5) Board members to include at least two (2) students and two (2) staff and/or faculty members shall be required for a Board Hearing. One member of the Board will be designated as chair by the Director of Community Standards.

Level II cases are resolved through a Board Hearing, except in cases in which the respondent accepts responsibility for the alleged violation(s). If a respondent accepts responsibility for a Category II Level II case, an administrative hearing will be used instead of the Board Hearing.

Prior to the Board Hearing, the respondent is instructed to schedule a pre-hearing meeting with the conduct officer within five (5) business days from the date of the notice of charge letter. If the respondent needs to reschedule the pre-hearing meeting, the respondent must notify the conduct officer no less than 48 hours prior to the scheduled meeting and request to reschedule the meeting. In the event a respondent does not schedule, reschedule, or fails to attend the pre-hearing meeting, the conduct officer will move forward with scheduling the Board Hearing.

Under the Board Hearing process, if there is a reporting individual, that individual will also be instructed to schedule in a pre-hearing meeting.

At the pre-hearing meeting, the following information related to the Board Hearing is reviewed:

- **List of Hearing Board members:** The reporting individual and the respondent will be provided with the names of the Hearing Board members and an opportunity to challenge the participation of any board member on the basis of bias or conflict of interest. A challenge of a Board member must be made in writing to the conduct officer within 24 hours of receipt of the Notice of Hearing and must state the specific reason(s) for the challenge. The conduct officer will determine whether the challenge has merit and notify the reporting individual and the respondent of the decision within two (2) business days. The College reserves the right to change the board composition at any time, with notice and an opportunity to challenge a Hearing Board member's participation.
- **Case specific information:** The conduct officer will provide the reporting individual and respondent with a final opportunity to review the Board Hearing case file, which includes the final investigative report prepared by the Title IX Coordinator, with supporting documentation as applicable. The reporting individual and the respondent shall be permitted to submit additional information, if deemed relevant by the conduct officer and/or Title IX Coordinator, for the Hearing Board case file no later than the three (3) days prior to the hearing. The other party shall be provided the opportunity to review the information prior to the hearing. Other relevant documents or evidence

the reporting individual and/or the respondent submits less than three (3) business days prior to the hearing will be reviewed by the conduct officer and/or Title IX Coordinator who can a) exclude evidence that has not been shared with the other party, b) adjourn the hearing to afford all parties the opportunity to review evidence to be presented, and/or c) conduct further investigation. The conduct officer and/or the Title IX Coordinator will make the final decision relating to the admissibility of all information and/or evidence.

- **Witnesses:** The reporting individual and the respondent may request that witnesses attend the Board Hearing if it can be shown that such witnesses have relevant information. The Director of Community Standards will be responsible for the notification of witnesses to attend the Board Hearing. The reporting individual and respondent will be permitted to ask questions of the witnesses through the Hearing Board, via the chairperson. All witnesses are subject to the right of questioning by the Hearing Board, and may be recalled at any time during the hearing for additional questions. While character witnesses are prohibited from participating in an administrative or board hearing, written statements prepared by character witnesses will be considered during the sanctioning phase of a hearing. Character witnesses' written statements must be submitted no later than three days prior to the hearing and shall not exceed one page each.
- **Accommodations:** The Title IX Coordinator, conduct officer, and/or Hearing Board, for good cause, may accommodate concerns for the personal safety, well-being, and/or fears of confrontation on of any party during the Board Hearing by providing separate facilities, using a visual screen, and/or permitting participation by telephone, videotape, or other means as determined by the Title IX Coordinator. These alternative arrangements are subject to the rights of both the reporting individual and respondent, and must enable the Hearing Board, respondent, and reporting individual to communicate in real time.
- **Role of the Complainant:** The complainant acting on behalf of the College presents evidence and witnesses pertaining to the case.
- **Procedure for Multiple respondents:** In cases involving more than one respondent, the Director of the Office of Community Standards will generally conduct the Board Hearings jointly. A respondent may submit a written request for an individual hearing to the Director of Community Standards. If a separate hearing is granted, information obtained in one respondent's hearing may be used at another respondent's hearing provided that each respondent has the opportunity to review and respond to the information.

The conduct officer shall schedule a Board Hearing within ten (10) business days of the pre-hearing meeting unless special periods (e.g., holidays, breaks) dictate otherwise. The reporting individual and respondent shall be notified of the time and place of the Board Hearing at least four (4) business days prior to the hearing.

During the hearing the respondent, complainant, and reporting individual, if any, will be given the opportunity to make opening and closing statements, present witnesses and ask relevant questions. Following the closing statements, the Board will begin their deliberations.

All deliberations are closed and shall include only the Hearing Board members. The chairperson of the Board will serve as a facilitator during the deliberation. A review of information will be conducted by the Hearing Board to determine respondent's non-responsibility/responsibility as to each of the charges. The decision shall be made by a majority vote (abstentions are not permitted) of the Hearing Board. A decision of responsibility shall be made only if the allegations contained in each charge have been established by a preponderance of the evidence.

If the Board has found the respondent responsible for one or more violations, the respondent and the reporting individual each shall have the opportunity to make an impact statement before the Board prior to the Board's deliberation on appropriate sanctions. Impact statements outline the reporting individual's or respondent's thoughts or opinions regarding an appropriate sanction. The Hearing Board is not bound by these statements in determining sanctions. After impact statements are made, the respondent, reporting individual, and their respective advisors are dismissed.

The chairperson will then summon the conduct officer. The conduct officer will provide the Board with a student's conduct record, if any, for consideration by the Board for the purposes of issuing sanctions. The conduct officer will be dismissed by the chairperson prior to the start of the deliberations. The Board shall agree by majority vote (no abstentions) on appropriate sanction(s). The chairperson will communicate the Board's decision regarding the respondent's responsibility and a recommendation of appropriate sanction(s) to the Director of Community Standards. The Director of Community Standards is required to accept the Hearing Board's decision with respect to responsibility/non-responsibility, unless the decision is arbitrary and capricious. Where the respondent is found responsible for one or more charges, the Director of Community Standards is not required to accept the Hearing Board's recommendation of appropriate sanctions. Specifically, the Director of Community Standards may reduce the sanctions recommended by the Hearing Board, but may not increase the sanctions.

Within five (5) business days following the adjournment of the hearing, the Hearing Board's decision will be communicated in writing to the reporting individual and the respondent concurrently by the Director of Community Standards. Written notification will contain the name of the respondent; whether the respondent has been found responsible or not responsible for charge(s) of a Category II violations; the rationale for the decision, and the sanction imposed, if any. College policy neither encourages nor discourages further disclosure of the decision letter by either party. The notification shall also inform both the reporting individual and the respondent of the appeal process, which includes any possible changes to the outcome that may occur before it becomes final, and when the outcome becomes final.

### **Section Seven: Sanctions**

In keeping with SUNY Poly's values, any sanction(s) imposed is for the purposes of educating students and student organizations about the seriousness of their action(s), deterring subsequent violations, and promoting civility and positive growth, while maintaining the safety and integrity of SUNY Poly.



SUNY Poly recognizes that not all violations of the Student Code of Conduct are the same. As a result, SUNY Poly reserves the right to impose differing sanctions. When considering appropriate sanctions the conduct officer or the Board will consider the following information:

- the nature and severity of the conduct;
- the respondent's prior conduct history;
- the impact of the conduct;
- how the College has sanctioned similar incidents in the past; and
- whether the respondent has accepted responsibility.

SUNY Poly's Sanctioning Guidelines, which are utilized by the hearing bodies in order to ensure consistent and fair sanctions, are available for review <https://sunypoly.edu/student-conduct/sanction-guidelines.html>. Sanctions become effective once the conduct officer issues notice of the outcome and sanctions to the respondent and/or student organization. The imposition of sanctions will normally be deferred while appeals are pending, though temporary directives will continue until there is a final outcome. The Vice President of Student Affairs may suspend the conduct officer's/Hearing Board's determination or make such other interim modifications to the determination as may be appropriate in their judgement. Failure to complete a sanction may result in a registration, transcript, and/or diploma hold being placed on the students account.

When there is a finding of responsibility one or more of the following sanctions may be imposed:

- A. **Disciplinary Warning**: An official communication that the Code has been violated and more severe disciplinary action may follow if the respondent is found responsible for further violations.
- B. **Disciplinary Probation**: A higher level sanction issued due to the serious nature of the violation. Probation shall be for a designated period of time. If the respondent is found to be in violation of any College policies during the probationary period, heightened sanctions may be imposed. At the discretion of campus offices and programs, respondents on disciplinary probation may be ineligible for employment and/or participation in certain activities.
- C. **Final Probation**: A final notice to the respondent that may be imposed, dependent on the severity of the violation when a respondent a) violates the Code while on disciplinary probation, and/or b) fails to complete previously imposed sanctions. At the discretion of campus offices and programs, students on final probation may be ineligible for employment and/or participation in certain activities.
- D. **Deferred Residence Hall Suspension**: A final notice to the student that indicates a further violation of the Code may result in residence hall suspension or residence hall expulsion. This sanction is used when the respondent is found responsible for multiple violations of the Residence Hall policies, fails to complete previously imposed sanctions, or adhere to previously imposed conditions.
- E. **Residence Hall Suspension**: A disciplinary sanction in which the respondent is removed from campus housing and restricted from the buildings and grounds of the residential complexes for a defined period of time, after which the student is eligible to return. Conditions for readmission shall be specified in

the outcome letter. The respondent will be responsible for all assessed charges including room and board.

- F. **Residence Hall Expulsion**: A disciplinary sanction which results in the permanent removal of the student from campus housing and permanent restriction from the buildings and grounds of the residential complexes. The respondent will be responsible for all assessed charges including room and board.
- G. **Change in Residence Hall Assignment**: A written directive to relocate to an alternative residence hall assignment.
- H. **Suspension**: A disciplinary status that results in the respondent's temporary separation from the College for a specific amount of time. A suspended respondent is assigned persona non grata status (See Section Four: Temporary and Administrative Directives) for the duration of the suspension. If needed, conditions for readmission shall be specified in the outcome letter. Respondents who are suspended during an academic semester will be withdrawn from all coursework with a (W) grade and be responsible for all assessed charges including tuition, fees, room and board. Suspension from the College will result in a notation on the respondent's academic record. (See Section Seven: Sanctions, Transcript Notation).
- I. **Expulsion**: A disciplinary status, which is the permanent separation of the student from SUNY Poly. An expelled student is assigned persona non grata status (See Section Four: Temporary and Administrative Directives). Respondents who are expelled during an academic semester will be withdrawn from all coursework with a (W) grade and be responsible for all assessed charges including tuition, fees and room and board. Expulsion from the College will result in a notation on the respondent's academic record. (See Section Seven: Sanctions, Transcript Notation).
- J. **Loss of Privileges**: A disciplinary status in which the respondent is denied specific privileges for a designated period of time. Loss of privileges may include, but are not limited to:
  - 1. A restriction from possessing particular items on campus;
  - 2. A restriction from a particular College building, facility, or space;
  - 3. A restriction from a particular social event or membership in a student organization;
  - 4. A restriction from hosting visitors and/or guests;
  - 5. Deactivation of a student organization, including SUNY Poly recognition, for a specified period of time;
  - 6. Other restrictions as assigned.
- K. **Restitution**: Payment for loss, damage, or injury. This payment may take the form of monetary reimbursement or the cost for appropriate service or compulsory program.
- L. **Community Restitution**: Service to SUNY Poly, service to the greater community or other related discretionary assignments subject to prior approval of the conduct officer.
- M. **Behavioral and/or Mental Health Assessment**: By a specified date, a respondent must complete a behavioral and/or mental health assessment and follow through with all recommendations made as a result of the assessment.

