

STUDENT POLICY PROHIBITING DISCRIMINATORY HARASSMENT, RELATIONSHIP VIOLENCE AND SEXUAL MISCONDUCT

INTRODUCTION

As an academic institution of higher learning, Hofstra University is dedicated to providing an environment conducive to intellectual and personal growth, with all members of the community encouraged to participate to the fullest extent of their abilities. Our primary mission is to provide a quality education to our students in an environment that encourages, nurtures, and supports learning through the free and open exchange of ideas, for the betterment of humankind. Integral to this mission is a commitment on the part of our entire community to norms of interpersonal respect ensuring that no individuals are subjected to sexual misconduct, relationship violence or discriminatory harassment on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, marital or veteran status or any other characteristic protected by state or federal laws. These protected traits are referred to throughout this policy as “protected characteristics or beliefs.” The protections of this policy apply to all regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

The lawful and ethical conduct of our students plays an essential role in achieving our educational mission and upholding our P.R.I.D.E. Principles of Personal and social responsibility; Respect for self and others; Integrity, ethics and leadership; Diversity and community; and Expression and free exchange.

This Policy prohibits discriminatory harassment, relationship violence and sexual misconduct and provides a complaint process when any Hofstra University student commits, aids or attempts to commit discriminatory harassment, relationship violence or sexual misconduct. Prohibited Conduct is defined below in the Definitions section. This Policy is required by and is intended to comply with applicable provisions of Article 129-B of the New York State Education Law (Implementation by Colleges and Universities of Sexual Assault, Dating Violence, Domestic Violence and Stalking Prevention and Response Policies and Procedures); the Campus Sexual Violence (SaVE) Act, Section 304 of the Violence Against Women Reauthorization Act (“VAWA”) of 2013; Title IX of the Education Amendments of 1972; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act Amendments Act; the Age Discrimination Act; and other applicable federal, state and local laws and regulations relating to sexual violence and discrimination.

This Policy shall be provided to all students enrolled at Hofstra University by publishing it on Hofstra University’s website and in the student Guide to Pride and by sending a copy of the Policy directly to all students annually via their University-provided email account.

DEFINITIONS

All of the conduct defined in this section is Prohibited Conduct under this Policy.

Discriminatory Harassment

Harassment, a form of discrimination, consists of either sexual harassment or other unlawful harassment because of a protected characteristic or belief. Protected characteristics or beliefs under this Policy are as follows: race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, marital or veteran status or any other characteristic protected by state or federal laws.

This Policy does not address other types of harassment not based on protected characteristics, such as disputes with classmates or roommates. General, nontargeted uncivil, nuisance or abusive behavior is addressed separately in the University’s Student Conduct Code.

Sexual Harassment

Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other nonverbal, expressive or physical conduct of a sexual nature when such conduct has the purpose or effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile or offensive environment for learning or enjoying other University opportunities, programs and activities. Examples include:

- *Unwanted flirtation, advances or propositions of a sexual nature*
- *Insults, humor, jokes that belittle or demean an individual's sexuality or gender*
- *Unwelcome comments of a sexual nature about one's clothing or body*
- *Unwarranted display of sexually suggestive objects or pictures*
- *Unwelcome touching*
- *Stereotyping; adverse action based on failure to conform to stereotypical notions of masculinity or femininity*

Other Unlawful Harassment

Other Unlawful Harassment is defined as verbal, nonverbal, expressive or physical conduct that denigrates or shows hostility or aversion to an individual on the basis of that person's protected characteristic or belief.

Examples include:

- *Verbal abuse, insults or ridicule based on a person's disability*
- *Displaying or distributing offensive materials, pictures or toys that denigrate or show aversion to an individual or group based on religion*
- *Threatening or intimidating an individual because of their gender identity or expression*
- *Stereotyping or using slurs or epithets because of an individual's or group's race or gender.*

In order to constitute Sexual Harassment or Other Unlawful Harassment, the conduct complained of must be so severe or pervasive as to substantially interfere with and/or alter an individual's academic performance or enjoyment of other University opportunities, programs and activities and create an abusive environment for an individual.

Relationship Violence

Relationship Violence consists of Domestic Violence, Dating Violence and Stalking, each of which is defined below.

Domestic Violence

Domestic Violence is defined as violence committed by a current or former spouse of the student, by someone who is or has cohabitated with the student as a spouse, by someone with whom the student has a child, by others to whom the student is related by consanguinity (blood) or affinity (marriage), or by unrelated persons who are (or have been in the past) continually living in the same household.

Dating Violence

Dating Violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the student. The existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

Examples of domestic and dating violence include:

- *Slapping, kicking, pinching, biting, pulling hair or punching a girlfriend*
- *Threatening to hit, harm, or use a weapon on a boyfriend or a boyfriend's family*
- *Pushing, grabbing or choking an intimate partner*
- *Physically restraining a spouse*
- *Burning an intimate partner*
- *Hurting or threatening to hurt the pet of a boyfriend*

Stalking

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.

Stalking also includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

Examples of stalking include:

- *Constantly following a student*
- *Repeatedly appearing at the student's home, place of business, vehicle or classroom for no legitimate purpose*
- *Leaving unwanted messages, objects, or gifts at the student's home, place of business, vehicle, or classroom.*

Sexual Misconduct

This section defines sexual misconduct. Understanding consent and how it relates to sexual encounters is key to understanding conduct that is prohibited by this policy. Consent is at the core of all healthy, respectful sexual interactions. As described in detail below, engaging in sexual activity without Affirmative Consent is Prohibited Conduct under this policy.

Affirmative Consent

Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Affirmative Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of Affirmative Consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

- Affirmative Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily "constitute Affirmative Consent to any other sexual act.
- Affirmative Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Affirmative Consent may be initially given but withdrawn at any time.
- Affirmative Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Students who are charged with initiating sexual activity without consent cannot use as a defense that they themselves were under the influence of drugs and/or alcohol at the time they committed the violation.
- Affirmative Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When Affirmative Consent is withdrawn, or can no longer be given, sexual activity must stop.

It is the responsibility of the student who initiates sexual contact to obtain this Affirmative Consent; in other words, to confirm that the person with whom the student is involved has consented to engage in a sexual activity.

Lack of Affirmative Consent exists where the accused knew, or a reasonable person in the position of the accused should have known, of the other person's inability to consent. For example, there is no Affirmative Consent where the accused knew, or a reasonable person in the position of the accused should have known, that the other individual was unable to make an informed rational judgment due to his or her use of alcohol or other drugs.

Sexual Misconduct includes Sexual Assault and Sexual Exploitation, each of which is defined below.

Sexual Assault

Sexual Assault consists of any of the following:

Non-Consensual Sexual Contact, which is defined as any intentional sexual touching or fondling either directly or through the clothing, of a person's genitalia, anus, groin, breast, inner thigh or buttocks without Affirmative Consent. Non-Consensual Sexual Contact also includes an individual making a person touch him or her with, or on, any of these body parts.

