

TITLE IX POLICY

NIAGARA COUNTY COMMUNITY COLLEGE

Policy Statement:	3
Applicability of Policy:	3
Supervisory Responsibility:	4
Complaint and Investigation Procedure:	4
Prohibition Against Retaliation:	4
I. Sexual Harassment Prevention	5
NYS Definition of Sexual Harassment:.....	5
Examples of Sexual Harassment (some or all of these examples may fall under the College's Title IX policy):	8
Contract Bids:.....	10
Accommodation of Disabilities	10
Discriminatory Harassment	11
Jurisdiction.....	11
Disciplinary Action.....	12
Related Documents.....	12
Niagara County Community College Procedure: I-11	13
Applicable Scope	13
Civil Right Compliance Officer	13
Definitions	14
Reporting Discrimination or Sexual Harassment	18
Remedial Action	18
I. Reporting Requirements.....	18
A. Confidential Reporting for Students.....	19
Semi-Confidential Options for Students	20
Confidential Resource for Employees	21
Need to know.....	21
Federal Timely Warning Obligations.....	21
False Allegations.....	22
Amnesty for Student Reporting	22
Parental Notification (allegations involving students)	22
Federal Statistical Reporting Obligations	22
EMPLOYEE INVESTIGATION RESOLUTION PROCESS (IRP) FOR ALLEGATIONS OF DISCRIMINATION, DISCRIMINATORY HARASSMENT, SEXUAL HARASSMENT AND/OR SEXUAL MISCONDUCT As defined in this policy:.....	23
Overview	23

Reporting of Complaints.....	23
Preliminary Inquiry	24
Supportive Measures	25
Investigation Process	26
Employee Sanctions	27
Appeals.....	27
Records.....	28
Legal Protections And External Remedies	28
New York State Division of Human Rights (DHR).....	28
The United States Equal Employment Opportunity Commission (EEOC) –.....	30
Local Protections –	30
Local Police Department –	30
Related Documents.....	30
DISCRIMINATION / SEXUAL HARASSMENT COMPLAINT FORM.....	32

Policy Statement:

Niagara County Community College ("NCCC" or the "College" adheres to all federal and state laws prohibiting discrimination and sexual harassment in public institutions of higher education. This Title IX policy is based on definitions set forth in regulations promulgated by the U.S. Department of Education under Title IX of the Education Amendments Act of 1972, and this policy limits the scope of Title IX Sexual Harassment to, among other things, conduct that occurs within the United States and conduct that occurs within the University's education program or activity.

The College prohibits conduct by any employee or a student that disrupts or interferes with another's work performance or educational experience, or that creates an intimidating, offensive, or hostile work or educational environment due to discrimination based on protected status or sexual harassment. In keeping with this goal, the College is committed to educate employees in the recognition and prevention of workplace and educational discrimination and sexual harassment. Improper conduct may violate the College's policy, when it is more serious than petty slights or trivial inconveniences.

Applicability of Policy:

This policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business with the College, regardless of immigration status, students and applicants for admission. Students who are only employed with the College as student assistants or work study, or who are interns inside and outside the College as a part of their course study, will be categorized as students.

*NCCC has two policies that address sexual misconduct: (1) this Title IX policy which addresses sexual misconduct pursuant to Title IX and its implementing regulations and (2) Discrimination, Harassment and Retaliation Policy pursuant to New York State, and where applicable local law. Quid pro quo harassment and Clery Act / VAWA offenses which also may fall under the Title IX Grievance Policy are NOT evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access, because these types of misconduct are sufficiently serious to deprive a person of equal educational access.

Jurisdiction for Title IX is to address conduct that takes place in a school's education program or activity, for which the conduct occurred in the United States and for a current student or employee.

The Discrimination, Harassment and Retaliation Policy includes expanded jurisdiction and a different threshold to establish sexual harassment, and all forms of harassment or discrimination.

Supervisory Responsibility:

Supervisory personnel are responsible for maintaining a work environment that is free from discrimination and sexual harassment. In order to assure compliance with this policy, supervisors are required to promptly report to the Civil Rights Compliance Officer or Deputy Title IX Coordinator. Any complaint of discrimination or sexual harassment that they receive, or any discrimination or harassment that they observe, suspect

or become aware of. Supervisors may be subject to disciplinary action, up to and including termination, for failing to report suspected discrimination or sexual harassment, or knowingly permitting such conduct to continue in the workplace. Supervisors will also be subject to discipline for engaging in any retaliation against a person who makes a complaint of discrimination or sexual harassment, or who assists, participates, or testifies in any investigation or proceeding related to such complaint.

