

Cazenovia College

Sex Discrimination, Sexual Harassment and Sexual Misconduct Policy

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I. Introduction

Cazenovia College is committed to equal opportunity and a tolerant, supportive learning environment. Cazenovia College complies fully with all applicable federal and state legislation and regulations, including Title IX of the Educational Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Violence Against Women Act, and the New York Human Rights Law. Pursuant to these statutes and regulations, the College prohibits all forms of sex discrimination, sexual harassment, sexual violence and sexual misconduct. This policy is intended to educate the College community about these issues and also explain the way in which the College will respond to these incidents promptly and thoroughly in the event that they do occur.

Cazenovia College is committed to addressing all forms of sex discrimination, sexual harassment and sexual misconduct by enacting preventative measures, educating the campus community and establishing and enforcing this policy.

II. Scope of the Policy

This policy applies to all students, faculty, and staff of Cazenovia College. This policy also applies to conduct by third parties that include visiting speakers, contracted professionals, guests of enrolled students, visiting athletic teams, conference attendees, etc. Any member of the Cazenovia College community found in violation of these policies may be subject to disciplinary action. This policy also applies regardless of the Complainant's or Respondent's race, creed, color, gender, gender identity, gender expression, ethnicity, national origin, religion, marital status, familial status, pregnancy, age, sexual orientation, veteran status, disability, genetic predisposition status, domestic violence victim status, criminal conviction or any other protected characteristic under applicable local, state or federal law.

This policy applies to conduct on campus and in connection with any College-sponsored programs or activities, regardless of whether it occurs on or off campus. Further, even conduct that occurs outside a College-sponsored program or activity may violate this policy if the conduct creates a threatening or hostile work or learning environment on the College's campus or within a College program, or if the incident causes concern for the safety or security of Cazenovia College's campus.

The disciplinary actions the College may take will differ depending on the level of control the college has over the accused. Regardless of the level of disciplinary action that can be taken, Cazenovia College is committed to remedying the effects of any sex discrimination, sexual harassment or sexual misconduct and preventing its' recurrence.

III. Title IX Coordinator

The Title IX Coordinator for Cazenovia College is Janice Romagnoli, Director of Human Resources. She can be reached at jaromagnoli@cazenovia.edu or 315.655.7274. To reach her after hours or in an emergency, please contact Campus Safety at 315.655.7271.

The Title IX Coordinator's duties and responsibilities include monitoring and overseeing the overall Title IX compliance at the College, including coordination of training, education, communications and administration of grievance procedures for faculty, staff, students and other members of the College community. The Title IX Coordinator is responsible for ensuring that the College carries out its Title IX responsibilities.

IV. Definitions

Sex Discrimination- Sex discrimination is an act that disadvantages a person and that occurs because of the affected individual's gender, sexual orientation, gender identity, or gender expression. Examples of sex discrimination include, but are not limited to, denying a student a research opportunity because of the student's gender; giving a student a lower grade than they deserved because of the student's gender; denying an employee a raise because of the employee's sex. A person who believes that they have been discriminated against with respect to an academic or employment decision is generally entitled to bring a complaint pursuant to this policy in addition to any other College process or procedure that may be available (such as a grade appeal policy or appeal procedures for work performance or promotion).

Sexual Harassment - Sexual harassment is unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature when:

1. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or education
2. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education
3. that conduct or communication has the purpose or effect of substantially interfering with an individual's employment or education, or of creating an intimidating, hostile, or offensive employment or educational environment

Sexual Harassment may be verbal, written or physical and includes:

- ✓ Quid Pro Quo harassment (or “this for that”) occurs when a person in a position of authority or control links the receipt of some benefit (such as a grade or promotion) to another’s submission to unwelcome sexual advances, requests for sexual favors, or requires the other person to perform or submit to demeaning or degrading sex or sexually-charged acts. “Quid pro quo” harassment can be expressly stated, but it also can be implied by words, actions, or the surrounding circumstances. No person should believe that any other person – no matter their title or position with the College – has the right to pressure another person for sexual activity.
- ✓ Hostile Environment: when sexual harassment becomes so severe and pervasive that a reasonable person would view the environment as hostile, offensive or abusive and the conduct interferes with an individual’s ability to work, learn or participate in the College’s programs, it is called a “hostile environment.” The College reserves the right to discipline offensive conduct that is inconsistent with community standards even if it does not rise to the level of a hostile environment as defined by applicable law.

Some examples of Sexual Harassment include, but are not limited to:

- ✓ Offering employment or academic benefits in exchange for sexual favors.
- ✓ Making or threatening reprisals after a negative response to sexual advances.
- ✓ Unwelcome physical touching of a person’s legs, shoulders or back, leering, making sexual gestures, or displaying sexually suggestive or derogatory objects, pictures, cartoons or posters.
- ✓ Unwelcome physical affection (such as hugs or kisses.)
- ✓ Repeated, unwelcome sexual advances, requests for dates, or romantic interaction.