- N. **Behavioral Agreement**: A plan established by the conduct officer that clearly defines behavioral expectations and standards that the respondent is required to abide by.
- O. **Discretionary Sanctions**: Other related sanctions that meet the approval of the conduct officer, that include but are not limited to:
1. Letter of apology;
  2. Essay or research paper on assigned topic;
  3. Program presentations;
  4. Substance abuse education program;
  5. Educational/training program or workshops.
- P. **No Contact Order**: A written directive prohibiting contact with another protected person, either directly or through a third party. If the respondent and the protected person observe each other in a public place, it is the responsibility of the respondent to leave the area immediately and without directly contacting the protected person.

### Sanctions for Category II Prohibited Behavior

This section establishes the available sanctions, as described above, for Category II: Sexual and/or Gender Based Discrimination and Misconduct violations.

**When a student is found responsible for non-consensual sexual contact, sexual exploitation, or sexual harassment, the following sanctions are available:**

Status Sanctions	Additional Sanctions
<ul style="list-style-type: none"> <li>• Expulsion</li> <li>• Suspension for 10, 9, 8, 7, 6, 5, 4, 3, 2 or 1 semester(s)</li> <li>• Suspension for 10, 9, 8, 7, 6, 5, 4, 3, 2 or 1 semester(s) and if readmitted final probation through graduation</li> <li>• Suspension for 10, 9, 8, 7, 6, 5, 4, 3, 2 or 1 semester(s) and if readmitted final probation for 8, 7, 6, 5, 4, 3, 2 or 1 semester</li> <li>• Final probation through graduation</li> <li>• Final probation for 8, 7, 6, 5, 4, 3, 2 or 1 semester(s)</li> <li>• Disciplinary probation for 8, 7, 6, 5, 4, 3, 2 or 1 semester(s)</li> </ul>	<p>A respondent who is placed on suspension, final probation, and/or disciplinary probation/warning, may also receive one or more of the following additional sanctions:</p> <ul style="list-style-type: none"> <li>• Residence hall expulsion</li> <li>• Residence hall suspension</li> <li>• Deferred residence hall suspension</li> <li>• Discretionary sanctions</li> <li>• Behavioral and/or mental health assessment</li> <li>• Loss of privileges</li> <li>• Restitution</li> <li>• No Contact Order</li> </ul>

**When an individual is found responsible for stalking, the following sanctions are available:**

Status Sanctions	Additional Sanctions
<ul style="list-style-type: none"> <li>• Expulsion</li> <li>• Suspension for 10, 9, 8, 7, 6, 5, 4, 3, 2 or 1 semester(s)</li> <li>• Suspension for 10, 9, 8, 7, 6, 5, 4, 3, 2 or 1 semester(s) and if readmitted final probation through graduation</li> <li>• Suspension for 10, 9, 8, 7, 6, 5, 4, 3, 2 or 1 semester(s) and if readmitted final probation for 8, 7, 6, 5, 4, 3, 2 or 1 semester</li> <li>• Final probation through graduation</li> <li>• Final probation for 8, 7, 6, 5, 4, 3, 2 or 1 semester(s)</li> <li>• Disciplinary probation for 8, 7, 6, 5, 4, 3, 2 or 1 semester(s)</li> </ul>	<p>A respondent who is placed on suspension, final probation, and/or disciplinary probation the following additional sanctions are available:</p> <ul style="list-style-type: none"> <li>• Residence hall expulsion</li> <li>• Residence hall suspension</li> <li>• Deferred residence hall suspension</li> <li>• Discretionary sanctions</li> <li>• Behavioral and/or mental health assessment</li> <li>• Loss of privileges</li> <li>• Restitution</li> <li>• No Contact Order</li> </ul>

**When a student is found responsible for dating violence or domestic violence, the following sanctions are available:**

Status Sanctions	Additional Sanctions
<ul style="list-style-type: none"> <li>• Expulsion</li> <li>• Suspension for 10, 9, 8, 7, 6, 5, 4, 3, 2 or 1 semester(s)</li> <li>• Suspension for 10, 9, 8, 7, 6, 5, 4, 3, 2 or 1 semester(s) and if readmitted final probation through graduation</li> <li>• Suspension for 10, 9, 8, 7, 6, 5, 4, 3, 2 or 1 semester(s) and if readmitted final probation for 8, 7, 6, 5, 4, 3, 2 or 1 semester</li> <li>• Final probation through graduation</li> <li>• Final probation for 8, 7, 6, 5, 4, 3, 2 or 1 semester(s)</li> </ul>	<p>A respondent who is placed on suspension and/or final probation, the following additional sanctions are available:</p> <ul style="list-style-type: none"> <li>• Residence hall expulsion</li> <li>• Residence hall suspension</li> <li>• Deferred residence hall suspension</li> <li>• Discretionary sanctions</li> <li>• Behavioral and/or mental health assessment</li> <li>• Loss of privileges</li> <li>• Restitution</li> <li>• No Contact Order</li> </ul>

When a student is found responsible for non-consensual sexual intercourse, the College will impose a minimum sanction of suspension with additional requirements as follows:

Status Sanction	Additional Sanctions
<ul style="list-style-type: none"> <li>• Expulsion</li> <li>• Suspension for 10, 9, 8, 7, 6, 5, 4, 3, or 2 (semesters)</li> <li>• Suspension for 10, 9, 8, 7, 6, 5, 4, 3, 2 or 1 semester(s) and if readmitted final probation through graduation</li> <li>• Suspension for 10, 9, 8, 7, 6, 5, 4, 3, 2 or 1 semester(s) and if readmitted final probation for 8, 7, 6, 5, 4, 3, 2 or 1 semester</li> </ul>	<p>A respondent who is placed on suspension and/or final probation, the following additional sanctions are available:</p> <ul style="list-style-type: none"> <li>• Residence hall expulsion</li> <li>• Discretionary sanctions</li> <li>• Behavioral and/or mental health assessment</li> <li>• Loss of privileges</li> <li>• Restitution</li> <li>• No Contact Order</li> </ul>

### Transcript Notation

A respondent's transcript will be subject to conduct notation for all cases in which the sanction imposed is expulsion or suspension from SUNY Poly. This includes, but is not limited to, cases in which a respondent is found responsible for an act of violence that meets the reporting requirements found in the Clery Act at 20 U.S.C. § 1092 (f)(1)(F)(i)(I)-(VIII) Part 1. The notation will state that the respondent was "*suspended after a finding of responsibility for a Code of Conduct violation*" or "*expelled after a finding of responsibility for a Code of Conduct violation.*" The date the sanction was imposed will also be noted on the transcript.

An accused student who withdraws from SUNY Poly while an investigation is pending or after being charged with a Code violation will not be exempt from conduct action. If a student withdraws during a preliminary review or investigation, a hold may be placed on the student's account which will prohibit the student from registering for classes and/or being able to obtain an official transcript until the case is resolved.

If a respondent withdraws from SUNY Poly while conduct charges are pending and declines to complete the conduct process, SUNY Poly shall notate on the respondent's transcript "withdrew with conduct charges pending."

An appeal seeking removal of a transcript notation for a suspension should be submitted, in writing, to the Vice President of Student Affairs with written documentation showing rehabilitation or other good cause for transcript notation removal. The decision of the Vice President for Student Affairs on whether to remove the notation is final. If the appeal for the removal of the transcript notation is granted, the notation shall not be removed prior to one year after conclusion of the suspension. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

A transcript notation of expulsion is a permanent notation of the transcript and shall not be removed.

## **Section Eight: Appeals**

An appeal is a request for a review of an outcome of a student conduct case. An appeal does not rehear a conduct case, but rather, determines if the conclusion reached in the original hearing is valid based on specific grounds.

### **Request for an Appeal**

A student may submit a request for an appeal in writing to the Office of Community Standards. The grounds for filing an appeal are limited to the following:

- a. The rights of the respondent(s), student organization(s) or reporting individual(s) were violated in the student conduct process as outlined in Section Six: Student Conduct Procedures;
- b. New evidence is discovered that was not available at the time of the Administrative or Board Hearing was held;
- c. The evidence presented does not support the decision;
- d. The sanction(s) imposed were not appropriate for the violation.

A student's request for an appeal must include specific reference to the grounds on which they are filing the request and must include supporting information. A request for an appeal must be submitted to the Office of Community Standards no later than close of business on the fifth (5th) business day following the date the notice of outcome was issued. Failure to appeal within the allotted time will render the original decision final and conclusive.

### **Procedures for an Appeal**

If the appeal request is timely and meets the aforementioned grounds, an Appellate Board will be convened within five (5) business days of receipt of the request for an appeal. An Appellate Board is comprised of three (3) Appellate Board members of which at least one (1) student and at least one (1) faculty or staff member. The Vice President of Student Affairs shall appoint the membership as necessary. One member of the Appellate Board shall serve as the chairperson. Members of the Appellate Board must deliberate in a fair and impartial manner and may not have a conflict of interest. The Appellate Board deliberations are not recorded.

An appeal shall be limited to a review of the record of the conduct hearing, the hearing case file, and the content of the appeal request including any supporting documentation. The appeal will be reviewed based on the preponderance of evidence standard. The reporting individual and the respondent will generally not have the opportunity to meet with the Appellate Board unless, in the Appellate Board's discretion, a meeting would serve to clarify an issue related to the appeal.

The Appellate Board shall choose one of the following courses of action after review of the information:

- A. Uphold the hearing decision and implement the sanction(s), if any;
- B. Uphold the hearing decision, but change the sanction(s);
- C. Overturn the hearing decision and, if appropriate, implement sanctions;
- D. Grant a new Board Hearing;

1. When a new hearing is granted, the record of the previously conducted hearing will not be introduced or provided to members of the Hearing Board, except, at the discretion of the Hearing Board's chair, to challenge contradictory testimony.

The Appellate Board shall report their decision via letter to the Director of Community Standards within three (3) business days of their review. The Director of Community Standards shall communicate the decision of the Appellate Board to the reporting individual, respondent, or student organization within three (3) business days of receipt of the board's decision. If the Director of Community Standards determines that the Appellate Board's decision is arbitrary or capricious, the Director of Community Standards may send it back to the Appellate Board for further review.

If the reporting individual or respondent submits an appeal request of a Category II case outcome, the non-requesting party will receive notice that an appeal was submitted and will be afforded the opportunity to submit a written response to the requesting party's appeal within five (5) business days of the notification. Should both the respondent and the reporting individual both file an appeal, the appeals will be considered concurrently. Both the reporting individual and respondent of Category II cases will be notified of the appeal decision within thirty days of when the appeal review took place. The decision shall be final.

### **Final Appeal**

A respondent may appeal the decision of the Appellate Board to the SUNY Poly President only when the sanction involves suspension or expulsion. This appeal must be submitted to the SUNY Poly President by close of business on the fifth (5th) business day following the date the Appellate Board decision letter is issued to the respondent by the Director of Community Standards. If the President agrees to consider an appeal, in their sole discretion, they shall be provided and may consider the records of the Appellate Board, Board Hearing, hearing case file and such written submissions and oral arguments as the President requests. The President shall make such determination as they deem appropriate and the decision shall be final.

