

**STUDENT POLICY PROHIBITING
SEXUAL ASSAULT,
DOMESTIC VIOLENCE,
DATING VIOLENCE,
AND STALKING**

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STUDENT POLICY PROHIBITING SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

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 assault, domestic violence, dating violence, or stalking. 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.

This Policy prohibits sexual assault, domestic violence, dating violence, or stalking and provides a complaint process when any Hofstra University student commits, aids, or attempts to commit one of these offenses. 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); and the Campus Sexual Violence (SaVE) Act, Section 304 of the Violence Against Women Reauthorization Act (“VAWA”) of 2013; and other applicable federal, state, and local laws and regulations relating to sexual violence.

APPLICABILITY AND SCOPE

Any student who commits, aids, or attempts to commit any form of Prohibited Conduct, as defined below, (1) in a manner that has a reasonable connection with the University and (2) does not fall within the University’s Title IX Grievance Policy, is subject to disciplinary action under this Policy. When incidents of Sexual Misconduct 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.

DEFINITIONS

All of the conduct defined in this section that does not fall within the University’s Title IX Grievance Policy is Prohibited Conduct under this Policy.

Domestic Violence

Domestic Violence is defined as felony or misdemeanor crimes of violence committed by a current or former spouse of the student, by someone who is or has cohabitated with the student as a spouse or intimate partner, 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 an intimate partner*
- *Threatening to hit, harm, or use a weapon on an intimate partner's family*
- *Pushing, grabbing, or choking an intimate partner*
- *Physically restraining an intimate partner*
- *Burning an intimate partner*
- *Hurting or threatening to hurt the pet of an intimate partner*

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 a student's safety or the safety of others; or (2) suffer substantial emotional distress.

Stalking also includes the concept of cyberstalking, 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.*

Affirmative Consent

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 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 the individual's use of alcohol or other drugs.

Sexual Assault

Sexual Assault consists of any of the following:

- Any intentional touching or fondling either directly or through the clothing, of a person's genitalia, anus, groin, breast, inner thigh, or buttocks without Affirmative Consent where touching is done with an intent to abuse, humiliate, harass, degrade or arouse, or gratify the sexual desire of any person.
- 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.

GENERAL PROVISIONS

As used in this policy, the "reporting individual" is the University student or employee who is alleged to have been harmed by a reported violation of this Policy, while the term "complainant" refers to the same student or employee after a Complaint has been filed, as described below. 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 Prohibited Conduct against a faculty member, other 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 Chief Human Resources Officer, who is the Title IX Coordinator for Employee Matters, and who can be reached at **516-463-6859**, at HumanResources@hofstra.edu or through the University's online reporting hotline at hofstra.edu/ethicspoint.

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.

Supportive Measures and 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. Reporting individuals will be provided with reasonable and available supportive 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. Supportive measures may also include counseling, extensions of deadlines or other course-related adjustments, modifications of work and class schedules, campus escort services, and increased security and monitoring of certain areas of campus.

An accused may be subject to summary suspension when the University determines that the accused presents a continuing threat to the health and safety of the community. In the case of a summary suspension, the student may request an expedited hearing.

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.

Supportive measures may also include no-contact orders when the accused is a student. 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. 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 and the reporting individual to access applicable University buildings and property at a time when such buildings and property are not being accessed by the reporting individual. Once a no-contact order is issued and has been sent to a party, it is considered to be in effect regardless of whether the party signs the no-contact order.

Failure of students to adhere to the parameters of any no-contact order is a violation of this Policy and may lead to additional disciplinary action.

Review Process: No-contact orders issued under this section and/or other interim or supportive measures and accommodations are subject to the following review process. Either student shall, upon written request to the Associate 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 or supportive measure, or accommodation that directly affects the student, including potential modification of such measure or accommodation, and shall be allowed to submit evidence in support of the student's 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 Associate Vice President for Student Affairs or designee at StudentAffairs@hofstra.edu. The other student's opposition must be sent within two (2) business days of being sent a copy of the request.

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 (14) 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.

Once a no-contact order is issued and has been sent to a party, it is considered to be in effect regardless of whether the party signs the no-contact order.

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 Coordinator 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 their participation in the investigation or disciplinary process related to a report made under this Policy.

Any such retaliation constitutes Prohibited Conduct and a further violation of this Policy, to be adjudicated under these procedures.