The fact that a person was personally offended by a statement or incident does not alone constitute a violation of this policy. Instead, the determination is based on a “reasonable person” standard and takes into account the totality of the circumstances. Cazenovia College considers the context of a communication or incident, the relationship of the individuals involved, whether the incident was an isolated incident or part of a broader pattern or course of offensive conduct, the seriousness of the incident, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual and the learning community. The above definitions and examples are provided for educational and illustrative purposes. A person reporting an incident of concern need not worry about whether all elements of a particular definition have been met. The College will assist the Complainant in determining whether the incident may constitute a violation of this policy.

Non-Consensual Sexual Offenses - Cazenovia College expects that any sexual activity or contact will be based on mutual affirmative consent to the specific sexual activity. Affirmative consent is defined as the following:

Affirmative Consent - A safe and respectful learning community requires that sexual activity be premised only on affirmative consent. Whenever the word “consent” is used in this policy, it should be understood to mean affirmative consent as defined here. Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of affirmative consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.

Certain conditions prevent a person from being able to consent. 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 or drugs or other intoxicants may be incapacitated and therefore unable to consent.

A person who has been drinking or using drugs is still responsible for ensuring that he or she has the other person’s affirmative consent and/or appreciating the other person’s incapacity to consent. It is not an excuse that the person accused of sexual misconduct was himself or herself under the influence of alcohol or drugs and, therefore, did not realize the incapacity of the other.

Consent to some sexual contact cannot be presumed to be affirmative consent for other sexual activity. A current or previous sexual or dating relationship is not sufficient to constitute affirmative consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately. Sexual activity as the result of coercion is non-consensual. Coercion is a threat, undue pressure, intimidation, force or threat of harm to engage in sexual activity.

Sexual relationships between faculty and students and staff and students are problematic due to the inherent power differential. Therefore, sexual or romantic relationships between faculty and students and between staff and students are prohibited.

Sexual Offenses

Sexual Assault - Consistent with federal law, Cazenovia College defines sexual assault as including:

- Non-Consensual Sexual Contact: Any intentional sexual touching, however slight, with any private body part or object, by a person upon a person, that is without affirmative consent and/or by force.
- Non-Consensual Sexual Intercourse: Any sexual penetration (anal, oral or vaginal), however slight, with any body part or object by a person upon another person that is without affirmative consent. Sexual assaults of this type can be sub-defined by the following:

- **Rape:** penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the affirmative consent of the victim.
- **Statutory Rape:** Non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.

Sexual Exploitation - occurs when, without affirmative consent, an individual takes sexual advantage of another for his/her own advantage or benefit. Examples of sexual exploitation include, but are not limited to: invasion of sexual privacy, non-consensual video or audio-taping of sexual activity, engaging in voyeurism, prostitution, acts of incest, engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of such infection, or exposing one's genitals in non-consensual circumstances.

Dating Violence - refers to violent behavior (including, but not limited to, sexual or physical abuse or the threat of such abuse) by a person who is or has been in a romantic or intimate relationship with the victim. The existence of such a relationship will be determined based on Complainant's statement and with consideration of the length of the relationship, type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence - refers to misdemeanor or felony crimes of violence committed by the victim's current or former spouse, current or former cohabitating romantic partner, individuals who share a child in common, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

Stalking - refers to a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances and with similar identities to fear for his or her safety or the safety of others, or to suffer substantial emotional distress.

Sexual Misconduct - For purposes of this policy, the term "sexual misconduct" is a term used to more conveniently refer to any form of sex discrimination; sexual harassment; non-consensual sexual activity or sexual offense; dating violence, or domestic violence if between current or former spouses or romantic partners; or stalking, if the circumstances of the stalking suggest gender-based animosity, hostility or occurs in the context of a romantic or sexual pursuit. Sexual misconduct may occur between members of the same or opposite sex and in heterosexual and homosexual relationships. While sexual misconduct can constitute a criminal offense under New York State law, a person's conduct may violate this policy even if it does not violate State law.

Complainant - The term Complainant refers to the person who allegedly experienced the discrimination, harassment, sexual misconduct or other violation of this policy. That person is usually, but not always, the person who made the initial report to the College. In the case of complaints that are pursued when the alleged victim does not want to participate in the process, the College may pursue a complaint without such individual in which case a designated College representative will be the Complainant.

Respondent - The term Respondent refers to the person alleged to have committed the alleged

discrimination, harassment, sexual misconduct or other violation of this policy.

V. Options for Assistance

A member of the College community who believes that they have experienced or are experiencing sexual harassment, sex discrimination, dating/domestic violence, or any other form of sexual misconduct, should speak to someone for help or advice. If you are in any danger, or if you believe you may soon be in danger, do not hesitate to call for help. Securing your immediate safety is the first priority. Campus Safety is available 24 hours/7 days a week by contacting 315.655.7271 and the local police department can be reached by calling 911. A Students' Bill of Rights for cases involving sexual assault, domestic violence, dating violence or stalking is set forth at the end of this policy.

