



HARTWICK
COLLEGE

est. 1797

Discrimination and Harassment Policy

**HARTWICK COLLEGE’S
DISCRIMINATION AND HARASSMENT POLICY
(Hereinafter, “Policy”)¹**

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1. Introduction and Purpose:

Hartwick College has adopted a unified approach to the resolution of allegations of discrimination and harassment. The College feels strongly that a streamlined policy and procedural guidelines can honor the principles and dignity of all members of the campus community.

Hartwick is committed to providing an educational and employment environment that is free from discrimination based on protected characteristics, harassment, and retaliation for engaging in protected activity.

To ensure compliance with federal, state, and local nondiscrimination and civil rights laws and regulations, and to affirm its commitment to equal opportunity and access to education programs or activities, the College has developed this Policy to govern prompt, equitable, and impartial resolutions of allegations of protected characteristic discrimination, harassment or allegations of retaliation. This Policy covers all forms of prohibited sex, gender, and sex-based discrimination, and all other forms of unlawful discrimination based on protected statuses or characteristics listed in the section below.

This Policy is effective August 1, 2024, and complies with the 2024 Title IX Regulations

2. Notice of Nondiscrimination

The College seeks to comply with all federal, state, and local laws, regulations, and ordinances prohibiting discrimination in private post-secondary education institutions.

The College does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived:

- Age
- Citizenship status
- Color
- Creed
- Criminal conviction record
- Disability (physical or mental)
- Domestic violence victim status
- Ethnicity
- Familial status
- Gender expression
- Gender identity
- Genetic information (including family medical history)
- Predisposing genetic characteristics
- Marital status
- National origin (including ancestry)
- Political belief or affiliation
- Pregnancy or related conditions

- Race
- Religion
- Sex
- Sexual orientation
- Source of income
- Veteran or military status (including disabled veteran; recently separated veteran; active-duty, wartime, or campaign badge veteran; and Armed Forces Service Medal veteran)

This Policy covers all students, faculty staff, outside vendors, contractors, and all other College guests. Therefore, any member of the College community whose acts deny, deprive, unreasonably interfere with, or limit the education or employment, residential and/or social access, benefits, and/or opportunities of any member of the College’s community, guest, or visitor on the basis of that person’s actual or perceived protected characteristic(s), is in violation of this Policy.

The College will promptly and effectively address any such discrimination of which it has Knowledge/Notice using the resolution processes in the Discrimination and Harassment Policy and Resolution Process.

3. Title IX Coordinator and Deputy Title IX Coordinators:

The College has designated its Title IX Coordinator and appointed Deputy Title IX Coordinators, to assist the College’s compliance with this Policy.

Geoffrey P. Gabriel
Title IX Coordinator / College Compliance Officer
 Shineman, 102
 (607) 431-4293
gabrielg@hartwick.edu

Cary Dresher
Deputy Title IX Coordinator
 Dean of Students
 Office of Student Experience Dewar, 4th Floor
 (607) 431-4532
dresherc@hartwick.edu

Colleen Bunn
Deputy Title IX Coordinator
 Director of Residential Life & Community Standards
 Office of Student Experience
 Dewar, 4th Floor
 (607) 431-4504
bunnc@hartwick.edu

Sarah Lombard
 Head Women’s Basketball Coach
 Athletic Department
 (607) 431-4709
lomards@hartwick.edu

The Title IX Coordinator and Deputy Title IX Coordinators listed above provide support to compliance with this Policy. This includes but is not limited to, receiving and assessing reports made to the College of allegations in violation of this Policy, assisting in applicable response and resolution processes, and creating and promoting educational programming on discrimination and harassment awareness and active prevention.

The Title IX Coordinator and Deputy Title IX Coordinators are also designated to coordinate and implement supportive and safety measures including, but not limited to, academic and housing

accommodations, referral to counseling and health services, coordination with law enforcement, and referral to on and off-campus confidential resources.

The College recognizes that allegations under this Policy include multiple forms of discrimination and harassment as well as violations of other applicable College policies; may involve various combinations of students, faculty, staff, and other members of the College community; and may require the simultaneous attention of multiple College departments. Accordingly, all College departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable College policies, to provide uniform, consistent, efficient, and effective responses to alleged discrimination, harassment, or retaliation.

4. External Contact Information

Concerns about the College's application of this Policy and compliance with certain federal civil rights laws may also be addressed to:

**Office for Civil Rights: Federal
U.S. Department of Education**
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline: (800) 421-3481
Facsimile: (202) 453-6012
TDD: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Office for Civil Rights: New York State
U. S. Department of Education
26 Federal Plaza, Suite 31-100
New York, NY 10278-9991
Telephone: (646) 428-3800
Facsimile: (646) 428-3843
Email: OCR.NewYork@ed.gov

For Complaints involving employee-on-employee conduct:

Equal Employment Opportunity Commission (EEOC):

Buffalo Local Office, Buffalo, New York
Olympic Towers
300 Pearl Street, Suite 450
Buffalo, NY 14202
Phone
1-800-669-4000
Fax

716-551-4387

TTY

1-800-669-6820

ASL Video Phone

844-234-5122

U.S. Department of Health and Human Services Office for Civil Rights Eastern and Caribbean Region

Jacob Javits Federal Building, 26 Federal Plaza - Suite 3312

New York, NY, 10278

Email: ocrmail@hhs.gov

Office of Civil Rights U.S. Department of Education

400 Maryland Avenue, SW

Washington, D.C., DC, 20202

5. Mandated Reporting and Confidential Employees

All College faculty and employees (including student-employees), other than those deemed Confidential Employees, are Mandated Reporters and are expected to promptly report all known details of actual or suspected discrimination, harassment, retaliation and/or Other Prohibited Conduct to appropriate officials immediately, although there are some limited exceptions. Supportive measures may be offered as the result of such disclosures without formal College action.

Complainants may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details must be shared with the Title IX Coordinator.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or Policy violations, and these employees will immediately pass Notice to the Title IX Coordinator (and/or police if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe the College's reporting options for a Complainant or third party (including parents/guardians when appropriate):

6. Confidential Resources

Reporting parties have the right to disclose confidentially an incident of sexual misconduct to Hartwick College representatives who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for reporting individuals. Reporting individuals also have the right to disclose confidentially and obtain services from the state or local government. Medical providers professional licensed counselors and pastoral counselors (e.g. clergy/chaplain) who provide mental health counseling to members of the College community (including those who act in that role under the supervision of a

licensed counselor), may not report any information about an incident of sexual misconduct disclosed while acting within the scope of that provider's / counselor's license or certification to the Title IX Coordinator without a Complainant's permission.

The following is the contact information for on-campus confidential resources (for students):

- Perrella Wellness Center Counseling Services, **607-431-4420** or, on nights and weekends **607-431-4111**, CounselingCenter@hartwick.edu
- Perrella Wellness Center Health Services, **607-431-4120**, healthcenter@hartwick.edu

The following is the contact information for off-campus confidential resources (for any individual):

- Opportunities for Otsego (OFO): <https://ofoinc.org/>
- Opportunities for Otsego, Violence Intervention Program (VIP), **607-432-4855** 24-hour hotline <https://ofoinc.org/find-program/violence-intervention-program>
- (OFO-VIP) Jess Eklund – Victim Advocate **607-386-5663**
- NYS Domestic Violence Hotline, **1-800-942-6906**
- New York State Office of Victim Services, **1-800-247-8035**
- NYS Division of Human Rights Sexual Workplace Sexual Harassment: **1-800-HARASS-3** (available M-F 9 am-5 pm)
- A.O Fox Hospital, 1 Norton Drive, Oneonta, NY 13820, **607-432-2000**
- Bassett Medical Center, 1 Atwell Drive, Cooperstown, NY 13326, **607-547-3456**

These confidential resources can help and provide information regarding medical assistance and treatment (including information about sexually transmitted infections, and sexual assault forensic examinations), and resources available through the New York State Office of Victim Services, and law enforcement options. The on-campus health and counseling services noted as confidential reporting resources are available to students free of charge. Employees are not eligible for on-campus services, but eligible employees may utilize their Employee Assistance Program (“EAP”) benefits. More information regarding EAP benefits is available to employees online in D2L (online intranet). The above-listed hotlines are also available free of charge. All of the confidential resources maintain confidentiality except in extreme cases of the immediacy of threat, danger, or abuse of a minor.

7. Immediate Medical Assistance

The following resources and reporting options can be utilized independently of or in conjunction with an internal report being made to the College. If you or someone you know is or may be the victim of any form of sexual assault, dating violence, domestic violence or stalking, the College strongly urges you to seek immediate assistance. Assistance is available 24 hours a day, 7 days a week, from:

- Call 911
- A.O Fox Hospital, 1 Norton Drive, Oneonta, NY 13820, 607-432-2000
- Bassett Medical Center, 1 Atwell Drive, Cooperstown, NY 13326, 607-547-3456
- NYS Office of Victim Services Toll-Free Number – (800) 247-8035 *can report anonymously
- NYS Domestic Violence and Sexual Assault Hotline, provides crisis intervention, shelter services, and referrals (800)-942-6906

The College's Campus Safety staff is available to respond immediately when contacted and can provide individuals with assistance in obtaining medical treatment.

Contact Campus Safety, Dewar 3rd floor, 607-431-4111. For your safety and well-being, immediate medical attention is encouraged. Sexual Assault Nurse Examiners (SANE) are specially trained medical professionals and are available locally and regionally at Basset Medical Center and A.O. Fox Hospital. Opportunities for Otsego are available to advocate and assist with medical assistance.

8. Disability-based Grievances and Complaints

Grievances related to disability status and/or provision of accommodations are addressed using the procedures in Hartwick College's Discrimination and Harassment Policy. However, allegations of discrimination on the basis of an actual or perceived disability, including instances in which the provision of reasonable accommodations has a discriminatory effect, will be resolved under the procedures.

For details relating to disability accommodations in the College's Resolution Process, visit: <https://www.hartwick.edu/policies/individuals-with-disabilities-policy/>

9. Scope

This Policy is only applicable to alleged incidents that occur on or after August 1, 2024. For alleged incidents of sex discrimination or sexual harassment occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Title IX Coordinator and at <https://www.hartwick.edu/policies/title-ix-and-sexual-misconduct-policy/> and <https://www.hartwick.edu/policies/policy-against-bias-discrimination-harassment/>

This Policy applies to all faculty, employees, students, and other individuals participating in or attempting to participate in the College's program or activities, including education and employment.

This Policy prohibits all forms of discrimination on the basis of the protected characteristic(s), and may be applied to incidents, patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this Policy.

This policy applies regardless of an individual's race, color, national origin, religion, creed, age, disability, sex, sexual orientation, gender, gender identity or expression, familial status, pregnancy or pregnancy-related conditions, predisposing genetic characteristics, military status, domestic violence victim status, prior arrest or criminal conviction, or other classes protected by applicable law

10. Jurisdiction

This Policy applies to the College's education programs and activities (defined as including locations, events, or circumstances in which the College exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where the College has disciplinary authority, and to misconduct occurring within any building owned or controlled by a College-recognized student organization. A Complainant does not have to be a member of the College community to file a Complaint, at the discretion of the Title IX Coordinator.

This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to The College's education program or activities. The College may also extend jurisdiction to off-campus conduct, such as incidents occurring in a study abroad program, and/or to online conduct when the conduct affects a substantial College interest.

A substantial College interest includes:

- 1) Any action that constitutes a criminal offense is defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- 2) Any situation in which it is determined that the Respondent poses an imminent and serious threat to the health or safety of any student, employee, or other individual.
- 3) Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
- 4) Any situation that substantially interferes with the College's educational interests or mission.

For disciplinary action to be issued under this Policy, the Respondent must be a College student, faculty, or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of the College community, the Title IX Coordinator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). The College can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

All vendors serving the College through third-party contracts are subject to the policies and procedures of their employers and to these policies and procedures to which their employer has agreed to be bound by their contracts.

When a party is participating in a dual enrollment/early college program, the College will coordinate with the party's home institution to determine jurisdiction and coordinate providing supportive measures and responding to the complaint under the appropriate policy and procedures based on the allegations and identities of the Parties.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environments external to the College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Title IX Coordinator if brought to their attention.