### **Section Nine: Timelines for Student Conduct Process**

All deadlines and time requirements in the Code may be extended for good cause as determined by the Director of Community Standards and/or the Title IX Coordinator. If there is a delay, notification will be sent in writing to both the reporting individual and the respondent with a new date for future deadlines or events.

### **Summer Timeline for Cases**

During the period between the fall and spring semesters, cases will be handled per the timelines established in Section Six: Student Conduct Procedures.

Generally for Level I Cases, if the incident under review occurred during the spring semester but was unable to be resolved prior to the end of the semester, the conduct officer and/or Title IX Coordinator will contact the student to participate in the investigation process and administrative hearing, when applicable, in person, via phone, or other electronic medium. While the conduct officer will make reasonable accommodations to enable a student's attendance, students are required to attend the investigation meetings and the

administrative hearing or may be subject to a hold on their school records and/or registration. In the hearing, the conduct officer will review the complaint, make a determination regarding the respondent's responsibility/non-responsibility, and assign applicable sanctions. The respondent is able to appeal the decision of the conduct officer as stated in Section Eight: Appeals.

Generally for Level II Cases, if the incident under review occurred during the spring semester but was unable to be resolved prior to the end of the semester, the conduct officer and/or Title IX Coordinator will contact the accused to participate in the investigation process and Board Hearing, when applicable, in person, via phone, or other electronic medium. If the accused does not accept responsibility in a Level II case, the conduct officer will at their discretion convene a Board Hearing at the earliest possible time. Should there be a compelling and legitimate reason, as determined by the Director of Community Standards, that the case cannot be resolved during the summer, a Board Hearing will be held at the beginning of the fall semester. Cases where the accused could potentially be subject to suspension or expulsion may have financial consequences as outlined in Section Seven: Sanctions. For Level II cases in which the accused accepts responsibility, the case will be referred for an Administrative Hearing.

If the student is known to be attending SUNY Poly during the summer session or residing on campus when an incident occurs, the case shall be handled under the procedures that apply during the regular academic year as referenced in Section Six: Student Conduct Procedures. Any appeal of a decision made at this level that does not include suspension or expulsion shall be heard at the beginning of the next academic semester.

## **Section Ten: Notifications and Records**

### **Notification of Guardians of Student Conduct Action/FERPA**

In accordance with the Family Educational Rights and Privacy Act of 1974, SUNY Poly may release information pertaining to individual student conduct cases to appropriate College personnel and to parents/guardians of dependent students. Unless otherwise allowed by FERPA, information from a student's conduct file will not be made available without the student's written consent.

### **Maintenance of Records**

There shall be a verbatim record, e.g., audio recording, of all hearings. The record shall be the property of SUNY Poly and will be retained for seven (7) years from the end of the academic year in which the conduct case was resolved, except in a matter of suspension or expulsion, in which case the record is maintained indefinitely.

### **Interpretation and Revision**

Any question of interpretation regarding the Student Code of Conduct will be referred to Vice President for Student Affairs for final determination. The Student Code of Conduct will be reviewed annually under the direction of Vice President for Student Affairs.



### **Authorization**

Education Law of the State of New York (Section 356) establishes a College Council for each unit of the State University of New York with power to make regulations governing the behavior and conduct of students at each respective campus. This Student Code of Conduct has been reviewed and approved by the College Council of SUNY Polytechnic Institute.

Amendments and modifications to the Code shall take effect upon notice to the SUNY Poly community. Substantive amendments require review and approval of SUNY Poly College Council and/or as mandated by federal or state rules, law or regulations and shall take effect following notice to the SUNY Poly community.

### **Public Order**

In addition to the Student Code of Conduct, all SUNY Poly students are also governed by the Rules for the Maintenance of Public Order on College Campuses. These rules are implemented in compliance with section 6430 of the Education Law and comprise Part 535 of Title 8 of NYCRR. The College reserves the right to decide which set of conduct regulations to use in reviewing an allegation of violation.

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*Campus policy encourages every member of the campus community to report a crime promptly to the University Police Department if the victim wants to or is unable to report.*

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**Underage or incapacitated persons cannot legally consent to sexual activity.**

## New York State Definitions and Penalties for Sex Offenses

New York State definitions for sex offenses differ slightly from those required for this report (i.e., the FBI Uniform Crime Reporting (UCR)/National Incident-Based Reporting System (NIBRS) definitions). The following is a list of sexual crimes defined in the State statutes and the associated penalties for such crimes.

**CONSENT:** Lack of consent results from: forcible compulsion; or incapacity to consent; or where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct. Where the offense charged is rape in the third degree, a criminal sexual act in the third degree, or forcible compulsion in circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances. A person is incapable of consent when he or she is: less than 17 years old; or mentally disabled; or mentally incapacitated; or physically helpless; or committed to the care and custody of the state department of correctional services, a hospital, the office of children and family services and is in residential care, or the other person is a resident or inpatient of a residential facility operated by the office of mental health, the office for people with development disabilities, or the office of alcoholism and substance abuse services, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital.

**CONSENT, ABBREVIATED:** Clear, unambiguous, and voluntary agreement between the participating to engage in specific sexual activity.

**DATING VIOLENCE:** New York State does not specifically define "dating violence." However, under New York Law, intimate relationships are covered by the definition of domestic violence when the act constitutes a crime listed elsewhere in this document and is committed by a person in an "intimate relationship" with the victim. *See* "Family or Household Member" for definition of "intimate relationship."

**DOMESTIC VIOLENCE:** An act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted murder, criminal obstruction or breaching or blood circulation, or strangulation; and such acts have created a substantial risk of physical or emotional harm to a person or a person's child. Such acts are alleged to have been committed by a family member. The victim can be anyone over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of the act.

**FAMILY OR HOUSEHOLD MEMBER:** Person's related by consanguinity or affinity; Persons legally married to one another; Person formerly married to one another regardless of whether they still reside in the same household; Persons who have a child in common regardless of whether such persons are married or have lived together at any time; Unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; Persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; Any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation. Intimate relationship status shall be applied to teens, lesbian/gay/bisexual/transgender, and elderly individuals, current and formerly married and/or dating heterosexual individuals who were, or are in an intimate relationship.

**PARENT:** means natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.

**SEXUAL ASSAULT:** New York State does not specifically define sexual assault. However, according to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape as used in the FBI's UCR program.

**SEX OFFENSES; LACK OF CONSENT:** Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.

**SEXUAL MISCONDUCT:** When a person (1) engages in sexual intercourse with another person without such person's consent; or (2) engages in oral sexual conduct or anal sexual conduct without such person's consent; or (3) engages in sexual conduct with an animal or a dead human body.

A Class A misdemeanor. Punishable by up to one year in prison.

**RAPE IN THE THIRD DEGREE:** When a person (1) engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) Being 21 years old or more, engages in sexual intercourse with another person less than 17 years old; or (3) engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

A Class E felony. Punishable by one to three years in prison.

**RAPE IN THE SECOND DEGREE:** When a person (1) being 18 years old or more, engages in sexual intercourse with another person less than 15 years old; or (2) engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense to the crime of rape in the second degree the defendant was less than four years older than the victim at the time of the act.

A Class D felony. Punishable by four to seven years in prison.

**RAPE IN THE FIRST DEGREE:** When a person engages in sexual intercourse with another person (1) by forcible compulsion; or (2) Who is incapable of consent by reason of being physically helpless; or (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

A Class B felony. Punishable by nine to 25 years in prison.

**CRIMINAL SEXUAL ACT IN THE THIRD DEGREE:** When a person engages in oral or anal sexual conduct (1) with a person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) being 21 years old or more, with a person less than 17 years old; (3) with another person without such persons consent where such lack of consent is by reason of some factor other than incapacity to consent.

A Class E felony. Punishable by one to three years in prison.

**CRIMINAL SEXUAL ACT IN THE SECOND DEGREE:** When a person engages in oral or anal sexual conduct with another person (1) and is 18 years or more and the other person is less than 15 years old; or (2) who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense that the defendant was less than four years older than the victim at the time of the act.

A Class D felony. Punishable by four to seven years in prison.

**CRIMINAL SEXUAL ACT IN THE FIRST DEGREE:** When a person engages in oral or anal sexual conduct with another person (1) by forcible compulsion; (2) who is incapable of consent by reason of being physically helpless; (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

A Class B felony. Punishable by nine to 25 years in prison.

**FORCIBLE TOUCHING:** When a person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. It includes squeezing, grabbing, or pinching.

A Class A misdemeanor. Punishable by up to 3 months in prison.

**PERSISTENT SEXUAL ABUSE:** When a person commits a crime of forcible touching, or second or third degree sexual abuse within the previous ten year period, has been convicted two or more times, in separate criminal transactions for which a sentence was imposed on separate occasions of one of one of the above mentioned crimes or any offense defined in this article, of which the commission or attempted commissions thereof is a felony.

A Class E felony. Punishable by one to three years in prison.

**SEXUAL ABUSE IN THE THIRD DEGREE:** When a person subjects another person to sexual contact without the latter's consent. For any prosecution under this section, it is an affirmative defense that (1) such other person's lack of consent was

due solely to incapacity to consent by reason of being less than 17 years old; and (2) such other person was more than 14 years old and (3) the defendant was less than five years older than such other person.

A Class B misdemeanor. Punishable by up to 3 months in prison.

**SEXUAL ABUSE IN THE SECOND DEGREE:** When a person subjects another person to sexual contact and when such other person is (1) incapable of consent by reason of some factor other than being less than 17 years old; or (2) less than 14 years old.

A Class A misdemeanor. Punishable by up to one year in prison.

**SEXUAL ABUSE IN THE FIRST DEGREE:** When a person subjects another person to sexual contact (1) by forcible compulsion; (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old; or (4) when the other person is less than 13 years old.

A Class D felony. Punishable by four to seven years in prison.

**AGGRAVATED SEXUAL ABUSE:** For the purposes of this section, conduct performed for a valid medical purpose does not violate the provisions of this section.

**AGGRAVATED SEXUAL ABUSE IN THE FOURTH DEGREE:** When a person inserts a (1) foreign object in the vagina, urethra, penis or rectum of another person and the other person is incapable of consent by reason of some factor other than being less than 17 years old; or (2) finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than 17 years old.

A Class E felony. Punishable by one to three years in prison.

**AGGRAVATED SEXUAL ABUSE IN THE THIRD DEGREE:** When a person inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person (1)(a) by forcible compulsion; (b) when the other person is incapable of consent by reason of being physically helpless; or (c) when the other person is less than 11 years old; or (2) causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.

A Class D felony. Punishable by four to seven years in prison.

**AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE:** When a person inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person by (1) forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old.

A Class C felony. Punishable by six to 15 years in prison.

**AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE:** When a person subjects another person to sexual contact: (1) By forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than eleven years old; or (4) when the other person is less than thirteen years old and the actor is twenty-one years old or older.

A Class B felony. Punishable by nine to 25 years in prison.

**COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE SECOND DEGREE:** When over a period of time, not less than three months, a person: (1) Engages in two or more acts of sexual conduct with a child less than 11 years old; or (2) being 18 years old or more engages in two or more acts of sexual conduct with a child less than 13 years old. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charges offense occurred outside of the time period charged under this section.