Complaint and Investigation Procedure:

Any complaints made under this policy where the accused party is not a student shall be promptly and thoroughly investigated in accordance with the procedures set forth in the attached Procedures: Title IX Policy and Procedures, unless the conduct meets the definition of sexual harassment under the College's Discrimination, Harassment, and Retaliation Policy in which case will follow the grievance procedures outlined in that policy.

Complaints may be made verbally or by completing the attached Discrimination/Sexual Harassment Complaint Form. If a student is the accused Responding Party, complaints shall be resolved under the procedures described in the NCCC Student Code of Conduct, Discrimination, Harassment and Retaliation Policy or the College's Title IX Grievance Policy outlined herein.

Prohibition Against Retaliation:

Retaliation against any individual covered by this policy who, in good faith, brings a written or verbal complaint of discrimination or sexual harassment, or who assists, participates, or testifies in any investigation or proceeding related to such complaint, regardless of whether or not the alleged harassment rises to the level of a violation of this policy or the law, is strictly prohibited. Such retaliation is unlawful under federal, state, and (where applicable) local law, and NCCC will not tolerate or permit adverse treatment of individuals because they report discrimination or sexual harassment or provide information related to such complaints. Adverse treatment includes being discharged, disciplined, discriminated against, or any action that could discourage an individual from coming forward to make or support a claim of discrimination or sexual harassment. Participants who experience retaliation should contact the Deputy Title IX Coordinators or Civil Rights Compliance Officer, and may file a complaint pursuant to the accompanying Procedures.