11. Supportive Measures

The College will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged discrimination, harassment, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to the College's education program or activity, including measures designed to protect the safety of all Parties and/or the College's educational environment and/or to deter discrimination, harassment, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the Parties upon receiving Notice/Knowledge or a Complaint. At the time that supportive measures are offered if a Complaint has not been filed, the College will inform the Complainant, in writing, that they may file a Complaint with the College either at that time or in the future. The Title IX Coordinator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

The College will maintain the confidentiality of the supportive measures if confidentiality does not impair the College's ability to provide those supportive measures. The College will act to ensure as minimal an academic/occupational impact on the Parties as possible. The College will implement measures in a way that does not unreasonably burden any party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact restrictions (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments

- Trespass, Persona Non-Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Administrator

Violations of no-contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

The Parties are provided with a timely opportunity to seek modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has the authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX regulatory definition of supportive measures. The College will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change. The College typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted party(s) and the Title IX Coordinator.

12. Law Enforcement

If you are a victim of violence, the College strongly encourages you to promptly report the incident to the police. Timing is a critical factor in collecting and preserving evidence that may assist in proving that the alleged misconduct occurred or may be helpful in obtaining a protection or restraining order; preservation of such evidence is important.

The College's Campus Safety staff, located in Dewar 3rd floor, is available 24/7 to assist you in notifying law enforcement of an incident and in contacting law enforcement or legal service organizations to learn about these remedies. You may also decline to notify law enforcement. The criminal process and the College's processes are not mutually exclusive or dependent on each other, meaning that a person may pursue just a criminal complaint, just a College complaint, or both.

Local law enforcement contact information:

- Hartwick College Campus Safety, Dewar 3rd Floor, (607)-431-4111
- NYS Police Sexual Assault Hotline, 1-844-845-7269
- Oneonta Police Department, (607) 432-1113

Orders of protection may be available to individuals who have experienced or are threatened with violence. The College will abide by a lawfully issued order of protection. Campus Safety or other College officials will, upon request, provide reasonable assistance to the College's students and employees in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order. If an order of protection is granted, the Complainant and the Respondent have the right to receive a copy of the order of protection when the order is received by the College. Both parties will also have the opportunity to have an appropriate College employee explain the order, and the consequences for violating the order, and answer any questions about the order. Additionally, if the Respondent violates the order of protection, the Complainant may receive assistance from the College in calling local law enforcement to inform them of the violation.

While certain forms of sex-based harassment can constitute a criminal offense under NY State law or federal law, an individual's conduct may violate this Policy even if it does not violate state or federal law. Conduct that violates this Policy may also violate NY state laws and subject the Respondent to criminal prosecution by law enforcement officials. Sex offenses under NY state law are described in Sections 130.00 to 130.96 of the New York State Penal Code.

Any internal College process will be conducted concurrently with any criminal investigation and proceeding that may be pending. Temporary delays in the College's internal processes may be requested by law enforcement authorities for the purpose of gathering evidence; these temporary delays shall not last more than 10 days, except when law enforcement authorities specifically request and justify a longer delay. Not all sexual misconduct under this Policy is a crime²⁰ and the standard applied in criminal cases (beyond a reasonable doubt) is different than the College's standard (preponderance of evidence) under this Policy. Questions about whether incidents violate criminal laws and how the criminal process works should be directed to law enforcement officials or the Otsego County District Attorney.

A Complainant has the right to receive assistance from appropriate College representatives in initiating legal proceedings in family court or civil court. Please contact the Title IX Coordinator for more information.

Employees who have confidentiality as described above, and who receive Notice within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act statistical reporting purposes unless they believe it would be harmful to their client, patient, or parishioner.

Failure of a Mandated Reporter, as described above in this section, to report an incident of discrimination, harassment, or retaliation of which they become aware is a violation of The College Policy and can be subject to disciplinary action for failure to comply/failure to report.

This also includes situations when a harasser is a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Policy.

A Mandated Reporter who is themselves a target of discrimination, harassment, or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

13. Online Harassment and Misconduct

The College policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or influence the College's education program and activities, or when they involve the use of The College networks, technology, or equipment.

Although The College may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to The College, it will engage in a variety of means to address and mitigate the effects. These means may include the use of the Resolution Process to address off-campus conduct whose effects contribute to limiting or denying a person access to The College's education program or activity.

Nothing in this Policy is intended to infringe upon or limit a person's right to free speech. Any online posting or other electronic communication by students, including technology-facilitated bullying, stalking, harassment, etc., occurring completely outside of the College's control (e.g., not on The College networks, websites, or between The College email accounts) will only be subject to this Policy when such online conduct can be shown to cause (or will likely cause) a substantial in-program disruption or infringement on/harm to the rights of others. Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided.

Off-campus harassing speech by employees, whether online or in person, may be regulated by the College only when such speech is made in an employee's official or work-related capacity.

14. Inclusion Related to Gender Identity/Expression

The College strives to ensure that all individuals are safe, included, and respected in their education and employment environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse students and employees.

Discrimination and harassment on the basis of gender identity or expression are not tolerated by The College. If a member of the College community believes they have been subjected to

discrimination under this Policy, they should follow the appropriate reporting process described herein.

In upholding the principles of equity and inclusion, The College supports the full integration and healthy development of those who are gender diverse and seeks to eliminate any stigma related to gender identity and expression.

The College is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community. The College will administratively address issues that some students and employees, including those identifying as intersex, transgender, agender, nonbinary, and gender diverse, may confront as they navigate systems originally designed around the assumption that gender is binary. As our society's understanding of gender evolves, so do The College's processes and policies.

Concepts like misgendering and deadnaming may not be familiar to all but understanding them is essential to The College's goal of being as welcoming and inclusive a community as possible.

Misgendering or mispronouncing is the intentional or unintentional use of pronouns or identifiers that are different from those used by an individual. Unintentional misgendering is usually resolved with a simple apology if someone clarifies their pronouns for you. Intentional misgendering is inconsistent with the type of community we hold ourselves out to be and may constitute a Policy violation if the effect is greater than *de minimis* harm. We each have a right to determine our own gender identity and expression, but we don't get to choose or negate someone else's.

Deadnaming, along with misgendering, can be very traumatic to a person who is transgender, transitioning, nonbinary, or gender diverse. Deadnaming means using someone's birth-assigned (cisgender) name, rather than the name they have chosen.

To a person who is transgender, transitioning, nonbinary, or gender diverse, their cisgender identity may be something that is in their past — dead, buried, and behind them. To then revive their deadname could trigger issues, traumas, and experiences of the past that the individual has moved past, or is moving past, and can interfere with their health and well-being.

Again, unintentional deadnaming can often be addressed by a simple apology and an effort to use the person's chosen name. Intentional deadnaming could be a form of bullying, outing, or otherwise harassing an individual, and thus should be avoided.

This Policy should be interpreted as consistent with the goals of maximizing the inclusion of intersex, transgender, transitioning, agender, nonbinary, and gender-diverse students and employees, including:

- Maintaining the privacy of all individuals consistent with the law

- Ensuring all students have equal access to educational programming, activities, and facilities, including restrooms and locker rooms
- Ensuring all employees have equal access to employment opportunities and work, service, or health-related facilities
- Providing professional development for employees and education for students on topics related to gender inclusion
- Encouraging all students and employees to respect the pronoun usage and identities of all members of the College community

The College uses several interventions to address concerns that are raised related to gender-based harassment or discrimination, including problem-solving, intervention, confrontation, investigation, and Policy enforcement. When conflicts arise between the right of members of the community to be free from gender-identity discrimination and those exercising their right to religious freedom, the College will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, The College will offer remedial solutions or enforce its Policies while also respecting the rights of all members of its community.

15. Prohibited Conduct

Students and employees are entitled to an educational and employment environment that is free of discrimination, harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited discrimination, harassment, and retaliation that are also prohibited under The College Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of The College Policy, though supportive measures will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice-versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

Violation of any other College policies may constitute discrimination or harassment when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

A. Discrimination

Discrimination is different or disparate treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived protected characteristic. Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for disability, religion, or creed.

Discrimination primarily takes two forms:

1) Disparate Treatment Discrimination:

- Any intentional differential treatment of a person or persons that is based on a person's actual or perceived protected characteristic and that:
 - Excludes a person from participation in;
 - Denies the person benefits of; or
 - Otherwise adversely affects a term or condition of a person's participation in a College program or activity.

2) Disparate Impact Discrimination:

- Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:
 - Excludes an individual from participation in;
 - Denies the individual benefits of; or
 - Otherwise adversely affects a term or condition of an individual's participation in a College program or activity.

B. Discriminatory Harassment:

- unwelcome conduct on the basis of actual or perceived protected characteristic(s), that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from the College's education program or activity.

C. Sex-based Harassment

is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex,² including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

² Throughout this Policy, "on the basis of sex" means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

1) **Quid Pro Quo:**

- an employee agent, or other person authorized by the College,
- to provide an aid, benefit, or service under the College's education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,
- on a person's participation in unwelcome sexual conduct.

2) **Hostile Environment Harassment:**

- unwelcome sex-based conduct, that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from the College's education program or activity

The College reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on a protected characteristic. If it is apparent on the face of the allegations that the situation does not rise to the level of a violation of this Policy, the College may opt to address the situation through another applicable policy or through an entirely informal process without a specific protocol.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, contact the Title IX Coordinator.

3) **Sexual Assault:**³

a. **Rape:**

- Penetration, no matter how slight,
- of the vagina or anus of the Complainant,
- with any body part of the Respondent or by Respondent's use of an object, or
- oral penetration of the Complainant by a sex organ of Respondent,
- without the consent of the Complainant.

b. **Fondling:**

- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
- by the Respondent for the purpose of sexual gratification,
- without the consent of the Complainant,

³ This would include having another person touch you sexually, forcibly, and/or without their consent.

- including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental incapacity.
- c. **Incest:**
- Sexual intercourse,
 - between persons who are related to each other,
 - within the degrees wherein marriage is prohibited by NY law.
- d. **Statutory Rape:**
- Sexual intercourse,
 - with a person who is under the statutory age of consent of 17.
- 4) **Dating Violence**, defined as:
- a. violence,
 - b. on the basis of sex,
 - c. committed by a person,
 - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:
 - a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - b) Dating violence does not include acts covered under the definition of domestic violence.
- 5) **Domestic Violence**,⁴ defined as:
- a. violence,
 - b. on the basis of sex,
 - c. committed by a current or former spouse or intimate partner of the Complainant,
 - d. by a person with whom the Complainant shares a child in common, or
 - e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
 - f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of NY, or

⁴ To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of NY.

6) **Stalking**, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at the Complainant, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

For the purposes of this definition,

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- A reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Sexual Misconduct

7) **Sexual Exploitation:**⁵

- A person taking non-consensual or abusive sexual advantage of another, that does not constitute Sex-based Harassment as defined above,
- for their own benefit or for the benefit of anyone other than the person being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) a person's sexual orientation, gender identity, or gender expression.
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable

⁵ This offense is not classified under Title IX as "Sex-based harassment," but it is included here in this Policy as a tool to address a wider range of behaviors.

expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography

- Prostituting another person.
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection.
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity.
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing).
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity.
- Knowingly soliciting a minor for sexual activity.
- Engaging in sex trafficking.
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings.
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually-related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes).

D. Other Prohibited Conduct

1) Bullying:⁶

- Repeated and/or severe aggressive behavior that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant that is not speech or conduct that is otherwise protected by the First Amendment.

⁶ For Bullying, Hazing, and Endangerment, these offenses can be applied when the conduct is on the basis of protected characteristics but is not a form of Sex-based Harassment.

2) Endangerment:

- Threatening or causing physical harm or extreme verbal, emotional, or psychological abuse; or
- other conduct which threatens or endangers the health or safety of any person or damages their property.

3) Hazing:

- Any act or action which does or is likely to endanger the mental or physical health or safety of any person as it relates to a person's initiation, admission into, or affiliation with any Recipient group or organization.

For the purposes of this definition:

- It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the student group or student organization, for an allegation of hazing to be upheld.
- It shall not constitute an excuse or defense to a hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained.
- The actions of alumni, active, new, and/or prospective members of a student group or student organization may be considered hazing.
- Hazing is not confined to the student group or student organization with which the person subjected to the hazing is associated.