Reach out to someone:

You don't have to go through this alone. Contact someone you trust for guidance and support. It can be someone you know, or someone who is trained to help. Cazenovia College encourages victims of sexual misconduct to talk to somebody about what happened – so victims can get the support they need, and so the College can respond appropriately.

Certain employees can maintain complete confidentiality (unless there is a concern for your safety or the safety of others) and are not required to share the details of the incident with anyone else. Other employees, such as those listed below under Section V (B) or those defined as Campus Security Authorities under the Clery Act (*Resident Advisors, Coaches, Club Advisors, etc.*) are considered non-confidential and are required to share your report with the Title IX Coordinator so that Cazenovia College may take steps to offer support services and prevent the recurrence of the sexual misconduct. If you are unsure of an individual's reporting obligations, please ask. This policy is intended to make individuals aware of the various reporting and confidential disclosure options available so that individuals can make informed choices about where to turn should they become a victim of sexual misconduct.

A. Reporting To Confidential Resources

On-Campus Confidential Resources

A victim is encouraged to seek support for his/her emotional and physical needs. A student seeking confidential emotional or medical care may contact the following resources:

Margaret McCurdy
Counseling/Therapist
mcmccurdy@cazenovia.edu
315.655.7207

Health Office Nursing Staff: **315. 655.7122**

These individuals can connect you with other resources and explain the other reporting options that are available to you as well. These Confidential Resources can provide assistance and information regarding medical assistance and treatment (including information about sexually

transmitted infections, and sexual assault forensic examinations), resources available through the New York State Office of Victim Services, academic and other campus support options, campus disciplinary proceedings and law enforcement options. The health and counseling services noted above are available to students free of charge.

If you choose to file a formal report with the Title IX Coordinator and/or local law enforcement, these Confidential Resources may accompany you and support you through those processes if you so desire. Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the College community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator without a victim's permission.

Off-Campus Confidential Resources

There are also off-campus, confidential community resources which may be available to you; contacting any of the resources listed below does not constitute notifying the College. These confidential resources, which may or may not charge services fees, include:

Help Restore Hope Center
Liberty Resources
218 Liberty Street
Oneida, NY 13421
24-Hour Hotline: 855.966.9723

*Access to a certified Sexual Assault Nurse Examiner (SANE) at Community Memorial Hospital in Hamilton can be coordinated through the Center **Thursday at 6PM thru Monday 8AM***

St. Joseph's Hospital
315.448.5101

University Hospital
315.464.5611

Crouse Hospital
315.470.7111

National Sexual Assault Hotline
1.800.656.4673

NYS Domestic Violence Hotline
1.800.942.6906

The hospitals listed above have access to a SANE nurse (*Sexual Assault Nurse Examiner*). In Onondaga County, Vera House (315.468.3260) can provide a Sexual Assault/Rape Advocate while at the hospital. In Madison County, Help Restore Hope Center (855.966.9723) can be contacted for assistance. During normal business hours the Title IX Coordinator can assist you in arranging transportation to the hospital. After hours, Campus Safety can assist you in arranging transportation to the hospital.

B. College's Non-Confidential Resources: Responsible Administrators

Cazenovia College encourages all members of the campus community to report instances of sex discrimination, sexual harassment, sexual assault, domestic/dating violence, stalking or any other forms of sexual misconduct. Reports may be made by the victim, someone on behalf of

the victim, or anonymously. We encourage you to make a report so we may provide you with support, assistance and resources. Campus personnel can also assist you in contacting other resources both on and off campus.

The following offices and individuals have been trained to receive and respond to allegations of violations of this policy.

- Title IX Coordinator and Director of Human Resources, Janice Romagnoli, 315.655.7274 or jaromagnoli@cazenovia.edu
- Deputy Title IX Coordinator & Associate Professor of Criminal Justice, Stewart Weisman, 315.655.7795 or sweisman@cazenovia.edu
- Deputy Title IX Coordinator & Professor of Biology, Barbara Hager, 315.655.7146 or bhager@cazenovia.edu
- Assistant Dean for Student Life, Tiffany Varlaro, 315.655.7237 or tsvarlaro@cazenovia.edu
- Director of Residence Life, Shannon Dobrovolny, 315.655.7237 or skdobrovolny@cazenovia.edu

Each of the individuals listed above, and any Campus Security Authority, will share all information reported to him/her with the Title IX Coordinator and may share your information with other college administrators, as needed. These individuals are not a Confidential Resource. However, even Cazenovia College offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary and on a need-to-know basis for the Title IX Coordinator to investigate and/or seek a resolution.

While other individuals may also report any violation of this policy to any other College employee, if a complaint is made to anyone other than the individuals listed above or a Campus Security Authority, the Complainant risks the possibility that it will not come to the attention of the proper College officials and may, therefore, not be acted upon. In addition, unless a report is made to someone listed above in Section V (A) as a Confidential Resource, confidentiality cannot be assured.

C. Law Enforcement

A victim of a crime is encouraged to, but not required to, report the incident to local law enforcement and pursue criminal charges. The criminal process and the College's disciplinary process are not mutually exclusive or dependent on each other, meaning that a person may pursue either a criminal complaint or College complaint or both.