Title IX Coordinator for Student Issues

The Title IX Coordinator for Student Issues is responsible for overseeing the University's response to reports and Complaints by students against students under this policy; and for addressing any patterns or systemic problems revealed by such reports and Complaints against students. The Title IX Coordinator for Student Issues is responsible for maintaining data about reports of Domestic Violence, Dating Violence, Stalking, and Sexual Assault against students. The Title IX Coordinator for Student Issues is also responsible for referring any reports of Domestic Violence, Dating Violence, Stalking, and Sexual Assault against employees or other nonstudents to the Chief Human Resources Officer, who serves as the Title IX Coordinator for Employee Matters. The Interim Title IX Coordinator for Student Issues, Kristen Klein, is available to meet with students as needed. She can be reached at StudentTitleIX@hofstra.edu, 516-463-5841, or Room 127 Wellness and Campus Living Center, Hempstead, NY 11549.

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

Comila Shahani-Denning, Senior Vice Provost for Academic Affairs,
comila.shahani-denning@hofstra.edu, 516-463-6343, Room 225 West Library Wing

Jennifer Boscarino-Green, Senior Associate Dean for Strategic Outreach and Retention Initiatives,
Center for University Advising, jennifer.boscarino-green@hofstra.edu, 516-463-4961, Room 101F
Memorial Hall

Jodi Langsfeld, Associate Dean for Student Affairs (Medical School),
jodi.langsfeld@hofstra.edu, 516-463-7145, Room 227A Zucker School of Medicine

Cindy Lewis, Senior Associate Director of Athletics, cindy.lewis@hofstra.edu, 516-463-6748, Room
207 Mack Sports Complex

Lisa Monticciolo, Dean of Students and Diversity and Inclusion Officer (Law School),
lisa.monticciolo@hofstra.edu, 516-463-4809, Room 204A Maurice A. Deane School of Law

Zaibis Muñoz-Isme, Associate Dean of Students, zaibis.munoz@hofstra.edu, 516-463-6558, Room
243D Mack Student Center

Russ Smith, Director of Residential Education for Residence Life, russ.d.smith@hofstra.edu, 516-
463-6931, Room 126 Wellness and Campus Living Center

Reporting Options

The University encourages students who have experienced Prohibited Conduct 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.

Reporting a Violation. Students who wish to report Prohibited Conduct should contact the Title IX Coordinator for Student Issues, a Deputy Title IX Coordinator, or the Department of Public Safety. Students may also report a violation through the University’s online reporting hotline at hofstra.edu/ethicspoint. 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, nondiscriminatory environment for the community. ***Anonymous reports may hamper the University’s ability to respond.***

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

Confidentiality. Students who want to keep information strictly confidential may speak to Confidential Resources. These are University employees, such as counselors in Student Counseling Services, who are required to maintain confidentiality and will not share information with school administration or other parties. See Confidential Resources section. All other University employees who receive information about Prohibited Conduct are encouraged to report all relevant information (including the identities of both the student complaining and the respondent) to the Title IX Coordinator for Student Issues.

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 respond *and/or to provide federal and state-mandated statistics on sexual misconduct (see University Disclosure, page XX)*.

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 Student Counseling Services, medical professionals in Student Health Services, 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 one of these Confidential Resources about an incident of Prohibited Conduct, that individual 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 Confidential Resources 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 confidential resource 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.

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

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 and 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 (FERPA) allows institutions to share information with parents when (1) there is a health or safety emergency, (2) the student is a dependent on either parent’s prior year federal income tax return, or (3) 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 any determination regarding responsibility is made, an alternative resolution may be pursued where any reporting individual/complainant and the respondent involved so desire and the University deems it to be appropriate. Alternative resolution, which is optional, is designed to obtain an expedient, mutually acceptable solution without the necessity for conducting further formal proceedings. 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 Coordinator for Student Issues, the Director of Community Standards, 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 Coordinator for Student Issues, the Director of Community Standards, 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/complainant and the accused/respondent. 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, reopen, or otherwise attempt to set aside the terms of the alternative resolution as long as the terms are adhered to, unless agreed to by both parties and the University in writing.

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, nondiscriminatory 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 accused.

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.

The University shall assist with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of the student's reporting choice.

How to Make a Complaint and Begin the Disciplinary Process

Students who wish to pursue a Complaint of a violation of this Policy and pursue disciplinary proceedings against the respondent should make a Complaint regarding the Prohibited Conduct (referred to in this Policy as "Complaint") through the Department of Public Safety by calling 516-463-6606 or by visiting the Mack Public Safety and Information Center located on the southeast corner of Hempstead Turnpike and California Avenue. Complaints can also be filed with the Title IX Coordinator for Student Issues by calling 516-463-5841, visiting Room 127 Wellness and Campus Living Center, or emailing StudentTitleIX@hofstra.edu. A Complaint under this Policy must allege Prohibited Conduct, and request that the University investigate the allegations.