Non-Consensual Sexual Intercourse, which is defined as any sexual penetration (anal, oral, or vaginal), however slight, with any object or body part, without Affirmative Consent.

Sexual act or sexual activity. The terms "sexual act" or "sexual activity" as used within this Policy refer to the

acts described in the definition of Sexual Assault.

Sexual Exploitation

Sexual Exploitation is defined as taking abusive or non-consensual sexual advantage of another for one's own benefit or for the benefit of someone other than the individual being exploited. Examples of Sexual Exploitation include:

- *Taking or transmitting sexual photographs, videos, or audiotapes without consent, or causing or permitting others to take or transmit such photographs, videos, or audiotapes without consent. This includes, but is not limited to, transmitting sexual photographs or videos via the Internet or text message ("sexting") without consent*
- *Watching another person(s) engage in sexual activity or contact without consent; viewing another nude without consent (e.g. watching someone in the shower without consent); allowing a third party to observe sexual acts or sexual contact without a partner's consent*
- *Prostituting another student (i.e., personally gaining money, privilege or power from the sexual activities of another)*

GENERAL PROVISIONS

Applicability and Scope

Any student who commits, aids, or attempts to commit any form of Discriminatory Harassment, Relationship Violence or Sexual Misconduct, as defined above, on University property, or during the course of a University program or activity, including all academic, athletic, and other University-sponsored activities, including Hofstra-sponsored study abroad, at any time or place in such a way as to impact on-campus activity or a University-sponsored off-campus program or activity or in another manner that has a reasonable connection with the University, is subject to disciplinary action under this Policy. When incidents of Relationship Violence or Sexual Assault involve students from another educational institution, Hofstra may work collaboratively with the other institution(s) to address the conduct, consistent with FERPA. Hofstra students, however, remain responsible for compliance with this Policy regardless of any collaboration with another institution.

The University reserves the right to adjudicate alleged violations of the Student Conduct Code arising from the same incident as an alleged violation of this Policy in one proceeding according to the procedures set forth in this Policy.

As used in this policy, the "reporting individual" is an individual who brings forth a report of a violation of this Policy, while the "complainant" is the University employee or student whose report of a violation is referred to the Office of Community Standards for disciplinary proceedings.. The terms "accused" and "respondent" both refer to the student accused of violating this Policy. Hofstra University remains the official charging party in proceedings under this Policy, but the complainant and respondent have certain rights in these proceedings as stated in this Policy.

This Policy is intended to provide a process to address, respond to, and adjudicate reports of Prohibited Conduct under this policy, where such conduct is alleged to have been committed by a Hofstra student. For reports of discriminatory harassment, relationship violence, or sexual misconduct, against a faculty member, other Hofstra University employee, or other non-student, consult the procedures set forth in the Harassment Policy, available at hofstra.edu/harassment. Students should report these matters to the Director of Human Resources, who is the Title IX Officer for Employee Matters, and who can be reached at 516-463-6859.

The University may pursue disciplinary action against a student for violation of this Policy at the same time the student is facing criminal charges for the same offense, even if the criminal prosecution is pending or has been dismissed, or the charges have been reduced. The University may delay any proceeding or investigation for up to ten (10) days when requested by external municipal entities for law enforcement purposes, and for a longer period of time when specifically requested and justified by law enforcement.

Interim Protections

Upon receipt of a report of a violation, the University will take steps to protect reporting individuals and the larger University community as necessary pending the outcome of the conduct process. When taking interim measures, the University will minimize the burden on the reporting individual to the extent practicable. Reporting individuals will be provided with reasonable and available interim measures and accommodations that may include a change in academic, housing, employment, transportation or other applicable arrangements in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment, consistent with the University's policies and procedures.

Interim measures may also include no contact orders and interim suspension. All no contact orders will be mutual – i.e. neither student involved will be permitted to contact the other -- unless the University determines, in its discretion, that a non-mutual order is appropriate. When the University determines that the accused presents a continuing threat to the health and safety of the community, it will subject the accused to summary suspension in accordance with the policies set forth in the Code of Community Standards.

Failure of students to adhere to the parameters of any interim measure(s) is a violation of this Policy and may lead to additional disciplinary action.

When the accused is not a student but is a member of the University community and presents a continuing threat to the health and safety of the community, the University will subject the accused to interim measures in accordance with University rules and policies. For procedures applicable where the accused is an employee, see the *Harassment Policy* at hofstra.edu/harassment.

All interim no-contact orders, including those described in the section below, will expire at the earlier of:
(1) a final resolution of a Complaint made to Public Safety in accordance with the Conduct Procedures below;
(2) a final resolution in an Alternative Resolution process; or (3) where students have not taken the steps necessary to make a Complaint as described in How to Make a Complaint and Begin the Disciplinary Process, fourteen days following the issuance of the no-contact orders, unless otherwise directed by the University. The time period for all other interim protections and accommodations will be determined by the University in its discretion.

Protections and Accommodations- Relationship Violence and Sexual Assault

In addition to the interim measures discussed above, Hofstra will ensure that the following protections and accommodations are available to students in cases of Relationship Violence or Sexual Assault.

No-Contact Orders. No-contact orders may be issued when the accused is a student. Any such no-contact order shall provide that if the accused and the reporting individual observe each other in a public place, it shall be the responsibility of the accused to leave the area immediately and without directly contacting the reporting individual. Continued intentional contact by the accused with the reporting individual when a no-contact order is issued under this section is a further violation of this Policy that would be subject to additional charges.

The University may establish an appropriate schedule for the accused to access applicable University buildings and property at a time when such buildings and property are not being accessed by the reporting individual.

Review Process: No-contact orders issued under this section and/or other interim protections and accommodations provided in cases involving reports of Relationship Violence or Sexual Assault are subject to the following review process. Either student shall, upon written request to the Assistant Vice President for Student Affairs or designee, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any no-contact order, interim protection or accommodation that directly affects him or her, including potential modification of such protection or accommodation, and shall be allowed to submit evidence in support of his or her request. The other student will be notified of and entitled to review any such request and evidence submitted and will have the opportunity to oppose any such request in writing to the Assistant Vice President for Student Affairs or designee.

The other student's opposition must be sent within two (2) business days of being sent a copy of the request.

Assistance with Orders of Protection: Orders of protection are issued by New York State courts. The University does not issue orders of protection, but will ensure that students are referred to the appropriate officials to assist in obtaining a New York State court order of protection or an out-of-state equivalent. If the University receives a copy of an order of protection, the reporting individual will also have the right to receive a copy. In all instances

where students obtain orders of protection, they will have an opportunity to be referred by the Title IX Officer for Student Issues to an appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused's responsibility to stay away from the protected person or persons, and an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension. Public Safety will also provide assistance to complainants in calling on and assisting local law enforcement in effecting an arrest for violation of an order of protection.

No Retaliation

No individual shall be penalized or retaliated against by a member of the University community for his or her participation in the investigation or disciplinary process related to a report made under this Policy.

Retaliation is defined by applicable federal laws, including Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972. Any such retaliation constitutes Prohibited Conduct and a further violation of this Policy, to be adjudicated under these procedures.