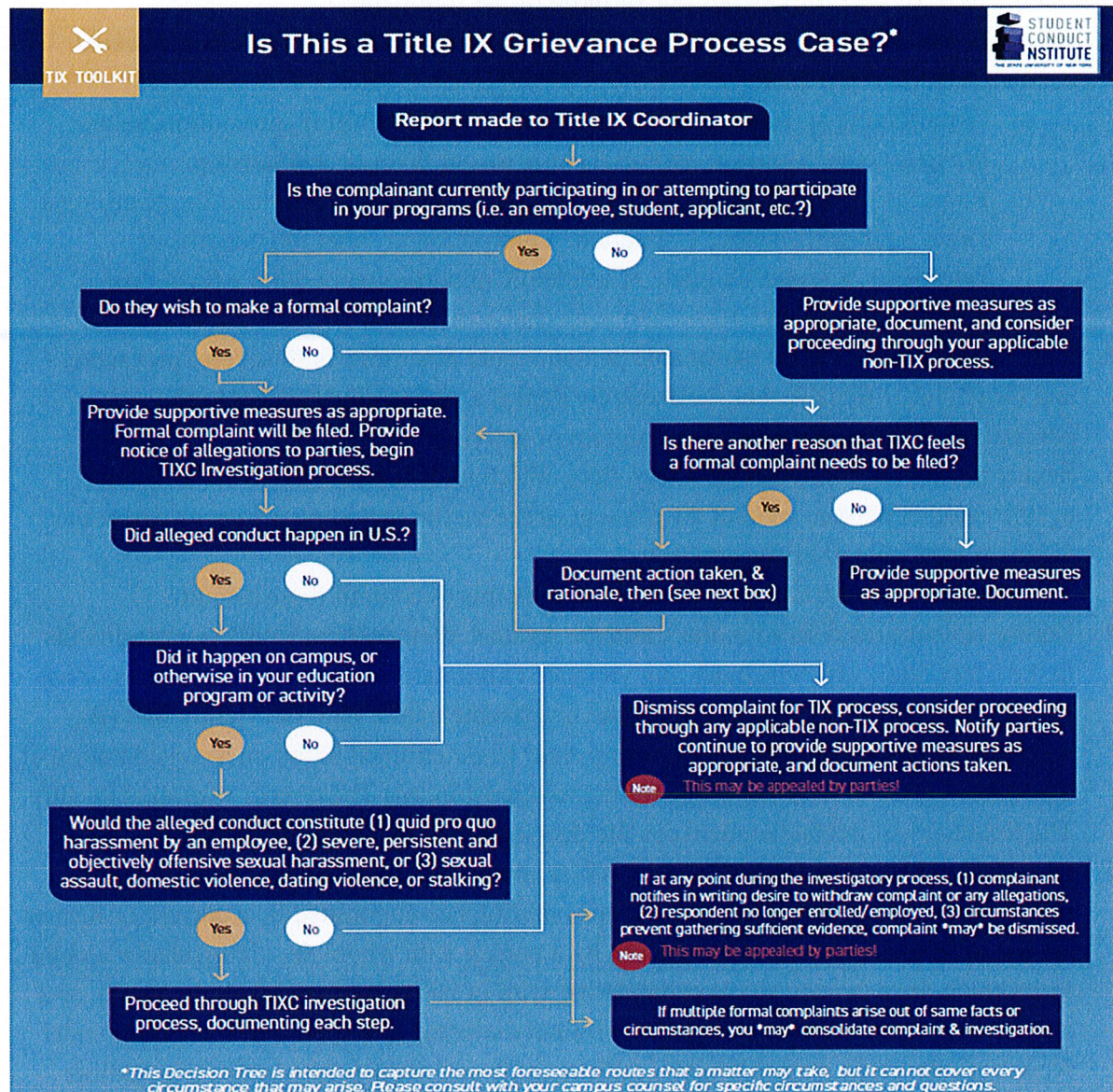
I. Sexual Harassment Prevention

"Sexual harassment" under Title IX is now more narrowly defined to include (1) *quid pro quo*; (2) "unwelcome conduct" of a sexual nature that a reasonable person would find "so severe, pervasive, and objectively offensive" that it effectively denies someone equal access to an education program; or (3) sexual assault, dating violence, domestic violence or stalking.

In order to defer to the Title IX Grievance Policy, the conduct must have occurred:

- In the United States
- Reporting Party must be a current student or employee of the College.
- Occurs in the school's education program or activity.

The following Decision Tree will be followed to determine whether the allegations of sexual harassment should follow the Title IX Grievance Process:



For the purposes of the Title IX Grievance Policy, “covered sexual harassment” will follow the grievance procedures outside of this policy under the Title IX Grievance Policy, includes any conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
 - a. Conditioning an employment-related action (such as hiring, promotion, salary increase, or performance appraisal) on a sexual favor or relationship;
 - b. Requests for sexual favors accompanied by implied or overt threats concerning a target’s job performance evaluation, a promotion or other job benefits or detriments, a favorable grade or academic opportunity, or other educational benefit or detriment;
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution’s education program or activity;
3. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;
 - a. Rape, sexual battery, molestation or attempts to commit these assaults.
4. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
5. Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under New York domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of NY.
6. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

Note that conduct that does not meet one or more of these criteria, or conduct that does not occur in the United States, or where a Reporting Party is not active within the College or doesn’t occur

within the school's education program or activity, may still be prohibited under the Student Code of Conduct or the Discrimination, Harassment, and Retaliation Policy.

Such behavior can constitute sexual harassment regardless of the sex, gender, sexual orientation, self-identified or perceived sex, gender expression, status of being transgender, or gender identity of any of the persons involved. The law protects students, employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor. Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. The College is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The College explicitly prohibits any form of harassment, defined as unwelcomed conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

Harassment constitutes a form of discrimination that is prohibited by this policy as well as the law. The College will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by law.

A hostile environment may be created by harassing verbal, written, graphic, or physical conduct based on a protected characteristic that is more serious than petty slights or trivial inconveniences. When harassment rises to the level of creating a hostile environment, the College may impose sanctions on the harasser through the application of the Investigation Resolution Process.

There may be times when offensive conduct is perceived yet does not rise to the level of creating a hostile environment, or is of a generic nature not on the basis of a protected status. The College will consider action geared toward addressing the reporting party's concerns.

For assistance with conflict resolution techniques, employees should contact the Civil Rights Compliance Officer, Deputy Title IX Coordinator and students should contact the Vice President of Student Services

Inquiries regarding the application of Civil Rights may be directed to the Title IX Coordinator Catherine Brown, Assistant Vice President of Human Resources, A-264, 716-614-5951, cbrown@niagaracc.suny.edu or Deputy Title IX Coordinator Students: Robert McKeown,

Assistant Vice President of Campus Engagement, A-266, 716-614-6201, McKeown@niagaracc.suny.edu, Amanda Haseley, Deputy Title IX Coordinator Athletics, H-168 716-614-6271, ahaseley@niagaracc.suny.edu, or designee at Niagara County Community College; 3111 Saunders Settlement Road, Sanborn, NY 14132.