Public Safety is available 24 hours a day. Public Safety can assist in connecting students with counseling, medical, and other support services, and in notifying the law enforcement 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 the *Guide to Pride* or call 516-463-6606.

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. It is the student's responsibility to retain an advisor and notify the advisor of meetings and hearings; meetings and hearings will not be rescheduled to accommodate an advisor's schedule. 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 Authorization for Hearing Advisor Form from the Office of Community Standards, which must be signed by their advisor. Advisors will not be permitted to speak or ask questions on behalf of students during meetings or hearings. The University has a longstanding practice of requiring students to participate in the process directly and not through an advocate or representative. The advisor is not an advocate. A witness to the matter may not serve as an advisor.

Annual Training

All Title IX Coordinators, investigators, and members of an Administrative Board or appeal panel that is adjudicating cases under this Policy, as well as any individual who facilitates an alternative resolution under this Policy will receive annual training in the following: conducting investigations and grievance processes for allegations of Prohibited Conduct, including hearings, appeals, and informal resolution processes, as applicable, in accordance with a process that protects the safety of victims, ensures due process protections for all parties, and promotes accountability; the effects of trauma; the scope of the University's education program or activity; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; 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 domestic violence, dating violence, sexual assault, and stalking, including the definition of the offenses. Decision makers will receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence.

Conflicts of Interest

Any individual who has been designated by the University as a Title IX Coordinator, investigator, Administrative Hearing Board member, or any person designated to facilitate an alternative resolution process, must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

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.

False Reports

Reports of Prohibited Conduct 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 Prohibited Conduct by a student that does not fall within the University's Title IX Grievance Policy. The process set forth below will be conducted in a reasonable, prompt, and efficient manner, with the timing depending on a variety of factors, including the severity, extent, and complexity of the allegations, and timing of report in connection with the academic calendar.

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 or the Title IX Coordinator for Student Issues, as described above in How to Make a Complaint. Students may contact the Dean of Students Office or the Title IX Coordinator for Student Issues for any assistance they need with filing a Complaint.

The University may dismiss the Complaint or any allegations therein, if at any time during the investigation or hearing: A complainant notifies the Title IX Coordinator for Student Issues in writing that the complainant would like to withdraw the Complaint or any allegations therein; the respondent is no longer enrolled at the University; or specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein. The dismissal of a Complaint may be appealed in accordance with the procedures outlined in the "Decisions and Appeals" section below, by sending a written appeal to the Dean of Students within seven (7) calendar days of receiving notice of the dismissal of the Complaint.

The University may consolidate Complaints as to allegations of Prohibited Conduct against more than one respondent, or by more than one complainant against one or more respondents, where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

Investigation

Investigations of Complaints will be prompt, thorough, and impartial.

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 5 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 notice from the Office of Community Standards, and an informational meeting will be scheduled as described in the following section.

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.

Both students will receive notice of the charge, which serves as formal notification that a charge of violation of this Policy has been brought forward against the respondent. The University may hold students accountable and subject to sanctions for violations that are not referenced in the initial notice of the charge

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 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. The University reserves the right to have a University representative present during the review of any evidence in the Case File. Students are not entitled to keep copies or take photographs 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 extenuating circumstances, a student may request one (1) postponement of the student's 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 their 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. 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. **Alternative Resolution.** *See the Alternative Resolution section, above.*
3. **Hearing.** Where the respondent denies responsibility or one or both parties request a formal hearing, the Charge will proceed 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. Where the respondent fails to respond, a decision will be made based upon the information in the Case File.

Rights of the Respondent

The respondent shall be entitled to a presumption that the respondent is not responsible for Prohibited Conduct unless and until a determination regarding responsibility is made at the conclusion of the process set forth in this Policy.

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. 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.

The Administrative Board will engage in an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness.

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 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 final written list of all their proposed witnesses or any signed witness statements to the Office of Community Standards for approval at least five (5) 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 (iii) above.

Other Evidence

- i. Parties may present and challenge all evidence that has been placed in the Case File, as described in the *Informational Meeting* section, 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. Postponing the Hearing. The University reserves the right to postpone or adjourn a hearing in its discretion. 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 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.

4. Failure to Appear. If a party fails to appear, the hearing may proceed in that party's absence, and a decision may be rendered. 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 the officer deems appropriate. The University reserves the right to call appropriate University community 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.
3. Opening statement by respondent.
4. Statement(s)/report(s) from witness(es) on behalf of the complainant.
5. Questions for these witness(es) from members of the board, the complainant, and the respondent.
6. Statement(s)/report(s) from witness(es) on behalf of the respondent.
7. Questions for these witness(es) from members of the board, the respondent, and the complainant.
8. Questions for the respondent from members of the board and the complainant.
9. Questions for the complainant from members of the board and the respondent.
10. Closing statement from respondent.
11. Closing statement from complainant and/or University.