The Cazenovia Police Department can be reached by calling 315.366.2311. NY State Police Sexual Assault Hotline can be reached by calling 844.845.7269 or, in emergency situations, by calling 911. If you choose to file a report with the local law enforcement authorities, a member of Campus Safety can assist in making a report of a crime to local law enforcement. The police will either meet you on campus or ask you to come to the police station to discuss the incident

and create a report. The law enforcement officials will explain your legal rights. The law enforcement officials will contact Campus Safety to let them know that they are on campus as part of their investigation and/or that you have reported an incident.

Preservation of Evidence:

The preservation of evidence relating to a sexual assault is essential for both law enforcement investigations and campus investigations. All involved parties are encouraged to preserve all evidence relating to the incident. For example, in cases of rape or sexual assault, it is important not to shower, douche, change clothes or even brush your hair or teeth, as physical evidence may be lost. If possible, stay in the clothes you were wearing at the time of the sexual assault. Other examples of relevant evidence include electronic communications (e.g., e-mails, Twitter, Instagram and text messages), photographs, clothing, bedding, and medical information. The Cazenovia Police Department can also assist in securing an appropriate medical examination (i.e. a rape kit) by a Sexual Assault Nurse Examiner.

Additionally, orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence by a Cazenovia College community member or other person. In appropriate circumstances, an order of protection may be available that restricts the accused's right to enter or remain on College property, and the College will abide by a lawfully issued order of protection. College officials will, upon request, provide reasonable assistance to any member of the campus community in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order, including providing that person with:

- a copy of an order of protection or equivalent when received by the College and providing that person with an opportunity to meet or speak with a College representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons;
- an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension; and
- assistance in contacting local law enforcement to effect an arrest for violating such an order of protection.

Any internal College investigation and/or hearing process will be conducted concurrently with any criminal justice investigation and proceeding that may be pending. Temporary delays in the College's internal process may be requested by local law enforcement authorities for the purpose of gathering evidence. Any requested temporary delay shall not last more than ten (10) days, except when local law enforcement authorities specifically request and justify a longer delay. The College will cooperate with any criminal proceedings as permitted by law.

Reporting individuals should understand that not all sexual misconduct under this policy is a crime and that the standard law enforcement employs in processing complaints is different than the College's standard under this policy. Questions about whether incidents

violate criminal laws and how the criminal process works should be directed to law enforcement officials or the Madison County District Attorney.

Note: The criminal process is separate from the Cazenovia College disciplinary process. A Complainant can pursue one or both options. The Title IX Coordinator or Campus Safety can provide victims with information concerning their options and rights and will assist them in making reports to law enforcement.

VI. Interim Measures/Accommodations

The College may implement interim measures and/or accommodations in order to immediately respond to a situation. These measures are to protect individuals as soon as a report is made to the College. Interim measures mean action can be taken even before a judicial process has finished. Upon receipt of a report of sexual misconduct, the College can impose reasonable and appropriate interim measures designed to eliminate the reported hostile environment and protect the parties involved. Interim measures may be imposed regardless of whether formal disciplinary action is being pursued by the Complainant or the College.

Interim measures may include, but are not limited to:

- Access to counseling services and assistance in accessing available resources both on and off campus such as mental health counseling, physical health care providers, and victim advocacy services.
- Imposition of an on-campus “no contact order”
- Change in academic, housing, employment, transportation or other circumstances
- Assistance from the College staff in completing housing relocation
- Measures to enhance the Complainant’s safety or the safety of the campus community (e.g., escorts or increased monitoring of an area)
- Suspension from the campus or parts of the campus
- Academic accommodations such as assignment rescheduling, taking an incomplete in a class, transferring class sections, temporary withdrawal, alternative course completion options, etc.

Upon request, the Complainant or accused may request a prompt review of the need for and terms of any interim measures and accommodations imposed or requested that directly affects him/her, including the potential addition, modification or elimination of those measures. Such a request may be made by submitting a written request for review to the Title IX Coordinator, providing the basis for that request and any evidence in support of the request. Upon receipt of such a request, the Title IX Coordinator will inform the other party of the request and allow the other party to respond, including submitting evidence if desired. The Title IX Coordinator may, in his/her discretion in consultation with the Vice President of Student Affairs or external counsel, may modify or suspend the interim measures or accommodations on a temporary basis while the parties are submitting their information and responses. The Title IX Coordinator will respond to any such requests as soon as possible, but generally no later than one calendar week of the request and the parties’ submission of any evidence.

When a student accused of sexual assault, domestic or dating violence or stalking is determined to present a continuing threat to the health and safety of the campus community, he or she is subject to interim suspension pending the outcome of any proceedings under this policy. Both that student and the subject of

any such misconduct will, upon written request, be afforded an opportunity for a review of the need for and terms of an interim suspension, including potential modification, by submitting a written request to the Title IX Coordinator, providing the basis for that request and any evidence in support. When the accused is not a student, but is a member of the College community, he or she is subject to interim suspension and/or other measures in accordance with College employment policies and practices.