A Class D felony. Punishable by four to seven years in prison.

**COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE:** When a person over a period of time, not less than three months in duration, a person: (1) Engages in two or more acts of sexual conduct, or aggravated sexual contact with a child less than 11 years old; or (2) being 18 years old or more engages in two or more acts of sexual conduct which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct, or aggravated sexual contact with a child less than 13 years old.

A Class B felony. Punishable by nine to 25 years in prison.

**FACILITATING A SEX OFFENSE WITH A CONTROLLED SUBSTANCE:** A person is guilty of facilitating a sex offense with a controlled substance when he or she: (1) knowingly and unlawfully possesses a controlled substance or any

preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and (2) commits or attempts to commit such conduct constituting a felony defined in this article.

**INCEST IN THE THIRD DEGREE:** A person is guilty of incest in the third degree when he or she marries or engages in sexual intercourse, oral sexual conduct or anal sexual conduct with a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

A Class E felony. Punishable by one to three years in prison.

**INCEST IN THE SECOND DEGREE:** A person is guilty of incest in the second degree when he or she commits the crime of rape in the second degree, or criminal sexual act in the second degree, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

A Class D felony. Punishable by four to seven years in prison.

**INCEST IN THE FIRST DEGREE:** A person is guilty of incest in the first degree when he or she commits the crime of rape in the first degree, or criminal sexual act in the first degree, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.

A Class B felony. Punishable by nine to 25 years in prison.

**STALKING IN THE FOURTH DEGREE:** When a person intentionally, and for not legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or (3) is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

A Class B Misdemeanor. Punishable by up to 3 months in prison.

**STALKING IN THE THIRD DEGREE:** When a person (1) Commits the crime of stalking in the fourth degree against any person in three or more separate transactions, for which the actor has not been previously convicted; or (2) commits the crime of stalking in the fourth degree against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) with an intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or (4) commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

A Class A misdemeanor. Punishable by up to one year in prison.

**STALKING IN THE SECOND DEGREE:** When a person: (1) Commits the crime of stalking in the third degree and in the course of and furtherance of the commission of such offense: (a) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, sligshot, slungshot, shirken, "Kung Fu Star," dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapons; or (b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or (2) commits the crime of stalking in the third against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree; or (4) being 21 years of age or older, repeatedly follows a

person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or (5) commits the crime of stalking in the third degree, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

A Class E Felony. Punishable by one to three years in prison.

**STALKING IN THE FIRST DEGREE:** When a person commits the crime of stalking in the third degree or stalking in the second degree and, in the course and furtherance thereof, he or she intentionally or recklessly causes physical injury to the victim of such crime.

A Class D Felony. Punishable by four to seven years in prison.

*In addition to criminal definitions, Sexual Assault and Rape are prohibited conduct as specified in the SUNY Poly Student Handbook found at: <https://sunypoly.edu/sites/default/files/studentLife/2021-2022-Student-Handbook-Master-FINAL.pdf>*

## **Child Sexual Abuse Reporting Policy**

Any employee or student of or volunteer for SUNY Poly who witnesses or has reasonable cause to suspect any sexual abuse of a child occurring on SUNY Poly property or while off campus during official SUNY Poly business or SUNY Poly sponsored events shall have an affirmative obligation to report such conduct to the University Police Department immediately. In Utica, University Police is located in Kunsela Hall B126 or call 315-792-7111. Such report should include the names of the victim and assailant (if known), other identifying information about the victim and assailant, the location of the activity, and the nature of the activity. Upon receiving such a report, the University Police Department shall promptly notify the Vice President of Human Resources, Vice President for External Relations and College President along with the Commissioner of University Police at SUNY System Administration who shall report such incidents to the Chancellor for periodic reporting to the Board of Trustees.

In addition, to aid in the prevention of crimes against children on property of SUNY Poly and/or during official SUNY Poly business at events sponsored by SUNY Poly, relevant employees should be trained on the identification of such crimes and proper notification requirements. Vendors, licensees or others who are given permission to come onto campus or to use SUNY Poly facilities for events or activities that will include participation of children shall ensure that they have in place procedures for training, implementation of applicable pre-employment screening requirements and reporting of child sexual abuse.

For purposes of this policy, the applicable definitions of child sexual abuse are those used in the NYS Penal Law in Articles 130 and 263 and Section 260.10, and “child” is defined as an individual under the age of 17.

## **Sexual Crimes and Assistance for Victims**

The SUNY Polytechnic Institute is committed to maintaining an environment in which students, faculty, staff and guests can work together free of all forms of harassment, exploitation and intimidation. The Institute strongly condemns sexual harassment in any form. Also unacceptable is conduct, such as sexual assault or rape, which constitutes a criminal offense. Such behavior is prohibited by college and university policy and federal and New York State law. The Institute will take action as needed to discourage, prevent, correct and, if necessary, discipline behavior that violates this standard of conduct.

Victims of sexual assault should immediately report the incident to University Police (315-792-7111) if it occurred on campus or to an off-campus police agency if it occurred off campus through the 911 emergency service. Victims also have the option of reporting the incident to the University’s Title IX Coordinator and/or any one of the Campus Reporting Agents listed on later pages of this report.

Faculty and staff accused of violations of the above policy receive hearings and are subject to discipline under the provisions of the applicable collectively negotiated agreements (see Personnel Policies and Procedures). They may be subject to criminal prosecution under the New York State Penal Law as well.

*Reporting a crime to the police or to a campus office does not obligate the victim to pursue criminal prosecution.*

## Counseling

SUNY Poly (Utica) provides counseling and support services at our Utica campus Counseling Center (ext. 7172). Rape Crisis Services in Utica is on call 24 hours a day at (315) 733-0665, as is the Oneida County Mobile Crisis Assessment Team (For Mental Health Crisis Services) at (315) 732-MCAT (6228).

SUNY Poly (Albany) provides counseling and psychological services through the University at Albany for all SUNY Poly Albany students. For more information, hours of operation, directions and to make an appointment, visit: [https://www.albany.edu/counseling\\_center/](https://www.albany.edu/counseling_center/) Our Albany campus can also assist individuals with additional regional counseling and support services.

## Hospital Emergency Room

If the assault involved a sexual penetration or other physical injuries, the victim should be treated as soon as possible by medical personnel. The victim should not wash, change clothing or otherwise “clean up.” Evidence can be collected several hours after an attack, but its value may be diminished. Victims should bring a full change of clothes because the clothes worn during the assault may be kept as evidence.

*Remember, assaults – sexual or otherwise – are crimes; they are not the victims’ fault. Victims have the right to pursue adjudication of crimes that occur on the SUNY Poly campus through criminal courts and/or through the University’s internal disciplinary process (under the Campus Code of Conduct). SUNY Poly Police are trained to assist with prosecution in both systems.*

## Sexual Assault and Violence Response (SAVR) Resources

SUNY Polytechnic Institute takes reports of sexual assault, domestic violence, dating violence, and stalking seriously. If you are member of the SUNY community and have experienced any of the above, the Sexual Assault & Violence Response (SUNY SAVR) Resources Website provides you with information you can use to seek resources (campus resources, off campus resources and NYS resources) and support, and to report the crime to law enforcement and/or to SUNY Poly. Choose the applicable location from the dropdown, SUNY Polytechnic Institute Albany Campus or SUNY Polytechnic Institute Utica. These resources are available at: <https://www.suny.edu/violence-response/>

## Follow Up Medical Care

Victims may need tests for sexually transmitted diseases and pregnancy. This care is critically important. University personnel from the Health & Wellness Center are available to provide information and assistance.

*In the eyes of the law and college policy, a person who is drunk, drugged, otherwise incapacitated or underage cannot consent to sexual activity.*

## Sexual Offender Registration Act and Sex Offender Registry

This Act requires the New York State Division of Criminal Justice Services (DCJS) to maintain a Sex Offender Registry. The Registry contains information on sex offenders classified according to their risk of re-offending as follows: low risk (level 1), moderate risk (level 2), and high risk (level 3). The Act requires that DCJS also maintain a subdirectory of level 3 sex offenders. The DCJS Sex Offender Registry site is available to the public at : <http://www.criminaljustice.ny.gov/nsor/> and contains their Subdirectory of Level 3 sex offenders as well as other information regarding New York State’s Sex Offender Registry.

Sex offenders in New York are required to notify the Registry of any institution of higher education at which he or she is, or expects to be, whether for compensation or not, enrolled, attending or employed, and whether such sex offender resides or expects to reside in a facility operated by the institution. Changes in status at the institution of higher education must also be reported to the Registry no later than ten days after such change.

SUNY Poly will maintain a list of any registered sexual offenders reported to the University as being enrolled, attending, or employed at the SUNY Poly.

A synopsis of some of the basic laws pertaining to the Sexual Offender Registry may be found below.

Correction Law §168-b requires that Division of Criminal Justice Services (DCJS) include this information regarding an institution of higher education on its Registry. Correction Law §168-c requires:

1. that the Department of Correctional Services, or hospital or local correctional facility in which a sex offender is confined, require that such sex offender complete a form notifying DCJS of his or her proposed address upon release and any institution of

higher education at which the offender expects to be enrolled, attending or employed, and whether he or she expects to reside in a facility owned by the institution; and,

2. that a probation officer require that a supervised sex offender complete a form notifying DCJS of any change of address or any change of status in enrollment, attendance, employment or residence at any institution of higher education while under supervision.

Correction Law §168-d requires the court to obtain the name and address of any institution of higher education at which the offender expects to be employed, enrolled or attending and whether the offender expects to reside in a facility owned or operated by that institution.

Correction Law §168-e requires a sex offender released from a correctional facility to provide the name and address of any institution of higher education the offender expects to be employed by, enrolled at or attending and whether the offender expects to reside in a facility owned or operated by that institution.

Correction Law §168-j(4) and (5) set forth the notification procedures whenever a sex offender has indicated to DCJS that he or she will be enrolled in, attending or employed at an institution of higher education. DCJS will notify each law enforcement agency having jurisdiction.

## Preserving Personal Safety

The College has education programs to promote the awareness of rape, acquaintance rape, dating violence, domestic violence, sexual assault, and stalking. These education programs include primary prevention and awareness programs for all incoming students and new employees. These education programs will include: a statement that these crimes are prohibited at the College; definitions of consent, domestic violence, dating violence, sexual assault, and stalking in the College's jurisdiction; safe and positive bystander intervention when there's a risk of one of those incidents; information on risk reduction to recognize warning signs of abusive behavior and avoiding potential attacks; and information about the institutional disciplinary procedures. If the accused individual is a student, the standard of evidence used in an institutional disciplinary hearing will be preponderance of the evidence.

The various programs and trainings offered by the college/university are described below:

1. *Prevention Programs*: These are programs to prevent dating violence, domestic violence, sexual assault, and stalking. The programs are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome. They also consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

- Specifically, at SUNY Poly several programs are being utilized including:
  - *Not Anymore* (an online program which educates students about consent and bystander intervention as well as the realities of sexual assault, dating/domestic violence, and stalking on college campuses).
  - Registration "*Essentials*" program for students
  - *SHARP* program for employees
  - *Student Orientation Safety-on-Campus program*
  - *Resident Advisor training program*
  - *Sexual Health Education Week*
  - *Title IX training*
  - *Title IX Bathroom Buzz* – educational campaign including awareness of Title IX, policies and procedures for reporting a violation and information about the above listed prevention programs.
  - *Stalking Awareness program*
  - *Campus Climate Survey* – sent to all students in 2021 to evaluate our successes and continued challenges to address.

