



**SULLIVAN**  
COUNTY COMMUNITY COLLEGE  
S · U · N · Y

**SEXUAL VIOLENCE RESPONSE POLICY**  
EFFECTIVE JULY 1, 2016

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## **I. Introduction**

SUNY Sullivan strives to maintain a respectful, safe, and nonthreatening environment for its students, faculty, staff, and visitors. The College does not tolerate sexual violence of any kind, which includes sexual harassment, sexual assault, intimate partner violence and stalking. This policy establishes procedures for responding to incidents of sexual violence and sets forth available resources for individuals reporting sexual violence (Complainant) and for individuals accused of or responding to allegations of sexual violence (Respondent).

## **II. Student's Bill of Rights**

The State University of New York and SUNY Sullivan is committed to providing options, support, and assistance to members of the SUNY Sullivan community that are affected by sexual assault, sexual harassment, intimate partner violence, domestic violence, dating violence and/or stalking to ensure that they can continue to participate in college and campus programs, activities, and employment, regardless of whether the crime or violation occurred on campus or off campus. The rights listed below are afforded to all students reporting sexual violence, as well as all students accused of sexual violence, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, status as a domestic violence victim, or criminal conviction.

SUNY Sullivan values the dignity of individuals and will take the necessary measures to ensure that individuals who report offenses are treated in a compassionate manner.

### **All SUNY Sullivan students have the right to:**

- a. Make a report to any law enforcement agency of their choosing and/or the SUNY Sullivan Office of Public Safety.
- b. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously.
- c. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure from the institution.
- d. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard:
  1. To receive written, advanced notice of a disciplinary hearing involving the Respondent.
  2. Student has the right to request a postponement of disciplinary conferences and/or hearings for reasonable cause. Such requests must be made in writing to Chair of the Student Conduct Committee or the Dean of Student Development Services and must include the reason for the request. Should the victim wish to not be present in the same room as the Respondent during the disciplinary hearing, alternative arrangements may be made as is reasonable.
  3. Be accompanied by an advisor of choice who may assist and advise a Complainant, or Respondent throughout the judicial or conduct process including during all meetings and hearings related to such process. The advisor may not present statements, arguments, or question witnesses or participate directly in any hearing, but may speak privately to their advisee during the proceeding. The advisor or the advisee may request a brief recess to consult which will be granted at the discretion of the Student Conduct Committee Chair. Members of the Student Conduct Committee may not serve as a student's advisor at the hearing.
  4. To only have information pertinent to the case be presented and not have unrelated prior behavior presented against him/her.
  5. To question the Respondent and witnesses and to call witnesses during disciplinary proceedings. The Complainant has the right to participate in disciplinary proceedings via technology.

6. To present a statement of impact in disciplinary proceedings if the Respondent is found in violation of the Code of Conduct.
  7. To be informed simultaneously and in writing of the results of disciplinary proceedings, any appellate procedures available, any changes to the results that may occur prior to the time that the result becomes final, and when the results become final.
  8. To appeal the findings/sanctions on the same grounds afforded to the charged student (see Student Code of Conduct Chapter XIV; Appeals) in cases of sexual harassment, sexual assault, rape or violence. The Appeal must be considered by a duly constituted panel of the Student Conduct Committee.
- e. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available.
  - f. Be free from any suggestion that the Complainant is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
  - g. Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident.
  - h. Be free from retaliation by the institution, and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
  - i. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College. This means that we will not schedule meetings or hearings on days of religious observance (for instance, holding a hearing on a Friday night when the Complainant or respondent is a religious Jewish person), require a student to undergo medical procedures that they say are forbidden by their religion, or otherwise require a Complainant to have to choose between their religion or belief system and reporting to the institution.
  - j. To request changes in housing and/or class schedule which would enhance the safety and security of the victim when those changes are reasonably available.

The Student Code of Conduct can be accessed here:

<http://sunysullivan.edu/student-code-of-conduct/>

### **III. Procedures for Responding to an Individual Who Has Been the Victim of Sexual Violence**

**A. Ensuring the Complainant's Safety:** If you or the Complainant believe that there is an immediate threat or danger, call the Police. (*The term 'Complainant' encompasses the term victim, survivor, complainant, claimant, or witness with victim status*)

**In emergency situations, dial 911.** Below are the non-emergency numbers for local law enforcement agencies:

The Complainant may contact any of the following:

**SUNY Sullivan Office of Public Safety:** (C115) 845-434-5750 x4315  
**Title IX Coordinator for Students:** (Office J113), 845-434-5750 x4263  
**NY State Police - Campus Sexual Assault Victims' hotline** 844-845-7269  
**Sullivan County Sheriff's Department** (845) 794-7100  
**Town of Fallsburg Police:** 845-434-4422

**B. Offering Medical Treatment:** Individuals who have experienced a recent sexual assault or act of physical violence are encouraged to visit a hospital, clinic, or Student Health Services to assess and address their medical needs.

