Union College
Sexual Misconduct Policy

Applies to sexual misconduct, relationship violence, sexual harassment, or stalking.

We would like to acknowledge and thank Tufts University and Occidental College for being able to base parts of the Policy on their policies and procedures on sexual misconduct.

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Sexual Misconduct Policy

Applies to sexual misconduct, relationship violence, sexual harassment, or stalking. Title IX of the Education Amendments of 1972 is a federal law that prohibits sex discrimination in education. It reads:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

--Legal Citation: Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106 (Title IX)

Sex discrimination includes sexual harassment and sexual assault.

1. Introduction

A. Institutional Values and Community Expectations

Union College is an educational community where strong emphasis is placed on self-discovery and awareness. Where such an atmosphere exists for freedom of expression, however, it must always be combined with a mutual respect and consideration for the lives and feelings of others. In such a setting, there is no place for conduct that diminishes, uses, or abuses other individuals. Any violation of trust, any form of sexual intimidation, exploitation, or discrimination jeopardizes the mission of the institution and threatens the educational experience and well-being of students. Union College will not tolerate sexual misconduct, and the institution will take appropriate action, as deemed necessary, to prevent and address such conduct.

It is the policy of Union College, in keeping with efforts to establish an environment in which the dignity and worth of all members of the institutional community are respected, to view sexual misconduct, relationship violence, sexual harassment, or stalking of students as unacceptable conduct that will not be tolerated. This policy includes all forms of sexual discrimination including sexual misconduct, relationship violence, sexual harassment, or stalking by employees, students, or third parties.

Recognizing its responsibility to uphold the tenets inherent in this policy, the College thus establishes the following procedures and guidelines designed to educate and inform students relative to: (1) the rights of the complainant and the respondent; (2) the definition of sexual
misconduct, relationship violence, sexual harassment, or stalking; and (3) procedures for filing and resolving related complaints.

Union College encourages the prompt reporting of any incident of sexual misconduct to the College and to local law enforcement (for reporting options, including confidential resources see sections V below “Resources” and VI below “Reporting”). Upon receipt of a report, the College will take prompt and effective action by: providing interim remedies and support for individuals who make a report or seek assistance under this policy (referred to as the “complainant”); conducting a review of the conduct under Title IX of the Education Amendments of 1972; addressing the safety of individuals and the campus community; and, as warranted, pursuing resolution through informal measures or formal disciplinary action against the accused individual (referred to in this policy as the “respondent”). The policy provides specific procedures for investigation and resolution based on the role of respondent (student, staff or faculty).

All Union College community members are strongly encouraged to report information regarding any incident of sexual misconduct, relationship violence, sexual harassment, or stalking directly to the Title IX Coordinator or a member of the Title IX Team. The College cannot take appropriate action unless an incident of sexual misconduct, relationship violence, sexual harassment, or stalking is reported to a “Responsible Employee” of the College (see definition below of a Responsible Employee in Section III.C below).

**The Title IX Team includes: the Senior Associate Dean of Students/Director of Student Conduct, the Director of Campus Safety, and a Deputy Title IX Coordinator.**

Retaliation against any person or group who makes a complaint, cooperates with an investigation, or participates in a grievance procedure is a violation of College policy. Retaliation should be reported promptly to the Title IX Coordinator for investigation, which may result in disciplinary action independent of any sanction or interim measures imposed in response to the underlying allegations of discrimination and/or harassment.

Union College encourages all members of our community to participate in the process of creating a safe, welcoming and respectful environment on campus. In particular, the College expects that all its community members will take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting Campus Safety, or seeking assistance from a person in authority. Community members who chose to exercise this positive moral obligation will be supported by the College and protected from retaliation.
The College provides a number of rights to complainants in accusations of misconduct and to those accused of sexual misconduct including, but not limited to, the following:

**B. Campus Sexual Misconduct Bill of Rights**

1. **Complainant**
   If you file a report of sexual misconduct, relationship violence, sexual harassment, or stalking (the complainant), you have the right to:
   - Make a report to a College official with knowledge about the College Sexual Misconduct Policy, reporting options, and resources.
   - Obtain assistance from College officials to make a report to local law enforcement and/or state police.
   - Information about on and off campus resources including intervention, mental health counseling, and medical services, which shall include information on whether such resources are available at no cost or for a fee.
   - Information about sexually transmitted infections, sexual assault forensic examinations, and resources available through the New York State Office of Victim Services (found at [https://ovs.ny.gov/](https://ovs.ny.gov/))
   - Information about the range of interim accommodations and remedies.
   - Have disclosures of sexual misconduct, relationship violence, sexual harassment, or stalking treated seriously.
   - Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the College.
   - Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.
   - Be treated with dignity and to receive from the College courteous, fair, and respectful health care and counseling services, where available.
   - Be free from any suggestion that you are at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations.
   - Describe the incident to as few College representatives as practicable and not be required to unnecessarily repeat a description of the incident.
   - Be protected from retaliation by the College, any student, the respondent, and/or his/her friends, family, and acquaintances within the jurisdiction of the College.
   - Access to at least one level of appeal of a determination.
2. **Respondent**
As a student accused of sexual misconduct, relationship violence, sexual harassment, or stalking (the respondent), you are entitled to:
— Be treated with dignity and respect by College officials.
— Be afforded the right to a presumption of not responsible until a finding of responsibility is made in accordance with the procedures defined in this policy.
— Receive from the College campus support resources (Counseling Services, the Office of Religious and Spiritual Life, and Health Services).

3. **Both Parties**
The complainant and respondent have the following rights:
— To be able to exercise their civil rights and practice religion without interference by the investigative, criminal justice, or judicial or conduct process of the College.
— To request a campus “no contact order” against the other party (see Section VII.C below on “No Contact Order”).
— To have an advisor of their choice (including legal counsel who they have retained) to assist in, and/or offer advice on, reporting and filing a complaint (if the complainant) and responding to a complaint (if the respondent); and to be present throughout the investigative process (while meeting with investigators), during informal resolution discussions with the Dean of Students or designee, and/or throughout critical stages of the Formal Complaint Resolution process, as requested. See definition of “Advisor” in Section VIII.I.3 below.
— To have the rights set forth under the Formal Resolution Procedures. See Section VIII.I below “Formal Resolution.”

II. **Scope of Policy**

A. **When to Use this Policy**

1. **Complaints Against Students**
This policy applies only in those instances when a student has been subject to sexual misconduct, relationship violence, sexual harassment, or stalking by another student. When used in this policy, complainant refers to the individual who files a complaint or incident report of sexual misconduct, relationship violence, sexual harassment, or stalking. Respondent refers to the individual who has been accused of prohibited conduct under this policy. A third party refers to any other participant in the process including a witness to the incident or an individual who makes a report on behalf of someone else.
This policy also applies where a prospective student or other visitor to the campus (e.g., a guest of another student, an alumnus or alumna, or a member of a visiting team) complains of a Union College student’s behavior. If the respondent is not a student, then this policy does not apply, and the student should do the following:

2. Complainants Against Faculty or Staff

If a student wishes to bring forward a complaint of sexual misconduct, relationship violence, sexual harassment, or stalking against a faculty or staff member, the student should contact the Title IX Coordinator. When the respondent is not a student, if the respondent presents a continuing threat to the health and safety of the complainant, interim protective measures will be pursued.

3. Complainants Against Visitors or Non-Community Members

If a student wishes to bring forward a complaint of sexual misconduct, relationship violence, sexual harassment, or stalking against a visitor or non-community member (e.g., an alumnus or alumna, a prospective student, a guest of a student, a member of another college’s team, a local resident) the complaint should be made to Campus Safety at 518-388-6911. Visitors accused of sexual misconduct, relationship violence, sexual harassment, or stalking are not entitled to a hearing of any kind. Campus Safety will investigate complaints against visitors and the College will determine the appropriate action to be taken. (For more information see “Rules of Public Order” approved by Board of Trustees of Union College and found in the Student Handbook.)

B. On Campus and Off Campus Behavior

This policy applies to conduct that occurs on any part of Union’s campus or property. It also applies when students travel off-campus as part of a College activity, team, organization, or event. Additionally, Union College has the discretion to discipline student behavior that occurs off-campus, in the City, and/or during a time when the College is not in session. In making these determination, the Dean of Students considers whether the behavior impacts the campus environment (as would be the case, for example, if one student sexually assaults another student in an off-campus apartment or overseas during a term abroad, or if a student sends another student lewd and threatening sexual emails while at home during the term break). In understanding this aspect of Union’s expectations for student behavior, it may be helpful to think of student status as “portable” and therefore operative even when students are not on Union’s campus or property.