Title IX Officer for Student Issues

The Title IX Officer for Student Issues has oversight responsibility for the University's student-related efforts to comply with and carry out responsibilities under Title IX, a federal civil rights law that prohibits discrimination on the basis of sex in federally-funded education programs and activities. In this regard, the Title IX Officer for Student Issues is responsible for overseeing the University's response to reports and Complaints by students against students under this policy of sexual harassment, relationship violence, and sexual misconduct; and for addressing any patterns or systemic problems revealed by such reports and Complaints against students. The Title IX Officer for Student Issues is responsible for maintaining data about reports of Sexual Harassment, Domestic Violence, Dating Violence, Stalking and Sexual Misconduct against students. The Title IX Officer for Student Issues is also responsible for referring any reports of Sexual Harassment, Domestic Violence, Dating Violence, Stalking and Sexual Misconduct against employees or other nonstudents to the Human Resources Director, who serves as the Title IX Officer for Employee Matters. The Interim Title IX Officer for Student Issues, Allison Vernace, is available to meet with students as needed. She can be reached at TitleIXCoordinator@Hofstra.edu, 516-463-5841, 200 Phillips Hall, Hempstead, NY 11549.

There are also designated Deputy Title IX Officers, who are also available to students to receive reports of violations and to discuss issues related to this Policy and its procedures:

Claudia Andrade, Director of Student Advocacy and Prevention Awareness,

Claudia.Andrade@Hofstra.edu, 516-463-6555, Mack Student Center, 240C

Jennifer Boscarino-Green, Senior Associate Dean, University Advising, JBG@Hofstra.edu,

516-463-4961, Memorial Hall 101F

Jodi Langsfeld, Associate Dean for Student Affairs (Medical School),

Jodi.Langsfeld@Hofstra.edu, 516-463-7145, School of Medicine 227A

Lisa Monticciolo, Associate Dean for Students and Administration (Law School),

Lisa.Monticciolo@Hofstra.edu, 516-463-4809, Law School 0204A

Terri Shapiro, Senior Vice Provost for Academic Affairs and Dean of Graduate Studies,

Terri.Shapiro@Hofstra.edu, 516-463-5057, West Library Wing 0225

Cindy Lewis, Senior Associate Director of Athletics, Cindy.Lewis@Hofstra.edu, 516-463-6748, Mack Sports Complex 207

Russ Smith, Assistant Director for Residence Life, Russ.D.Smith@Hofstra.edu, 516-463-6931, Mack Student Center 244H

Remington C. Freeman, Assistant Director for Intercultural Engagement and Inclusion, Remington.C.Freeman@Hofstra.edu, 516-463-6796, Mack Student Center 263G

Reporting Options

The University encourages students who have experienced sexual misconduct, relationship violence, or discriminatory harassment to talk to someone at the University about what happened – so students can get the support they need, and so the University can respond appropriately. This section describes reporting options for students.

When a student first reports Relationship Violence or Sexual Assault to the Title IX Officer for Student Issues, a Deputy Title IX Officer, a Resident Director, any Student Affairs administrator at the Director level or higher, or a Public Safety officer, the following information will be presented to the student: “You have the right to make a report to Hofstra Public Safety, local law enforcement, and/or state police or choose not to report; to report the incident to the University; to be protected by the University from retaliation for reporting an incident; and to receive assistance and resources from the University.” Any of the above individuals who learn of a report of Relationship Violence or Sexual Assault from another employee or from a Resident Assistant must ensure that the above information is presented to the reporting individual.

Reporting a violation. Students who wish to report Prohibited Conduct should contact the Title IX Officer for Student Issues, a Deputy Title IX Officer, a Resident Director, or the Department of Public Safety. Students making a report may ask to remain anonymous or that a Complaint not be pursued, and the University will weigh that request against its obligation to provide a safe, non-discriminatory environment for the community. This process is described in detail below under Remaining Anonymous or Declining to Pursue a Complaint.

Pursuing a formal Complaint. Students who wish to make a formal Complaint to begin the disciplinary process should file a Complaint with Public Safety, as described below under How to Make a Complaint and Begin the Disciplinary Process.

Confidentiality. Students who want to keep information shared strictly confidential may report violations to Confidential Resources. These are University employees, such as counselors in the Student Counseling Center, who are required to maintain confidentiality and will not share information with school administration or other parties. See Confidential Resources, below. All other University employees who receive information about Prohibited Conduct are encouraged to report all relevant information (including the identities of the both the student complaining and the alleged perpetrator) to the Title IX Officer for Student Issues (involving reports by students against students) or for Employee Matters (involving reports by or against employees, or against other non-students), as appropriate. This allows the University to investigate the incident and take appropriate steps to protect the University community and to promote a safe, nondiscriminatory environment.

Even Hofstra offices and employees who cannot guarantee confidentiality will maintain a student’s privacy to the greatest extent possible. The information students provide to a non-confidential resource will be relayed only as necessary for the University to investigate and/or seek a resolution.

Confidential Resources

Where a violation is reported to individuals at the University who serve in a professional role in which communication is protected under applicable federal, state or local law or regulation or licensing authority –

including counselors in the Student Counseling Center, clinical staff in the Student Health and Wellness Center, and clergy in the Interfaith Center – such reports will not be further disclosed to the extent the communication is protected by law.

In other words, when a student talks to a counselor at the Student Counseling Center about an incident of harassment or abuse, that counselor will not share the information with school administration or any other parties without the student's permission except in rare, extreme circumstances required by law.

A student who speaks to one of these counselors must understand that, if the student wants to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.

Where a student notifies any such counselor of conduct prohibited by this policy – i.e. where the communication is protected by law –the University will not be on notice of such prohibited conduct.

Responsible Persons: Reporting Incidents of Sexual Violence

Certain individuals at the University are considered “Responsible Persons,” and are **required** to report all relevant information about an incident of sexual violence to the Title IX Officer for Student Issues or other University official responsible for oversight of this Policy. The following University officials constitute Responsible Persons required to report incidents of sexual violence:

- President
- All Vice Presidents, Senior Vice Presidents, and Assistant Vice Presidents
- All Deans and Vice Deans of Schools or Colleges of the University
- All administrators in the Division of Student Affairs
 - This includes but is not limited to Advising Deans in the Center for University Advising, Assistant Directors, and Associate Deans/Directors, Residence Life administrators, and Community Standards administrators
 - This does not include administrators covered under *Confidential Communications*, above
- All Resident Assistants (RAs)
- All Public Safety Officers and administrators
- Title IX Officer for Student Issues
- Deputy Title IX Officers
- Director of Human Resources/Title IX Officer for Employee Matters
- Equal Rights and Opportunity Officer

Note: Those students who are not sure whether the person to whom they are reporting will keep their report confidential should just ask the person before disclosing the information.

Remaining Anonymous or Declining to Pursue a Complaint

Students may report Prohibited Conduct to an employee but ask to remain anonymous, ask that no Complaint be pursued and/or request that no investigation into a particular incident be conducted or disciplinary action taken. In any of these instances, the University will weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all.