4) Retaliation:

- Adverse action, including intimidation, threats, coercion, or discrimination, against any person, by the College, a student, employee, or a person authorized by the College to provide aid, benefit, or service under the College's education programs or activities;
- for the purpose of interfering with any right or privilege secured by law or this Policy; or
- because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process under this Policy, including an Informal Resolution process, or in any other appropriate steps taken by the College to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects.

The exercise of rights protected under the First Amendment does not constitute retaliation. It is also not retaliation for the College to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under the Hartwick the College's Discrimination and Harassment Policy and Resolution Process. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

5) **Unauthorized Disclosure:**⁷

- Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by the College; or
- publicly disclosing institutional work product that contains personally identifiable information without authorization or consent.

6) **Failure to Comply/Process Interference:**

- Intentional failure to comply with the reasonable directives of Title IX Coordinator in the performance of their official duties, including with the terms of a no-contact order.
- Intentional failure to comply with emergency removal or interim suspension terms.
- Intentional failure to comply with sanctions.
- Intentional failure to adhere to the terms of an Informal Resolution agreement.
- Intentional failure to comply with mandated reporting duties as defined in this Policy.
- Intentional interference with the Resolution Process, including but not limited to:
 - Destruction of or concealing of evidence;
 - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence;
 - Intimidating or bribing a witness or party.

E. Sanction Ranges

The following sanction ranges apply for Prohibited Conduct under this Policy. Sanctions can be assigned outside of the specified ranges based on aggravating or mitigating circumstances, or the Respondent's cumulative conduct record.

- **Discrimination:** warning through expulsion or termination.

⁷ Nothing in this section restricts the ability of the Parties to obtain and present evidence, including by speaking to witnesses (if it does not constitute retaliation under this Policy), consult with their family members, confidential resources, or Advisors; or otherwise prepare for or participate in the Resolution Process.

- **Discriminatory Harassment:** warning through expulsion or termination.
- **Quid Pro Quo Harassment:** warning through expulsion or termination.
- **Hostile Environment Harassment:** warning through expulsion or termination.
- **Rape:** suspension through expulsion or termination.
- **Fondling:** warning through suspension (termination for employees).
- **Incest:** warning through probation.
- **Statutory Rape:** warning through suspension (termination for employees).
- **Stalking:** probation through expulsion or termination.
- **Dating/Domestic Violence:** probation through expulsion or termination.
- **Sexual Exploitation:** warning through expulsion or termination.
- **Bullying:** warning through expulsion or termination.
- **Endangerment:** warning through expulsion or termination.
- **Hazing:** warning through expulsion or termination.
- **Retaliation:** warning through expulsion or termination.
- **Unauthorized Disclosure:** warning through expulsion or termination.
- **Failure to Comply/Process Interference:** warning through expulsion or termination.

16. Definitions

As used in this Policy, the following terms have the following meanings:

A. Institution shall mean any college or university chartered by the regents or incorporated by a special act of the legislature that maintains a campus in New York. The legislation defines an institution as any college or university chartered by the Regents or incorporated by a special act of the legislature that maintains a campus. This is precisely the same definition as in Education Law 129-A, and any institutions that have traditionally been covered by that law are also covered by 129-B.

B. Bystander shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of an institution. Under the definitions in the statute, a bystander is an individual who witnesses or learns of violence or impending violence but is not directly impacted as a victim or survivor of this violence.

C. Student Code of Conduct/Community Standards shall mean the written policies adopted by an institution governing student behavior, rights, and responsibilities while such student is matriculated in the College. This term is intended to reference the document or documents that the College uses to govern student behavior.

D. Privacy means that an employee may have to share information pursuant to federal or state law or The College policy with certain other The College employees, but they will not share the private information beyond what is required or needed to comply with law and policy and will otherwise limit redisclosure as much as possible.

E. Confidentiality is a defined term under the statute, and the obligation to keep information in confidence is inherent for certain professionals on campus, such as health care providers, licensed social workers, licensed psychologists, and pastoral and professional counselors (including licensed mental health counselors). Many off-campus resources such as rape crisis centers are also confidential, and with the exception of certain child abuse and imminent threats, individuals working in such organizations have no obligation to report information to the College.

F. Respondent shall mean a person accused of a violation of this Policy.

G. Reporting Individual or Reporting Party shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by the College to reference an individual who brings forth a report of a violation.

H. Consent means 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 sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of affirmative consent does not vary based on 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. Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual cannot 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. When Consent is withdrawn or can no longer be given, sexual activity must stop. "Consent" and "affirmative consent" may be used interchangeably under this Policy.

I. Sexual Activity as used in this Policy, the term sexual activity means contact between the penis and the vulva or the penis and the anus, however slight; contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, degrade or arouse or gratify the sexual desire of any person; or intentional touching through the clothing, of the genitalia of another degrade, or arouse or gratify the sexual desire of any person.

J. Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

K. Coercion

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

L. Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to knowingly choose to participate in sexual activity (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances. 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 or drugs may be incapacitated and therefore unable to consent.

Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and able to exercise sound judgment.

17. Standard of Proof

The College uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that the College will decide whether it is more likely than not, based on the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

18. Reports/Complaints of Discrimination, Harassment, and/or Retaliation

A Report provides notice to the College of an allegation or concern about discrimination, harassment, or retaliation and provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures. A Complaint provides notice to the College that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Complaint. Reports or Complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

File a Complaint with, or give verbal notice directly to, the Title IX Coordinator or Deputy Title IX Coordinator. Allegations of violations of this Policy, or inquiries regarding this Policy may be made to:

Geoffrey P. Gabriel
Title IX Coordinator / College Compliance Officer
Shineman, 102
(607) 431-4293
gabrielg@hartwick.edu

Cary Dresher
Deputy Title IX Coordinator
Dean of Students
Office of Student Experience Dewar, 4th Floor
(607) 431-4532
dresherc@hartwick.edu

Colleen Bunn
Deputy Title IX Coordinator
Director of Residential Life & Community Standards
Office of Student Experience
Dewar, 4th Floor
(607) 431-4504
bunnc@hartwick.edu

Sarah Lombard
Head Women's Basketball Coach
Athletic Department
(607) 431-4709
lombards@hartwick.edu

Reporting Form for Violations of the Discrimination and Harassment Policy

Reporting carries no obligation to initiate a Complaint, and in most situations, the College is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where the College may need to initiate a resolution process.

If a Complainant does not wish for an investigation to take place or does not want a formal resolution to be pursued, she/he/they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state and federal laws.

In determining whether to honor Complainant's wishes, the College will consider various factors including, but not limited to, the nature of the alleged conduct, whether the accused has a history of violent behavior, whether the incident represents escalation in conduct on behalf of the accused from previously noted behavior; predation, threats, multiple accused individuals, whether the reporting individual is a minor, whether the accused used a weapon or force, and when the allegations involve serious or pattern employee misconduct, the College may be unable to fully honor a request for confidentiality and/or informal resolution.

Where the only parties to the situation are employees, the College will be less inclined to honor a request for confidentiality. If a Complainant does not wish to file a Complaint, the College will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice that allows the College to discuss and/or provide supportive measures, in most circumstances. Even College offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. Information you provided to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

Similarly, a Complainant may desire to proceed through the resolution process and have investigatory and/or disciplinary action taken but may wish to have their identity as the Complainant kept confidential. Depending on the circumstances, this may or may not be possible, for example, if any number of people could have reported the incident, then it may be possible for the Complainant's identity to remain confidential and not shared with the Respondent. However, in other cases, it may not be possible to proceed with investigatory or disciplinary action without revealing the identity of the Complainant. If a Complainant requests that their name be kept confidential, as with an anonymous complaint, the College's ability to respond to the complaint may be limited. The appropriate administrators will discuss the situation and the Complainant's request for confidentiality, and a decision will be made and shared with the Complainant. Ultimately, the College retains the right to act upon any information that comes to its attention.

Generally, information disclosed at public events and in climate surveys does not obligate the College to begin an investigation. For example, this includes information shared in classroom writing assignments or discussions, human subjects research, or events such as "Take Back the Night" marches or speak-outs. The information may be used to inform educational and prevention efforts. Support measures may also result from such disclosures without formal Hartwick College action. The College will take steps to ensure that answers to required climate surveys and assessments remain anonymous and that no individual is identified. No personally identifiable information will be included in any published results. Information discovered or produced as a result of these surveys will not be in any court proceeding except as required by a court action.

Reports may be made anonymously but can give rise to a need to investigate. Anonymous reports will be preliminarily investigated, to the extent possible, both to assess the underlying

allegation(s) and to determine supportive measures. However, anonymous reports typically limit the College's ability to investigate and respond, depending on what information is shared.

19. Time Limits on Reporting

There is no time limitation on providing Notices/Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

Acting on Notice/Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of this Policy) is at the Title IX Coordinator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

20. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official investigating or resolution process can be subject to discipline under appropriate College policies.

21. Confidentiality/Privacy

The College makes every effort to preserve the Parties' privacy. The College will not share the identity of any individual who has made a Complaint of discrimination, harassment, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of discrimination, harassment, or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.^{8,9} Additional information regarding confidentiality and privacy can be found in [Appendix E](#).

Unauthorized Disclosure of Information:

Parties and Advisors are prohibited from disclosing information obtained by the College through the Resolution Process, to the extent that information is the work product of the College

⁸ 20 U.S.C. 1232g

⁹ 34 C.F.R. § 99

(meaning it has been produced, compiled, or written by The College for purposes of its investigation and resolution of a Complaint), without authorization. It is also a violation of The College Policy to publicly disclose institutional work product that contains a party or witness's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

22. Emergency Removal/Interim Actions/Leaves

The College can act to remove a student Respondent accused of Sex Discrimination or Sex-based Harassment from its education program or activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an imminent and serious threat to the health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator and may be done in conjunction with the Threat Assessment Team. Employees are subject to existing procedures for interim actions and leaves.

23. Federal Timely Warning Obligations

The College must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the College community.

The College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

24. Amnesty

The College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to give Notice to College officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

To encourage reporting and participation in the process, the College offers Parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by the College, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

A. Students

The health and safety of every student at Hartwick is of utmost importance. The College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic

violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to College officials. A bystander or reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual assault to the College's officials or law enforcement will not be subject to the College's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking or sexual assault."

B. Employees

Sometimes, employees are hesitant to report discrimination, harassment, or retaliation they have experienced for fear of getting in trouble themselves. The College may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident.

25. Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. The College will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement)
- Seeking medical treatment can be essential, even if it is not for the purposes of collecting forensic evidence.

Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.

- Take timestamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

26. Federal Statistical Reporting Obligations

Certain institutional officials (those deemed Campus Security Authorities) have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) Violence Against Women Act (VAWA-based crimes), which include sexual assault, domestic violence, dating violence, and stalking¹⁰
- 4) Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) must be shared with the Clery Act Coordinator for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include student affairs/student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

27. Independence and Conflicts of Interest

The Title IX Coordinator manages the Nondiscrimination and Title IX Team and acts with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. The members of the Nondiscrimination and Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

¹⁰ 42 U.S.C. Sections 13701 through 14040.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the College. Concerns of bias, misconduct, discrimination, or a potential conflict of interest should be raised with the Title IX Coordinator.

28. Coordination with Other Policies

A particular situation may invoke one or more College policies or processes. These situations will be addressed on a case-by-case basis. The College reserves the right to determine the most applicable Policy or process and to utilize that Policy or process. If an individual is charged with policy violations under this Policy and another College policy, the alleged violations may be handled through one resolution process, engaging both the Title IX Coordinator and the other presiding College official. In that event, individuals trained in necessary areas for all applicable policies will preside over the hearing or resolution process. In circumstances where there is a conflict between the procedures and/or processes set forth in the Code of Student Conduct, Employee Handbook, or Faculty Manual, and this Policy, the procedures and processes in this Policy will generally govern. A situation that invokes more than one College policy may have allegations divided on the basis of which policy was allegedly violated, with each grouping addressed separately using the grievance process in the pertaining policy.