Note: At the request of either party, the parties may be located in separate rooms with technology enabling the Board and parties to simultaneously see and hear the party or the witness answering questions. The Hearing Officer may determine, in their 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 their 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 University reserves the right to redact absentee witness statements to ensure that statements

read into the record comply with the Policy. 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. Either party may ask questions or present evidence about their own prior sexual history or mental health diagnosis and/or treatment at any time, so long as the information is relevant and otherwise in compliance with this policy. However, that party must be prepared to answer questions regarding this information from the Board and the other party if they choose to introduce this information into the hearing.

All individuals participating in the hearing shall be subject to any rules of decorum set forth by the University.

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 using the preponderance of the evidence standard:

- (1) Responsible. The Administrative Board finds that it is more likely than not that the respondent violated the Policy.
- (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.

In accordance with the University’s policy on “Minimum Sanctions,” as set forth in the Code of Community Standards, for certain serious breaches of University policy that constitute a serious threat to other individuals or the community, a minimum penalty of suspension from the University (including removal from the residence halls) for at least one full semester to permanent expulsion may be imposed. This includes but is not limited to conduct in violation of New York state criminal law or federal law that poses a serious threat to the University community, a serious physical attack upon another person, and sexual violence.

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. The University will offer appropriate remedies to the complainant where a respondent has been found responsible for Prohibited Conduct.

Sanctions will be held in abeyance until a decision is rendered in a final appeal under the process described below, or the time to appeal has expired without an appeal being submitted, unless the University determines that sanctions should go into effect sooner in order to protect the health or safety of the University community. Where sanctions are held in abeyance, interim protections may continue in effect.

After the conclusion of the final appeal, or where the time for appeal has expired, the University may issue a mutual no-contact order, where a respondent is found not responsible, if it determines that such a no-contact order is in the best interests of the parties and/or the University. Such a no-contact order is not considered a sanction, shall not be part of the disciplinary record of either party, and shall not burden one party more than the other.

Decisions and Appeals

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 sanctions.

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 (responsible or not responsible) and/or sanction(s) by submitting a written petition for an appeal to the Dean of Students within seven (7) calendar days of 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 in a way that affected the decision or sanctions; or
3. The severity of the sanction is inappropriate given the details of the case.

Dissatisfaction with the outcome of the hearing alone is not sufficient grounds for appeal.

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 appeal is not intended to be a rehearing of the original hearing.

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 party who did not submit the response will receive a copy of the response.

The appeal will be conducted by a three-person panel that includes the Assistant Vice President/Dean of Students (referred to as “Dean of Students”; all references in this section to the “Dean of Students” include 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 determination by the Dean of Students 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 appellate panel, which may be granted or denied in the discretion of the panel. If such a hearing request is granted, both parties will be notified and each party will be permitted to present their position orally (limited to thirty (30) minutes or an appropriate length of time as determined in the discretion of the panel) and may be questioned by the panel.

All appeals will be conducted in a fair and impartial manner. The panel will decide whether to modify or uphold the original sanction or decision. Modification of the sanction may include either raising or lowering of the sanction. Appellate decisions will be based solely on the four grounds for appeal; appellate decision maker(s) will not substitute their judgment for the judgment of the Administrative Board.

Deference will be given to the judgment of the Administrative Board absent an abuse of discretion or clearly erroneous determination that cannot be reasonably supported by the information considered. 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 may decide, based on its discretion, to reopen the case with the original hearing board. Based on the new evidence heard, the original hearing board may uphold or modify its decision, and the sanction may be upheld or modified.

Modification of the sanction may include either raising or lowering of the sanction.

Final Appeal to Vice President for Student Affairs

Within five (5) calendar days of 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 the objecting party believes the appellate decision should not be affirmed or the recommended penalty should not be adopted by the Vice President for Student Affairs. New grounds for appeal may not be raised at this stage and are limited to the bases for appeal set forth above. 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 of the date the objections were sent. The party who did not submit a response will receive a copy of the response.

Either party may request a hearing before the Vice President for Student Affairs, which may be granted or denied in the Vice President’s discretion. If such hearing is granted, both parties will be notified and each party will be permitted to present their position orally (limited to thirty (30) minutes or an appropriate length of time as determined in the discretion of the Vice President) 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 the administrative 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 Coordinator for Student Issues or designee, the respondent and the respondent's advisor, the complainant and the complainant's 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 seven 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 devices and/or cellphones 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 and Fire Safety Report*, will be accomplished without the inclusion of identifying information about any reporting individual, to the extent permissible by law.

Students 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.