If the University honors the request, a reporting individual must understand that the University will have only a limited ability to investigate the incident meaningfully or to take disciplinary action against the alleged perpetrator(s).

The University may take proactive steps, such as training or awareness efforts, to combat domestic violence, dating violence, stalking or sexual assault in a general way that does not specifically identify those who disclose

or the information disclosed.

Consent Prior to Commencement of Investigation- Relationship Violence & Sexual Assault Reports

For reports of Relationship Violence or Sexual Assault, the University will seek consent from the reporting individual prior to conducting an investigation. If the reporting individual declines to consent, the University will respect that request unless otherwise required by law or it determines in good faith that failure to investigate may create a risk of harm to the complainant or other members of the community.

Factors used to decide whether to conduct an investigation over the reporting individual's objection include, but are not limited to:

- Whether the accused has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior;
- The increased risk that the accused will commit additional acts of violence;
- Whether the accused used a weapon or force;
- Whether the reporting individual is a minor; and
- Whether the University possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group.

For reports of Relationship Violence or Sexual Assault, if a reporting individual discloses an incident to a Responsible Person but the reporting individual wishes to maintain confidentiality or does not consent to the University's request to initiate an investigation, the University shall assist with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of the student's reporting choice.

Disclosure during Public Awareness and Advocacy Events

If a student discloses information through public awareness events such as candlelight vigils, protests, or other public events, the University will not take action based on this information. The University may use the information provided at such an event to inform its efforts for additional education and prevention.

University Disclosure -- Clery Act and FERPA

Statistics generated from student reports of certain crimes occurring in certain geographic locations are included in the University's Clery Act Annual Security & Fire Safety Report in an anonymous manner that does not identify the specifics of the crime or the identity of the reporting student.

The University is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the reporting individual). A reporting individual will not be identified in a timely warning.

The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, (2) when the student is a dependent on either parents' prior year federal income tax return, or (3) when the student has filed a waiver of FERPA protections. Generally, the University will not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the reporting student.

Alternative Resolution

At any time after a report of Prohibited Conduct, but before a Referral to Community Standards is issued, an alternative resolution may be pursued should all of the students involved so desire. Alternative resolution is designed to obtain an expedient, mutually acceptable solution without the necessity for conducting further investigation or making a Referral to Community Standards. The purpose is to attempt through discussion and inquiry to make an effort to resolve or work out the issue in a non-adversarial manner. The Title IX Officer for Student Issues or designee is authorized and encouraged to explore alternative resolution any time after the report of an incident is received. If the report is resolved to both students' satisfaction, the Title IX Officer for Student

Issues or designee will provide the students with a written statement reflecting the terms of the resolution and stating that the agreed-upon resolution will be undertaken. This written statement should be signed by the reporting individual and the accused. Upon the signing of the written statement of alternative resolution, the matter will be deemed closed, and no party will be permitted to appeal, contest, re-open, or otherwise attempt to set aside or amend the terms of the alternative resolution as long as the terms are adhered to.

How to Make a Complaint and Begin the Disciplinary Process

Each reporting individual will have the right to request that charges be filed against the accused in disciplinary proceedings under this Policy. Students who wish to pursue a complaint of a violation of this Policy through the disciplinary process (referred to in this Policy as “Complaint”) should make a Complaint regarding the Prohibited Conduct through the Department of Public Safety by calling 516-463-6606 or by visiting the Mack Public Safety and Information Center located on the corner of Hempstead Turnpike and California Avenue. To pursue a Complaint of Sexual Assault and Relationship Violence, students must consent to an investigation as described in Consent Prior to Commencement of Investigation- Relationship Violence & Sexual Assault Reports.

Public Safety is available 24 hours a day. Public Safety can assist in connecting students with counseling, medical, and academic support services, and will explain the options that are available regarding reporting through the Hofstra disciplinary process, and to local law enforcement and/or state police. Assistance will be provided in notifying these authorities, if such assistance is requested. Students may choose to proceed through both criminal and University disciplinary processes simultaneously, or may choose to decline to notify outside authorities. For additional information, please refer to the “Safety and Security Policies” section of *Guide to Pride* or call 516-463-6606.

Students with questions or concerns about disability-related issues, including discriminatory harassment based on disability, may contact the Director of Student Access Services, at 516-463-7075 or by visiting Suite 107, Student Center. Students in need of assistance with filing a disability-related Complaint may contact the Director of Student Access Services, as indicated above.

Amnesty

The health and safety of every student at Hofstra University is of utmost importance. The University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that domestic violence, dating violence, stalking, sexual assault, or other violence occurs, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Hofstra University strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to University officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to University officials or law enforcement will not be subject to the University’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.

Advisors

Both the complainant and the respondent will have the right to be accompanied by an advisor of choice who may assist and advise the student throughout the conduct process under this Policy, including during all meetings and hearings relating to the process. All guidelines stated in “Advisor’s Role in University Proceedings” in the Code of Community Standards apply to the Advisor’s role under this Policy. Students must identify their Advisor and complete an Advisor Form from the Office of Community Standards, which must be signed by their Advisor. Advisors will not be permitted to speak on behalf of students during meetings or hearings.

Annual Training

All investigators and members of an Administrative Board or appeal panel that is adjudicating cases under this Policy will receive annual training in the following: conducting investigations of sexual violence and conducting a hearing process that protects the safety of victims and promotes accountability, the effects of trauma, impartiality,

the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made pursuant to this Policy, and other issues relating to discriminatory harassment, domestic violence, dating violence, sexual assault and stalking.

False Reports

Reports of sexual and other discriminatory harassment, sexual misconduct, and relationship violence cannot always be substantiated due to the nature of the offenses. Lack of corroborating evidence should not discourage any person from seeking relief through the procedures in this policy. However, reports found to have been intentionally dishonest or made maliciously or without regard for the truth will constitute a violation of this Policy.

CONDUCT PROCEDURES

These procedures are provided for the prompt and equitable resolution of Complaints brought by University employees and students alleging Discriminatory Harassment, Sexual Misconduct or Relationship Violence by a student. The process set forth below (not including appeals) may last up to 60 days, depending on a variety of factors including the severity, extent and complexity of the allegations, or availability of witnesses.

Complaint

Complaints against students should be initiated as soon as possible after the incident takes place by filing a Complaint with the Department of Public Safety. In order to facilitate investigation of a Complaint, prompt reporting is encouraged; initial Complaints of violation of this Policy must be made within six months (not including the months of the summer or January sessions) of the most recent occurrence of an alleged violation. This timeliness requirement may be waived in extenuating circumstances. Even if the time to file a formal

Complaint has elapsed, students are encouraged to report violations so that appropriate action may be taken. Students may contact the Dean of Students' Office or the Title IX Officer for Student Issues for any assistance they need with filing a Complaint. *See also* How to Make A Complaint and Begin the Disciplinary Process.

Investigation

Investigations of Complaints will be prompt, thorough, and impartial. For Complaints of Relationship Violence and Sexual Assault, prior consent will be sought as discussed above under Consent Prior to Commencement of Investigation- Relationship Violence & Sexual Assault Reports.