VII. Confidentiality: How Confidentiality and Decisions About Taking Action Are Handled

A report to a College official may or may not lead to an investigation or disciplinary action. The decision about what action(s) to take depends on many factors, including the Complainant's wishes, particularly in cases of sexual assaults or other sexual offenses. A Complainant may wish to have his/her identity as the Complainant kept confidential or request that no investigation into a particular incident be conducted or disciplinary action taken. The College must weigh that request against the College's obligation to provide a safe, non-discriminatory environment for the campus community. Cazenovia College endeavors to honor Complainant's wishes with respect to confidentiality and/or whether responsive action is taken. However, that is not always possible.

If the College honors the request for confidentiality, a Complainant must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

When weighing Complainant's request for confidentiality or that no investigation or discipline be pursued, the College will consider a range of factors, including the following:

- whether there have been other sexual violence complaints about the same alleged perpetrator;
- whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
- whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
- whether the sexual violence was committed by multiple perpetrators;
- whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether the College possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. If, for example, the College has credible information that the alleged perpetrator has committed one or more prior rapes, the balance of factors would compel the College to investigate the allegation and, if appropriate, pursue disciplinary action. Decisions with respect to whether a request for confidentiality can be honored will be made by a Responsible Administrator. If the College determines that it cannot maintain a Complainant's confidentiality, the College will inform the Complainant prior to starting an investigation.

VIII. Investigation Procedures

If a report appears to allege a plausible violation of this policy, the College will conduct an investigation. An investigation may occur because a Complainant wishes to proceed with a complaint, or because the College determines that this is necessary despite the wishes of the Complainant.

Formal investigations are necessary for campus disciplinary proceedings and those conducted with willing participants provide the most thorough and effective process. The investigation will be performed by an appropriate, trained investigator(s) appointed by the Title IX Coordinator.

The investigator(s) may interview the Complainant, the Respondent, witnesses, any parties with potentially relevant information, review video footage and/or text messages, and investigate any other appropriate avenues that may provide pertinent information. The Complainant and Respondent will be given an equal opportunity to present separately information in the context of the investigation and to request that witnesses having relevant information be included in the investigation process. The investigator(s) retains discretion to determine the order and method of investigation and what, if any, witnesses will be interviewed as part of the investigatory process. The Complainant and Respondent will have the right to have irrelevant information concerning their character or other past incidents not directly related to the complaint excluded from the investigation. In addition, both the Complainant and Respondent shall have the right to exclude their own prior sexual history with persons other than the other party or their own mental health diagnosis and/or treatment from admittance in any disciplinary proceeding held under this policy. Information will be obtained from each party separately. The investigator(s) will keep both the Complainant and the Respondent apprised of their rights and the status of the investigative process.

At the conclusion of the investigation, the investigator(s) will issue a written investigatory report to the Title IX Coordinator for distribution to the appropriate College official/body. The report sets forth a summary of the facts discovered during the investigation, an assessment of the credibility of the Complainant, Respondent and/or witnesses (as relevant) and the investigator's recommendation as to responsibility based on a preponderance of the evidence.

All individuals involved in an investigation and/or adjudication process will be informed of the importance of confidentiality and asked to sign a confidentiality statement. Conversations and information that result from an investigation or disciplinary proceeding are private and should not be shared outside the approved process outlined in this policy.

Informal Resolution

In some cases, an informal resolution may be appropriate. Mediation is one form of informal resolution. Informal resolution may be appropriate in instances of more minor acts of insensitivity or misunderstandings. Serious sanctions, such as suspension, dismissal or termination, are not possible as a result of the informal resolution process, but lesser sanctions may be agreed to.

A person who desires informal resolution should contact the Title IX Coordinator. Informal resolution must be agreed upon by both parties, and the Title IX Coordinator must agree that it is appropriate. Informal resolution is not appropriate in cases of sexual assault or sexual violence of any kind. In the event

mediation is used, the Title IX Coordinator will select a mediator. The mediation must be conducted by a third-party; mediation between just the Complainant and Respondent is not acceptable. A campus mediator will begin mediation efforts promptly and will report to the Title IX Coordinator that the mediation occurred. At any time during the mediation process the Complainant or the Respondent has the right to terminate the process and proceed to an investigation.

If the parties reach agreement and this agreement is deemed by the College to be appropriate, the informal resolution is considered successful. Both parties will sign a statement agreeing that the informal resolution was successful, and the matter will be considered resolved.

If the informal resolution is unsuccessful, the Complainant can proceed with a formal complaint. A copy of the signed statement will constitute the record of the informal resolution. If a party with obligations pursuant to an informal resolution fails in his/her obligations, the other party may ask the College to enforce the terms of the resolution or may proceed with a formal complaint process.

IX. Adjudication Procedures

(Complaints will be investigated and adjudicated under the procedures in place at the time the investigation begins.)