2. *Awareness Programs*: These are community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

- Specifically, at SUNY Poly several programs are being utilized including:
  - *Not Anymore* ((an online program which educates students about consent and bystander intervention as well as the realities of sexual assault, dating/domestic violence, and stalking on college campuses).
  - Registration "*Essentials*" program for students
  - *SHARP* program for employees



- *First Year Seminar program.*
- *Poly Purple Pop-up Awareness Event for Domestic Violence Awareness Month*
- *SUNY's Got Your Back event*
- *Resident Advisor training program*
- *YWCA Purple Ribbon Domestic Violence campaign*
- *Student Orientation Safety-on-Campus program*
- *Sexual Health Education Week*
- *The Love Better Valentine's Shop*
- *The Wellness Expo*
- *Title IX Bathroom Buzz* – educational campaign including awareness of Title IX, policies and procedures for reporting a violation and information about the above listed prevention programs.
- *Campus Climate Survey* – sent to all students in 2020 to evaluate our successes and continued challenges to address.
- *Spin the Wheel Program:* trivia tabling that includes questions on bystander intervention scenarios, affirmative consent, and student conduct process and applicable policies
- *Title IX on the 9<sup>th</sup>* – Monthly emails provide information on policies, and resources to the campus community

3. *Bystander Intervention:* These programs and trainings offer safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. They include recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

• Specifically, at SUNY Poly several programs are being utilized including:

- *Not Anymore* ((an online program which educates students about consent and bystander intervention as well as the realities of sexual assault, dating/domestic violence, and stalking on college campuses).
- *Resident Advisor training program*
- *One Love Escalation Workshops*

4. *Ongoing Prevention & Awareness Campaigns:* These include programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the college/university and including information provided in campus education programs.

• Specifically, at SUNY Poly several programs are being utilized including:

- *Not Anymore* ((an online program which educates students about consent and bystander intervention as well as the realities of sexual assault, dating/domestic violence, and stalking on college campuses).
- *Title IX website services and information*
- *Aids Community Resources*, including their testing van and information tables
- *Employee Workplace Violence and Domestic Violence training*, provided to all faculty, staff and student employees.
- *Title IX on the 9<sup>th</sup>* – Monthly emails provide information on policies, and resources to the campus community
- *Spin the Wheel Program:* trivia tabling that includes questions on bystander intervention scenarios, affirmative consent, and student conduct process and applicable policies
- *Stalking Awareness program*

5. *Primary Prevention Programs:* These include programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

• Specifically, at SUNY Poly several programs are being utilized including:

- *Not Anymore* (an online program which educates students about consent and bystander intervention as well as the realities of sexual assault, dating/domestic violence, and stalking on college campuses).
- *The Script* (a one-man show confronting Dating Violence and Sexual Assault)
- *Student Orientation Safety-on-Campus program*
- *Resident Advisor training program*
- *Sexual Health Education Week*
- *The Love Better Valentine's Shop*
- *Employee Workplace Violence and Domestic Violence training*, provided to all faculty, staff and student employees.
- *Stalking Awareness program*

6. *Risk Reduction Programs*: These programs present options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

• Specifically, at SUNY Poly several programs are being utilized including:

- *Student Orientation Safety-on-Campus program*
- *Resident Advisor training program*
- *Not Anymore* ((an online program which educates students about consent and bystander intervention as well as the realities of sexual assault, dating/domestic violence, and stalking on college campuses).
- *One Love Escalation Workshops*
- *Title IX training*

## Additional Sexual Assault Prevention Programs Offered

Throughout each school year, SUNY Poly provides sexual assault awareness programs, including education on domestic violence, dating violence and stalking. These programs are offered through a variety of venues including First Year Seminar classes, lectures, speakers, small group trainings and large public events. These programs are open to the entire campus community. The University Police Department also offers a sexual assault awareness program. This program is designed to offer members of the campus community the opportunity to speak with a University Police officer in small groups on the topic of sexual assault awareness and campus issues. The topics discussed will touch upon victims' rights, support services, campus policies concerning sexual assault, and New York State Penal Law.

Here are some specific examples of what SUNY Poly does to help promote personal safety education on campus.

**Bike Patrol** — a four-officer patrol squad of certified police cyclists which operates nine months out of the year, complementing the foot and vehicle patrol.

**Anonymous Witness Program** — a form on the University Police homepage where people can anonymously report a crime [http://sunypoly.edu/university\\_police/](http://sunypoly.edu/university_police/).

**Operation Identification** — a state-wide effort to discourage burglary and theft by engraving property with an easily traced (in the US and Canada) identification number. A free service through University Police.

**Operation Lockout** — an anti-theft program in the residence halls which shows students how easy it is to become a victim of crime and simple steps to help preserve safety.

**Domestic Violence Awareness Month programming** – a tabling program to increase awareness of resources and warning signs of abusive relationships.

**Bathroom Buzz** – weekly informational initiative posted in the bathrooms on topics such as domestic violence's signs of an abusive relationship, social networking safety and travel safety.

**Wellness Expo** – every Spring Semester, the Wellness Center, in collaboration with the Central New York DDSO and the College of Health Science, Department of Nursing, organize an event with informational booths for both on campus services and community agencies/services, providing participants with information on date rape, cyber security, personal safety and more.

**“Acting like a WILDcat”**— annual programming highlighting key details of the student conduct code such as the “zero tolerance for violence” philosophy, adherence to safety regulations, the enforcement for alcohol and other drug policy violations and anti-hazing education.

**Off-Campus Jurisdiction** — SUNY Poly's policy allows for pursuing judicial action against students who are involved in off-campus incidents which also violate College policy and/or federal, state, and/or local laws, statutes, or ordinances. Typically the campus reserves this prerogative for more serious misconduct.

**Suspension/Dismissal** — students who are suspended or dismissed are NOT ALLOWED to be on campus or at campus-sponsored events for any reason unless prior permission is given by the Chief of University Police or the Vice President for Student Affairs.

**Persona Non Grata (PNG)** — an order of exclusion from campus to non-students who have demonstrated that their presence on campus would be a threat to the campus and/or campus members. Violators can be arrested for criminal trespass.

**Confidentiality** — students have the option of having their directory information unlisted. Details are available from the Vice President for Student Affairs Office, A221 Kunsela Hall, Utica campus.

**Late Evening bus service** — late evening bus service so that students do not have to walk alone to and from Utica or other local area evening destinations.

### How Can I Protect Myself?

- Call On campus – University Police – 315-792-7111
- Off campus call– NY State Police - 315-736-0121 or
- Oneida Co. Sheriff's Dept. - 315-736-0141 or
- Utica Police Dept. - 315-735-3301
- Create a safety plan that addresses your situation
- Consider filing a protective or stay-away order against your domestic/dating violence individual or stalker
- Learn your rights
- For more information, go to the United States Department of Justice Office on Violence Against Women: <https://www.justice.gov/ovw>

## **Domestic Violence**

Does your partner tell you what to do? Has your partner threatened you with physical harm? Does your partner call you names or tell you that you are worthless?

Domestic violence can affect anyone, regardless of age, race, economic background, religious beliefs, marital status, or sexual preference. Abusive behaviors include verbal, emotional, sexual, physical, psychological and economic abuse and typically get worse over time. Any behavior that intimidates, manipulates, humiliates, isolates, frightens, terrorizes, coerces, threatens, blames, hurts, injures or wounds someone is abuse. Domestic violence is dangerous and can be fatal. As such, SUNY Poly provides domestic violence training to all students and employees.

The Violence Against Women Act amendments to the Clery Act require that certain college officials charged with responding to sexual assault, domestic violence, dating violence, and stalking be trained annually in a number of areas. This college/university is a member of the SUNY Student Conduct Institute. As part of that membership, covered officials who investigate or conduct proceedings to address allegations of dating violence, domestic violence, sexual assault and stalking receive at least eight hours of training annually through attendance at the SUNY Student Conduct Institute's Basic Compliance Training and/or live Advanced Trainings and/or digital Basic or Advanced Trainings. These in-person and digital courses address topics including how to determine the relevancy of evidence and use it during the proceeding, proper techniques for questioning witnesses, basic procedural rules for conducting a proceeding, and avoiding actual and perceived conflicts of interest. These trainings also address how to conduct an investigation and hearing process that protects the safety of victims, properly employs trauma-informed practice, and promotes accountability, while protecting the due process rights of the respondent. Finally, these trainings provide comprehensive reviews of federal and state laws and regulations on point as well as relevant court and administrative opinions.

## **What Can You Do?**

It's up to you to decide what is best for you. Domestic violence is not okay and you are not alone. If you decide you need help, you may wish to:

- Call on campus – University Police – 315-792-7111
- Off campus call – NY State Police 315-736-0121 or
- Oneida Co. Sheriff's Dept. 315-736-0141 or
- Utica Police Dept. 315-735-3301
- Contact the National Domestic Violence Hotline at 1-800-799-SAFE (1-800-799-7233) for assistance and to learn about resources in your area.
- Create a safety plan that addresses you and your family's situation.
- Learn your rights.

**SUNY Poly has the authority to pursue judicial action for incidents occurring off campus that violate college policy including federal, state and/or local laws, statutes, or ordinances.**

## SUNY Board of Trustees Rules for the Maintenance of Public Order

### Summary

It is the policy of the State University of New York (University) to comply with legal requirements of NYS Education Law §6430. Accordingly, the Board of Trustees of the State University of New York has adopted written rules (8 NYCRR §535) for the maintenance of public order on University campuses and other campus properties used for educational purposes pursuant to NYS Education Law §6430.

This policy outlines the rules for the maintenance of public order (including prohibited conduct), applicability and communication of the rules, and statements regarding freedom of speech, assembly, picketing and demonstrations on campuses. Campus procedures and penalties for the violation of the rules and enforcement procedures are prescribed.

### Policy

#### I. Rules for the Maintenance of Public Order

The Board of Trustees of the State University of New York (University) has adopted written rules (8 NYCRR §535) for the maintenance of public order on campuses of the University and other campus properties used for educational purposes pursuant to NYS Education Law §6430.

##### A. Prohibited Conduct – No person either singly or in concert with others shall:

1. willfully cause physical injury to another person, nor threaten to do so;
2. physically restrain or detain any other person;
3. remove anyone from any place where he or she is authorized to remain;
4. willfully damage or destroy property of the campus or property under its care;
5. remove property of the campus or property under its care;
6. use campus property or property in the campus's care without authorization;
7. enter into any private office of an administrative officer, member of the faculty or staff member without implied or explicit permission;
8. enter into and remain in any campus building or facility for any purpose other than its authorized uses or in such manner as to obstruct its authorized use;
9. remain in any building or facility after it is closed without authorization;
10. refuse to leave a campus building or facility after being required to do so by an authorized administrative officer;
11. obstruct the free movement of people and vehicles in any place to which these rules apply;
12. deliberately disrupt or prevent the peaceful and orderly conduct of classes, lecture and meetings;
13. deliberately disrupt or prevent the freedom of any person to express his or her views, including invited speakers;
14. knowingly have in his or her possession upon the premises to which these rules apply, any rifle, shotgun, pistol, revolver, or other firearm or weapon without the written authorization of the president whether or not a license to possess the weapon has been issued to the person;
15. willfully incite others to commit any of the acts prohibited in this section with the specific intent to procure them to do so; or
16. take any action, create or participate in the creation of any situation, which recklessly or intentionally endangers the mental or physical health of anyone for the initiation into or affiliation with any organization.