29. Resolution of Reports or Complaints that Fall Outside this Policy

Hartwick College reserves the right to address and resolve any reports, complaints, or incidents that come to the College's attention that do not rise to the level of a prohibited conduct violation under this Policy, regardless of whether the conduct at issue would amount to unlawful misconduct under any applicable federal or state law. In such situations, the College's response will depend on the individual circumstances, the nature of the offensive conduct, and the parties involved in the situation. Generally, the College will communicate with the parties involved and may initiate a formal investigation that will be overseen by the College's Vice President for Human Resources and Compliance, Vice President for Academic Affairs, and Provost or Dean of Students, as applicable.

30. Revision of this Policy

This Policy succeeds previous policies addressing discrimination, harassment, sexual misconduct, and/or retaliation, though previous policies and procedures remain in force for incidents occurring before August 1, 2024. The Title IX Coordinator reviews and updates these policies and procedures regularly. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

This Policy is effective 8/01/2024.

RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF HARTWICK COLLEGE'S DISCRIMINATION AND HARASSMENT POLICY AND RESOLUTION PROCESS (Hereinafter the "Resolution Process")

31. Overview

The College will act on any Notice, Complaint, or Knowledge of a potential violation of the Policy that the Title IX Coordinator or any other Mandated Reporter receives by applying the Resolution Process below.

32. Notice/Complaint

Upon receipt of a Notice, a Complaint, or Knowledge of an alleged Policy violation, the Title IX Coordinator will initiate a prompt initial evaluation to determine the College's next steps. The Title IX Coordinator will contact the Complainant/source of the Notice to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

33. Collateral Misconduct

Collateral misconduct is defined to include potential violations of other The College policies not incorporated into the Policy that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Title IX Coordinator may consult with The College officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and staff handbooks.

34. Dismissal

The College may dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

- 1) The College is unable to identify the Respondent after taking reasonable steps to do so
- 2) The College no longer enrolls or employs the Respondent
- 3) A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator declines to initiate a Complaint
- 4) The College determines the conduct alleged in the Complaint would not constitute a violation of this Policy, if proven.

In addition to the other members of the Nondiscrimination and Title IX Team, as authorized by the Title IX Coordinator, a Hearing Officer¹¹ can recommend dismissal to the Title IX Coordinator if they believe the grounds are met. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, the College will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, the College will also notify the Respondent of the dismissal.

This dismissal decision is appealable by any party.

35. Appeal of Dismissal

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

The Title IX Coordinator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Title IX Coordinator must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, the College will:

- Implement dismissal appeal procedures equally for the Parties.
- Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint.
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal.
- Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

- 1) Procedural irregularity that would change the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was decided.

¹¹ All references of a Hearing Officer in this Policy denote the role a decisionmaker. A decisionmaker is defined by the U.S. Department of Education's Final Rule published on 4/19/24; https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov

- 3) The Title IX Coordinator, Investigator, or Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.
- 4) The dismissal was erroneously granted or denied.

The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Title IX Coordinator will share the petition with all other Parties and provide three (3) business days for other Parties and the Title IX Coordinator to respond to the request. At the conclusion of the response period, the Title IX Coordinator will forward the appeal, as well as any response provided by the other Parties and/or the Title IX Coordinator to the Dismissal Appeal Officer for consideration.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the Dismissal Appeal Officer will deny the request, and the Parties, their Advisors, and the Title IX Coordinator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisors, and the Title IX Coordinator, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal, though extensions can be granted at the discretion of the Title IX Coordinator, and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Officer(s) may consult with the Title IX Coordinator and at the discretion of the Vice President for Human Resources and Compliance, consult with legal counsel on questions of procedure or rationale for clarification if needed. The Title IX Coordinator will maintain documentation of all such consultations.

36. Emergency Removal/Interim Suspension of a Student

The College may emergency remove a student accused of Sex Discrimination or Sex-based Harassment upon receipt of Notice/Knowledge, a Complaint, or at any time during the Resolution Process. Prior to an emergency removal, the College will conduct an individualized risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons in the campus community arising from the allegations of sex discrimination justifies such

action. Students accused of other forms of discrimination (not sex) are subject to interim suspension, which can be imposed for safety reasons.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected student and the Complainant will be notified of the action, which will include a written rationale. Both the accused or Respondent and the Complainant shall, upon request, be afforded a prompt review, reasonable under the circumstances of the need for and terms of the interim suspension, including potential modification, and shall be allowed to submit evidence in support of the request. Parties desiring to challenge the emergency removal or interim suspension must submit a written request to the Title IX Coordinator within two (2) business days of the notification, providing the basis for that request and any evidence in support. Upon receipt of a challenge, the Title IX Coordinator will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or lifted. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. Each party and their Advisor may be permitted to participate in this meeting, separately, if the Title IX Coordinator determines it is equitable for them to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting. The emergency removal process applies only to student Respondents. Employee Respondents are not subject to this section and may be placed on administrative leave pursuant to the College's employment policies and practices (including applicable collective bargaining agreements).

37. Placing an Employee on Leave

When the Respondent is an employee, or a student employee accused of misconduct in the course of their employment, existing provisions <https://www.hartwick.edu/policies/suspensions-policy/> for interim action are typically applicable instead of the above emergency removal process.

38. Counter-Complaints

The College is obligated to ensure that the Resolution Process is not abused for retaliatory purposes. Although the College permits the filing of counter-complaints, the Title IX Coordinator

will use an initial evaluation, described above, to assess whether the allegations in the counter-complaint are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of the Policy.

Counter-complaints determined to have been reported in good faith will be processed using the Resolution Process below. At the Title IX Coordinator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

39. Advisors in the Resolution Process

A. Who Can Serve as an Advisor?

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, and interviews within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.¹²

The Title IX Coordinator will offer to assign a trained Advisor to any party if the party chooses. If the Parties choose an Advisor from the Nondiscrimination and Title IX Team available from the College, the College will have trained the Advisor and familiarized them with the College's Resolution Process.

The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide an attorney to advise that party.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title IX Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

The College may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Title IX Coordinator. The decision to grant this request is at the Title IX Coordinator's sole discretion and will be granted equitably to all Parties.

¹² "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. The Advisor cannot have institutionally conflicting roles, such as being an administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a witness in the process creates potential for bias and conflicts of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Hearing Officer(s).

If a party requests that all communication be made through their attorney Advisor instead of to the party, the College will agree to copy both the party and their Advisor on all communications.

Advisors appointed by the institution cannot be Confidential Employees, and although they will not be asked to disclose details of their interactions with their advisees to institutional officials or Hearing Officers absent an emergency, they are still reminded of their Mandated Reporter responsibilities.

B. Advisor's Role in the Resolution Process

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to ask and respond to questions on their behalf throughout the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

C. Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes this evidence.

Advisors may not disclose any The College work product or evidence the College obtained solely through the Resolution Process for any purpose not explicitly authorized by The College.

D. Advisor Expectations

The College generally expects an Advisor to adjust their schedule to allow them to attend The College meetings/interviews when planned, but the College may change scheduled meetings/interviews to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The College may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview by telephone, video conferencing, or other similar technologies.

Advisors are also subject to this Policy, whether they are attorneys or not, and whether they are selected by a party or appointed by the College. Advisors are expected to advise without disrupting proceedings.

E. Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the College's established rules of decorum, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview may be ended, or other appropriate measures implemented, including the College requiring the party to use a different Advisor or providing a different The College-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

40. Informal and Formal Resolution Processes Overview

This Resolution Process, consisting of Informal Resolutions or Formal Resolutions, is the College's chosen approach to addressing all forms of discrimination on the basis of protected characteristics, harassment, retaliation, and Other Prohibited Conduct under the Policy. The process considers the Parties' preferences but is ultimately determined at the Title IX Coordinator's discretion.

Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with The College Policy.

A. Informal Resolution Process

To initiate an Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator may offer the option to the Parties, in writing. The College will obtain voluntary, written confirmation that all Parties wish to resolve the matter through an Informal Resolution before proceeding and will not pressure the Parties to participate in any Informal Resolution.

Before initiation of an Informal Resolution process, The College will provide the Parties with a NOIA that explains:

- The allegations.
- The requirements of the Informal Resolution process.
- That any Party has the right to withdraw from an Informal Resolution process and to initiate or resume the College's Formal Resolution Process.

- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution Process will preclude the Parties from initiating or resuming the Formal Resolution Process arising from the same allegations.
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties.
- What information the College will maintain, and whether and how it could disclose such information for use in its Resolution Process.

The following consist of the primary forms of an Informal Resolution process:

- 1) The Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.
- 2) When the Title IX Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.
- 3) When the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to sanctions, the Complainant(s) and the College are agreeable to the resolution terms.
- 4) When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Hearing Officer, or Appeal Hearing Officer(s).

Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Formal Resolution Process.

The Parties may agree, as a condition of engaging in an Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in a Formal Resolution, should the Informal Resolution not be successful, unless agreed to by all Parties.

If an investigation is already underway, the Title IX Coordinator has the discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Categories of Informal Resolution

(1) Supportive Resolution

The Title IX Coordinator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to the College's education program and activity. Such measures can be modified as the Complainant's needs evolve or circumstances change. If the Respondent has received the NOIA, the Title IX Coordinator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Title IX Coordinator does not initiate a Complaint.

(2) Educational Resolution

The Complainant(s) may request that the Title IX Coordinator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. Considering this conversation, or the Respondent's decision not to attend, the Title IX Coordinator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of the recurrence of any behaviors that may not align with this Policy.

(3) Accepted Responsibility¹³

The Respondent may accept responsibility for any or all the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title IX Coordinator will determine whether Informal Resolution is an option.

¹³ In [Section 20](#) below, there is a description of a process to waive the decision-making step of the Resolution Process if a Respondent decides to admit to violating the charged Policies. That section and this one are similar, but there are meaningful differences. In this section, the Parties must agree to the resolution, and the Respondent in essence self-sanctions as part of the Informal Resolution by agreeing to voluntarily comply with whatever the terms are to which the Parties agree. Section 20, in contrast, is unilateral. Neither the Complainant nor the Title IX Coordinator determine eligibility. It is simply a waiver of steps in the process by the Respondent, who can admit violations and accept sanctions assigned by the Hearing Officer, if they choose to. No Complainant approval is sought or needed. Under Section 20, the outcome involves sanctioning imposed by the College, rather than an agreement to self-sanction, as outlined in this section.

If an Informal Resolution is available, the Title IX Coordinator will determine whether all Parties and the College are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of this Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the discrimination or harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

(4) Alternative Resolution

The College offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Title IX Coordinator or other appropriate The College officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Title IX Coordinator may consider the following factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be most successful for the Parties:

- The Parties' amenability to alternative resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed

- Skill of the alternative resolution facilitator with this type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in alternative resolution (e.g., time, staff)

The Title IX Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). The results of Complaints resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, the College will initiate or continue an investigation and subsequent Resolution Process to determine whether the Policy has been violated.

B. Formal Resolution Process (see [Section 22](#) below)

41. Nondiscrimination and Title IX Team

A Resolution Process relies on the Title IX Coordinator and/or Title IX Team to carry out the process.¹⁴

¹⁴ External, trained third-party neutral professionals may also be used to serve in the Nondiscrimination and Title IX Team roles.

¹⁴ This does not preclude the College from having all members of the Pool go through an application and/or interview/selection process.

A. Nondiscrimination and Title IX Team Member Roles

Members of the Nondiscrimination and Title IX Team are trained annually, and can serve in the following roles, at the discretion of the Title IX Coordinator:

- Advisor to Parties
- Informal Resolution Facilitator
- Investigator
- Hearing Officer

B. Nondiscrimination and Title IX Team Member Appointment

The Title IX Coordinator, in consultation with senior administrators as necessary, appoints the Nondiscrimination and Title IX Team, which acts with independence and impartiality.