*(Student Health Services is for students only and does not perform emergency medical care or Sexual Assault Forensic Examinations. However, the Health Services will provide non-emergent care and medical follow up, including attention to injuries and evaluation for STI's and pregnancy)*

A medical exam can assess a victim's injuries and provide necessary medical advice and medication. Complainants should be advised that information provided during a medical exam is confidential and will not be released or shared without the Complainant's consent. Individuals reporting sexual assault should also be advised of their option to undergo a Sexual Assault Forensic Exam. These exams are performed by skilled clinicians at local hospitals. The exam includes assessment for and treatment of injury, addressing concerns of pregnancy and sexually transmitted infections (STI's), and collection of evidence. Individuals reporting sexual assault should be advised as follows:

- a. That choosing to undergo a Sexual Assault Forensic Exam does not require that the Complainant report the violence to local law enforcement, the SUNY Sullivan Office of Public Safety or College administration. However, the exam is strongly recommended as it will greatly enhance the likelihood of a successful prosecution of the assailant in criminal cases should the victim choose to report the incident now or in the future. (*For the purposes of evidence collection, the Sexual Assault Forensic Exam should be conducted within 96 hours of the assault. However, even if 96 hours have elapsed, the exam is still recommended. The Sexual Assault Forensic Exam is free, and does not have to be charged to the victim's insurance*)
- b. That it is important not to bathe, wash or change clothes, or brush one's teeth prior to seeking medical attention. If possible, it is also best that the victim not take fluids or use the bathroom prior to the exam.
- c. That information provided during the Sexual Assault Forensic Exam is confidential, and will not be released or shared with anyone, including Police and the College, without the victim's consent.
- d. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found here: <https://www.ovs.ny.gov/help-crime-victims>
- e. If an individual reporting sexual violence chooses to obtain medical care, assistance should be provided in arranging for transportation to the hospital or clinic chosen by the Complainant. This assistance can be provided by the Office of Public Safety, Residential Life Staff, counseling staff, Health Services or the Title IX Coordinator. Complainants should be further informed that they can request that an advocate accompany them to the hospital.

**Campus Health Services (Students only):** (H012) 845-434-5750 x4419

Off-campus advocates are also available to the entire campus community:

**RISE – Rape Intervention Services & Education (Catskill Regional Medical Center):** 845-791-9595

**NYS Office of the Prevention of Domestic Violence:** – Hotline 1-800-942-6906

**Pandora’s Project - LGBTQ survivors:** National Hotline: 888-843-4564

<http://pandys.org/lgbtsurvivors.html>

**C. Provide information:** At the first instance of disclosure by a Complainant to ANY College employee, the following information shall be presented to the Complainant:

***“You have the right to make a report to the SUNY Sullivan Office of Public Safety, local law enforcement, and/or State Police or choose not to report; to report the incident to the SUNY Sullivan Title IX Coordinator; to be protected by SUNY Sullivan from retaliation for reporting an incident; and to receive assistance and resources from SUNY Sullivan”***

Students that have reported sexual violence should then be directed to the Title IX Coordinator for students, and this policy for further guidance and information. All other members of the College community should be directed to the Title IX Coordinator for Employees, and this policy for further guidance and information.

#### **IV. Resources for Victims/Survivors of Sexual Violence**

Persons who experience unwelcome sexual behavior may respond to the experience in many different ways, including feeling confused, overwhelmed, and vulnerable, out of control, embarrassed, angry, distrustful, or depressed. SUNY Sullivan provides a variety of resources for support and advocacy to assist individuals who have experienced sexual violence. The College will also provide Complainants with information about how to report the violence, should they chose to do so. Complainants have the right to emergency access to one of the following College representatives:

**Title IX Coordinator for Students:** (Office J113), 845-434-5750 x4263

**Title IX Coordinator for Employees:** (Office J109), 845-434-5750 x4268

**Office of Public Safety:** (C115) – (845) 434-5750 x4315  
emergency number from a campus phone dial 360

The above representatives are trained in interviewing victims of sexual assault and will be available upon the first instance of disclosure by a Complainant to provide written information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic exam or other medical examination as soon as possible. These representatives can also provide information about an administrative investigation by the College and the criminal justice process and will inform the individual about the different standards of proof utilized by each process. The above representatives will refer a Complainant to law enforcement if there are questions about whether a specific incident violated the law. Each representative will inform the Complainant whether he or she is authorized to offer the Complainant confidentiality or privacy.

The College offers a wide range of services to students who have been impacted by sexual violence, including consultations to discuss options for medical care, reporting, counseling, academic and housing accommodations, and student conduct complaints. The College makes an effort to prevent the Complainants having to experience re-victimization by having to repeat their personal account each time.