##### B. Supplementary Rules – The rules in section I.A. of this policy may be supplemented by additional rules for the maintenance of public order but only to the extent that such rules are not inconsistent with those listed here.

1. The additional campus rules must be approved by the Board of Trustees of the State University of New York and filed with the commissioner of education and the Board of Regents within 90 days of adoption by the Board of Trustees.

- a. The establishment of supplementary rules for the maintenance of public order does not preclude the establishment of student behavior codes by College Councils in accordance with the procedures described in Board of Trustees policy Student Conduct Regulation Guidelines.
- b. Hereafter, whenever this policy refers to the Rules for the Maintenance of Public Order it shall also be deemed to include any supplementary rules promulgated hereunder.

**C. Applicability of the Rules** – The rules and regulations contained in section I.A. of this policy govern the conduct of students, faculty, all other staff, licensees, invitees and all other persons, whether or not their presence is authorized, upon any University campus to which the rules apply. They also apply to the same individuals with respect to any other premises or property, under the control of the University or University campus, and that are used in teaching, research, administrative service, cultural, recreational, athletic or other programs and activities.

1. Charges against any student for violation of the rules in section I.A. of this policy that result from alleged actions upon the premises of any other campus to which these rules apply shall be heard and determined at the campus where the student is enrolled.

**D. Communication of the Rules** – The rules in section I.A. of this policy as well as any approved additional campus rules for the maintenance of public order shall be provided to all students enrolled in the campuses of the University.

1. Campuses shall promptly communicate with all members of the campus community (administration, faculty, staff and students) on issues related to the rules in section I.A. of this policy as well as supplementary rules adopted and approved by the Board of Trustees.
2. To the extent that time and circumstances permit, such communication shall precede the exercise of the authority, discretion and responsibilities granted and imposed by the rules in this policy. Each campus in matters such as these shall employ such procedures and means, formal and informal, as will promote such communication.

**E. Freedom of Speech and Assembly; Picketing and Demonstrations.**

1. No student, faculty member or other staff member or authorized visitor shall be subject to any limitation or penalty for expressing his or her views or for assembling with others for such purpose;
  - a. peaceful picketing and other orderly demonstrations in public areas of campus grounds and buildings are not subject to interference provided there are no violations of the rules in section I.A. of this policy.
2. In order to provide maximum protection to the participants expressing their freedom of speech and to the campus community, each president shall:
  - a. promulgate procedures appropriate to that campus for provision of reasonable advance notice of the date and time of any planned assembly, picketing or demonstrations upon the grounds of the campus; the proposed location of the assembly or exercise; and the intended purpose;
    - i. the procedures and processes shall be reviewed and revised periodically;
    - ii. the procedures and processes for advance notice shall not be made a condition precedent to any assembly, picketing or demonstration; and
    - iii. providing advance notice shall not automatically have permission to use a campus facility or building without also following the appropriate processes for obtaining permission to use campus facilities and buildings.

## **II. Campus Procedures and Penalties for the Violation of the Rules of Maintenance of Public Order**

The Board of Trustees of the State University of New York has adopted campus procedures and penalties for the violation of the rules of maintenance of public order on campuses and other campus properties used for educational purposes pursuant to NYS Education Law §6430, as outlined herein.

**A. Procedures and Penalties for Different Categories of Individuals.**

1. The president shall inform any licensee or invitee who shall violate any provisions of these rules that his or her license or invitation is withdrawn and shall direct him or her to leave the property of the campus.

In the event of a failure or refusal to leave the premises the president shall cause the licensee or invitee's ejection from the campus.

2. In the case of any other violator, who is neither a student nor faculty or other staff member, the president shall inform the violator that they are not authorized to remain on the property of the campus and direct them to leave the premises. In the event of a failure or refusal to leave the premises the president shall cause the violator's ejection from the campus's property.

Nothing in this subdivision shall be construed to authorize the presence of anyone at any time prior to such violation nor to affect his or her liability to prosecution for trespass or loitering as prescribed in the penal law.

3. In the case of a student, charges for violation of any of these rules shall be presented and shall be heard and determined in the manner hereinafter provided in section II.3.b. and section II.3.c. of this policy.
  - a. The policy Student Conduct Regulation Guidelines authorized by NYS Education Law §356(3)(g) and codified in 8 NYCRR §500 provides for College Councils to promulgate or review and ratify rules for student conduct subject to supervision of the Board of Trustees of the State University of New York. The rules so established in such local conduct codes are valid only if they are adopted by College Councils in the manner consistent with Trustee policy. The decision to charge a student under such rules in the campus's local conduct code or those rules contained in section I.A. of this policy must be made. Once the choice is made, the campus must completely adhere to and follow the procedures, processes and penalties described for the path elected. A campus cannot charge a student under both the campus local code of conduct and the rules and procedures set forth in this policy.
  - b. Notice, Hearing and Determination of Charges against Students
    - i. Whenever a complaint is made to the president of a violation by a student or students of the rules prescribed in section I.A. of this policy or whenever he or she has knowledge that such a violation may have occurred, he or she shall cause an investigation to be made and the statements of the complainants, if any, and of other persons having knowledge of the facts reduced to writing.
    - ii. If the president is satisfied from such investigation and statements that there are reasonable grounds to believe that there has been such a violation, he or she shall prepare or cause to be prepared charges against the student or students alleged to have committed such violation.
    - iii. The charges shall state the specific offense and section designation of the offense's prohibition and shall specify the ultimate facts alleged to constitute the offense. Such charges shall be in writing and shall be served on the student or students named therein by delivering the charges to the student or students personally, if possible, or, if not, by mailing a copy of such charges by registered mail to the student or students at their usual place or places of abode while attending campus and also to their home address or addresses, if different.
    - iv. The notice of charges so served shall fix a date for a hearing of the charges not less than 10 or more than 15 days from the date of service which shall be the date of mailing where necessary to effect service by mail.
    - v. Failure to appear in response to the charges on the date fixed for the hearing, unless there has been a continuance for good cause shown, shall be deemed to be an admission of the facts stated in such charges and shall warrant such action as may then be appropriate. Before taking such action, the hearing committee, referred to section II.3.c. of this policy, shall give notice to any student, who has failed to appear, in the manner prescribed in section II.3.b.iv. of this policy, of its proposed findings and recommendation to be submitted to the president and shall so submit such findings and recommendations 10 days thereafter unless the student has meanwhile shown good cause for his or her failure to appear, in which case the hearing shall be rescheduled.
    - vi. Upon demand at any time before or at the hearing, the student charged or his or her duly designated representative shall be furnished a copy of the statements taken by the president in relation to such charges and the names of other witnesses who will be produced at the hearing in support of the charges. The provision of the witness names and statements shall not preclude the testimony of witnesses who were unknown at the time of such demand.
    - vii. The president may, upon the service of charges, suspend the student named therein, from all or any part of the campus's premises or facilities pending the hearing and determination thereof,

whenever, in the president's judgment, the continued presence of such student would constitute a clear danger to himself or herself or to the safety of persons or property on the premises of the campus or would pose an immediate threat of disruptive interference with the normal conduct of the campus's activities and functions; provided, however, that the president shall grant an immediate hearing on request of any student so suspended with respect to the basis for such suspension.

4. In the case of a faculty member having a continuing or term appointment, charges of misconduct in violation of these rules shall be made, heard and determined in accordance with title D of Part 338 of the Policies of the Board of Trustees [see UUP Bargaining Agreement Article 19.]
  - a. Penalties – If a faculty member having a continuing or term appointment, is found guilty of misconduct through violations of the rules in section I.A. of this policy, he or she may be subject to dismissal or termination of his or her employment or such lesser disciplinary action as the facts may warrant including suspension without pay or censure.
5. In the case of any staff member who holds a position in the classified civil service, described in NYS Civil Service Law §75, charges of misconduct in violation of these rules shall be made, heard and determined as prescribed in that section.
6. Any other faculty or staff member who shall violate any provision of these rules be dismissed, suspended without pay, or censured by the appointing authority as prescribed in the Policies of the Board of Trustees.
7. Organizations which operate upon any campus of the University or upon the property of any University campus used for educational purposes shall be prohibited from authorizing the conduct described in section I.A.16. of this policy.
  - a. The president at each campus shall be responsible for the enforcement of this section.
  - b. Whenever the president has determined on the basis of a complaint or personal knowledge that there is reasonable ground to believe that there has been a violation of section I.A.16. of this policy by any organization, the president shall prepare or cause to be prepared written charges against the organization, which shall state the rule, and section violated and shall specify the ultimate facts alleged to constitute such violation.
    - c. Such written charges shall be served upon the principal officer of the organization by registered or certified mail, return receipt requested, to the organization's current address and shall be accompanied by a notice that the organization may respond in writing to the charges within 10 days of receipt of said notice. The notice of the charge so served shall include a statement that the failure to submit a response within 10 days shall be deemed to be an admission of the facts stated in such charges and shall warrant the imposition of the penalty described in section II.A.7.g. of this policy. The response shall be submitted to the president and shall constitute the formal denial or affirmation of the ultimate facts alleged in the charges. The president may allow an extension of the 10-day response period.
    - d. Upon written request, by an authorized representative of the organization, the president shall provide the representative organization an opportunity for a hearing. A hearing panel designated by the president shall hear or receive any testimony or evidence which is relevant and material to the issues presented by the charge and which will contribute to a full and fair consideration thereof and determination thereon. The organization's representative may confront and examine witnesses against and may produce witnesses and documentary evidence on its behalf.
    - e. The hearing panel shall submit written findings of fact and recommendations for disposition of the charge to the president within 20 days after the close of the hearing.
    - f. Final authority to dismiss the charges or to make a final determination shall be vested in the president. Notice of the decision shall be in writing; shall include the reasons supporting such decision; and shall be served on the principal officer of the organization by mail in the manner described in section II.A.7.c. of this policy within a reasonable time after such decision is made.
    - g. Any organization, which authorizes the prohibited conduct described in section I.A.16. of this policy, shall be subject to the rescission of permission to operate upon the campus or upon the property of the campus. The penalty provided in this subdivision shall be in addition to any penalty which may be imposed pursuant to the penal law and any other provision of law, or to any penalty to which an individual may be subject pursuant to this policy or the student code of conduct for the campus.