C. Training (see [Appendix J](#) for details of training for Nondiscrimination and Title IX Team Members)

42. Notice of Investigation and Allegations (NOIA)

Prior to an investigation, the Title IX Coordinator will provide the Parties with a detailed written NOIA. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator(s), along with a process to notify the Title IX Coordinator of any conflict of interest that the Investigator(s) may have in advance of the interview process
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination

- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share The College work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that the College's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how a party may request disability accommodations or other support assistance during the Resolution Process
- A link to the College's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official The College records or emailed to the Parties' The College-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

43. Notice of Meetings and Interviews

Hartwick College will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

44. Resolution Timeline

The College will make a good faith effort to complete the Resolution Process within 60 business days, including any appeals, which the Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, the College reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. The College will promptly resume its Resolution Process as soon as feasible. During such a delay, The College will implement and maintain supportive measures for the Parties as deemed appropriate. Any internal College investigation and/or resolution process will be conducted concurrently with any criminal justice investigation and proceeding that may be pending. However, temporary delays in the College's internal processes may be requested by law enforcement authorities for the purpose of gathering evidence. Any requested temporary delay shall not last more than ten (10) days, except when law enforcement authorities specifically request and justify a longer delay. The College will cooperate with any criminal proceedings as permitted by law.

The College action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

The College will make a good-faith effort to complete the Resolution Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

45. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, Investigator(s), and Hearing Officer(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s), Hearing Officer(s), and Appeal Hearing Officers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Nondiscrimination and Title IX Team member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with a Deputy Title IX Coordinator.

The Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or

participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

46. Investigator Appointment

Once an investigation is initiated, the Title IX Coordinator appoints an Investigator(s) to conduct it. These Investigators may be members of the Nondiscrimination and Title IX Team, or any other properly trained investigator, whether internal or external to the College's community.

47. Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are required to cooperate with and participate in the College's investigation and Resolution Process. Student witnesses and witnesses from outside the College community cannot be required to participate but are encouraged to cooperate with The College investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Google Meet), or, in limited circumstances, by telephone. The College will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions if deemed appropriate by the Investigator(s), though not preferred.

48. Interview Recording

It is standard practice for Investigators to create a record of all interviews pertaining to the Resolution Process. The Parties may review copies of their own interviews, upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may pose additional questions to each other. Those subsequent meetings or interviews are also recorded and/or transcribed and shared with the Parties.

49. Evidentiary Considerations

The Investigator(s) and the Hearing Officer(s) will only consider evidence that is deemed relevant and not otherwise impermissible.

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Relevant Evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of this Policy.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless,

- 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or
- 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.

The fact that prior consensual sexual conduct occurred between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

50. Respondent Admits Responsibility

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Hearing Officer is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would waive the Respondent. If the Respondent's right to appeal. If the Respondent rejects the finding/final determination/sanctions or does not admit to all conduct charged, the Resolution Process continues to its conclusion. The Complainant retains their right to appeal a determination when a Respondent admits responsibility.

51. Investigation

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviewing all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections

to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

The College may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) typically take(s) the following steps, if not already completed and not necessarily in this order:

- Determine the identity and contact information of the Complainant.
- Identify all offenses implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- Assist the Title IX Coordinator, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Work with the Title IX Coordinator, as necessary, to prepare the initial NOIA. The NOIA may be amended with any additional or dismissed allegations.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.
- When participation of a Party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible.
- Interview the Complainant and the Respondent and conduct any necessary follow-up interviews with each.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews and meetings.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses. Document which questions were asked with a rationale for any changes or omissions in the investigation report.
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.
- Prior to the conclusion of the investigation, provide the Parties and their respective Advisors with a list of witnesses whose information will be used to render a finding.
- Ask the Parties to provide a list of questions they would like asked of the other party or any witnesses. The Investigator will ask those questions deemed relevant, and for any question deemed not relevant, will provide a rationale for not asking the question.

- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation, and party and witness interviews, and provides all relevant evidence.
- Provide the Parties and their respective Advisors an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.
- The Investigator may share the investigation report with the Title IX Coordinator, and at the discretion of the Vice President for Human Resources and Compliance, consult with legal counsel.

52. Formal Resolution Process

The Formal Resolution Process is used for all Complaints of discrimination on the basis of protected characteristics, harassment, retaliation, and Other Prohibited Behaviors (as defined by this Policy) or when Informal Resolution is either not elected or is unsuccessful.

The Formal Resolution Process consists of a hand-off of the investigation report and all relevant evidence to the Hearing Officer to make a finding and determine sanctions (if applicable).

At the discretion of the Title IX Coordinator, the assigned Hearing Officer will be an individual or a panel drawn from the Nondiscrimination and Title IX Team, or other trained individuals either internal or external to the institution.¹⁵ Once the Hearing Officer receives and reviews the file, they can recommend dismissal to the Title IX Coordinator, if they believe the grounds are met.

The Formal Resolution Process typically takes approximately thirty (30) business days to complete, beginning with the Hearing Officer's receipt of the Draft Investigation Report. The Parties will be regularly updated on the timing and any significant deviation from this typical timeline.

Investigator-led Questioning Meetings

- The Title IX Coordinator provides the Draft Investigation Report to the Hearing Officer and the Parties simultaneously for review. The Hearing Officer can then provide the Investigator with a list of relevant questions to ask the Parties or any witnesses.
 - To the extent credibility is in dispute and relevant to one or more of the allegations, the questions provided by the Hearing Officer may also explore credibility.

¹⁵ The choice of a single Hearing Officer or panel will be consistent for the same types of Complaints, and not vary Complaint-by-Complaint.

- The Investigator will also ask each of the Parties to provide a proposed list of questions to ask the other Parties and any witnesses.
 - To the extent credibility is in dispute and relevant to one or more of the allegations, questions proposed by the Parties may also explore credibility.
 - All party questions must be posed during this phase of the process and cannot be posed later unless authorized by the Hearing Officer.
 - The Investigator will share all party-proposed questions with the Hearing Officer, who will finalize the list with the Investigator to ensure all questions are both relevant and permissible.
- The Investigator will then hold individual meetings with the Parties and witnesses to ask the questions posed by the Hearing Officer, as well as the questions proposed by the Parties that have been deemed relevant and not duplicative, including questions intended to assess credibility. These meetings will be recorded and transcribed.
 - For any question deemed not relevant or duplicative, the Investigator will provide a rationale for not asking the question, either during the recorded meeting or in writing (typically as an appendix to the Final Investigation Report).
- Typically, within three (3) business days of the last of these meetings, the recordings or transcripts of them will be provided to the Parties for their review. The Parties will then have five (5) business days to review these recordings or transcripts and propose any follow-up questions for the Investigator to ask.
- The Investigator will review the proposed questions with the Hearing Officer to determine relevance and permissibility. If deemed necessary, the Investigator will then meet individually with the Parties or witnesses for whom there are relevant, and not duplicative, follow-up questions. These follow-up meetings will also be recorded, and the Parties will receive the recordings or transcripts of these meetings. This final round of questioning is the last round permitted unless permission is granted to extend, by the Hearing Officer.
- The Investigator will then incorporate any new, relevant evidence and information obtained through the Parties' review of the Draft Investigation Report, the questioning, and follow-up meetings into a Final Investigation Report.
- The Investigator will also respond in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report and incorporate relevant elements of the Parties' written responses, additional relevant evidence, and any necessary revisions into the Final Investigation Report.
- The Investigator will then share the Final Investigation Report with the Title IX Coordinator at the discretion of the Vice President for Human Resources and Compliance, consult with legal counsel for review and feedback.

- The Investigator will then provide the Title IX Coordinator with the Final Investigation Report and investigation.

The Hearing Officer's Determination

- The Title IX Coordinator will provide the Hearing Officer, the Parties, and their Advisors with the Final Investigation Report (FIR) and investigation file, including the evidence and information obtained through the Investigator-led questioning meetings.
- The Hearing Officer will review the FIR, all appendices, and the investigation file.
- If the record is incomplete, the Hearing Officer may direct a re-opening of the investigation or may direct or conduct any additional inquiry necessary, including informal meetings with the Parties or any witnesses, if needed.
- Upon reviewing the relevant evidence, the Hearing Officer may also choose to pose additional questions:
 - To the extent credibility is in dispute and relevant to one or more of the allegations, the Hearing Officer may meet individually with the Parties and witnesses to question them to assess their credibility. These meetings will be recorded, and the recording or transcript will be shared with the Parties.
 - At their discretion, the Hearing Officer may also meet with any party or witness to ask additional relevant questions that will aid the Hearing Officer in making their findings. These meetings will be recorded, and the recording or transcript will be shared with the Parties.
- The Hearing Officer will then apply the Preponderance of the evidence to make a determination on each of the allegations and, if applicable, any associated sanctions.
- **Timeline.** The Hearing Officer's determination process typically takes approximately ten (10) business days, but this timeframe can vary based on a number of factors and variables. The Parties will be notified of any delays.
- **Impact Statements.** Prior to a determination of applying sanctions, the Title IX Coordinator will provide the Parties with an opportunity to submit a written impact statement. The Title IX Coordinator will review these statements upon receipt to determine whether there are any immediate needs, issues, or concerns, but will otherwise hold them until after the Hearing Officer has made determinations on the allegations. If there are any findings of a Policy violation, the Hearing Officer will request the Impact Statements from the Title IX Coordinator and review them prior to determining sanctions. They will also be exchanged between the Parties at that time.
- If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a Resolution Process at any time, and/or referring that information to another process for resolution.

53. Sanctions

Factors the Hearing Officer may consider when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history, including past findings of sexual assault, dating violence, domestic violence, or stalking may be considered in the disciplinary stage that determines sanctions.
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- The Respondent's acceptance of responsibility
- Any other information deemed relevant by the Hearing Officer

The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

A. Student Sanctions

The following are the common sanctions that may be imposed upon students singly or in combination:

- *Reprimand*: A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Restrictions*: A student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or holding leadership roles in student organizations.
- *Probation*: An official sanction for violation of institutional policy, providing for more severe disciplinary sanctions if the student is found in violation of any

institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from extra-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

- *Suspension*: Separation from the College, or one or more of its facilities, for a defined period of time, typically not to exceed two (2) years, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the student is eligible to return if the institution determines it is appropriate to re-enroll/readmit the student. The student is typically required to vacate institutional property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Title IX Coordinator or other appropriate official. During an institution-wide suspension, the student is banned from institutional property, functions, events, and activities unless they receive prior written approval from an appropriate institutional official. This sanction may be enforced with a trespass action, as necessary. This sanction may be noted as a Disciplinary Suspension on the student's official academic transcript, per New York State law.
- *Expulsion*: Permanent separation from the institution. The student is banned from institutional property, and the student's presence at any institution-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary. This sanction may be noted as Disciplinary Expulsion on the student's official academic transcript, per institutional policy and/or state law.
- *Withholding Diploma*: The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for violating Policy.
- *Revocation of Degree*: While very rarely exercised, the College reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, and/or other violation of The College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Other Actions*: In addition to, or in place of, the above sanctions, the College may assign any other sanctions as deemed appropriate.

B. Student Groups, Clubs, and Organization Sanctions

The following are the common sanctions that may be imposed upon student groups or organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.

- *Probation*: An official sanction for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of The College funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student group or organization recognition and/or institutional support for a defined period of time not to exceed two (2) years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in The College-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the College.
- *Expulsion*: Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Loss of Privileges*: Restricted from accessing specific College privileges for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

C. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in discrimination, harassment, and/or retaliation include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Delay of (or referral for delay of) Tenure Track Progress*
- *Assignment to a New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*

- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions: In addition to or in place of the above sanctions/responsive actions, the College may assign any other responsive actions as deemed appropriate*

D. Transcript Notations

For those crimes of violence that Hartwick College is required by federal law to include in its Annual Security Report, the transcripts of students found Responsible after the formal resolution process including an appeal, if any, shall include the following notation:

- Students suspended after a finding of responsibility for said violations will have the following noted on the transcript: "Suspended after a finding of responsibility for a code of conduct violation."
- Students expelled after a finding of responsibility for said violations will have the following noted on the transcript: "Expelled after a finding of responsibility for a code of conduct violation."
- Students withdrawing from the College during an investigation, or any time prior to the completion of judicial procedures (including an appeal process), with respect to allegations of said violations, and do not participate through completion in any College process, will have the following noted on the transcript: "Withdrew with conduct charges pending."

Transcript notations for suspensions may be removed at the discretion of the College, but no earlier than one (1) year after the conclusion of the suspension. Transcript notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

54. Notice of Outcome

Within ten (10) business days of the conclusion of the Resolution Process, the Title IX Coordinator provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, all applicable sanctions that the College is permitted to share pursuant to state or federal law, and a detailed rationale, written by the **Hearing Officer**, supporting the findings to the extent the College is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals.