#### **V. Protection and Accommodations**

Individuals reporting sexual violence and individuals accused of or responding to allegations of sexual violence are afforded the following protections and accommodations:

- a. When the Respondent is a student, to have the institution issue a “No Contact Order.” When a No Contact order is in effect, continued contact with the protected individual is a violation of Community Rights and Responsibilities and will result in additional conduct charges. If the Respondent and a 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. Both the Respondent and Complainant may request a prompt review of the need for and terms of a No Contact Order, consistent with the Student Code of Conduct. Parties may submit evidence in support of their request.
- b. To have assistance from the SUNY Sullivan Office of Public Safety or other college officials in initiating legal proceedings in family court or criminal court, including but not limited to obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.
- c. To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a College official who can explain the order and answer questions about it, including information from the order about the Respondent’s responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s). *(The Title IX Coordinator, and the SUNY Sullivan Office of Public Safety are available to explain and answer questions about Orders of Protections to Complainants and Respondents.)*
- d. To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- e. To have assistance from College Office of Public Safety in effecting an arrest when an individual violates an Order of Protection or, if outside of New York State, an equivalent protective or restraining order within the jurisdiction of College Office of Public Safety or, if outside of the jurisdiction to call on and assist local law enforcement in effecting an arrest for violating such an order.
- f. When the Respondent is a student and presents a continuing threat to the health and safety of the community, to subject the Respondent to interim suspension pending the outcome of a conduct process. Parties may request a prompt review of the need for and terms of an interim suspension in accordance with the procedures set forth in the Code of Student Conduct.
- g. When the Respondent is not a student but is a member of the College community and presents a continuing threat to the health and safety of the community, to subject the Respondent to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and SUNY Sullivan policies and rules.
- h. When the Respondent is not a member of the College community, to have assistance from SUNY Sullivan Office of Public Safety or other college officials in obtaining a persona non grata letter, subject to legal requirements and College policy.
- i. To receive assistance from appropriate College representatives/community partners in initiating legal proceedings in family court or civil court.
- j. To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Parties may request a prompt review of the need for and terms of any interim measures and accommodations that directly affect them.

Students that have experienced sexual violence may request accommodations through any of the offices referenced in this section of this policy. All other members of the College community, including those accused of or responding to allegations of sexual violence, may request reasonable accommodations through their designated Title IX Coordinator.

## **VI. Options for Confidentially Disclosing Sexual Violence**

SUNY Sullivan wants individuals who have experienced sexual violence to get the information and support that they need regardless of whether they would like to move forward with a report of sexual violence to campus officials or to police. A person may want to talk with someone about something they have observed or experienced, even if they are not sure that the behavior constitutes sexual violence. A

conversation where questions can be answered is far superior to keeping something to one's self. Confidentiality varies, and this section of the policy is aimed at helping our community understand how confidentiality applies to the different resources that may be available.

**Privileged and Confidential Resources on Campus:** Complainants have the right to confidentially disclose an incident to College officials who are designated as confidential resources. These individuals can assist in obtaining services for Complainants. Individuals who are confidential resources will not report crimes to law enforcement or College officials without permission, except in extreme circumstances, such as a health and/or safety emergencies; individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to himself, herself or others, or the mandatory reporting of child abuse.

While counseling staff and Health Services employees do not have privilege, they are considered confidential resources as discussed above and so it is important to understand that they will not share a Complainant's name, or any other identifiable information, without the Complainant's written consent.

*(On April 29, 2014 the United States Department of Education's Office for Civil Rights issued "significant guidance" on the implementation of Title IX of the Education Amendments of 1972 in a document entitled, "Questions and Answers on Title IX and Sexual Violence." Section E of that document sets forth the limited and anonymous reporting requirements)*

### **Confidential Resources for Students:**

**Health Services** (H012) – 845-434-5750 x4419

**Counseling Staff** (E212) - Center for Student Learning and Development Services  
845-434-5750 x4335 or 4241

**NY Confidential Resources for Employees:** SUNY Sullivan employees may confidentially disclose the incident and obtain services from the following resources and hotlines. Please note that **the hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms**, meaning that disclosure on a call to a hotline does not provide any information to the campus.

### **New York State Office for the Prevention of Domestic Violence**

[www.opdv.ny.gov/help/dvhotlines.html](http://www.opdv.ny.gov/help/dvhotlines.html) 1-800-942-6906

**Pandora's Project - LGBTQ survivors:** <http://pandys.org/lgbtsurvivors.html>

**Off-Campus Healthcare Providers** - Complainants may also confidentially disclose the incident and obtain services from RISE:

**RISE** – Rape Intervention Services & Education (Catskill Regional Medical Center): 845-791-9595

It is important for Complainants to be aware that:

- a. Medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered;
- b. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. More information may be found here: <https://www.ovs.ny.gov/help-crime-victims>, or by calling 1-800-247-8035.
- c. Note that even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.

### **Requesting Confidentiality; How SUNY Sullivan Will Weigh the Request and Respond:**

If a Complainant discloses an incident to a SUNY Sullivan employee, who is responsible for responding to or reporting sexual violence or sexual harassment, but the Complainant wishes to maintain confidentiality or does not consent to the institution's request to initiate an investigation, the Title IX Coordinator must weigh their request against SUNY Sullivan's obligation to provide a safe, non-discriminatory environment for all members of our community, including the Complainant.



SUNY Sullivan may also take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify the Complainant or the situation they disclosed.