Both the complainant and the respondent will have the opportunity to offer evidence during the investigation. The complainant and respondent should present all proposed evidence, including pictures, documents or other written or electronic materials, and all potential witnesses, to the investigator during the initial investigation. Students will be precluded from introducing evidence or witnesses that are not submitted to the Department of Public Safety investigator at least 7 business days prior to the scheduled Hearing, unless the University, in its sole discretion, finds that extenuating circumstances exist.

Where grounds for further proceedings have been found, the respondent will receive a Referral to the Office of Community Standards, which will schedule an informational meeting, discussed below.

Informational Meeting

Both the respondent and complainant will schedule separate informational meetings, and will receive reasonable written or electronic notice, provided in advance, of this meeting and any other meeting under this policy that they are required or eligible to attend.

During the informational meeting both students will receive a copy of the Charge Letter (the "Charge"), which serves as formal notification that a charge of violation of this Policy has been brought. The Charge will contain the specific type of violation with which the respondent is charged, and the date, time, location, and factual allegations concerning the manner of the violation, as well as possible sanctions for the violation. The University may hold students accountable and subject to sanctions for violations that are not referenced in the initial charge letter but arise from the same incident and are learned about from evidence, testimony or admission at a hearing or during the investigatory process, consistent with the procedures set forth in this Policy.

Both the respondent and the complainant will receive the Acknowledgment of Student Rights and Conduct Procedures form, which provides information about the parties' procedural rights, during their individual informational meetings.

Both the respondent and the complainant will be given the opportunity during their individual informational meeting to discuss and review the charges as well as any evidence in the Case File, which is maintained by the Office of Community Standards, to the extent permitted under confidentiality laws, including FERPA. Students are not entitled to keep copies of party or witness statements or other documentary evidence. During the informational meeting, students will have the opportunity to ask and answer questions regarding the allegation(s) and the disciplinary process under this policy and will be provided with educational or other resources applicable to the allegations as appropriate.

For documented emergencies and other documented unforeseen circumstances, a student may request one (1) postponement of his/her informational meeting, provided that the Office of Community Standards is notified at least one business day in advance of the scheduled meeting. Failing or refusing to sign any forms does not absolve the student of the responsibility for following all directives outlined.

Options for Resolution

Following the informational meeting, there are three possible options for resolution:

1. **Acceptance of responsibility.** The respondent may elect to accept responsibility for the Charge. In such cases, the University will determine the appropriate sanction in accordance with Sanctions and Remedies, including the submission of written impact statements, and the respondent will automatically waive his/her rights associated with a hearing. The complainant will receive written notice of: (i) the election to accept responsibility; (ii) the sanction as it relates to the complainant, to the extent consistent with FERPA, and (iii) any individual remedies offered or provided to the complainant. In cases of Relationship Violence or Sexual Assault, both students will be sent concurrent notification by the Office of Community Standards of the rationale for the sanction consistent with FERPA. The sanction will be appealable as set forth below.
2. **Conciliation Agreement.** With the consent of both the respondent and the complainant, and if deemed appropriate by the University, the Charge may be resolved through a conciliation agreement without a hearing or determination of responsibility, through measures including education, counseling, changes in housing or academic accommodations, and administrative actions. If the parties are unable to reach a conciliation agreement, the disciplinary process will proceed to a formal hearing. Furthermore, the complainant has the right to end the conciliation process at any time and proceed to a formal hearing. Formal, face-to-face mediation shall not be used for cases of Sexual Assault. When a conciliation agreement is reached, the students will receive a written statement reflecting the terms of the agreement, which will be signed by both the complainant and the respondent. Upon the signing of the agreement the matter will be deemed closed, and no party will be permitted to appeal, contest, re-open, or otherwise attempt to set aside or amend the terms of the conciliation agreement as long as the terms are adhered to.
3. **Hearing.** Where the respondent denies responsibility or one or both parties request a formal hearing, the Charge proceeds to a formal hearing where it will be determined whether it is more likely than not that the respondent violated this Policy. The hearing will be conducted according to the procedures set forth below. As set forth above under Informational Meeting, where the respondent fails to respond, a decision will be made based upon the information in the Case File.

Administrative Board and Hearing Preparation

Only an Administrative Board will adjudicate proceedings under this Policy; student board hearings are not available for these proceedings. The Administrative Board shall consist of three administrators/faculty assigned by the Vice President for Student Affairs or designee. In cases where Sexual Misconduct, Relationship Violence, or Sexual Harassment has been alleged, the Administrative Board shall include at least one male and one female member. The Hearing Officer will serve as the Chairperson of the hearing and shall conduct the hearing in accordance with this Policy.

Rights/Obligations of the Parties

When an administrative hearing is conducted under this policy, the parties have the rights and obligations listed below. The University, in its sole discretion, may extend the time frames listed below as necessary and appropriate.

1. **Notice of Hearing.** The parties shall be informed by the Office of Community Standards, in writing, of the date, time, and place of the hearing. The hearing will be scheduled reasonably promptly following the initiation of the Complaint. The complainant and respondent shall be allowed a reasonable amount of time (at least ten (10) business days) to prepare for the hearing.
2. **Witnesses and Other Evidence.** The complainant and respondent shall each have the right to speak for themselves, to present witnesses and other evidence in the Case File, and to challenge the evidence.
 - Witnesses*
 - i. The parties may propose witnesses with knowledge of the facts to speak on their behalf. Each party must submit a written list of their proposed witnesses or any signed witness statements to the Office of Community Standards for approval at least seven (7) business days prior to the hearing. All witness names proposed on this list must have been previously submitted to the Department of Public Safety during the initial investigation as set forth under Investigation.

- ii. Approval of all witnesses is at the sole discretion of the University. All witnesses must be deemed relevant by the University in its sole discretion.
- iii. The Office of Community Standards will send each party a written list of all approved witnesses prior to the hearing date and will notify all University employee or student witnesses of the hearing time, date and place to appear via their University email address. The University reserves the right to call additional witnesses up to and during the hearing at its sole discretion.
- iv. It is the responsibility of each party to notify their approved witnesses of the hearing time, date, and place to appear, unless their approved witnesses are Hofstra students or Hofstra employees, in which case the Office of Community Standards will notify as set forth in 2 (iii) above.

Other Evidence

- i. Parties may present and challenge all evidence that has been placed in the case file, as described in *Informational Meeting*, above. Parties may request an appointment to view the case file (subject to FERPA) during regular business hours at any time before the hearing, so long as the request is made prior to the hearing. Copying of any evidence in the case file by any means by students or their Advisors is strictly prohibited. The University reserves the right to supplement the Case File at any time.
3. **Removal of Board Member or Hearing Officer.** Upon being notified of the members of the board and the Hearing Officer, the parties have the right to request the removal of a member of the board or the Hearing Officer if a conflict of interest exists. The request must be made to the Dean of Students or designee, and the party must be prepared to substantiate this contention. Removal of a member of the board or the Hearing Officer may be granted or denied based on the Dean of Students or designee's determination as to whether or not there is just cause.
 4. **Postponing the Hearing.** Each party shall be entitled to postpone the hearing one (1) time with just cause, as long as the request is made at least one (1) business day prior to the hearing. The Office of Community Standards will determine if a postponement is warranted. Postponements cannot be made to accommodate the schedule of an advisor or other student witnesses. Any additional postponements may be granted or denied at the University's discretion.
 5. **Failure to Appear.** The sole fact of a party's absence from the hearing shall not, in and of itself, be deemed to create any adverse inference against that party.