The Title IX Coordinator will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official The College records, or emailed to the Parties' The College-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

The record of the Resolution Process shall be protected from public release until a final determination is made.

55. Withdrawal or Resignation Before Complaint Resolution

A. Students

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from the College, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, The College will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, the College will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to the College in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator has the discretion to dismiss the Complaint. The Registrar, Office of Admissions, and HR may be notified, accordingly.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to The College unless and until all sanctions, if any, have been satisfied.

B. Employees

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent leaves their employment with the College with unresolved allegations pending, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the College may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When an employee resigns and the Complaint is dismissed, the employee may not return to the College in any capacity. The Registrar, Office of Admissions, and HR will be notified, accordingly. A note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with the College. The records retained by the Title IX Coordinator will reflect that status.

56. Appeal of the Determination

The Title IX Coordinator will designate an Appeal Hearing Officer(s) – either a three-member panel, an individual College administrator, or other trained internal or external individuals, to hear the appeal. In any case, where the Respondent is a student accused of sexual assault, domestic violence, dating violence, or stalking, the appeal will be before a panel. No Appeal Hearing Officer(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure challenge or dismissal appeal that may have been decided earlier in the process. If a panel is used, a voting chair will be designated by the Title IX Coordinator.

A. Appeal Grounds

Appeals are limited to the following grounds:

- 1) A procedural irregularity that would change the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility was made.
- 3) The Title IX Coordinator, Investigator(s), or Hearing Officer(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific Complainant or Respondent that would change the outcome.
- 4) The Final Determination by the Hearing Officer(s) is substantially contrary to the weight of the evidence in the record (applicable to sanctions of suspension, expulsion, or termination, only).
- 5) The sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent (applicable to sanctions of suspension, expulsion, or termination, only).

B. Request for Appeal

Any party may submit a written request for appeal ("Request for Appeal") to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Hearing Officer(s) for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Hearing Officer(s), and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the Request for Appeal meets the grounds in this Policy, then the Appeal Hearing Officer(s) will notify all Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Hearing Officer.

All other Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Hearing Officer(s) will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Hearing Officer(s) will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Hearing Officer(s) to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, and the Investigator(s) and/or original Hearing Officer, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified accordingly, in writing.

No party may submit any new Requests for Appeal after this time period. The Appeal Hearing Officer(s) will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Hearing Officer(s), who will promptly render a decision.

C. Appeal Determination Process

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Hearing Officer(s) will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is a clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the Preponderance of the evidence standard of proof.

An appeal is not an opportunity for the Appeal Hearing Officer(s) to substitute their judgment for that of the original Hearing Officer merely because they disagree with the finding and/or sanction(s).

The Appeal Hearing Officer(s) may consult with the Title IX Coordinator or at the discretion of the Vice President for Human Resources and Compliance, consult with legal counsel questions of procedure or rationale, for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultations.

D. Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Hearing Officer with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Hearing Officer or the Title IX Coordinator (as in cases of bias), the Appeal Hearing Officer(s) may order a new investigation and/or a new determination with new Nondiscrimination and Title IX Team members serving in the Investigator and Hearing Officer roles.

A Notice of Appeal Outcome letter (“Appeal Outcome”) will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which the College is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent the College is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties’ local or permanent address as indicated in official institutional records, or emailed to the Parties’ The College-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the Appeal Outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding, or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the five (5) available appeal grounds.

E. Sanction Status During the Appeal

Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a “show cause” meeting on the justification for doing so must be permitted within two (2) business days of implementation.

57. Long-Term Remedies/Other Actions

Following the conclusion of the Formal Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the College community that are intended to stop the discrimination, harassment, and/or retaliation, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found.

When no Policy violation is found, the Title IX Coordinator will address any remedies the College owes the Respondent to ensure no effective denial of educational access.

The College will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the College’s ability to provide these services.

58. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Hearing Officer(s), including the Appeal Panel or Hearing Officer or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or for any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College.

Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX Coordinator's satisfaction.

59. Recordkeeping

For a period of at least seven (7) years following the conclusion of Formal or Informal Resolution Process, the College will maintain records of:

- 1) Each discrimination, harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation.
- 2) Any disciplinary sanctions imposed on the Respondent.
- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the College's education program or activity.
- 4) Any appeal and the result therefrom.
- 5) Any Informal Resolution and the result therefrom.
- 6) All materials used to provide training to the Title IX Coordinator, Title IX Coordinator and designees, Investigators, Hearing Officers, Appeal Hearing Officers, Informal Resolution Facilitators, and any person who is responsible for implementing the College's Resolution Process, or who has the authority to modify or terminate supportive measures. The College will make these training materials available for review upon request.
- 7) All materials used to train all employees are consistent with the requirements in the Title IX Regulations.

The College will also maintain all records in accordance with federal and state laws.¹⁶

¹⁶ The record maintenance and access policy can be found in [Appendix I](#).

60. Accommodations and Support During the Resolution Process

Disability Accommodations

The College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's Informal and Formal Resolution Processes.

Anyone needing such accommodations or support should contact the Title IX Coordinator, who will work with disability support as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

Other Support

The College will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding the use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

61. Revision of these Procedures

These procedures succeed any previous procedures addressing discrimination, harassment, and retaliation for incidents occurring on or after August 1, 2024. The Title IX Coordinator will regularly review and update these procedures. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background federal and state laws that frame such policies and codes, generally.

These procedures are effective 8/1/2024.

APPENDIX A: DEFINITIONS

The following definitions apply to this Policy and related procedures:

- **Advisor.** Any person chosen by a party, or appointed by the institution, may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- **Title IX Coordinator.** The person with primary responsibility for overseeing and enforcing the nondiscrimination Policies and Procedures. As used in these policies and procedures, the “Title IX Coordinator” also includes their designee(s).
- **Appeal Hearing Officer.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s), accordingly.
- **Complainant.** A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, retaliation, or Other Prohibited Conduct under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination or harassment or under the Policy and who was participating or attempting to participate in the College’s education program or activity at the time of the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct.
- **Complaint.** An oral or written request to the College that can objectively be understood as a request for the College to investigate and make a determination about the alleged Policy violation(s).
- **Confidential Employee.**
 - An employee whose communications are privileged or confidential under federal or state law. The employee’s confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
 - An employee whom the College has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, retaliation, or Other Prohibited Conduct. If the employee also has a duty not associated with providing those services, the employee’s confidential status only applies with respect to information received about discrimination, harassment, retaliation, or Other Prohibited Conduct in connection with providing those services; or
 - An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination, harassment, retaliation, or Other Prohibited Conduct. The employee’s

confidential status only applies with respect to information received while conducting the study.

- **Day.** A Business Day when the College is in normal operation. All references in the Policy to days refer to Business days unless specifically noted as calendar days.
- **Hearing Officer.** The person or panel who reviews evidence, determines relevance and makes the Final Determination of whether the Policy has been violated and/or assigns sanctions.
- **Education Program or Activity.** Locations, events, or circumstances where the College exercises substantial control over the context in which the discrimination, harassment, retaliation, and/or Other Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that the College officially recognizes.
- **Employee.** A person employed by The College either full- or part-time, including student employees when acting within the scope of their employment.
- **Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.
- **Finding.** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process.
- **Investigation Report.** The Investigator’s summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) authorized by The College to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- **Knowledge.** When the College receives a Notice of conduct that reasonably may constitute harassment, discrimination, retaliation, or Other Prohibited Conduct in its Education Program or Activity.

- **Mandated Reporter.** A College employee who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, retaliation, and/or Other Prohibited Conduct with the Title IX Coordinator.^{17,18}
- **Nondiscrimination and Title IX Team.** The Title IX Coordinator, any deputy coordinators, and any member of the Title IX Team.
- **Notice.** When an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of discriminatory, harassing, retaliatory, or Other Prohibited Conduct.
- **Parties.** The Complainant(s) and Respondent(s), and in under some circumstances the College, collectively.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- **Protected Characteristic.** Any characteristic for which a person is afforded protection against discrimination and harassment by law or The College Policy.
- **Relevant Evidence.** Evidence that may aid a Hearing Officer in determining whether the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct occurred, or in determining the credibility of the Parties or witnesses.
- **Remedies.** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the College's Education Program and Activity.
- **Resolution Process.** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, Formal Resolution, and/or Hearing Resolution.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute discrimination based on a protected characteristic, harassment, retaliation, or Other Prohibited Conduct for engaging in a protected activity under this Policy.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.
- **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- **Student.** Any person who has gained admission.

¹⁷ Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

¹⁸ The Title IX Coordinator designated to receive information from Mandated Reporters may vary depending upon the type of alleged discrimination, harassment, or retaliation (e.g., on the basis of sex, on the basis of race, on the basis of disability).

- ***Title IX Coordinator.*** At least one official is designated by the College to ensure ultimate oversight of compliance with Title IX and the College's Title IX program. References to the Coordinator throughout the Policy may also assign a designee for specific tasks, responsibilities, and roles.

APPENDIX D: STATEMENT OF THE PARTIES' RIGHTS

Under this Policy and procedures, the Parties have the right to:

- An equitable investigation and resolution of all credible allegations of prohibited discrimination, harassment, retaliation, and Other Prohibited Conduct, when reported in good faith to The College officials.
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the specific misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated Policies and procedures, and possible sanctions.
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations.
- Be informed in advance of any College public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- Have all personally identifiable information protected from the College's release to the public without consent, except to the extent permitted by law.
- Be treated with respect by The College officials.
- Have The College Policy and these procedures followed without material deviation.
- Voluntarily agree to resolve allegations under this Policy through Informal Resolution without The College pressure, if Informal Resolution is approved by the Title IX Coordinator.
- Not be discouraged by The College officials from reporting discrimination, harassment, retaliation, and Other Prohibited Conduct to both on-campus and off-campus authorities.
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by the College in notifying such authorities, if the party chooses. This also includes the right to not be pressured to report.
- Have allegations of violations of this Policy responded to promptly and with sensitivity by The College law enforcement, security, and/or other The College officials.
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, visa and immigration assistance, and/or other services, both on-campus and in the community.
- The College-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- Be informed of available assistance in changing academic, living, and/or employment situations after an alleged incident of discrimination, harassment, retaliation, and/or Other Prohibited Conduct if such changes are reasonably available. No formal report, or investigation, either institutional or criminal, needs to occur for this option to be available. Such actions may include, but are not limited to:
 - Referral to counseling, medical, and/or other healthcare services
 - Referral to the Employee Assistance Program
 - Referral to community-based service providers

- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact restrictions (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Administrator
- Have the College maintain supportive measures for as long as necessary, ensuring they remain confidential, provided confidentiality does not impair the the College’s ability to provide the supportive measures.
- Receive sufficiently advanced written notice of any The College meetings or interviews involving another party, when possible.
- Identify and have the Investigator(s) and/or Hearing Officer question relevant available witnesses, including expert witnesses.
- Provide the Investigator(s)/Hearing Officer with a list of questions that, if deemed relevant and permissible by the Investigator(s)/Hearing Officer, may be asked of any party or witness.
- Have Complainant’s inadmissible sexual interests/prior sexual history or any Party’s irrelevant character evidence excluded by the Hearing Officer.
- Access the relevant evidence obtained and respond to that evidence.
- A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- Receive a copy of all relevant and permissible evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law and be given ten (10) business days to review and comment on the evidence.
- The right to receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, [and to have at least ten (10) business days to review the report prior to the determination.
- Be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- Regular status updates on the investigation and/or Resolution Process.
- Have reports of alleged Policy violations addressed by the Nondiscrimination and Title IX Team members who have received relevant annual training as required by law.
- A Decision-making panel that is not single-sex in its composition, if a panel is used.

- Preservation of confidentiality/privacy, to the extent possible and permitted by law.
- Meetings, interviews, and/or hearings that are closed to the public.
- Petition that any The College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- Be able to select an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- Apply the appropriate standard of proof, Preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all relevant and permissible evidence.
- Be present, including presence via remote technology, during all testimony given and evidence presented during any live hearing.
- Have an impact and/or mitigation statement considered by the Hearing Officer following a determination of responsibility for any allegation, but prior to sanctioning.
- Be promptly informed of the Resolution Process finding(s) and sanction(s) (if any) and be given a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay).
- Be informed in writing of when a The College decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery.
- Be informed of the opportunity to appeal the Resolution Process finding(s) and sanction(s), and the procedures for doing so in accordance with the College's grounds for appeal.
- A fundamentally fair resolution as defined in these procedures.