SUNY Sullivan may seek consent from a Complainant prior to conducting an investigation. He or she may decline to consent to an investigation, and that determination will be honored unless the College's failure to act does not adequately mitigate the risk of harm to the Complainant or other members of the College community. Honoring the Complainant's request may limit the College's ability to meaningfully investigate and pursue conduct action against a Respondent. If SUNY Sullivan determines that an investigation is required, the Complainant will be notified and immediate action will be taken as necessary to protect and assist the Complainant.

When an individual discloses an incident but wishes to maintain confidentiality, SUNY Sullivan will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- a. Whether the Respondent has a history of violent behavior or is a repeat offender;
- b. Whether the incident represents escalation, such as a situation that previously involved sustained stalking;
- c. The increased risk that the Respondent will commit additional acts of violence;
- d. Whether the Respondent used a weapon or threatened to use a weapon;
- e. Whether the Complainant is a minor; and
- f. Whether we possess other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location or by a particular group.

If the College determines that it must move forward with an investigation, the Complainant will be notified and the College will take immediate action as necessary to protect and assist them.

**Privacy versus Confidentiality:** Even College offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information provided by a Complainant to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible under the law for tracking patterns and spotting systemic issues. SUNY Sullivan will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

*(A number of significant guidance documents issued by the Department of Education's Office of Civil Rights have indicated that Title IX of the Education Law Amendments of 1972 requires an institutions Title IX Coordinator to keep records necessary to track patterns or identify areas of concern.)*

**Public Awareness/Advocacy Events:** If a situation is disclosed through a public awareness event such as "Take Back the Night," candlelight vigils, protests, or other public event, SUNY Sullivan may use the information provided to inform the need for additional education and prevention efforts, and in some cases may result in an investigation.

## VII. How to Report Sexual Violence

In accordance with the Student's Bill of Rights, Complainants shall have the right to pursue more than one of the options below at the same time, or to choose not to participate in any of the options below. Reporting to the College Complainants have the right to report an incident of sexual violence to one of the following College officials who can offer privacy and can provide information about remedies, accommodations, evidence preservation, and how to obtain resources. Please note that faculty or staff who can offer privacy may still be required by law and college policy to inform the Title IX Coordinator.

*(The United States Department of Education Office of Civil Rights guidance states that Title IX of the Education Amendments of 1972 requires an institution's "responsible employees" to report all known incidents of sexual violence to the institutions Title IX Coordinator. This guidance defines "responsible employee" as an any employee who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty)*

Faculty and staff will:

- a. Provide the Complainant with a copy of the Students' Bill of Rights
- b. Disclose that they are private and not confidential resources, and that they may be required by law and SUNY Sullivan policy to inform the Title IX Coordinator.
- c. Notify Complainants that the criminal justice process uses different standards of proof and evidence than institutional administrative procedures, and questions about the penal law or the criminal process should be directed to law enforcement or the District Attorney.

**Title IX Coordinator for students:** The Title IX Coordinator is available to receive reports and to provide information and assistance regarding an incident of sexual assault, domestic violence, dating violence, and/or stalking. Reports will be investigated in accordance with SUNY Sullivan policy and a Complainant's identity shall remain private at all times if they wish to maintain privacy. If a Complainant wishes to keep his/her identity anonymous, he or she may call the Title IX Coordinator anonymously to discuss the situation and available options.

**Title IX Coordinator for students:** (Office J113), 845-434-5750 x4263

**Title IX Coordinator for employees:** When the Respondent is an employee, a Complainant may also report the incident to SUNY Sullivan Office of Human Resources or may request that one of the confidential resources (Counselors and Health Services employees) or another College Official assist in reporting to Human Resources. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the Respondent is an employee of an affiliated entity or vendor of the College, College officials will, at the request of the reporting party, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and college policy.

**Title IX Coordinator for Employees:** (Office J109), 845-434-5750 x4268

**Reporting to the Police:** Complainants have the right to file a criminal complaint through the SUNY Sullivan Office of Public Safety or with any local law enforcement of their choosing:

**SUNY Sullivan Office of Public Safety:** (C115) 845-434-5750 x4321

**Title IX Coordinator for Students:** (Office J113), 845-434-5750 x4263

**NY State Police - Campus Sexual Assault Victims' hotline** 844-845-7269

**Sullivan County Sheriff's Department** (845) 794-7100

**Town of Fallsburg Police:** 845-434-4422

**Anonymous Reporting Options:** For anonymously reporting incidents of sexual violence to SUNY Sullivan officials are available here:

<http://sunysullivan.edu/category/home/campus-life/safety-security/anonymous-reporting/>

**Withdrawal of Complaints/Involvement:** A Complainant has the right to withdraw their complaint from the SUNY Sullivan process at any time.

### **VIII. Resources and Support for Students Who Are Accused of Sexual Violence**

The following support resources are available to students who have been accused of sexual violence:

- a. Students who are accused of sexual violence (Respondents) may discuss their situations privately with licensed clinicians at the Center for Student Learning and Development Services. Respondent conversations with College counselors and staff will not be reported to anyone else in the College except in cases of a threat of imminent physical harm. However, statements made to certain employees in these offices may not be legally confidential. When seeking private advice and support from these offices or from any College employee, students should always confirm

whether legal confidentiality applies to their communications with the person to whom they are speaking.