This policy applies campus-wide and sets forth the behavioral expectations for all. However, the applicable disciplinary procedure that will be applied in a particular case depends on whether the accused is a student, faculty member, employee, or a non-community member. The following disciplinary procedures will apply:

- A complaint against a faculty member will be processed in accordance with the Employee Handbook and any other applicable College policies and procedures, such as the Faculty Handbook.
- A complaint against a College employee will be processed in accordance with the procedures set forth in the Employee Handbook.
- A complaint against a non-community member (e.g., a visitor, an alum, a vendor, etc.) will be investigated but no formal policy or procedure applies. The College may opt to ban the non-community member from College property or take other appropriate responsive measures. The Complainant and Respondent will be notified in writing of the outcome of such a complaint.
- A complaint against a student will be processed in accordance with the procedures set forth below. See *Procedures for Student Cases*.

A non-member of the campus community may make a report that a College community member has violated this policy. A non-community member's complaint will be processed in accordance with the applicable disciplinary procedure (above).

Notwithstanding anything to the contrary in any other policy or procedure, in any case involving a decision regarding an alleged violation of this policy, the following shall apply:

- At their own expense, both the Complainant and the Respondent each may have an advisor of their choice present during the investigatory and disciplinary proceeding and any related meeting. In cases involving sexual assault, domestic violence, dating violence or stalking, the advisor may be an attorney. Investigations and/or disciplinary hearings will not be delayed based on the availability of

- a party's desired advisor.
- The Complainant and Respondent will have an equal opportunity to present relevant information and evidence.
 - The College endeavors to complete the investigatory and disciplinary process within sixty (60) days of the date the College received the complaint, but this timeframe may be extended if necessary under the circumstances, such as where there are multiple complainants and/or respondents, where delays are necessitated by involvement of local law enforcement, College breaks or other reasons of unavailability.
 - Both parties will receive simultaneous written notice of outcomes of all disciplinary proceedings, to the extent permitted by law, via the method the Complainant and Respondent have indicated on record as the best method of notification (*ie. campus email via read receipt, campus mail via delivery/read receipt, home address via certified mail, etc.*).

Procedures for Student Cases

The Vice President of Student Affairs will receive the investigatory report for all cases involving students. The Complainant and Respondent shall be notified by the Vice President of Student Affairs of the conclusion of the investigation and shall be given the opportunity to review on campus the investigatory report and relevant information in the case file. A requesting party shall be given a 5 day period during which to access the material during a scheduled review. Access is limited to the requesting party, who may not make photocopies or take photographs of the materials. The College reserves the right to redact material from the file as permitted and/or required by law.

The Title IX Coordinator will convene a Review Panel consisting of the Vice President of Student Affairs and 2 additional faculty/staff members of the College who have been trained in Title IX and the College's policy. No member of the review panel shall have a conflict of interest. Both parties have the right to raise any issues of conflict of interest related to individuals serving on the review panel by notifying the Title IX Coordinator in writing.

The Review Panel shall have the responsibilities of making the decision as to whether the Respondent is responsible for a violation of this policy and determining appropriate sanctions and remedies based on the preponderance of evidence (i.e., whether the charged conduct is "more likely than not" to have occurred). Circumstantial information can be sufficient in some instances for the College to determine that a violation was "more likely than not" to have occurred.

The Review Panel may, if deemed necessary, meet with the investigator(s) and/or any party or witness. The Review Panel will not be bound by the investigatory report; rather, it is advisory. The Review Panel may request additional investigation by the investigator(s). Both the Complainant and Respondent will be provided with the same opportunity to share information with the Review Panel, including the right to submit a written statement for consideration and/or request to meet individually with the Review Panel to provide any other relevant evidence. Any written statement provided by any party may be reviewed by the other party, who will have 24 hours to submit a response. If the Review Panel concludes that the Respondent is responsible for a violation of this policy, both the Complainant and Respondent shall have the opportunity to make a written impact statement to the Review Panel prior to the determination of an appropriate sanction(s). In making a determination regarding sanctions, the Review Panel may consider the parties' impact statements, if any, and may also consult with the Title IX Coordinator and other appropriate

College officials. The student's disciplinary history, including past findings of domestic violence, dating violence, stalking or sexual assault, may be considered for purposes of determining an appropriate sanction.

Both Complainant and Respondent will receive simultaneous written notice of the outcome to the extent permitted by law. The final outcome letter shall include factual findings supporting the determination, the decision and sanction, if any, as well as the rationale for the decision and sanction.

Either party, Complainant or Respondent, may appeal the Review Panels' decision to an appeal panel comprised of at least three members of the Cazenovia campus community who have been trained in Title IX and the College's policy. The appeal panel will be appointed by the Title IX Coordinator. No member of a Review Panel shall sit on the appeals panel for that same case. No member of the appeals panel shall have a conflict of interest. Both parties have the right to raise any issues of conflict of interest related to individuals serving on the appeals panel by notifying the Title IX Coordinator in writing. The parties will be given equal access to review any party or witness statements and the investigatory report, to the extent allowed or required by law.