Student Bill of Rights - "Enough is Enough" NYS Education Law 129-B

In accordance with New York State Education Law, Article 129-B, also known as Enough is Enough, the following is the list of rights students can expect when reporting or responding to sexual offenses and relationship violence at Hartwick College.

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. 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 by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and receive from the institution courteous, fair, and respectful healthcare and counseling services, where applicable;

6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused, and/or the respondent, and/or their friends, family, and acquaintances, within the jurisdiction of the institution;
9. Access at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process, including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

RIGHTS IN CASES INVOLVING SEXUAL ASSAULT, DOMESTIC /DATING VIOLENCE AND STALKING

Pursuant to Article 129-B, Section 6444 of the New York State Education Law, anyone reporting an incident of sexual assault, domestic or dating violence or stalking shall be advised of their rights to:

- Notify Campus Safety, Local Law Enforcement or the New York State Police;
- Emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual and who can provide information, including
 - options to proceed, including the right to make a report to Campus Safety, Local Law Enforcement, and/or the New York State Police or choose not to report; to report the incident to the College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College, as set out in this Policy;
 - where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible;
 - that the criminal justice process utilizes different standards of proof and evidence than the College's judicial procedures and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney;
 - whether the person they are reporting to is authorized to offer confidentiality or privacy; and any other reporting options.
- If they are a student, to contact the College's Health and Counseling Center, where they may be offered confidential resources pursuant to applicable laws/College

policies and can be assisted in obtaining services for reporting individuals; or to contact off-campus confidential resources;

- Disclose confidentially the incident and obtain services from the state or local government;
- Disclose the incident to the College's non-confidential employees who can offer privacy or, in appropriate cases determined by the Title IX Coordinator, confidentiality, subject the College's policy;
- Make a report of sexual assault, domestic violence, dating violence, and/or stalking and consult the Title IX Coordinator and other appropriate College personnel for information and assistance. Reports shall be investigated in accordance with College policy. A reporting individual's identity shall remain private if that is what the reporting individual wishes, however privacy is not the same as confidentiality. Private information can be shared to implement and fulfill the College's obligations under the law and its policies and procedures;
- Disclose, if the accused is a College employee, the incident to Human Resources or to request that a private employee assist in reporting to Human Resources;
- Receive reasonable assistance from appropriate College representatives if interested in initiating legal proceedings in family court or civil court, such assistance to consist of facilitation in contacting appropriate local agencies who can provide direct assistance with court proceedings; and
- Withdraw a complaint or involvement from the College processes at any time

First Disclosure of a Report

Hartwick College shall ensure that, at a minimum, at the first instance of disclosure by a Complainant to a College employee the following information shall be presented to the student "You have the right to make a report to campus safety, local law enforcement, and/or state police or choose not to report; to report the incident to Hartwick College; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from Hartwick College."

APPENDIX E: PRIVACY, PRIVILEGE, AND CONFIDENTIALITY

For the purpose of this Policy, the terms *privacy*, *confidentiality*, and *privilege* have distinct meanings.

- **Privacy.** Means that information related to a complaint will be shared with a limited number of The College employees who “need to know” in order to assist in providing supportive measures or evaluating, investigating, or resolving the Complaint. All employees who are involved in the College’s response to the Notice under this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with federal and state law.

- **Confidentiality.** Exists in the context of laws or professional ethics (including Title IX) that protect certain relationships, including clinical care, mental health providers, and counselors. Confidentiality also applies to those designated by the College as Confidential Employees for purposes of reports under this Policy, regardless of legal or ethical protections. When a Complainant shares information with a Confidential Employee, the Confidential Employee does not need to disclose that information to the Title IX Coordinator. The Confidential Resource will, however, provide the Complainant with the Title IX Coordinator’s contact information, assist the Complainant in reporting, if desired, and provide them with information on how the Title IX Office can assist them. With respect to Confidential Employees, information may be disclosed when:
 - (1) the reporting person gives written consent for its disclosure;
 - (2) there is a concern that the person will likely cause serious physical harm to self or others; or
 - (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or persons with disabilities. Non-identifiable information may be shared by Confidential Employees for statistical tracking purposes as required by the Clery Act/Violence Against Women Act (VAWA). Other information may be shared as required by law.

- **Privilege.** Exists in the context of laws that protect certain relationships, including attorneys, spouses, and clergy. Privilege is maintained by a provider unless a court orders release or the holder of the privilege (e.g., a client, spouse, parishioner) waives the protections of the privilege. The College treats employees who have the ability to have privileged communications as Confidential Employees.

The College reserves the right to determine which College officials have a legitimate educational interest in being informed about student-related incidents that fall under this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the Complaint. Information will be shared as necessary with Investigators, Hearing Officers, Appeal Hearing

Officer(s), witnesses, the Parties, and the Parties' Advisors. The circle of people with this Knowledge will be kept as tight as possible to preserve the Parties' rights and privacy, and release is governed by the institution's unauthorized disclosure policy.

The College may contact students' parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student prior to doing so.

APPENDIX G: VIOLENCE RISK ASSESSMENT (VRA)

Threat and risk assessment is the process of assessing the actionability of violence by a person against another person or group following the issuance of a direct or conditional threat. A Violence Risk Assessment (VRA) is a broader term used to describe the assessment of any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

A VRA occurs in collaboration with the Threat Assessment Team and assesses the risk of actionable violence, often with a focus on targeted/predatory escalations. It is supported by research from law enforcement, criminology, human resources, and psychology.

Threat Assessment Team:

- The Dean of Students, DRLCS, Director of Campus Safety, or Title IX Coordinator may call together the Threat Assessment Team to review incidents that may result in interim separation from the campus. This team will consist of the Dean of Students, the Director of Residential Life and Community Standards, the Title IX Coordinator (or Deputy), the Director of Campus Safety, the Clery Compliance Coordinator, a member on-campus counseling services, and other parties as needed (Registrar, Academic Affairs representatives, Athletic representatives, etc.).
- The team will assess removal based on the risk assessment tools pursuant to the emergency removal standards of the Threat Assessment Team OR the NABITA risk assessment for alleged violations of the Code of Community Standards.
- This team will meet on an ad hoc basis and does not meet regularly. The team will attempt to meet within 12 hours of the incident.

In consultation with the Clery Compliance Coordinator, a Timely Warning or Emergency Notification will be issued to the appropriate parties.

APPENDIX H: TITLE IX POLICY STATEMENT

The College adheres to all federal, state, and local civil rights laws prohibiting discrimination and harassment in employment and education. The College does not discriminate in its admissions practices, employment practices, or educational programs or activities on the basis of sex, except as may be permitted by law. As a recipient of federal financial assistance for education activities, The College is required by Title IX of the Education Amendments of 1972 (Title IX) to ensure that all of its education programs and activities do not discriminate on the basis of sex. Sex includes sex assigned at birth, sex stereotypes, sex characteristics, gender identity, sexual orientation, and pregnancy or related conditions. Sex discrimination is prohibited under Title IX and by this Policy, and it includes sex-based harassment, sexual assault, dating and domestic violence, stalking, quid

pro quo harassment, hostile environment harassment, disparate treatment, and disparate impact.

The College also prohibits retaliation against any person opposing discrimination or harassment or participating in any internal or external investigation or complaint process related to allegations of sex discrimination.

Any College student, faculty, staff, outside vendor, outside contractor, or guest who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities, and/or benefits of any member of the College community on the basis of sex is in violation of the Hartwick the College's Discrimination Policy and Resolution Process.

Any person may report sex discrimination (whether or not the person reporting is alleged to have experienced the conduct) in person, by mail, by telephone, by video, or by email, using the contact information listed for the Title IX Coordinator (below). A report may be made at any time (including during non-business hours) by contacting the Title IX Office.

Questions regarding Title IX, including its application and/or concerns about noncompliance, should be directed to the Title IX Coordinator/The College Compliance Officer. For a complete copy of the Policy or more information, please visit <https://www.hartwick.edu/about-us/employment/human-resources/title-ix/> or contact the Title IX Coordinator/The College Compliance Officer.

Geoffrey Gabriel

Title IX Coordinator/The College Compliance Officer

Title IX Office

Shineman, 104

1 Hartwick Drive

6074314293

gabrielg@hartwick.edu

<https://www.hartwick.edu/about-us/employment/human-resources/title-ix/>

A person may also file a complaint with the appropriate federal, state, or local agency within the time frame required by law. Depending upon the nature of the complaint, the appropriate agency may be the U.S. Department of Education Office for Civil Rights (OCR), the Department of Justice, the Equal Opportunity Commission, and/or another appropriate federal or state agency.

- **Office for Civil Rights (OCR)**
New York Office
26 Federal Plaza, Suite 31-100
New York, NY, 10278-9991
Telephone: (646) 428-3800
Facsimile: (646) 428-3843
Email: OCR.NewYork@ed.gov

- **Assistant Secretary for Civil Rights**
Office for Civil Rights, National Headquarters
U.S. Department of Education
Lyndon Baines Johnson Dept. of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

Within any Resolution Process related to this Policy, The College provides reasonable accommodations to persons with disabilities and religious accommodations, when that accommodation is consistent with federal and state law.

APPENDIX I: RECORD MAINTENANCE AND ACCESS POLICY

Policy Scope

This Policy covers records maintained in any medium that is created pursuant to the Discrimination and Harassment Policy and Resolution Process and/or the regular business of the College's Title IX Office. All such records are considered private or confidential by the Title IX Office, in accordance with FERPA and the directive from the Department of Education to maintain the confidentiality of records related to discrimination, harassment, and retaliation. These records may be shared internally with those who have a legitimate educational interest and will be shared with the Parties to a Complaint under applicable federal and/or state law. The Title IX Office controls the dissemination and sharing of any records under its control.

Types of Records Covered Under this Policy

Records pertaining to the Hartwick College's Discrimination and Harassment, and Resolution Process include, but are not limited to:

- The Complaint
- NOIAs
- Documentation of notice to the institution, including incident reports
- Anonymous reports later linked to a specific incident involving known Parties
- Any documentation supporting the initial evaluation
- Investigation-related evidence (e.g., physical and documentary evidence collected and interview transcripts)
- Dismissal-related documentation and appeals
- Documentation related to Emergency Removals, leaves, and interim actions and challenges

- Documentation related to the Resolution Process
- The Final Investigation Report and file
- Remedy-related documentation
- Supportive measures-related documentation
- Appeal-related documentation
- Informal Resolution records
- Outcome Notices
- Any other records typically maintained by the College as part of the Complaint file

Drafts and Working Files: Preliminary drafts and “working files” are not considered records that the College must maintain, and these are typically destroyed during the course of an investigation or at the conclusion of the Resolution Process. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their author and/or the Title IX Coordinator. An example of a “working file” would be the Investigator’s notes made during an interview on topics that they want to revisit in subsequent interviews. Sole possession records maintained as such in accordance with FERPA are also included in this category. All drafts of investigation reports shared with the Parties are maintained.

Attorney Work-Product: Communications from the Title IX Office or its designees with may be a work product protected by the attorney-client privilege. These privileged communications are not considered records to be maintained by the Title IX Office or accessible under this Policy unless the Title IX Coordinator, at the discretion of the Vice President for Human Resources and Compliance, consults with legal counsel as necessary, to determines that these communications should be included as accessible records.

Record Storage

Records may be created and maintained in different media formats; this Policy applies to all records, irrespective of format. All records created pursuant to the Policy, as defined above, must be stored in digital format and maintained by the Title IX Office. The complete file must be transferred to the Title IX Office, typically within fourteen (14) business days of the complaint resolution (including any appeal), if the file is not already maintained within the Title IX Office. Security protocols must be in place to preserve the integrity and privacy of any parts of any record that are maintained in the Title IX Office during the pendency of an investigation.

The Title IX Office will store all records created pursuant to the Policy, regardless of the identities of the Parties. Any extra (non-essential) copies of the records (both digital and paper) must be destroyed.

A copy of records showing compliance with any applicable Clery Act/Violence Against Women Act (VAWA) requirements will be maintained along with the Complaint file by the Title IX Office.