- b. Respondents may request reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to prevent retaliation and avoid an ongoing hostile environment. Respondents may request accommodations through the Title IX Coordinator, who can serve as a point to assist with these measures.

VII. Respondents have the right to due process as per the SUNY Sullivan Code of Conduct section VII (Rights of Students Accused of a Code of Conduct violation):

<http://sunysullivan.edu/student-code-of-conduct/>

- a. The College will treat Respondents with fairness and respect and will ensure that its investigations and disciplinary proceedings are conducted in accordance with principles of due process.
- b. A Respondent accused of sexual violence may be assisted during the disciplinary hearings and related meetings by an advisor of their choice. An advisor is any individual who provides the Respondent support, guidance, or advice. Advisors may not address the student conduct hearing board panelists during a disciplinary hearing but may speak privately with the advisee during the proceedings.

### IX. Investigation Procedures

SUNY Sullivan is committed to conducting adequate, reliable, and impartial investigations of reports and complaints of sexual violence, and to doing so in a timely manner. The Title IX Coordinator is responsible for overseeing and coordinating many aspects of this response.

**All SUNY Sullivan employees, other than Health Services employees and counseling staff, are required to promptly and fully report all information about alleged or suspected sexual violence to the Title IX Coordinator.**

- A. **When the Title IX Coordinator receives a report** alleging actual or suspected sexual violence, he or she will do the following:
  - 1. Review all available information to determine whether or not immediate remedial action can and should be taken.
  - 2. In conjunction with SUNY Sullivan Office of Public Safety, determine whether a timely warning should be issued to the entire College community in accordance with Clery Act requirements. Should SUNY Sullivan determine that a timely warning is necessary, the College will make every effort to notify the Complainant prior to the issuance of the notification.
  - 3. Conduct a preliminary inquiry into the report or assign a team of investigators to do so.
- B. **Purpose of the Investigation:** SUNY Sullivan will conduct an investigation into allegations of sexual violence that occur within the SUNY Sullivan community or that have an effect on the SUNY Sullivan community. The purpose of an investigation is:
  - 1. When the Respondent is a student or an employee, to collect and compile evidence for the purpose of determining whether the complaint, if accepted as true, alleges a violation of SUNY Sullivan policy and if so, which specific policies may have been violated;
  - 2. When the Respondent is a student or employee, to determine whether the allegations warrant a review by Human Resources, if such review has not yet been initiated;  
*(When the Respondent(s) is a member of SUNY Sullivan community, the investigation report will not contain opinions as to the credibility of the evidence. Nor will it contain findings of fact or opinions as to whether the conduct alleged can be proven by the preponderance of the evidence standard. Rather, the report will determine whether the complaint, if accepted as true, alleges a violation of SUNY Sullivan policy and if so, which specific policies may have been violated)*

3. When the Respondent is not a member of SUNY Sullivan community, to collect and compile evidence relevant to the allegations in order to determine whether a violation of College policy has occurred. This determination will be made by the Title IX Coordinator, or a designee(s).
  4. To assist SUNY Sullivan in its obligation to stop individual instances of sexual violence, to prevent the recurrence of the violence, and to remedy any effects the violence has had on the entire College community.
- C. **Preliminary Inquiry:** Upon receipt of a report alleging sexual violence, the Title IX Coordinator or a designee will assess whether a formal Title IX investigation will be conducted under this policy; that is, whether the allegations in the initial report(s), if true, would constitute prohibited sexual violence in accordance with SUNY Sullivan policy. This preliminary review, including any necessary interviews to be conducted and any necessary interim measures to be put in place, will usually be completed within seven (7) days of receipt of the complaint.
- D. **Investigation Process when the Respondent is a Student:** If the Title IX Coordinator determines that an investigation is necessary, the following will occur, in no particular order:
1. The Title IX Coordinator will assign a team of investigators to conduct the investigation. The Title IX Coordinator may be a member of that team.
  2. The Title IX Investigation team will notify all parties to the complaint, if their identities are known, that the College will be conducting an investigation;
  3. The Title IX Investigation team will contact the alleged victim/survivor in order to:
    - a. Advise the victim/survivor of resources available both on and off campus for support, advocacy, and accommodations for safety and security;
    - b. Advise the victim/survivor of their reporting rights and options, including the right to request that the College not take action;
    - c. Advise the victim/survivor about the investigation process;
    - d. Advise the victim/survivor about the College's prohibition against retaliation;
    - e. Conduct an interview of the victim/survivor, should they choose to participate;
    - f. Allow the victim/survivor to provide evidence, including, but not limited to documents, recordings, and names of potential witnesses.
  4. The Title IX Investigation team will meet with the Respondent(s) in order to:
    - g. Advise the respondent(s) of resources available both on and off campus for support, advocacy, and accommodations;
    - h. Advise the respondent about the investigation process;
    - i. Advise the respondent about the College's prohibition against retaliation;
    - j. Conduct an interview of the respondent, should they choose to participate;
    - k. Allow the respondent to provide evidence, including, but not limited to documents, recordings, and names of potential witnesses.
  5. The Title IX Investigation team will attempt to meet with and speak to all witnesses who have or may have information relevant to the investigation.
  6. The Title IX Investigation team will attempt to collect all evidence relevant to the investigation;
  7. When it appears that the investigation may result in a student conduct referral, the Title IX Investigation team will prepare a draft investigation report. Once that draft is prepared the following will occur:
    - a. First, each witness will be permitted to review the portion of the report that memorializes their statements to investigators. The witness will be permitted to suggest changes, offer clarifications, and make additions. The witness will ultimately be asked to affirm, in writing, (1) that they are satisfied that they have shared all relevant information known to them, and (2) that the report is an accurate representation of their conversations with the investigators.