The appeal must be submitted to the Title IX Coordinator in writing within three (3) business days of receiving the decision letter, unless otherwise specified in the decision letter. The appeal shall consist of a written statement outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal. The grounds for appeal are limited to:

- A procedural irregularity occurred so substantial as to have likely altered the outcome, or
- New information has come to light that could not have been known before or during the investigation and/or disciplinary process and which could have had a direct impact on the outcome, or
- The finding of responsibility or the finding of no responsibility was not supported by a preponderance of the evidence, or
- A claim that the sanction imposed is substantially disproportionate to the severity of the violation.

The appeals panel will have access to the investigatory report, the Review Panels' decision, and may, if the appeals panel deems it necessary, communicate with the investigator(s), the Review Panel, and/or any party or witness directly as part of the appeal process. However, appeals are not intended to be full re-hearings of the complaint. In most cases, appeals will be considered upon a review of the written documentation or record of the investigator(s) and/or Review Panel, and pertinent documentation regarding the grounds for appeal. A preponderance of the evidence standard will be applied on appeal. The appeals panel may affirm the Review Panels' decision, alter the decision of the Review Panel (with respect to finding of responsibility and/or sanctions), or return the case to the investigator(s) for further investigation.

Sanctions imposed by the Review Panel are implemented immediately unless the Title IX coordinator stays implementation in extraordinary circumstances, pending the outcome of the appeal. The appeals panel will normally render a written decision on the appeal to the Complainant and Respondent within fifteen (15) business days from the date of the submission of all appeal documents by both parties. The appeals panel decision will be final and binding.

X. Sanctions

The sanction(s) for a violation of this policy will be based on a consideration of all of the circumstances, including the severity of the conduct and the Respondent's disciplinary history. The range of sanction(s) imposed may include, but are not limited to, any one or more of the following:

- Written Warning
- Additional Educational Requirements and/or Community Service
- Removal of Housing or Other Privileges
- Loss of Attendance and/or Participation Privileges for Social Functions or College Programs
- Probation
- Suspension
- Dismissal
- Letter of Censure
- Letter of Reprimand (employee)
- Change of Job Assignment and/or Work Location (employee)
- Demotion or reduction in pay (employee)
- Termination (employee)

If the conclusion reached is that there has been no violation of this policy but other inappropriate conduct has occurred, the College retains the right to address that inappropriate behavior in accordance with College policy and practice.

For crimes of violence, including, but not limited to sexual violence, that Cazenovia College is required by federal law to include in its Annual Security Report, the transcripts of students found responsible after a hearing and appeal, if any, shall include the following notation:

- Suspended after a finding of responsibility for a code of conduct violation;
- Expelled after a finding of responsibility for a code of conduct violation; or
- Withdrew with conduct charges pending

Cazenovia College reserves the right to prohibit withdrawal of a Respondent until the conclusion of all College judicial proceedings. Transcript notations for suspensions may be removed at the discretion of the College, but no earlier than one (1) year after the conclusion of the suspension. Transcript notations for student dismissal shall not be removed.

XI. Standard of Proof

The standard used for all investigatory and disciplinary proceedings under this policy will be a preponderance of the evidence, meaning that it is more likely than not that an allegation is true.

XII. Time Limits

There is no time limit for reporting sexual misconduct. However, services may be the most effective when incidents are reported immediately. The passage of time may make effective responsive action difficult.

Further, if the Respondent is no longer a member of the College community, the College's ability to respond may be limited. It is at the discretion of the Title IX Coordinator to determine the action the College will take concerning complaints which are filed after a substantial amount of time has passed. Individuals are encouraged to bring complaints forward in a timely manner.

XIII. Retaliation

The College prohibits retaliation against any individual who files a good-faith complaint of sex discrimination, sexual harassment, sexual assault or any other form of sexual misconduct or assists or participates in good-faith in any manner in any investigation or proceeding conducted pursuant to this policy by the College or by an external agency. Any such acts of retaliation should be reported promptly to the Title IX Coordinator, either of the Deputy Title IX Coordinators, the Director of Campus Safety, or the Vice President of Student Affairs. Any retaliation is subject to disciplinary action, up to and including dismissal/termination. Complaints of retaliation under this policy will be handled pursuant to the applicable disciplinary procedures (above) and any other applicable disciplinary procedures as stated in the Employee Handbook and/or Student Handbook Student Code of Conduct.

XIV. Amnesty

The health and safety of every student at Cazenovia College is of utmost importance. Cazenovia College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Cazenovia College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to College 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 College officials or law enforcement will not be subject to Cazenovia College's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking or sexual assault.

XV. Prevention and Education

Cazenovia College has implemented an extensive Primary Prevention program and an Ongoing Awareness & Prevention Campaign in an effort to prevent incidents of sexual misconduct and to educate the campus community. These educational programs include, but are not limited to, training on bystander intervention, sexual violence awareness and the reporting and investigation procedures of this policy.

Public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, "survivor speak outs" or other forums in which students disclose incidents of sexual violence, are not considered notice to the College of sexual misconduct for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for further campus-wide education and prevention efforts, and the College will provide information about individuals' Title IX rights at these events.