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1 Related Consensual Relations Policies: (1) Faculty-Student: See Faculty Manual at FM Section II, Item XII; Administrator-Student: See Administrative Manual at Section 4.23; (3) Staff-Student: See Staff Handbook at Section 4.20.
A complainant is encouraged to report misconduct regardless of where the incident occurred or who committed it. Even if the College does not have jurisdiction over the respondent, the College will still take prompt action to provide for the safety and well-being of the complainant and the broader campus community.

III. Privacy v. Confidentiality
The College is committed to protecting the privacy of all individuals involved in a report of sexual misconduct, relationship violence, sexual harassment, or stalking. All College employees and students who are involved in the College’s Title IX response, including the Title IX Coordinator, investigators, and hearing panel members, receive specific instruction about respecting and safeguarding private information. Throughout the process, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the report. Privacy and confidentiality have distinct meanings under this policy.

A. Privacy
Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those College employees who “need to know” in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

B. Confidentiality
Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual. These campus and community professionals include mental health providers, ordained clergy, and rape crisis counselors, all of whom have legally protected confidentiality. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others.

An individual who seeks completely confidential assistance may do so by speaking with professionals who have a legally protected confidentiality. On campus, confidential resources available to students include psychological counselors at the Counseling Center, licensed health care professionals in Wicker Wellness Center, and the minister (Viki Brooks) in the Office for Religious & Spiritual Life. When a report involves suspected abuse of a minor under the age of 18, these confidential resources are required by state law to notify child protective services and/or local law enforcement.

An individual may also seek assistance from a medical provider. In general, the disclosure of private information contained in medical records is protected by New York State patient confidentiality laws.
C. Responsible Employees
In general, most College employees do not have legally protected confidentiality. Under Title IX, the College is required to take immediate and corrective action if a “Responsible Employee” knew or, in the exercise of reasonable care, should have known about sexual or gender-based harassment that creates a hostile environment. A Responsible Employee includes any employee who:

- Has the authority to take action to redress the harassment;
- Has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees; or
- A student could reasonably believe has the authority or responsibility to take action.

Using this lens, employees with supervisory and leadership responsibilities on campus are considered Responsible Employees. This includes, for example, faculty, coaches, administrators, Resident Directors, and Resident Advisors.

The College requires that all Responsible Employees share a report of misconduct with the Director of Campus Safety. The Director of Campus Safety will notify the Senior Associate Dean of Students/Director of Student Conduct and Title IX Coordinator.

IV. Prohibited Conduct and Definitions
The College prohibits all forms of sexual misconduct which includes, but is not limited to, prohibited behaviors often described as sexual and gender discrimination, sexual assault, sexual exploitation, relationship violence, sexual harassment, and stalking. The College prohibits the following specific conduct:

A. Sexual Misconduct and Related Terms
State law defines various violent or non-consensual sexual acts as crimes. Additionally, Union has defined categories of sexual misconduct, as stated below, for which College disciplinary action may be imposed. Generally speaking, Union considers sexual assault violations to be the most serious, and therefore imposes the most severe sanctions, up to and including suspension or expulsion. However, Union reserves the right to impose any level of discipline, up to and including suspension or expulsion, for any act of sexual misconduct, relationship violence, or sexual exploitation.

Acts of sexual misconduct and relationship violence may be committed by men against women, women against men, men against men, and women against women regardless of actual or perceived sex, gender, gender identity, gender expression, and/or sexual orientation. The issue in any case is not the gender of the persons involved but the acts.
1. **Sexual Assault**  
Sexual assault refers to any sexual penetration (anal, oral, or vaginal), however slight, with any object, or sexual intercourse by a man or woman upon a man or woman without consent. Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger, or object or oral copulation by mouth to genital contact or genital to mouth contact.

2. **Sexual Misconduct**  
Sexual misconduct refers to any intentional sexual touching, however slight, with any object by a man or woman upon a man or woman without consent. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner. Sexual misconduct also includes any disrobing of another or exposure to another by a man or woman without affirmative consent.