Inquiries may also be directed to the United States Department of Education's Office of Civil Rights, 32 Old Slip 26th Floor, New York, NY 10005-2500; Tel. 646- 428-3800; or email: ocr.newyork@ed.gov, or contact the NYS Division of Human Rights Offices <http://www.dhr.ny.gov/>, 65 Court St #506, Buffalo, NY 14202; Tel. (716) 847-7632; or email InfoBuffalo@dhr.ny.gov.

Jurisdiction

This policy applies to behaviors that take place on the campus, at College-sponsored events and may also apply off-campus and to actions online when the Civil Rights Compliance Officer or a Deputy Title IX Coordinator determines that the off-campus conduct affects a substantial College interest. Off-campus jurisdiction applies when the behavior occurs in programs/events the College sponsors or when the downstream effects of purely off-campus conduct cause a discriminatory impact on campus, or it is foreseeable it could cause a discriminatory impact; but will not preclude an individual's rights under N.Y. Labor Law § 201-d . A substantial College interest is defined to include:

- a) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state or federal law;
- b) Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property or achievements of others or significantly breaches the peace and/or causes social disorder; and/or
- d) Any situation that is detrimental to the educational interests of the College

Disciplinary Action

Discriminatory conduct and sexual harassment are forms of employee misconduct. Any employee or official who is found to have violated this policy will be subject to disciplinary action, up to and including termination of employment. Any vendor, supplier, visitor, customer, or other non-employee who violates this policy will be subject to remedial action, to the extent that the College is empowered to take such action.

Applicable Scope

Niagara County Community College affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All processes below are subject to resolution using the NCCC's Investigation Resolution Process (IRP), as written in this document or in the Student Code of Conduct or Sexual Misconduct and Non-Discrimination Policy for Students.

When the Responding Party is an employee of the College, the IRP is applicable regardless of the status of the Reporting Party who may be a member or non-member of the campus

community, including students, student organizations, faculty, administrators, staff, guests, or visitors.

Civil Rights Compliance Officer

The Assistant Vice President of Human resources serves as the College's Civil Rights Compliance Officer and Title IX Coordinator. The Assistant Vice President of Campus Engagement and the Director of Athletics serve as the Deputy Title IX Coordinators or designee serves as an Investigator. In addition to Civil Rights Compliance Officer, the Co-Coordinators and Investigator have the responsibility to receive civil rights reports and complaints of discrimination and sexual harassment. The Civil Rights Compliance Officer, Co-Coordinators oversee implementation of the College's Discrimination, Harassment and Retaliation Policy and the Title IX Grievance Policy. The Deputy Title IX Coordinators / Investigators act with independence and authority free of conflicts of interest. To raise any concern involving a conflict of interest by a Deputy Title IX Coordinator / Investigator, contact the Civil Rights Compliance Officer and/or the College President. To raise concerns regarding a potential conflict of interest with any other administrator involved in the investigation or resolution process, please contact a Deputy Title IX Coordinator.

Inquiries about and reports regarding this policy and procedure may be made internally to:

Catherine Brown, Assistant Vice President of Human Resources
Civil Rights Compliance Officer, Title IX Coordinator
ADA / 504 Employee Coordinator
A-264, 716-614-5951
cbrown@niagaracc.suny.edu

Robert McKeown, Assistant Vice President of Campus Engagement
Deputy Title IX Coordinator
A-266, 716.614.6201
McKeown@niagaracc.suny.edu

Amanda Haseley, Director of Athletics
Deputy Title IX Coordinator
H-168, 716.614.6271
ahaseley@niagaracc.suny.edu

Inquiries may be made externally to (see also Legal Protections & External Remedies, below):

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW Washington, DC 20202-1100
Customer Service Hotline #: 800.421.3481 Facsimile: 202.453.6012
TDD#: 877.521.2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

United States Department of Education's Office of Civil Rights
32 Old Slip 26th Floor,
New York, NY 10005-2500 Tel. 646.428.3800
ocr.newyork@ed.gov

Equal Employment Opportunity Commission (EEOC)
Contact: <http://www.eeoc.gov/contact/>

EEOC Field Office
6 Fountain Plaza, Suite 350
Buffalo, NY 14202
716.551.4441

New York State Division of Human Rights – Buffalo
65 Court St #506,
Buffalo, NY 14202
716.847.7632

Definitions

Responsible Employee

A Responsible Employee is one who has the authority to take action to redress harassment, who has the duty to report discrimination or harassment to appropriate College officials, or an individual who a student could reasonably believe has this authority or responsibility. Most College employees are Responsible Employees, though there are some limited exceptions for reporting responsibilities for; "Professional Counselors" and "Non Professional Counselors."