Hearing Process

The usual format of a hearing is set forth below. The Hearing Officer has the discretion to change the order, as he or she deems appropriate. The University reserves the right to call appropriate University members to serve as witnesses and/or to offer testimony at the hearing. Any evidence introduced at the hearing shall be part of the hearing record ("Hearing Record").

The Hearing Officer will conduct the hearing in an orderly manner, state the charges, rule on the relevancy of matters discussed and evidence presented, call witnesses, and coordinate and lead the questioning process. The Hearing Officer shall obtain affirmations from parties and witnesses of their obligation to testify truthfully.

1. Cases will be introduced and charge(s) read by the Hearing Officer.
2. Opening statement by complainant and/or charging party.
3. Opening statement by respondent.
4. Where applicable as determined by the University, statement/report from the investigator regarding the investigation.
5. Where the investigator provides a statement/report, questions for the investigator from members of the board, the complainant, and the respondent.
6. Statement(s)/report(s) from witness(es) on behalf of the complainant and/or charging party.
7. Questions for the witness(es) in No. 6 from members of the board, the complainant, and the respondent.
8. Statement(s)/report(s) from witness(es) on behalf of the respondent.
9. Questions for witness(es) in No. 8 from members of the board, the respondent, and the complainant.

10. Questions for the respondent from members of the board and the complainant. Each student may question the other, but alternative arrangements may be made for complainants who do not wish to be in the same room as the accused.
11. Questions for the complainant from members of the board and the respondent.
12. Closing statement from respondent.
13. Closing statement from complainant and/or University

Note: The Hearing Officer may determine, in his or her discretion, that the parties should not personally question each other or witnesses. In such situations, the parties will be permitted to propose questions to the Hearing Officer to be read. The Hearing Officer, in his or her discretion, may accept or reject any question so submitted.

Note: During the hearing, statement reports are provided verbally. If a witness or party is absent, the Hearing Officer will enter written statements pre-approved by the Office of Community Standards into the record. The parties will have the opportunity to challenge these written statements at the hearing in lieu of questioning.

Note: Neither party may ask questions or present evidence about prior sexual history with persons other than the other party or about the mental health diagnosis and/or treatment of the other party during the stage of determining responsibility. Past findings of domestic violence, dating violence, stalking or sexual assault may be admissible in the stage of determining sanction.

Deliberation and Decision

Following the close of the hearing, the Administrative Board shall deliberate, and the Hearing Officer shall serve as a non-voting facilitator for the deliberations.

The Board may not take into account as evidence of culpability the mere fact that a criminal investigation or prosecution is pending in relation to the events complained of.

The Administrative Board shall determine responsibility by choosing one of the following options:

- (1) Responsible. The Administrative Board finds that it is more likely than not that the respondent violated the Policy Prohibiting Discriminatory Harassment, Relationship Violence and Sexual Misconduct.
- (2) Not Responsible.

Sanctions and Remedies

If the respondent is found Responsible, the Hearing Officer or designee determines the sanctions. Each party shall have the opportunity to make a written impact statement before the sanction determination is made. Potential sanctions are set forth in detail in the Code of Community Standards' section on "Sanctions," and include probation, residence hall removal and/or ban, suspension, and expulsion.

In determining an appropriate sanction, the Hearing Officer or designee shall consider aggravating factors including (a) any record of past violations, (b) the nature and severity of such past violations, and (c) premeditation/intent to commit a violation.

The following should also be considered in determining the sanction: whether the sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation on the complainant and the University community.

The University's policy on "Minimum Sanctions," as set forth in the Code of Community Standards, shall also apply to violations of this policy.

The University will offer counseling and academic support services, as necessary and appropriate, to any student involved in proceedings under this policy. The University will also take additional steps, as appropriate, which could include training sessions and other measures, to prevent recurrence of violations, and remedy their effects.

Decisions and Appeals

Both parties shall be sent concurrent notification in writing by the Office of Community Standards of the decision of the Administrative Board.

The respondent shall be notified of any sanctions, and, to the extent consistent with FERPA or other applicable law, the complainant will be notified of the sanction as well. Complainants may be notified of sanctions that directly relate to the complainant, including: that the respondent have no contact with the complainant; or that the respondent is prohibited from attending school for a period of time, has been transferred out of classes shared with the complainant or has been relocated away from a residence hall shared with complainant.

For Complaints of Relationship Violence or Sexual Assault, both students will be sent concurrent notification by the Office of Community Standards of the decision of the Administrative Board, the findings of fact supporting the decision and the rationale for the decision. Where sanctions are imposed, the students will be notified of the rationale for the sanction.

The complainant shall also be notified as to any individual remedies offered or provided to the complainant, and other steps the school has taken to eliminate any hostile environment and prevent recurrence, if applicable. The respondent will not be notified of any individual remedies offered or provided to the complainant.

Either party may request an appeal of the decision and/or sanction(s) by submitting a written petition for an appeal to the Dean of Students within seven (7) calendar days after receiving the decision letter, on any of the following grounds:

- 1) There is new evidence to warrant a new hearing; or
- 2) The student's procedural rights have been violated; or
- 3) The severity of the sanction is inappropriate given the details of the case.

The student(s) must submit the written petition for appeal to the Dean of Students specifying one or more of the above grounds. A request on any of these grounds must clearly explain, in detail, the basis for the appeal, and should include any available documentation. The appeal is limited to an inquiry of the issue or issues raised in the Charge.

The Office of Community Standards will notify the party who did not request the appeal in writing and that party will have five (5) calendar days from the date of notification to submit a response to the appeal. The appeal will be decided by the Dean of Students or designee.

For decisions relating to Relationship Violence or Sexual Assault Complaints, the appeal will be conducted by a three-person panel that includes the Dean of Students or designee, and two other individuals designated by the Vice President for Student Affairs. Each party will receive notice of the names of the members of the panel and the right to request the removal of a member of the panel if a conflict of interest exists. The request must be made to the Dean of Students, and the party must be prepared to substantiate this contention. Removal of a member of the appeals panel may be granted or denied based on the Dean of Students' determination as to whether or not there is a conflict of interest.

In addition to filing a written appeal or response, either party may request a hearing before the Dean of Students or appellate panel, as applicable, which may be granted or denied in the discretion of the appeals panel/Dean of Students. If such hearing is granted, each party will be permitted to present his or her position orally (limited to thirty (30) minutes) and may be questioned.