- b. Next, the victim/survivor and the respondent(s) will be permitted to review the entire draft report. With respect to their own statements, they will be permitted to suggest changes, offer clarifications, and make additions. Each party will also be given the opportunity to respond to the content of the draft report, request that additional questions be asked of witnesses or the other party to the complaint, and to offer additional evidence or information.
  - c. If one party has additional questions, or if additional evidence is offered, the investigators will follow up on those questions or the evidence and if relevant, will include it in the draft report. The process set forth in paragraph (b), above, will then be repeated until all parties are satisfied that investigation is thorough and complete.
8. Once the victim/survivor and the respondent(s) are satisfied that the investigation report is accurate as to their statements and complete in that it contains all relevant information, a final investigation report will be prepared and distributed to the parties. The parties will then be required to affirm, in writing, that: (1) they have had the opportunity to review the report in its entirety, (2) the portion of the report in which their statements are summarized is accurate and complete, (3) they are satisfied that they have shared all relevant information and evidence known to them, and (4) they are satisfied that the investigation was thorough and complete.
  9. If the investigation identifies evidence that, if true, could constitute a violation of the Student Code of Conduct, the Title IX Coordinator will make a referral to the Student Conduct Committee and the investigation report will be provided to that committee for further action.
  10. Absent extenuating circumstances, investigation and resolution is expected to take place within sixty (60) calendar days from receipt of the complaint. All deadlines and time requirements detailed below may be extended for good cause as determined by the Title IX Coordinator. Both the respondent and the complainant will be notified in writing of the delay, the reason for delay, and be provided the date of the new deadline or event. Extensions requested by one party will not be longer than 5 business/school days.
- E. **Investigation Process when the Respondent is an Employee:** When the Respondent is an employee, the investigation will be conducted by the Office of Human Resources and the Title IX Coordinator or designee in accordance with applicable collective bargaining agreements. When the Respondent is an employee of an affiliated entity or vendor of the college, college officials will, at the request of the Complainant, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and institutional policy.

## X. Adjudication of Sexual Violence Complaints

**Student Conduct Process:** When the alleged perpetrator of an act of sexual violence is a student, the Complainant has the right to request that student conduct charges be filed against the Respondent. Conduct proceedings are governed by the procedures set forth in SUNY Sullivan's Student Code of Conduct as well as federal and New York State Law, including the due process provisions of the United States and New York State Constitutions.

*(Title IX of the Education Law Amendments of 1972, section 503 of the Violence Against Women Act Reauthorization Act, and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act govern set forth certain requirements for the administrative adjudication of sexual assault complaints on college campuses. See also New York State Education Law Article 129b.)*

The Student Code of Conduct can be accessed here:

<http://sunysullivan.edu/student-code-of-conduct/>

**Employee Complaint Adjudications:** When the Respondent is an employee, disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the Respondent is an employee of an affiliated entity or vendor of the college, college officials will, at the request of the Complainant, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and College policy.

## **XI. Prohibition against Retaliation**

Retaliation is an intentional act taken against an individual who initiates or participates in any sexual violence or misconduct investigation or proceeding. Any act of retaliation, either directly or through a third party, against a person who files a sexual violence complaint, serves as a witness, or assists or participates in any manner in any investigation or conduct proceeding involving allegations of sexual violence is strictly prohibited and will result in a disciplinary action. Reports of retaliation can be made to the following College Officials:

**Title IX Coordinator for Students:** (Office J113), 845-434-5750 x4263

**Title IX Coordinator for Employees:** (Office J109), 845-434-5750 x4268

## **XII. Student Onboarding and Ongoing Education**

SUNY Sullivan believes that sexual violence prevention training and education cannot be accomplished via a single day or a single method of training. To that end, SUNY Sullivan, in accordance with SUNY-wide policy and state and federal law, will continue to educate all new and current students using a variety of best practices aimed at educating the entire College community in a way that decreases sexual violence and maintains a culture where sexual assault and acts of sexual violence are not tolerated.