Standard of Evidence

The standard of evidence used to determine responsibility is a preponderance of evidence which means more likely than not. This burden of proof is different than beyond a reasonable doubt, which is a more stringent standard that is applicable to civil and criminal procedures. The technical rules of evidence used in civil and criminal proceedings do not apply to this policy.

Hostile Environment Sexual Harassment

A hostile environment is created when sexual harassment is more serious than petty slights or trivial inconveniences that are severe and pervasive.

Quid Pro Quo Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational development or performance.

Affirmative Consent

Affirmative Consent is defined as a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as

those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary upon a participant's sex, sexual orientation, gender identity, or gender expression. For a complete definition go to: https://www.niagaracc.suny.edu/wp-content/uploads/2019/10/rights_and_responsibilities.pdf

Sex Discrimination

All forms of sexual harassment, sexual assault, and other sexual violence by employees, students, or third parties against employees, students, or third parties. Students, employees, and third parties are prohibited from harassing others whether or not the harassment occurs on the College campus or whether it occurs during work hours. Sex discrimination can be carried out by other students, college employees, or third parties. All acts of sex discrimination, including sexual harassment and sexual violence, are prohibited.

Sexual Assault

A physical sexual act or acts committed against another person without consent. Rape is an extreme form of sexual harassment and may fall under the Title IX Grievance Policy when it meets the jurisdictional requirements. Sexual assault includes what is commonly known as "rape" (including what is commonly called "date rape" and "acquaintance rape"), statutory rape and incest. For statutory rape, the age of consent in New York State is 17 years old.

Sexual Violence

Physical sexual acts perpetrated against a person's will or perpetrated where a person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual Violence may fall under the Title IX Grievance Policy when it meets the jurisdictional requirements

Dating Violence

Any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. Dating violence may fall under the Title IX Grievance Policy when it meets the jurisdictional requirements. This definition does not include acts covered under domestic violence.

Domestic Violence

Any violent crime committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner. Domestic Violence may fall under the Title IX Grievance Policy when it meets the jurisdictional requirements.

Stalking

Intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional damage. Examples include, but are not limited to, two or more acts by which the stalker directly, indirectly, or through third parties follows, monitors, observes, surveils, threatens, or communicates about a person or interferes with his or her property. Stalking may fall under the Title IX Grievance Policy when it meets the jurisdictional requirements.

Sexual Misconduct

New York State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, NCCC has defined some categories of sex/gender discrimination as sexual misconduct in the Student Code of Conduct, the Sexual Misconduct and Non-Discrimination Policy for Students, and the document titled; Discrimination and Harassment Policy. Sexual Misconduct may fall under the Title IX Grievance Policy when it meets the jurisdictional requirements.

Gender Identity

Refers to an individual's internal sense of gender. A person's gender identity may be different from or the same as the person's sex assigned at birth.

Sex Assigned at Birth

Refers to the sex designation recorded on an infant's birth certificate should such a record be provided at birth.

Transgender

Describes those individuals whose gender identity is different from the sex they were assigned at birth. A transgender male is someone who identifies as male but was assigned the sex of female at birth; a transgender female is someone who identifies as female but was assigned the sex of male at birth.

Gender Transition

Refers to the process in which transgender individuals begin asserting the sex that corresponds to their gender identity instead of the sex they were assigned at birth. During gender transition, individuals begin to live and identify as the sex consistent with their gender identity and may dress differently, adopt a new name, and use pronouns consistent with their gender identity. Transgender individuals may undergo gender transition at any stage of their lives, and gender transition can happen swiftly or over a long duration of time.

Reporting Discrimination or Sexual Harassment

Reports of discrimination, harassment (including sexual harassment) and/or retaliation may be made using the following options:

- 1) Individuals may report directly to a Civil Rights Compliance Officer, Title IX Coordinator, or Title IX Investigator verbally or by using the attached Discrimination/Sexual Harassment Complaint Form

- 2) Employees may report any situation to their supervisor. Students may also make reports to employees.
- 3) Submitting a complaint to external governmental agencies or courts as described below under “Legal Protections & External Remedies”.
- 4) If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, or other extreme conduct that may constitute a crime, employees or students may also report to campus safety or local law enforcement.