### **c. The Hearing Committee and Its Procedures for Charges against Students**



i. There shall be constituted at each campus a hearing committee to hear charges against students of violation of the rules for the maintenance of public order entailed to in section I.A. of this policy. Such committee shall consist of three members of the administrative staff and three members of the faculty, designated by the president, and three students who shall be designated by the members named by the president. The president shall appoint a chairperson of the committee.

ii. Each such member shall serve until his or her successor or replacement has been designated.

iii. No member of the committee shall serve in any case where he or she is a witness or is or has been directly involved in the events upon which the charges are based. In order to provide for cases where there may be such a disqualification and for cases of absence or disability, the president shall designate an alternate member of the administrative staff and an alternate member of the faculty, and the president's principal designees shall designate an alternate student member, to serve in such cases.

iv. Any five members of the committee may conduct hearings called by the chairperson and make findings and recommendations as hereinafter provided. At any campus where the president determines that the number of hearings which will be required to be held is, or may be, so great that they cannot otherwise be disposed of with reasonable speed, he or she may determine that the hearing committee shall consist of six members of the administrative staff and six members of the faculty to be designated by him or her and of six students who shall be designated by the members designated by him or her. In such event the president shall designate one of such members as chairperson who may divide the membership of the committee into three divisions each to consist of two members of the administrative staff, two faculty members and two students and may assign charges among such divisions for hearing. Any four members of each such division may conduct hearings and make recommendations as hereinafter provided.

v. The hearing committee shall not be bound by the technical rules of evidence but may hear or receive any testimony or evidence which is relevant and material to the issues presented by the charges and which will contribute to a full and fair consideration thereof and determination thereon.

vi. A student against whom the charges are made may appear by and with representatives of his or her choice. The charged student but not his or her representatives or witnesses may confront and examine witnesses against him or her and may produce witnesses and documentary evidence in their own behalf.

vii. There may be present at the hearing: the student charged and his or her representatives and witnesses; other witnesses; representatives of the campus's administration; and, unless the student shall request a closed hearing, such other members of the campus community or other persons, or both, as may be admitted by the hearing committee.

viii. A transcript of the proceedings shall be made.

ix. Within 20 days after the close of a hearing, the hearing committee shall submit a report of its findings of fact and recommendations for disposition of the charges to the president together with a transcript of the proceedings, and shall at the same time transmit a copy of its report to the student concerned or his or her representative. Within 10 days thereafter the president shall make his determination thereon.

x. Final authority to dismiss the charges or to determine the guilt of those against whom they are made and to expel, suspend or otherwise discipline them shall be vested in the president. If the president shall reject the findings of the hearing committee in whole or in part, he or she shall make new findings which must be based on substantial evidence in the record and shall include them in the notice of the final determination which shall be served upon the student or students with respect to whom it is made.

**d. Penalties** – Students found to be responsible for a violation of the rules of public order shall be subject to expulsion or such lesser disciplinary action as the facts of the case may warrant, including suspension, probation, loss of privileges, reprimand or warning.

### **III. Mandates for Enforcement of the Rules for Maintenance of Public Order**

A. The Board of Trustees of the State University of New York has adopted enforcement policies for the rules and regulations for the maintenance of public order on campuses and other campus properties used for educational purposes pursuant to NYS Education Law §6430 as outlined herein.

#### **Enforcement Program**

1. The president shall be responsible for the enforcement of the rules in §I.A. of this policy and he or she may designate to other administrative officers authorization to take action in accordance with such rules when required or appropriate to carry them into effect.
2. It is not intended by any provisions herein to curtail the right of students, faculty or staff to be heard upon any matter affecting them in their relations with the campus. In the case of any apparent violation of the rules in section I.A. of this policy by such persons, which, in the judgment of the president, does not pose any immediate threat of injury to person or property, the president may make reasonable effort to learn the cause of the conduct in question. They may make a reasonable effort to persuade those engaged therein to desist and resort to permissible methods for the resolution of any issues which may be presented. In doing so, the president shall warn such persons of the consequences of persistence in the prohibited conduct, including their ejection from any premises of the campus where their continued presence and conduct is in violation of these rules.
3. In any case where violation of the rules in section I.A. of this policy does not cease after such warning and in other cases of willful violation of such rules, the president shall cause the ejection of the violator from any premises, which he or she occupies in such violation. The president shall initiate disciplinary action as provided in section II of this policy.
4. The president may apply to the public authorities for any aid, which he or she deems necessary in causing the ejection of any violator of these rules.
5. The president may request the University counsel to apply to any court of appropriate jurisdiction to restrain the violation or threatened violation of such rules.

**Definitions**

Organization – includes but is not limited to, recognized campus or student government organizations or clubs, alumni organizations, athletic teams and clubs, fraternities and sororities or any group that has access to and uses campus facilities.

## Clery Crime Statistics and Definitions

The Campus Security Act also delineates what offenses/violations need to be reported. The section on campus crime statistics also includes arrests and disciplinary referrals made to campus authorities for alcohol, drugs and weapons possession which were in violation of State law. As defined by the Clery Act, a disciplinary referral is an instance when a student is formally reported in writing to a university officer for possible sanction. The following offense definitions are excerpted from the Uniform Crime Reporting Handbook. The definitions of sex offenses are excerpted from the national incident-based reporting edition of the Uniform Crime Reporting Handbook (FBI Uniform Crime Reporting (UCR)/National Incident-Based Reporting System (NIBRS) definitions.

**Murder and Non-Negligent Manslaughter:** the willful killing of one human being by another.

**Negligent Manslaughter:** the killing of another person through gross negligence.

**Sex Offenses:** any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

**Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

**Incest:** non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape:** Non-forcible sexual intercourse with a person who is under the statutory age of consent (in New York State, the age of consent is seventeen).

**Robbery:** taking or attempting to take anything of value from the care, custody, or control of a person(s) by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault:** an unlawful attack by one person upon another to inflict severe or aggravated bodily injury. This is usually accompanied by the use of a weapon or by means likely to produce great bodily harm or death, although it is not necessary that injury result when a weapon is used.

**Burglary:** unlawful entry of a structure to commit a crime including, but not limited to, larceny, arson, sexual assault, criminal mischief, and all attempts to do so.

**Motor Vehicle Theft:** the taking (or attempt) or use of a motor vehicle by persons not having lawful access.

**Arson:** willful or malicious burning or attempting to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle, personal property of another, etc.

**Drug Abuse Violations:** violations of state and local laws related to possession, sale, use, growing or manufacturing of narcotic drugs, marijuana, or other controlled substances.

**Liquor Law Violations:** violations and attempted violations of laws or ordinances prohibiting manufacturing, selling, transporting, furnishing, or possessing intoxicating liquor including, but not limited to: maintaining unlawful drinking places; furnishing liquor to a minor or intoxicated person; and drinking on a common carrier.

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

**Hate Crime:** when a person is victimized intentionally because of her/his actual or perceived race, gender, sexual orientation, ethnicity or disability. Any reported hate crimes are included in this report.

## Clery Statistics - Calendar Years 2019, 2020, 2021 (Utica campus)

Crime Classification	Year	Campus		Non-Campus	Public Property	Total	Hate Crimes	Unfounded Crimes
		On Campus Student Housing	On Campus Total					
Murder/Non Negligent Manslaughter	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Negligent Manslaughter	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Rape	2021	4*	8**	0	0	8	0	0
	2020	0	0	0	0	0	0	0
	2019	2	2	0	0	2	0	0
Fondling	2021	0	2***	0	0	2***	0	0
	2020	0	0	0	0	0	0	0
	2019	2	2	0	0	2	0	0
Incest	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Statutory Rape	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Robbery	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Aggravated Assault	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Burglary	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Motor Vehicle Theft	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Liquor Law Arrests (does not include DWI)	2021	0	0	0	0	0	n/a	0
	2020	0	0	0	0	0	n/a	0
	2019	0	0	0	0	0	n/a	0
Drug Law Arrests	2021	0	0	0	0	0	n/a	0
	2020	0	0	0	0	0	n/a	0
	2019	0	0	0	0	0	n/a	0
Weapons Law Arrests	2021	0	0	0	0	0	n/a	0
	2020	0	0	0	0	0	n/a	0
	2019	0	0	0	0	0	n/a	0
Liquor Law Violations Referred for Disciplinary Action	2021	0	0	0	0	0	n/a	0
	2020	0	0	0	0	0	n/a	0
	2019	16	16	0	0	16	n/a	0
Drug Law Violations Referred for Disciplinary Action	2021	2	2	0	0	2	n/a	0
	2020	7	11	0	0	11	n/a	0
	2019	10	10	0	0	10	n/a	0
Weapons Law Violations Referred for Disciplinary Action	2021	0	0	0	0	0	n/a	0
	2020	0	0	0	0	0	n/a	0
	2019	0	0	0	0	0	n/a	0

\* - Two incidents occurred in the year 2020, they were first reported in 2021 and by regulations are applied to the year reported.

\*\* - Six incidents of this total occurred in the years 2016 to 2020, they were first reported in 2021 and by regulations are applied to the year reported.

\*\*\* - Two incidents occurred in the year 2016, they were first reported in 2021 and by regulations are applied to the year reported.

**Clery Statistics - Calendar Years 2019, 2020, 2021 (Utica campus)**

Offense (Crimes Not Reported By Hierarchy)	Year	Campus		Non- Campus	Public Property	Total	Hate Crimes	Unfounded Crimes
		On Campus Student Housing	On Campus Total					
Arson	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Domestic Violence	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Dating Violence	2021	1	1	0	0	1	0	0
	2020	0	1	0	0	1	0	0
	2019	0	0	0	0	0	0	0
Stalking	2021	0	1	0	0	1	0	0
	2020	0	0	0	0	0	0	0
	2019	0	1	0	0	1	0	0
<b>Additional hate crimes to be reported, listed by Clery location</b>								
Larceny/theft hate crimes	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Simple Assault hate crimes	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Intimidation hate crimes	2021	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
Destruction, damage, vandalism of property, making graffiti hate crimes	2021	0	0	0	0	0	0	0
	2020	1(R)	1(R)	0	0	1(R)	1(R)	0
	2019	0	0	0	0	0	0	0

When a hate crime is reported, it will be labeled with the following categories of prejudice:  
R=race, G=gender, GI=gender identity, REL=religion, SO=sexual orientation, SI=sexual  
identity, NO=National Origin, E=ethnicity and/or DI=Disability.

## Campus Fire Safety

SUNY Poly's fire log is maintained and available by contacting University Police. The following chart is a compilation of fires that occurred on campus property for 2018, 2019 and 2020. Note that cases of arson would also be reported in the crime section of this document.

Residential Facility	Year	Total Fires in each Building	Fire Number	Cause of Fire	Number of injuries that Required Treatment at a Medical Facility	Number of Deaths Related to a Fire	Value of Property Damage caused by Fire
Adirondack Hall Central Commons & A through D	2021	0	2020-1	Spilled liquid on stovetop burner	0	0	0
	2020	1					
	2019	0					
Adirondack Hall E through L	2021	0	n/a	n/a	0	0	0
	2020	0					
	2019	0					
Adirondack Hall M through T	2021	0	n/a	n/a	0	0	0
	2020	0					
	2019	0					
Adirondack Hall U through Y	2021	0	n/a	n/a	0	0	0
	2020	0					
	2019	0					
Hilltop Hall	2021	0	n/a	n/a	0	0	0
	2020	0					
	2019	n/a					
Mohawk Hall A through D	2021	0	n/a	n/a	0	0	0
	2020	0					
	2019	0					
Mohawk Hall E through L	2021	0	n/a	n/a	0	0	0
	2020	0					
	2019	0					
Oriskany Hall	2021	0	n/a	n/a	0	0	0
	2020	0					
	2019	0					

For the safety of all residents, use and/or possession of these appliances will not be allowed in any of the residence hall rooms:

- Space heaters
- hot plates
- hot pots (permissible if thermostatically controlled)\*\*
- electric coils
- any other electrical appliance used for cooking or preparing food (Foreman grills/ovens, propane grills)
- any lamps with plastic shades, i.e. "octopus" lights
- refrigerators\*\*\*
- extension cords\*
- potpourri pots
- lava lamps
- toaster/toaster ovens
- air conditioners
- microwave ovens

- electric blankets (permissible if thermostatically controlled)\*\*
- electric percolators and drip coffee pots\* \*

\* *Electrical, polarized, grounded power strips with built-in circuit breakers are acceptable. Regular extension cords/zip cords/adaptors/3-way taps/orange heavy cords/damaged cords or wires are prohibited.*

\*\* *Students can have UL approved coffee pots, hot pots and electric blankets with built-in automatic shut-offs.*

\*\*\* *Students requiring refrigerators for medical needs must provide medical documentation from the College Health & Wellness Center to support the need and to obtain Residential Life & Housing approval.*

Firearms, (including BB, pellet and paintball), weapons, ammunition, firecrackers, explosives, harmful chemicals or any other type of flammable materials are not to be stored or used in or around the residence halls.