Policy and Resolution Process Training Materials

The College will also maintain copies of the slides or other materials from all training for application of this Policy and Resolution Process, the Nondiscrimination and Title IX Team members, and responsible/mandated employees. Trainings occurring prior to August 1, 2024, are posted online at <https://www.hartwick.edu/about-us/employment/human-resources/title-ix/> , and trainings occurring after August 1, 2024, are available for review upon request to the Title IX Coordinator.

Record Retention

All records created and maintained pursuant to the Policy will be retained by the Title IX Office for a minimum of seven (7) years in database, digital, and/or paper form. Except for records pertaining to Title IX and the Clery Act/VAWA, the Title IX Coordinator may authorize destruction or expungement acting under their own discretion, or in accordance with a duly executed and binding claim settlement and/or by court or government order.

Record Access

Access to records created pursuant to the Policy or housed in the Title IX Office is strictly limited to the Title IX Coordinator and any person they authorize in writing, at their discretion, or via permission levels within the database. Those who are granted broad access to the Title IX Office records are expected to access only those pertinent to their scope, work, or specific assignment. Anyone who accesses such records without proper authorization may be subject to an investigation and possible discipline/sanction. The discipline/sanction for unauthorized access to records covered by this Policy will be at the discretion of the appropriate disciplinary authority, consistent with other relevant College policies and procedures.

Student Parties may request access to their complaint file. The College will provide access or a copy within 45 days of the request. Appropriate redactions of personally identifiable information may be made before inspection, or any copy is shared.

During the investigation, materials may be shared with the Parties using secure file transmission software. The Title IX Office will watermark any such file with the watermark identifying the role of the person in the process (e.g., Complainant, Respondent, **Hearing Officer**, Advisor, etc.) before sharing.

The College will maintain an access log of each case file, showing when and by whom it was accessed and for what purpose.

Record Security

The Title IX Coordinator is expected to maintain appropriate security practices for all records, including password protection, lock and key, and other barriers to access as appropriate.

Record security should include protection from floods, fire, and other potential emergencies. Clothing, forensic, and other physical evidence should be securely stored in the Title IX Office or another appropriate secure location. All physical evidence will be maintained in a facility that is reasonably protected from flood and fire. A catalog of all physical evidence will be retained with the Complaint file.

APPENDIX J: TRAINING FOR MEMBERS OF THE NONDISCRIMINATION AND TITLE IX TEAM

The Nondiscrimination and Title IX Team members receive annual training related to their respective roles. This training may include, but is not limited to:

- The scope of the College's Discrimination and Harassment Policy and Resolution Process
- The College's Resolution Process
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias and confirmation bias
- Treating Parties equitably
- Disparate treatment
- Disparate impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct
- How to conduct an investigation and grievance process, including Formal Resolution Processes, hearings, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance and creating an Investigation Report that fairly summarizes relevant and not impermissible evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

Additional Training Elements Specific to Title IX

All investigators, Hearing Officers, and other persons who are responsible for implementing The College's Title IX policies and procedures will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or this part, and

annually thereafter. Materials will not rely on sex stereotypes. Training topics may include, but are not limited to:

- How to conduct a sex discrimination resolution process consistent with the nondiscrimination Procedures, including issues of disparate treatment, disparate impact, sex-based harassment, quid pro quo, hostile environment harassment, and retaliation
- The meaning and application of the term “relevant” in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations
- Training for Informal Resolution facilitators on the rules and practices associated with The College’s Informal Resolution process
- The role of the Title IX Coordinator
- Supportive Measures
- Clery Act/VAWA requirements applicable to Title IX
- The College’s obligations under Title IX
- How to apply definitions used by the College with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- Reasonable modifications and specific actions to prevent discrimination and ensure equal access for pregnancy or related conditions
- Any other training deemed necessary to comply with Title IX

APPENDIX L: PREGNANCY AND RELATED CONDITIONS, AND PARENTING STUDENT POLICY

A. Nondiscrimination Statement

The College does not discriminate in its education program or activity against any applicant for admission, student, applicant for employment, or employee on the basis of current, potential, or past pregnancy or related conditions as mandated by Title IX of the Education Amendments of 1972 (Title IX). The College prohibits members of the College community from adopting or implementing any policy, practice, or procedure that treats an applicant for admission, student, applicant for employment, or employee differently on the basis of current, potential, or past parental, family, or marital status. This policy and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.

B. Definitions

- ***Familial Status.*** The configuration of one’s family or one’s role in a family.
- ***Marital Status.*** The state of being married or unmarried.
- ***Parental Status.*** The status of a person who, with respect to another person who is under the age of 18,¹⁹ is a biological, adoptive, foster, or stepparent; a legal custodian or guardian; in loco parentis with respect to such a person; or actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- ***Pregnancy and Related Conditions.*** The full spectrum of processes and events connected with pregnancy, including pregnancy, childbirth, termination of pregnancy, or lactation; related medical conditions; and recovery therefrom.²⁰
- ***Reasonable Modifications.*** Individualized modifications to the College’s policies, practices, or procedures that do not fundamentally alter the College’s education program or activity.

C. Information Sharing Requirements

Any College employee who becomes aware of a student’s pregnancy or related condition is required to provide the student with the Title IX Coordinator’s contact information and communicate that the Title IX Coordinator can help take specific actions to prevent discrimination and ensure equal access to the College’s education program and activity. If the

¹⁹ Or a person who is 18 or older but who is incapable of self-care because of a mental or physical disability.

²⁰ “The Department interprets ‘termination of pregnancy’ to mean the end of pregnancy in any manner, including, miscarriage, stillbirth, or abortion.” Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 F.R. 33474, April 29, 2024, codified at 34 C.F.R. 106.

employee has a reasonable belief that the Title IX Coordinator is already aware of the pregnancy or related condition, the employee is not required to provide the student with the Title IX Coordinator's contact information.

Upon notification of a student's pregnancy or related condition, the Title IX Coordinator will contact the student and inform the student of the College's obligations to:

- Prohibit sex discrimination
- Provide reasonable modifications
- Allow access, on a voluntary basis, to any separate and comparable portion of the institution's education program or activity
- Allow a voluntary leave of absence
- Ensure lactation space availability
- Maintain a Resolution Process for alleged discrimination
- Treat pregnancy as comparable to other temporary medical conditions for medical benefit, service, plan, or policy purposes

The Title IX Coordinator will also notify the student of the process to file a complaint for alleged discrimination, harassment, or retaliation, as applicable.

D. Reasonable Modifications for Students

Students who are pregnant or are experiencing related conditions are entitled to Reasonable Modifications to prevent sex discrimination and ensure equal access to the College's education program and activity. Any student seeking Reasonable Modifications must contact the Title IX Coordinator to discuss appropriate and available Reasonable Modifications based on their individual needs. Students are encouraged to request Reasonable Modifications as promptly as possible, although retroactive modifications may be available in some circumstances. Reasonable Modifications are voluntary, and a student can accept or decline the offered Reasonable Modifications. Not all Reasonable Modifications are appropriate for all contexts.

Reasonable Modifications may include, but is not limited to the following:

- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
- Intermittent absences to attend medical appointments
- Access to online or homebound education
- Changes in schedule or course sequence
- Time extensions for coursework and rescheduling of tests and examinations
- Allowing a student to sit or stand, or carry or keep water nearby
- Counseling
- Changes in physical space or supplies (for example, access to a larger desk or a footrest)
- Elevator access

- A larger uniform or other required clothing or equipment
- Other changes to policies, practices, or procedures determined by the Title IX Coordinator

In situations such as clinical rotations, performances, labs, and group work, the institution will work with the student to devise an alternative path to completion, if possible. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute similar courses, or join a subsequent cohort when returning from leave. Students are encouraged to work with their faculty members and the College's support systems to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible. The Title IX Coordinator will assist with plan development and implementation as needed.

Supporting documentation for Reasonable Modifications will only be required when it is necessary and reasonable under the circumstances to determine which Reasonable Modifications to offer to determine other specific actions to take to ensure equal access.

Information about pregnant students' requests for modifications will be shared with faculty and staff only to the extent necessary to provide the Reasonable Modification.

Students experiencing pregnancy-related conditions that manifest as a temporary disability under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act are eligible for reasonable accommodations just like any other student with a temporary disability. The Title IX Coordinator will consult with disability staff to ensure the student receives reasonable accommodations for their disability as required by law.

E. Certification to Participate

All students should be informed of health and safety risks related to participation in academic and co-curricular activities, regardless of pregnancy status. A student may not be required to provide health care provider or other certification that the student is physically able to participate in the program or activity, unless:

1. The certified level of physical ability or health is necessary for participation;
2. The institution requires such certification of all students participating; and
3. The information obtained is not used as a basis for pregnancy-related discrimination.

F. Lactation Space Access

The College provides students and employees with access to lactation spaces that are functional, appropriate, and safe. Such spaces are regularly cleaned, shielded from view, and free from the intrusion of others.

The College's designated lactation space is located in Dewar Hall, room 319.

<https://www.hartwick.edu/policies/nursing-mother-accommodation-policy/>

G. Leaves of Absence

(1) Students

Students are permitted to take a voluntary leave of absence for a reasonable time as deemed medically necessary by their healthcare provider because of pregnancy and/or the birth, adoption, or placement of a child. The leave term may be extended in the case of extenuating circumstances or medical necessity. While registered under that status, students who choose to take a leave of absence under this policy can elect to keep their health insurance coverage and continue residing in Recipient housing, subject to the payment of applicable fees.

To the extent possible, The College will take reasonable steps to ensure that students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same or an equivalent course catalog that was in place when the leave began.

Continuation of students' scholarships, fellowships, or similar College-sponsored funding during the leave term will depend on student registration status and the policies of the funding program regarding registration status. Students will not be negatively impacted by or forfeit their future eligibility for their scholarship, fellowship, or similar Recipient-supported funding by exercising their rights under this policy.

The Title IX Office can and will advocate for students with respect to financial aid agencies and external scholarship providers in the event that a leave of absence places eligibility into question.

In order to initiate a leave of absence, the student must contact the Title IX Coordinator at least 30 calendar days prior to the initiation of leave, or as soon as practicable. The Title IX Coordinator will assist the student in completing any necessary paperwork.

(2) Employees

Information on employment leave can be found here. <https://www.hartwick.edu/about-us/employment/human-resources/>

If an employee, including a student-employee, is not eligible for leave under the aforementioned leave policy, because they either (1) do not have enough leave time available under that policy, or (2) have not been employed long enough to qualify for leave under that policy, they are eligible to qualify for pregnancy or related condition leave under Title IX. Pregnancy and related conditions will be regarded as a justification for a leave of absence without pay for a reasonable period of time.

Employees who take leave under Title IX must be reinstated to the status held when leave began or a comparable position without a negative effect on any employment privilege or right.

62. Policy Dissemination and Training

A copy of this policy will be made available to faculty and employees in annually required training and posted on the College website. The College will alert all new students about this policy and the location of this policy as part of orientation. The Title IX Office will make educational materials available to all members of the College community to promote compliance with this policy and familiarity with its procedures.

Concerns about the College's application of this Policy and compliance with certain federal civil rights laws may also be addressed to:

Office for Civil Rights: Federal

U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline: (800) 421-3481
Facsimile: (202) 453-6012
TDD: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Office for Civil Rights: New York State

U. S. Department of Education
26 Federal Plaza, Suite 31-100
New York, NY 10278-9991
Telephone: (646) 428-3800
Facsimile: (646) 428-3843
Email: OCR.NewYork@ed.gov

Equal Employment Opportunity Commission (EEOC):

Buffalo Local Office, Buffalo, New York

Olympic Towers
300 Pearl Street, Suite 450
Buffalo, NY 14202

Phone

1-800-669-4000

Fax

716-551-4387

TTY

1-800-669-6820
ASL Video Phone
844-234-5122

U.S. Department of Health and Human Services Office for Civil Rights Eastern and Caribbean Region

Jacob Javits Federal Building, 26 Federal Plaza - Suite 3312
New York, NY, 10278
Email: ocrmail@hhs.gov

Office of Civil Rights U.S. Department of Education

400 Maryland Avenue, SW
Washington, D.C., DC, 20202