Complaints may be made verbally or by completing the attached Title IX Complaint Form. All reports and complaints shall be acted upon promptly while making every effort to preserve the confidentiality of the reports, and the due process rights of all parties. Additionally, all employees of the College are designated as Responsible Employees and will share a report with the Civil Rights Compliance Officer/Title IX Coordinator or a Deputy Title IX Coordinator promptly. Confidentiality and mandated reporting is addressed more specifically below. Reports of alleged misconduct or discrimination by a Title IX official should be reported to the Civil Rights Compliance Officer and/or College President. Reports of alleged misconduct or discrimination by the President should be reported to the Civil Rights Compliance Officer who will inform the Board of Trustees.

Remedial Action

The College may implement initial remedial/supportive measures and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, providing education, counseling and/or medical services, student academic support, student living arrangement adjustments, student financial aid counseling, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources

Niagara County Community College will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor upon a finding that they have engaged in harassing or discriminatory behavior or retaliation.

The College will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the College’s ability to provide the accommodations or protective measures.

I. Reporting Requirements

All College employees (faculty, staff, and administrators) are obligated as Responsible Employees to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions.

A Responsible Employee is any employee who has the authority to take action to redress harassment, who has the duty to report discrimination or harassment to appropriate College officials, or an individual who a student could reasonably believe has this authority or responsibility. In short, this is most employees, though there are some limited exceptions for reporting responsibilities.

All College employees (faculty, staff, and administrators) are expected to act as Responsible Employees and report actual or suspected discrimination or harassment to the Title IX Coordinator / Deputy Title IX Coordinator/ Investigator or the Civil Rights Compliance Officer immediately. This includes the reporting student'(s) or employee'(s) name (known as the "Reporting Party"), name of accused (known as the "Responding Party"), approximate date/time/location of incident *if known*, how information was shared with you (i.e. personal conversation, written, etc.) Based on the report, the Reporting Party will be contacted by one of the Title IX officials. The Reporting Party does not have to participate in the process (informal or formal), but that does not preclude the Responsible Employee from making the report. Some College employees may maintain the confidence of the reporting party if requested (i.e., Mental Health Counselors in the Wellness Center (Confidential Employees). They are permitted to offer options and advice without any obligation to inform an outside agency or campus official unless a reporting party has requested the information to be shared.

Licensed Mental Health Counselors in the Wellness Center, and are required to report the incident but may withhold personal identifying information if requested by the reporting party.

Some activities may be exempt from a Responsible Employee's obligation to report. Generally, climate surveys, classroom writing assignments or discussions, human subject research, or events such as marches or speak-outs do not provide notice that must be reported to a Title IX official by employees, unless the reporting party clearly indicates that they wish a report to be made.

In cases indicating pattern (repeated reports or behaviors), predation, threat, weapons and/or violence, the College will likely be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow the College to honor that request, the College will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by the College when reported, and to have those incidents investigated and properly resolved through these procedures.

A. Confidential Reporting for Students

Students who wish to report an incident to an on campus confidential source, may speak with the Wellness Center.

Confidential Employees:

Mental Health Counselors within the Wellness Center.
Wellness Center

<https://www.niagaracc.suny.edu/wellness/>

Phone: 716-614-6275

Fax: 716-614-6817

Location: C-122

A student or employee wishing to report an incident off campus in complete confidence may contact YWCA, or other external resources listed here: <http://nyscasa.org/> or <https://www.suny.edu/violence-response/>.

YWCA
Rachel Sandle-Sacco
T: 716-433-6714 ext. 235
C: 716-481-3610

24-Hour Crisis Hotline

T: 716-433-6716
Text: 716-870-9726

Individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor.

Semi-Confidential Options for Students

There are some professionals on campus who are denoted as *semi-confidential (privacy)* for students. These individuals are not required to reveal personally identifiable information about a victim/survivor to the Deputy Title IX Coordinator, or anyone else on campus. They are required to report aggregate data to a Deputy Title IX Coordinator, including nature, date, time, and general location of the incident. These individuals include: Wellness Center Supervisor of College Nursing, Assistant Vice President of Campus Engagement, Director of Athletics and Director of Housing.

Confidential Resource for Employees

A confidential resource for employees; the Employee Assistance Program (EAP) is available to help free of charge and is available 24/7. Tel. 800-252-4555 or Web. HigherEdEAP.com. The EAP is a 3rd party, neutral service for employees seeking counseling and other resources.

Need to know

A Responsible Employee who makes a report still affords privacy to the Reporting Party, as only a small group of officials who need to know will be informed. Information will be shared as necessary with investigators, witnesses and the Responding Party. The individual's privacy with this information will remain on a need to know basis to preserve each party's rights and privacy."