XVI. Training

Cazenovia College is committed to ensuring all responsible administrators and individuals involved in investigating and/or adjudicating alleged violations of this policy will receive annual training on relevant topics, including discrimination, harassment, sexual misconduct, stalking, domestic violence, and dating violence and how to conduct investigations and disciplinary proceedings that protect the safety and respectful treatment of all parties and promote accountability to the College community. The Title IX Coordinator assures that training programs are conducted in collaboration with external experts as necessary.

XVII. Coordination with Other Policies

A particular situation may potentially invoke one or more College policies or processes. The College reserves the right to determine the most applicable policy or process and to utilize that policy or process.

XVIII. Clery Act Compliance

The College is required to include for statistical reporting purposes the occurrence of certain incidents in its Annual Security Report (ASR). Names of individuals involved in incidents are not reported or disclosed in ASRs.

Federal Timely Warning Reporting Obligations

Victims of sexual misconduct should also be aware that College administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. In such circumstances, the name of the alleged perpetrator may be disclosed to the community, but the name of the victim/Complainant will not be disclosed.

XIX. Policy Compliance

Any person with a concern about the College's handling of a particular matter should contact the Title IX Coordinator, Janice Romagnoli, at jaromagnoli@cazenovia.edu.

The U.S. Department of Education, Office for Civil Rights is a federal agency responsible for ensuring compliance with Title IX. OCR may be contacted at 400 Maryland Avenue, SW, Washington, DC 20202-1100 or (800)421-3481.

XX. Students' Bill of Rights

Cazenovia College prohibits all forms of sex discrimination, sexual harassment, sexual violence and sexual misconduct. Pursuant to Article 129-B, Section 6443, of the New York State Education Law, in matters related to sexual assault, domestic violence, dating violence and stalking, 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 Cazenovia College;

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 institution courteous, fair, and respectful health care and counseling services, where available;
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 institutional representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by Cazenovia College, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the College;
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; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of Cazenovia College.

Reporting Individuals Rights

Anyone reporting an incident of sexual assault, domestic violence, dating violence or stalking, has the right to:

1. Emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual and who can provide information, including:
 - a. options to proceed, including the right to make a report to Campus Safety (reports to Campus Safety are reported to the Title IX Coordinator), local law enforcement, and/or the New York State Police or choose not to report; to report the incident to the College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College, as set forth in the Cazenovia College Sex Discrimination, Sexual Harassment and Sexual Misconduct Policy, which can be found at <http://www.cazenovia.edu/student-life/sexual-misconduct-resources>;
 - b. where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible;
 - c. that the criminal justice process utilizes different standards of proof and evidence than the College's judicial procedures and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney;
 - d. whether the person they are reporting to is authorized to offer the confidentiality or privacy;
 - e. any other reporting options.
2. If they are a student, to contact the Counseling Center staff or Health Office Nursing staff, where they can be offered confidential resources pursuant to applicable laws/policies and can be assisted in obtaining services for reporting individuals; if they are not a student but are otherwise a member of the College community, to contact non-College confidential resources, including:
 - a. Help Restore Hope Center (855.966.9723)
 - b. St. Joseph's Hospital (315.448.5101)
 - c. University Hospital (315.464-5611)

- d. Crouse Hospital (315.470-7111)
3. Disclose confidentially the incident and obtain services from the state or local government;
 4. Disclose the incident to the College's Responsible Administrators who can offer privacy or, appropriate cases determined by the Title IX Coordinator, confidentiality, subject the College's Sex Discrimination, Sexual Harassment and Sexual Misconduct, and can assist in obtaining resources for reporting individuals;
 5. File a report of sexual assault, domestic violence, dating violence, and/or stalking and consult the Title IX Coordinator and other appropriate College personnel for information and assistance. Reports shall be investigated in accordance with Cazenovia College policy. A reporting individual's identity shall remain private if that is what the reporting individual wishes, however privacy is not the same as confidentiality and private information can be shared as necessary to implement and fulfill the College's obligations under the law and its Sex Discrimination, Sexual Harassment and Sexual Misconduct Policy;
 6. Disclose, if the accused is a College employee of the institution, the incident to Human Resources or to request that a private employee assist in reporting to Human Resources;
 7. Receive assistance from appropriate College representatives if interested in initiating legal proceedings in family court or civil court;
 8. Withdraw a complaint or involvement from the College processes at any time, with the understanding that in appropriate cases, the College may nonetheless be required to proceed even if the reporting individual does not wish to do so.

Information about available resources, including intervention, mental health counseling and medical services that might be available to anyone reporting an incident can be found at <http://www.cazenovia.edu/student-life/sexual-misconduct-resources>. In addition, information on sexually transmitted infections and sexual assault forensic examinations can be obtained from the Health Center if a student, or from the hospitals listed above, if an employee. Certain resource are also available to victims of crime through the New York State Office of Victim Services, www.ovs.ny.gov.