*(See Title IX of the Education Law Amendments of 1972, Section 503 of the Violence Against Women's Reauthorization Act, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and New York State Education Law article 129b)*

During the course of their onboarding to SUNY Sullivan, which will not be limited to a single day during orientation, all new first-year and transfer students will receive training on the following topics:

- a. The institution prohibits sexual harassment, including sexual violence, domestic violence, dating violence, stalking, other violence or threats of violence, and will offer resources to any victims/survivors of such violence while taking administrative and conduct action regarding any Respondent individual within the jurisdiction of the institution.
- b. Relevant definitions including, but not limited to, the definitions of sexual violence and consent.
- c. Policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression.
- d. The role of the Title IX Coordinator, Office of Public Safety, and other relevant offices that address violence prevention and response.
- e. Awareness of violence, its impact on victims/survivors and their friends and family, and its long-term effects.
- f. The Students' Bill of Rights and Sexual Violence Response Policy, including:
  1. How to report sexual violence and other crimes confidentially, and/or to College officials, campus law enforcement and security, and local law enforcement.
  2. How to obtain services and support.
- g. Bystander intervention and the importance of taking action, when one can safely do so, to prevent violence.

- h. The protections of the Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases. (See *SUNY Sullivan Code of Conduct, section XIII. "Sanctions"*)
- i. Risk assessment and reduction including, but not limited to, steps that potential victims/survivors and potential assailants and bystanders to violence can take to lower the incidence of sexual violence.
- j. Consequences and sanctions for individuals who commit these violations.

The onboarding process is not limited to a single day of orientation. SUNY Sullivan will conduct these trainings for all new students, whether first-year or transfer students. The College will use multiple methods to educate students about sexual violence prevention.

Students at SUNY Sullivan shall be offered general and specialized training in sexual violence prevention. SUNY Sullivan will conduct a campaign, compliant with the requirements of the Violence Against Women Act, to educate the student population.

Further, the College will, as appropriate, provide or expand specific training to include students that are also employees of the campus, leaders and officers of registered/recognized student organizations.

In accordance with New York State Education Law section 129-b, the College will require that student leaders and officers of registered/recognized student organizations and those seeking recognition complete training on domestic violence, dating violence, sexual assault, or stalking prevention as part of the approval process and require student-athletes to complete training in domestic violence, dating violence, sexual assault, or stalking prior to participating in intercollegiate athletics.

Methods of training and educating students may include, but are not limited to:

- President's welcome messaging; Peer theater and peer educational programs;
- Online training;
- Social media outreach;
- First-year seminars and transitional courses;
- Course syllabi;
- Faculty teach-ins;
- Institution-wide reading programs;
- Posters, bulletin boards, and other targeted print and email materials;
- Programming surrounding large recurring campus events;
- Partnering with neighboring SUNY and non-SUNY colleges to offer training and education;
- Partnering with State and local community organizations that provide outreach, support, crisis intervention, counseling and other resources to victims/survivors of crimes to offer training and education. Partnerships can also be used to educate community organizations about the resources and remedies available on campus for students and employees seeking services; and
- Outreach and partnering with local businesses that attract students to advertise and educate about these policies.

SUNY Sullivan will engage in a regular assessment of sexual violence education and prevention programming and policies to determine effectiveness.

### **XIII. Institutional Crime Reporting**

Reports of certain crimes occurring in certain geographic locations will be included in SUNY Sullivan's Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the Complainant or victim/survivor.

SUNY Sullivan is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the Complainant or victim/survivor). A Complainant will never be identified in a timely warning.

The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parents' prior year federal income tax return. Generally, SUNY Sullivan will not share information about a report of sexual violence with parents without the permission of the Complainant.

#### **XIV. Scope of this Policy**

This policy applies to all members of SUNY Sullivan community and its guests, without regard to an individual's race, color, national origin, religion, creed, age, disability, sex, gender identity, gender expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. Employees, students, applicants or other members of the College community (including but not limited to vendors, visitors and guests) may not be subjected to harassment that is prohibited by law, or treated adversely or retaliated against based upon a protected characteristic. This policy applies both on-campus and off-campus, as described below:

**On-campus violations:** This policy forbids acts of sexual violence anywhere on campus. "Campus" includes College-owned or leased property, streets and pathways contiguous to College property, or in the immediate vicinity of campus. It also includes the property, facilities, and leased premises of organizations affiliated with the College, including College housing and College-recognized housing. College housing includes all types of College residence housing, such as halls and apartments.

**Off-campus violations:** Off-campus violations, including online behavior, that affect a clear and distinct interest of the College are subject to disciplinary sanctions. For example, sexual violence by a student is within the College's interests when the behavior:

- a. Involves conduct directed at a College student or other member of the College community;
- b. Occurs during College sponsored events (e.g., field trips, social or educational functions, College-related travel, student recruitment activities, internships, and service learning experiences);
- c. Occurs during the events of organizations affiliated with the College, including the events of student organizations;
- d. Poses a disruption or threat to the College community; or
- e. The effects of the violence are such that they create a hostile environment within the College community.

#### **XV. Definitions**

##### **A. Terms used throughout this policy:**

**Accused individual:** (Respondent) A person accused of a violation who has not yet entered a judicial or institutional administrative conduct or review process.

**Affirmative consent:** 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.



**Complainant:** Encompasses the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report of a violation.

**Reporting Individual-** Any person who submits a statement alleging that a student violated the SUNY Sullivan Code of Conduct.