Failure of a Responsible Employee, as described in this section, to report an incident(s) of sexual harassment or discrimination based upon any protected category of which they become aware is a violation of College policy and such Responsible Person may be subject to disciplinary action for failure to comply.

Federal Timely Warning Obligations

Parties reporting sexual misconduct should be aware that under the Clery Act, 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. The College will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

False Allegations

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Amnesty for Student Reporting

The College community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, students who are reporting parties or witnesses are hesitant to report to College officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that reporting parties choose to report to College officials, and that witnesses come forward to share what they know. To encourage reporting, the Student Code of Conduct and the Sexual Misconduct and Non-Discrimination Policy offers reporting student parties and witnesses amnesty from minor policy violations related to the incident.

Parental Notification (allegations involving students)

The College reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The college may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the College will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The College also reserves the right to designate which College officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act.

Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus police regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student services, public safety, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

Investigation Process

The investigations will typically take the following steps, if not already completed (not necessarily in this order):

- ☐ While initial complaints may be made verbally, the individual receiving a verbal complaint should encourage the employee to complete the written Discrimination/Sexual Harassment Complaint Form. If the employee refuses, a Complaint Form should be completed by the individual receiving the complaint based on, and accurately reflecting, the verbal report.
- ☐ Preliminary Inquiry will be immediately conducted by CIVIL RIGHT COMPLIANCE OFFICER or Title IX Co- Coordinator, and will be completed as soon as possible.
- ☐ Formal Investigation begins if reasonable cause is determined: Written notification will be forwarded to Responding Party, copied to the Reporting Party. If the Responding Party is the President, any reference to the President will be replaced by Board of Trustees.
- ☐ The Formal Investigation will be timely conducted and completed as soon as possible. If at any point no reasonable cause is determined, the process ends and will be communicated to both parties in writing.
- ☐ Deputy Title IX Coordinator, Investigator or CIVIL RIGHT COMPLIANCE OFFICER recommends findings and possible remedies based on current best practice and / or precedent to the Human Resources Officer, Assistant Vice President of Student Services who will finalize the resolution following conclusion of the investigation.
- ☐ Typically, within ten (10) days of the close of an investigation the Assistant Vice President, CIVIL RIGHT COMPLIANCE OFFICER, Title IX Coordinator, Deputy Title IX Coordinator or Investigator(s) will meet with both parties to explain the finding(s) of the investigation.
- ☐ Sanctions or disciplinary action shall be promptly implemented. Where applicable, such sanctions or discipline shall be pursued in accordance with the Collective Bargaining Agreement or Conditions of Employment Handbook covering the affected employee. Disciplinary action may be stayed pending an appeal under this procedure.
- ☐ All requests for appeal must be submitted to President of the College, and will be processed in accordance with the appeal process detailed below. ☐

All investigations will be thorough, reliable, impartial, prompt and equitable. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and

identifying sources of expert information, as necessary. If documents, emails or phone records are relevant to the investigation, steps will be taken to preserve them.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Investigation Resolution Process proceedings.

The College may undertake a short delay in its investigation when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The College will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete.

Additional Rights Available to Students under Title IX

Notwithstanding the above, all students (both the Reporting Party and Responding Party), have a right to receive written notice of the allegations, a right to an advocate, and the right to submit, examine, and challenge evidence. The College will ensure that all students have the right to a live hearing, an impartial finding based on the evidence, and the right to appeal a finding under this policy. Nothing in this policy inhibits the College's right to conduct a Title IX investigation or hearing under this policy either in person or remotely.

Appeals

Appeals of formal disciplinary sanctions imposed upon employees who are covered by a Collective Bargaining Agreement or Conditions of Employment Handbook with the College shall be made in accordance with the discipline procedure set forth in the applicable agreement or handbook. For all other matters covered under this policy, written appeals, including any supporting documentation, must be submitted to and received by the College President of the party's notice of the investigation findings. Appeals may be submitted by both the Reporting and Responding Party within the timeframes set forth herein. Upon receipt of an appeal, notification that an appeal has been submitted shall be provided to the opposing Reporting or Responding Party.

The College President shall issue a determination within the timeframes set forth in the applicable Collective Bargaining Agreement or Conditions of Employment Handbook, or of receipt of the appeal(s) if no Collective Bargaining Agreement applies.

If any component of the appeal procedure set forth herein conflicts with a disciplinary procedure set forth in an applicable Collective Bargaining Agreement, the Collective Bargaining Agreement shall govern the process.