Appeals will be conducted in a fair and impartial manner. The appeals panel or Dean of Students, as applicable, will decide whether to modify or uphold the original sanction or decision. Both parties will be sent concurrent notification in writing of the result of the appeal.

In situations where new evidence is introduced, the appeals panel or Dean of Students, as applicable, may decide, based on its discretion, to re-open the case with the original hearing board. Based on the new evidence heard, the original hearing board may uphold or modify its decision, and sanction may be upheld or modified.

Final Appeal to Vice President for Student Affairs

Within five (5) calendar days after the date of the written appellate decision, either party may submit written objections to the decision to the Vice President for Student Affairs. Such written objections should set forth, in detail, the reasons why the objecting party believes the appellate decision should not be affirmed, or why the recommended penalty should not be adopted, by the Vice President for Student Affairs. A copy of the written objections will be provided to the other party in interest, who may file a written response within five (5) calendar days after the date the objections were sent.

Either party may request a hearing before the Vice President for Student Affairs, which may be granted or denied in his or her discretion. If such hearing is granted, each party will be permitted to present his or her position orally (limited to thirty (30) minutes) and may be questioned. The decision of the Vice President for Student Affairs shall be final.

Records

To ensure the integrity of the hearing process and maintain an accurate record of the proceedings, Hofstra University records all hearings conducted under this policy. Originals or copies of these recordings will not be released, unless pursuant to a lawfully issued subpoena or court order. Students may request to listen to recordings or view transcripts, as applicable, and may take notes on their prior proceedings to the extent permitted by FERPA. The University reserves the right to have a University representative present during any review of recordings or transcripts. As with other hearing materials, only those individuals directly involved in an appeal (the dean of students, associate dean of students or designee, assistant dean for community standards or designee, Title IX Officer for Student Issues or designee, the respondent and his/her advisor, the complainant and his/her advisor, and hearing board and appellate hearing board members) may request to listen to any part of the recording. The complainant and accused student will have the right to access the recording or transcript for five years from the date of the hearing at a time and place determined by the University. Copying of the hearing materials or transcript by students or their Advisors by any means is strictly prohibited.

Note: Only the chairperson of the hearing is allowed to record the hearing on a University recording device or through a court reporter. All other recording and/or cell phone devices are not permitted during the hearing.

The Office of Community Standards is responsible for maintaining the Hearing Record together with the audio recording of the hearing pursuant to the University's Record Retention Policy.

Any publicly available recordkeeping, such as crime statistics reported as part of the University's Annual Security Report, will be accomplished without the inclusion of identifying information about any reporting individual, to the extent permissible by law.

For Complaints of Relationship Violence or Sexual Assault, students will have the right to choose whether to discuss or disclose the outcome of the processes under this policy, and will have the right to have all information obtained during the course of the process under this policy protected from public release until the appeals panel makes a final determination unless otherwise required by law. Even after the appeals panel makes a final determination, FERPA protections will still apply to the information as applicable.

APPENDIX I: RESOURCES

A. If you Experience Sexual Misconduct, Relationship Violence or Discriminatory Harassment

Your safety and well-being are of paramount importance. What you choose to do after an incident is up to you, but you are encouraged to take the following actions immediately:

1. Go to a place where you feel safe.
2. Contact or have a friend contact Public Safety at **516-463-6606**. In an emergency, call Public Safety at **516-463-6789**, or, if you're off-campus, call **911**. You have the option to notify Public Safety and local police, and to be assisted by Public Safety in notifying local police if you so choose. You also have the option to decline to notify these authorities.
3. To speak to a **Confidential Resource** who will not report your information further, you can contact Student Counseling Services at **516-463-6791** (Public Safety will contact Student Counseling Services during non-business hours), the Health and Wellness Center at **516-463-6745**, or one of the following chaplains in the Interfaith Center: Catholic Chaplain **516-463-7210**; Jewish Chaplain **516-463-6922**; Muslim Chaplain **516-463-6920**; Protestant Chaplain **516-463-5227**.
4. Go to a hospital emergency room. Public Safety or the police will provide transportation, if necessary.
5. It is important to preserve evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order. Medical evidence for use in the prosecution of a criminal offense is collected at the hospital. For this reason, you should not shower, bathe, douche, or change clothes. You may need to bring a change of clothes to the hospital in case what you are wearing is collected as evidence.
6. Do not touch any evidence or straighten up the area where the assault occurred.
7. Do not blame yourself. The person who assaulted you is responsible.

Students have access to mental health counseling through the Student Counseling Center. Crisis intervention, initial intake, consultations, workshops and psychoeducational groups, and the first three sessions of personal and educational counseling are available to all students at no cost. A fee may be assessed for services beyond those listed above.

Students have access to medical services, including testing for sexually transmitted infections, through the Wellness Center. There may be a fee for testing for sexually transmitted infections, as tests are sent to an outside laboratory.

Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital (Find a designated SAFE Center near you here: https://profiles.health.ny.gov/hospital/designated_center/SAFE+Center+of+Excellence). While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found here: <https://ovs.ny.gov/sites/default/files/brochure/ovsrightsofcvbooklet.pdf>, or by calling 1-800-247-8035. Options are explained here: <https://ovs.ny.gov/help-crime-victims>

The University will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community.

B. Students' Bill of Rights

Pursuant to Article 129-B of the New York State Education Law, 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 University.
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.
5. Be treated with dignity and to receive from the University courteous, fair, and respectful health care and counseling services, as available through the Wellness Center and Student Counseling Services.
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 University, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the University's jurisdiction.
9. Access to at least one level of appeal of a determination.
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process.
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the University.

C. Rights of Reporting Individuals

Any student reported to have been subject to a violation of this Policy has the right to the following:

1. Notify Hofstra Public Safety, local law enforcement, and/or state police.
2. Have emergency access to a University official trained in interviewing victims of sexual assault, who shall be available upon the first instance of disclosure by a reporting individual to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible. The official will explain that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. The official shall also explain the level of confidentiality he is authorized to offer, and shall inform the reporting individual of other reporting options;
3. Disclose confidentially the incident to counselors in Student Counseling Services or clinicians in the Health and Wellness Center, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for reporting individuals;
4. Disclose confidentially the incident and obtain services from the state or local government;
5. Disclose the incident to Hofstra representatives who can offer varying levels of confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals.
6. Disclose the incident anonymously by calling the New York State Hotline for Sexual Assault and Domestic Violence at: 1-800-942-6906. The Hotline is for crisis intervention, resources and referrals and is not a reporting mechanism, nor is it affiliated with Hofstra University.
7. File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Officer for Student Issues and other appropriate Hofstra representatives for information and assistance. Reports shall be investigated in accordance with this policy and a reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy.
8. Disclose, if the accused is an employee of the institution, the incident to the Equal Rights Officer or the right to request that a confidential or private employee assist in reporting to the Equal Rights Officer, for investigation and adjudication under the Harassment Policy.
9. Receive informational assistance from Hofstra representatives in connection with legal proceedings in family court or civil court.
10. Withdraw a complaint or involvement from the process under this Policy at any time.