Internal combustion engines are prohibited within the buildings.

No combustible materials are permitted in the residence halls.

All residence halls are non-smoking. Smoking is allowed outside of residence halls in designated areas.

Candles or incense of any type are not permitted in student suites due to the potential fire threat they pose to all students living in the community. This includes any decorative or fragrant candles. Because of the danger of fire, candles and any kind of open flame (including charcoal, propane, grills, stoves and incense) cannot be allowed in the residence halls. Alternative non-flame (electric/battery operated) candle usage for religious observances may be permitted under controlled circumstances through the Office of Environmental Health and Safety.

## Fire Safety Systems Student Housing Facilities

Residential Facilities	Fire Alarm Monitoring done on site (by UPD)	Partial *1 Sprinkler System	Full *2 Sprinkler System	Smoke Detection	Fire Extinguisher Devices	Evacuation Plans & Placards	Number of Evacuation (fire) Drills in 2021
Adirondack Hall Central Commons & A through D	X	X		X	X	X	4
Adirondack Hall E through L	X	X		X	X	X	4
Adirondack Hall M through T	X	X		X	X	X	4
Adirondack Hall U through Y	X	X		X	X	X	4
Hilltop Hall	X		X	X	X	X	4
Mohawk Hall A through D	X	X		X	X	X	4
Mohawk Hall E through L	X	X		X	X	X	4
Oriskany Hall	X		X	X	X		4
*1 Partial Sprinkler System is defined as having sprinklers in the common areas only. *2 Full Sprinkler System is defined as having sprinklers in both the common areas and individual rooms.						<b>Total</b>	<b>32</b>

Note: Fire alarm pull stations are provided in every building to provide manual activation of the fire alarm system.

As residence halls are rehabilitated, special attention is given to fire safety systems. SUNY Poly has included posting evacuation instructions on the back of residence hall suite doors.

All fires need to be reported to the University Police 315 792-7111 or the County 911 Center.

**In 2019, a total of 28 fire drills were held in campus residence halls.  
In 2020, 30 fire drills were held.  
In 2021 32 fire drills were held.**



## Responsibilities

The Environmental Health and Safety Office has the following responsibilities under Emergency Responses Plans: 1) reviewing and updating the safety standards; 2) evaluating the standard's effectiveness; 3) providing or coordinating Emergency Response Plan training; 4) reporting fires, emergencies, and related issues to the appropriate agencies; 5) providing information about this standard and specific responsibilities to employees; and 6) responding to or assisting with other campus emergencies.

Supervisors will assist with efforts to provide Emergency Response Plan training to employees.

Students have responsibility for 1) Reporting fires and other emergencies; 2) correcting or reporting unsafe conditions; and 3) observing evacuation procedures and protocol for other campus emergencies.

## Emergency Evacuation

### Terms and Definitions:

Evacuation Assembly Area (EAA)-an outside location at least 50 feet from the building away from roads and walkways used by emergency vehicles.

Evacuation Site (ES)-a building in close proximity to the evacuated building that will provide protection from the weather or other elements in the case of a prolonged evacuation. The on-site incident commander, usually a University Police Officer, will determine if personnel should move from the Evacuation Assembly Area to the Evacuation Site.

### Procedures:

Evacuation is required any time the fire alarm sounds, an evacuation announcement is made, or a university official orders evacuation from a building to the Evacuation Assembly Area (EAA). When an evacuation occurs, departments should put their evacuation plan into effect. After the building has been evacuated, the building cannot be re-entered until University Police give permission. The silencing of alarms is not the sole indicator that it is safe to re-enter.

Faculty members should notify each class at the beginning of the semester of the designated evacuation plan. The department's plan should indicate a meeting place outside of the building, EEA as well as the designated ES. It is imperative that students know to stay together as a class while at the EAA or the ES. Everyone must be accounted for and their names should be written down, or checked off an attendance roster. You cannot release students from the EAA or ES until University Police give permission to do so.

## General Evacuation Procedures for Academic and Administrative Buildings

Quickly shut down any hazardous operations or processes and render them safe.

- Notify others in the area of the alarm if they did not hear it
- Exit the room
- Take jackets or other clothing needed for protection from the weather.
- If possible, close windows and doors as you leave, but do not lock the doors.
- If you are away from the class/lab room when the alarm sounds, exit the building immediately and do not return to the room. You should meet the class at the EEA.
- Exit the building, walk to the nearest safe exit route (do not run).
- Do not use elevators.
- Move away from the building, report to the class/lab designated EAA and meet with other persons from the class or lab. Wait at EAA for directions.
- Account for faculty, staff and students and write down their names while at the EEA. Report any missing or trapped people to the emergency responders. Keep existing groups together.
- Review with everyone the location of the Evacuation Site, should this have been an instance where you would have been required to go there.
- Do not re-enter the building until University Police gives the "all clear" signal.

## Student Housing

Evacuation procedures are posted in each suite. Special procedures are in place for evacuating students with disabilities and are disseminated through the student fire safety presentations and brochures each year.

In the residence halls, students are expected to leave the facility immediately after the fire alarm is activated. Any on-site staff members at the time of an alarm are expected to leave at the time of an alarm and if safely possible, make additional notification to others as they progress

downward to the main floor of a building. Staff members assume responsibilities such as prohibiting students from reentering the building as they wait for the University Police or fire department to determine the cause of the alarm activation. Staff members report to University Police and the local fire department any special needs or issues they observe while evacuating the facility. Specific evacuation procedures and staff responses are outlined in the Emergency Response Plan for the Residence Life and Housing staff.

University Police has responsibility for 1) assisting with fire drills and emergency evacuations; 2) reporting fires and emergencies to the appropriate agencies; and 3) responding to or assisting with other campus emergencies.

Visitors have responsibility for observing evacuation procedures and protocol for other campus emergencies.

Employees have responsibility for 1) reporting fires and other emergencies; 2) correcting or reporting unsafe conditions; and 3) observing evacuation procedures and protocol for other campus emergencies.

## **Fire Safety Education and Training**

All faculty, staff, and students are expected to familiarize themselves with the evacuation plan for the buildings in which they occupy including the identified assembly places. Evacuation routes are posted in the hallways on every floor. In the residence halls, students are instructed at the opening residence hall meeting on evacuation procedures. Programs are also presented in residence halls on various safety issues including fire safety. Students are reminded about fire evacuation procedures during all hall meetings, floor meetings, or after problems occur during fire drills and accidental activations of the alarm. Additionally, all first-year students are required to attend a fire safety presentation and receive a fire safety brochure.

Employees, as well as students, are advised to report any fire safety concerns relating to fire safety equipment such as fire extinguishers, exit signs, detectors, doors, pull stations, and emergency lights within their residence hall. Work requests are subsequently submitted to address items that require corrective action or if immediate attention is needed Facilities and/or University Police are to be notified. Additionally, student rooms are thoroughly inspected during each semester. Incidentals such as misuse of extension cords, candles, and unapproved appliances are scrutinized. Any “illegal” item found during an inspection may be confiscated and, in some instances, students may be referred to the office of Judicial Affairs.

Employees will receive Emergency Response Plan training when they are initially assigned to a position and annually thereafter. Employees will also receive training when certain responsibilities and aspects of this plan change. This training will include: protocol for reporting fires; procedures for evacuating a building; use of fire extinguishers; and how to respond to other emergencies. Students will receive this training during the beginning of the fall semester or orientation sessions.

**Copies of the Emergency Response Plan and the SUNY Fire Safety Report are available through SUNY Poly’s Environmental Health and Safety Office.**

**Employees and students should familiarize themselves with the emergency evacuation procedures posted in their buildings. Special attention should be given to the evacuation procedures for persons with disabilities.**

## Campus and Community Resources

### Available for the Victims of Campus Crime

#### University Police Department

**Gary Bean**, Chief of Police (315)-792-7222

(criminal investigations, personal security information)

**Dial 7111** – Emergency from an on-campus telephone or use any emergency call box with a blue light

**Dial 315-792-7111** – Emergency from an off-campus telephone

#### Division of Student Affairs

**Marybeth Lyons**, Vice President for Student Affairs, 315-792-7505

**Jennifer Adams**, Assistant Vice President for Student Affairs, 315-792-7810

**Megan Lennon**, Director of Community Standards and Leadership, 315-792-7530

**Stacey Genter**, Interim Coordinator of Wellness Center Services & Health Promotion Coordinator, 315-792-7172 (medical assistance)

**Nicole Schrech-Mathias**, Family Nurse Practitioner, 315-792-7172 (medical assistance)

**Sandra Mizerak**, Counselor, 315-792-7172 (counseling) (confidential contact)

**Nicole Ollerenshaw**, Counselor, 315-792-7172 (counseling) (confidential contact)

#### Title IX Coordinator

SUNY Poly official who is responsible for coordinating Title IX compliance, which prohibits sex discrimination including sexual harassment and sexual violence.

**Katie Tynan-Simon**, Title IX Coordinator

315-792-7235, Student Center, S228 (Utica), [ktynan@sunypoly.edu](mailto:ktynan@sunypoly.edu)

518-956-7317, Nano Fab East, Suite 4250(Albany)

**Dr. Mark Montgomery**, Deputy Title IX Coordinator

315-792-7338, Kunsela Hall B233 (Utica), [montgom@sunypoly.edu](mailto:montgom@sunypoly.edu)

#### Community Resources

- New York State Police – 315-736-0121 or 911
- Oneida County Sheriff's Office – 315-736-0141 or 911
- Utica Rape Crisis Services – 315-797-7740
- Maynard Emergency Response (Ambulance) – 315-732-0224 or 911
- St. Elizabeth's Hospital Emergency – 315-798-8111
- Faxon-St. Luke's Healthcare Emergency – 315-624-6112
- YWCA Domestic & Sexual Violence Services (24 hours) – 315-797-7740
- Oneida County MCAT (Mobile Crisis Assessment Team) 315-732-6228

#### Related Web Sites

History of the Campus Security Act: <https://clerycenter.org/>

Campus judicial procedures including student behavior expectations, violation definitions, victims' rights, violators rights, hearing procedures, potential sanctions: Code of Student Conduct and Related Policies: <https://sunypoly.edu/sites/default/files/student%20conduct/Student-Code-of-Conduct.pdf>

Crime alert information, crime statistics & prevention, patrol information, emergency blue light phone system, anonymous witness program: <https://sunypoly.edu/university-police.html>

Campus crime statistics – US Department of Education: <https://ope.ed.gov/security/>

*Paper copies of this document are available at the University Police Department, Admissions Office, and Human Resources Office.*