All Responding Parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Assistant Vice President of Human Resources, Assistant Vice President of Campus Engagement, Civil Rights Compliance Officer or Deputy Title IX Coordinator / Investigator. Failure to abide by these conduct sanctions,

responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional responsive/corrective actions, up to and including expulsion and/or termination.

Records

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by a Title IX Coordinator / Investigator electronically in accordance with record retention requirements while limiting access to the Civil Rights Compliance Officer and Deputy Title IX Coordinator / Investigator.

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

The College's Discrimination, Harassment, and Retaliation Policy outlines the process and procedure for filing employee complaints of harassment and discrimination in the workplace. If an employee believes he or she has been subjected to any form of discrimination or harassment as defined under the Discrimination, Harassment, and Retaliation Policy, the Civil Rights Compliance Officer or Deputy Title IX Coordinator will follow the procedure and resolution process outlined in the policy to resolve the complaint. Complaints about sexual harassment as described in this Title IX policy will be investigated under the procedures and resolution processes identified here.

Allegations pursuant to the policy prohibiting discrimination and sexual harassment are resolved using the Investigation Resolution Process (IRP). The Civil Rights Compliance Officer and Deputy Title IX Coordinators / Investigators shall be properly trained to facilitate the IRP. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to all forms of harassment and discrimination allegations; the College's Discrimination, Harassment and Retaliation Policy confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance.

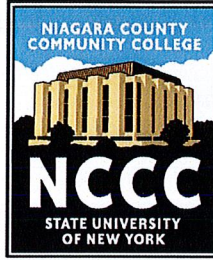
Employee Sanctions

The College is responsible for prompt, effective, remedial and equitable actions in response to a finding of sexual harassment, discrimination, or retaliation. Because each situation will contain many variables, the College's response will be varied. Responsive actions for an employee who has engaged in sexual harassment, discrimination and/or retaliation may include:

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*

- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other appropriate remedies*

Any applicable provisions in Collective Bargaining Agreements or Conditions of Employment Handbook shall apply to the imposition of formal disciplinary measures.



TITLE IX COMPLAINT FORM

This form is to be used by students and employees to file a complaint of sexual harassment or discrimination under Title IX occurring in the College's academic program or activities. To ensure that all complaints are managed appropriately, effectively, and in accordance with College policy, complaints should be documented using this form.

CAMPUS _____

(PLEASE PRINT OR TYPE)

DATE _____

1. Name of Complainant: _____

Phone No. _____

Status/Job Title (Faculty, Staff, Student) _____

Home Address _____

City _____ State _____ Zip Code _____

2. Name(s) of individual(s) engaging in alleged discrimination or sexual harassment:

Status (Faculty/Staff/Student): _____

Job Title: _____

Relationship to you (supervisor; subordinate; co-worker; professor/instructor; other):

3. Please describe the specific incident of discrimination or sexual harassment alleged, and, if applicable, how you believe it is affecting you, your work, or your academic experience. Describe each incident separately, including dates, times and locations. If you cannot remember exact dates, times or locations, please provide approximations. Use additional pages if necessary and attach any relevant documents or evidence.

4. Check if alleged discrimination is continuing? Yes ☐ No ☐

5. Are there others who may have witnessed this alleged discrimination or sexual harassment? If so, please provide their name(s).

6. Are there others who may have experienced similar alleged discrimination or sexual harassment by the individual named above? If so, please provide their name(s).

7. Did you tell anyone about your experience after the alleged incident(s)? If yes, please provide their names.

8. Did you speak to the individual named in this report about the alleged discrimination or sexual harassment? If yes, what was his or her response?

9. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

10. Please check the appropriate box(es):

☐ I elect to utilize the informal resolutions process

☐ I elect to proceed immediately to file a formal complaint

11. Have you filed this charge with a federal, state or local government agency?

Yes ☐ No ☐

If yes, with which agency? _____

When? _____

12. Have you instituted a suit or court action on this charge?

Yes ☐ No ☐

If yes, with which court? _____

When? _____

Court address _____

Contact person _____

13. Relief Requested:

I attest that the information I have provided is a true and accurate description of my complaint and that I have not willfully or deliberately made false statements. I understand that NCCC prohibits any individual from retaliating against me for filing a complaint and that I am to notify my supervisor, Civil Right Compliance Officer, or Deputy Title IX Coordinator, if I believe that I am a victim of retaliation.

(Print Name) _____ Signature: _____ Date: _____

Signature of Person Receiving Complaint:

_____ Date _____

Title _____ Date _____

College Approved: 8/2020
Board Approved: 9/2020
Revised: 8/2023