**Respondent:** A person accused of a violation who has entered an institutional administrative review process or administrative student conduct process.

**Sexual assault:** Any physical sexual act committed without consent.

**Sex discrimination:** Includes all forms of sexual misconduct by employees, students, or third parties against employees, students, or third parties. Students, College employees, and third parties are prohibited from harassing other students and/or employees whether or not the incidents of harassment occur on the College campus and whether or not the incidents occur during working hours.

**Sexual violence:** The term sexual violence as used throughout this policy includes sexual harassment, sexual assault, and domestic violence, dating violence, intimate partner violence and stalking.

**Sexual harassment:** Unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the College's educational program and/or activities, and is based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.

## **B. Federal and State Laws referred to throughout this policy**

### Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act

This federal law, passed in 1990, the "Clery Act" requires all colleges and universities who receive federal funding to share information about crime on campus and their efforts to improve campus safety through the publishing of an annual security report. Additionally, the act requires institutions to provide survivors of sexual violence with reasonable accommodations and assistance in reporting and it requires institutions to outline specific policies and procedures for the prevention of sexual violence in their annual security reports.

### New York State Education Law Article 129-B

New York State Education Law Article 129-B, also known as "Enough is Enough", requires all colleges in the State of New York to adopt a comprehensive set of policies and guidelines, including a uniform definition of affirmative consent, a statewide amnesty policy, and expanded access to law enforcement.

### Title IX of the Education Amendments of 1972

Title IX of the Education Amendments of 1972 is a comprehensive federal law that protects people from discrimination based on sex in education programs or activities which receive Federal financial assistance. The law prohibits discrimination on the basis of sex in any federally funded education program or activity. Colleges must promptly respond to known instances of gender discrimination, which includes sexual harassment and sexual violence, in a way that limits its effects and prevents its recurrence.

### Violence Against Women Act ("VAWA") Reauthorization Act of 2013

This federal law requires colleges and universities to: (1) report dating violence, domestic violence, sexual assault, and stalking, beyond crime categories the Clery Act already mandates; (2) adopt certain student

discipline procedures, such as for notifying purported victims of their rights; and (3) adopt certain institutional policies to address and prevent campus sexual violence through the education and training of an institution's community.

### **C. Prohibited Conduct: Community Rights and Responsibilities**

The following conduct is prohibited by SUNY Sullivan Rights and Responsibilities and is applicable to students:

#### Intimate Partner Violence

Intimate Partner Violence includes Dating Violence and Domestic Violence, both of which are further defined below. Intimate Partner Violence can occur in relationships of the same or different genders.

Dating Violence – Any act of violence, including physical, sexual, psychological, and verbal violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. 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 victim's statement and with consideration of the type and length of the relationship and the frequency of the 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.

Domestic Violence – Any violent felony, non-violent felony, or misdemeanor crime, as those terms are defined by the laws of the State of New York and of the federal government committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.

#### Retaliation

Engaging, directly or indirectly, in any action or attempting to harass, intimidate, retaliate against, or improperly influence any individual involved with the Student Conduct System. An intentional act taken against an individual who initiates any sexual misconduct complaint, including stalking of intimate partner violence, pursues legal recourse for such a complaint, or participants in any manner in the investigation of such a report. Any act of retaliation is prohibited and is subject to a student conduct referral.

#### Sexual Assault I

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 parts of a person's body) without the active consent of the victim.

#### Sexual Assault II

Touching a person's intimate parts (defined as genitalia, groin, breast, or buttocks), whether directly or through clothing, without the active consent of the victim. Sexual Assault II also includes forcing an unwilling person to touch another's intimate parts.

#### Sexual Exploitation

Non-consensual, abusive sexual behavior that does not otherwise constitute Sexual Assault I, Sexual Assault II or Sexual Harassment. Examples include but are not limited to: intentional, nonconsensual tampering with or removal of condoms or other methods of birth control and 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; nonconsensual video or audio taping of sexual activity; allowing others to watch consensual or nonconsensual sexual activity without the consent of a sexual partner;

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 sexually assault another person.

#### Sexual Harassment

Unwelcome verbal or physical conduct of a sexual nature that is sufficiently severe or pervasive to effectively alter or deny the individual reasonable access to College resources or that such conduct creates an intimidating, hostile or sexually offensive environment for learning, working or living on campus.

#### Stalking

Intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause 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, including electronic means, with such person(s) in a manner likely to intimate, annoy or alarm him or her. Stalking does not require direct contact between parties and can be accomplished in many ways, including through the use of electronic media such as internet, pagers, cell phones, or other similar devices.

#### **D. Prohibited Conduct: Criminal Offenses in the State of New York**

The New York State Penal Law defines criminal conduct in the state of New York. Definitions of criminal offenses can be accessed here: <http://ypdcrime.com/penal.law/> The Penal Law is applicable to all members and guests of SUNY Sullivan community within the State of New York.

For questions or information or questions regarding conduct prohibited by New York State and Federal Law, please contact the SUNY Sullivan Office of Public Safety.