D. Educational Programs

You are the key to your personal safety on campus and in the community. We encourage you to educate yourself by attending educational programs that promote the awareness and prevention of relationship violence and sexual assault. Such programs are conducted for first-year students during New Student Orientation and Welcome Week.

Incoming students are also required to complete the Campus Clarity program, which includes important information about relationship violence and sexual assault, such as:

- Definitions of the relevant offenses in New York State
- Definition of consent, in reference to sexual activity, in New York State
- Safe and positive options for bystander intervention
- Information on how to recognize warning signs of abusive behavior and how to avoid potential attacks

Other programs on these and related topics are offered throughout the year and are open to the entire Hofstra community. These programs include Domestic Violence Awareness Week featuring programs as described at hofstra.edu/dva, as well as numerous sexual assault awareness and prevention programs, including Take Back the Night, the Clothesline Project, and It's On Us campaign, as described at www.hofstra.edu/itsonus. In addition, the University has launched the Step Up program, a bystander intervention program that meets with student groups throughout the year.

All Hofstra students are notified each year about the Guide to Pride, available online at hofstra.edu/guidetopride, which is updated annually and includes the Student Policy Prohibiting Discriminatory Harassment, Relationship Violence and Sexual Misconduct, also available online at hofstra.edu/sexualmisconduct. This policy states that sexual assault and relationship violence are prohibited at Hofstra, and contains detailed information about Hofstra's guidelines and procedures in responding to reports of sexual assault or relationship violence, including information about confidentiality and a detailed description of the disciplinary process for complaints.

For additional information, please contact the Office of Student Affairs at studentaffairs@hofstra.edu.

E. Disability Resources

The Office of Student Access Services (SAS) provides disability related education, services and resources to the Hofstra community. SAS ensures equal access to education for all Hofstra students, regardless of disability, in compliance with federal law and in keeping with Hofstra's longstanding commitment to equality and access in its programs and services. SAS respectfully serves Hofstra students by facilitating barrier-free educational opportunities and assisting them in becoming self-advocating, independent learners.

The Director of SAS is available to assist students with questions or concerns about disability-related issues, including discriminatory harassment, and to provide assistance with filing a disability-related Complaint. You can reach SAS at 516-463-7075, SAS@hofstra.edu, or by visiting Suite 107 Student Center.

F. Phone Numbers

• **Emergency – On Campus: 516-463-6789 Off Campus: 911**

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| • Hofstra University Public Safety | 516-463-6606 |
| • Title IX Officer for Student Issues | 516-463-5841 |
| • Hofstra University Office of Residence Life | 516-463-6930 |
| • Dean of Students/Office of Community Standards | 516-463-6913 |
| • Hofstra University Student Access Services | 516-463-7075 |

Confidential Resources

• Hofstra University Student Counseling Services	516-463-6791
• Hofstra University Student Health and Wellness Center	516-463-6745
• Catholic Chaplain	516-463-7210
• Jewish Chaplain	516-463-6922
• Muslim Chaplain	516-463-6920
• Protestant Chaplain	516-463-5227

Off-Campus Resources

• Nassau County Rape/Dating/Domestic Violence Hotline	516-542-0404
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APPENDIX II: NEW YORK STATE LAW

Many of the acts covered by this Policy are also considered crimes under New York State law. The following are definitions related to crimes under New York State law:

Sexual Assault and Relationship Violence

Consent

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

Dating Violence

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

Domestic Violence

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

Family or Household Member

Person's related by consanguinity or affinity; Persons legally married to one another; Persons formerly married to one another regardless of whether they still reside in the same household; Persons who have a child in common regardless of whether such persons are married or have lived together at any time; Unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; Persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship regardless of whether the relationship is sexual in nature; the

frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship”; Any other category of individuals deemed to be a victim of domestic violence as defined by the Office of Children and Family Services in regulation. Intimate relationship status shall be applied to teens, lesbian/gay/bisexual/transgender, and elderly individuals, current and formerly married and/or dating heterosexual individuals who were, or are in an intimate relationship.

Parent

Means natural or adoptive parent or any individual lawfully charged with a minor child’s care or custody.

Sex Offenses; Lack of Consent

Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.

Sexual Misconduct

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

Rape in the Third Degree

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

Rape in the Second Degree

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

Rape in the First Degree

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

Criminal Sexual Act in the Third Degree

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

Criminal Sexual Act in the Second Degree

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

Criminal Sexual Act in the First Degree

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

Forcible Touching

Forcible touching includes: (1) When a person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor’s sexual desire, or (2) when a person subjects another person to sexual contact for the purpose of gratifying the actor’s sexual desire and with intent to degrade or abuse such other person while such other person is a passenger on a bus, train, or subway car. Forcible touching includes squeezing, grabbing, or pinching.

Persistent Sexual Abuse

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

Sexual Abuse in the Third Degree

When a person subjects another person to sexual contact without the latter's consent. For any prosecution under this section, it is an affirmative defense that (1) such other person's lack of consent was due solely to incapacity to consent by reason of being less than 17 years old; and (2) such other person was more than 14 years old and (3) the defendant was less than five years older than such other person.

Sexual Abuse in the Second Degree

When a person subjects another person to sexual contact and when such other person is (1) incapable of consent by reason of some factor other than being less than 17 years old; or (2) less than 14 years old

Sexual Abuse in the First Degree

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

Aggravated Sexual Abuse

For the purposes of this section, conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated Sexual Abuse in the Fourth Degree

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

Aggravated Sexual Abuse in the Third Degree

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

Aggravated Sexual Abuse in the Second Degree

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

Aggravated Sexual Abuse in the First Degree

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

Course of Sexual Conduct against a Child in the Second Degree

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

Course of Sexual Conduct against a Child in the First Degree

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

Facilitating a Sex Offense with a Controlled Substance

A person is guilty of facilitating a sex offense with a controlled substance when he or she: (1) knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and (2) commits or attempts to commit such conduct constituting a felony defined in this article.

Incest in the Third Degree

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

Incest in the Second Degree

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

Incest in the First Degree

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

Stalking in the Fourth Degree

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

Stalking in the Third Degree

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

Stalking in the Second Degree

When a person: (1) Commits the crime of stalking in the third degree and in the course of and furtherance of the commission of such offense: (a) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, sligshot, slungshot, shirken, "Kung Fu Star," dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapons; or (b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or (2) commits the crime of stalking in the third against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree; or (4) being 21 years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or (5) commits the crime of stalking in the third degree, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

Stalking in the First Degree

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

Bias Crimes

Also called hate crimes, Bias Crimes are criminal acts, including acts of violence, intimidation, or destruction of property, based upon bias and prejudice. Under the New York State Penal Code, a person commits a hate crime when he or she commits a specified offense and either (a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or (b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct. The New York State Penal Code, including the Hate Crimes Act of 2000, subjects Bias Crimes to criminal prosecution and severe punishment. Bias Crimes are prohibited under this Policy as a form of discriminatory harassment, and should be reported as described in the Policy. Resources for victims of discriminatory harassment are described in Appendix I of this Policy.