3. **Sexual Exploitation**  
Sexual exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of sexual assault or sexual misconduct. Sanctions for sexual exploitation can vary greatly depending on the severity of the violation. Severe cases can involve suspension or expulsion. Examples of sexual exploitation include, but are not limited to:

   - Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
   - Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent).
   - Prostitution (such as selling or exchanging sexual acts for money or something else of value or benefit).
   - Engaging in sexual activity with another person while knowingly infected with a sexually transmitted disease (STD) and without informing the other person of the infection.
   - Administering drugs (such as “date rape” drugs) to another person without his or her knowledge or affirmative consent.
4. Sexual and Gender Discrimination
Sexual and gender discrimination includes all forms of sexual and gender harassment and/or sexual and gender violence by employees, students, or third parties against employees, students, or third parties.

5. Retaliation
Acts or attempts to retaliate or seek retribution against the complainant, respondent, or any individual or group of individuals involved in the complaint, investigation and/or resolution of an allegation of sexual misconduct. Retaliation can be committed by any individual or group of individuals, not just a respondent or complainant. Retaliation can take many forms, including threats, intimidation, pressuring, continued abuse, violence or other forms of harm to others

B. Relationship Violence
Under Clery and the Campus SaVE Act, the College will record and report all relevant incidents of intimate partner violence. Relationship violence includes the following violations:

1. Domestic Violence
Causing or attempting to cause physical or sexual assault or abuse, placing another in reasonable fear of serious bodily injury, restraining another’s liberty or freedom of movement, or stalking, where such conduct is directed against the complainant by his/her current or former spouse or intimate partner or any other person from whom the complainant is protected under federal or state law.

2. Dating Violence
Causing or attempting to cause physical or sexual assault or abuse, placing another in reasonable fear of serious bodily injury, restraining another’s liberty or freedom of movement, or stalking where such conduct is directed against the complainant by someone with whom he/she is or has been in a romantic or intimate relationship. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.

C. Sexual Harassment
Any unwelcome sexual advance, request for sexual favors, or other unwelcomed verbal or physical conduct of a sexual nature when:

- Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment, evaluation of academic work, or participation in any aspect of a College program or activity; or
- Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or
Such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance, i.e. it is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both a subjective and objective standard.

A single isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical.

Sexual harassment:

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- May be committed by anyone, regardless of gender, age, position or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context.
- May be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship.
- May be committed by or against an individual or may be a result of the actions of an organization or group.
- May occur by or against an individual of any sex, gender identity, gender expression or sexual orientation.
- May occur in the classroom, in the workplace, in residential settings, or in any other setting.
- May be a one-time event or can be part of a pattern of behavior.
- May be committed in the presence of others or when the parties are alone.
- May affect the complainant and/or third parties who witness or observe harassment and are affected by it.

Examples of conduct that may constitute sexual harassment as defined above may include a severe, persistent or pervasive pattern of unwelcome conduct that includes one or more of the following:
1. **Physical Conduct**
   - Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements
   - Unwanted sexual advances within the employment context

2. **Verbal Conduct**
   - Making or using derogatory comments, epithets, slurs or humor
   - Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations
   - Objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes

3. **Visual Conduct**
   - Leering, making sexual gestures, displaying of suggestive objects or pictures, cartoon or posters in a public space or forum
   - Severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate

4. **Written Conduct**
   - Letters, notes or electronic communications containing comments, words, or images described above

5. **Quid Pro Quo Conduct**
   - Direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists
   - Offering employment benefits in exchange for sexual favors
   - Making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose
   - Making or threatening reprisals after a negative response to sexual advances

D. **Stalking**
Repeated acts or communications directed toward another person, including following the other person without proper justification, which places the other person in reasonable fear of bodily injury or cause substantial emotional distress. Stalking includes, but is not limited to, repeatedly engaging in contact, face-to-face communication, telephone calls or messages,
text messages, emails, letters, the giving of unwanted gifts, threatening or obscene gestures, surveillance, following, trespassing, or vandalism.

**E. Consent, Force, Coercion, Incapacitation, Alcohol and other Drugs**

1. **Consent**
Under New York law, affirmative consent means: 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 consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender express.
   - Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
   - Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
   - Consent may be initially given but withdrawn at any time.
   - Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
   - Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
   - When consent is withdrawn or can no longer be given, sexual activity must stop.

2. **Force/Intimidation/Threat of Harm**
Force is the use or threat of physical violence or intimidation to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity. For the use of force to be demonstrated, there is no requirement that a complainant resists the sexual advance or request. However, resistance by the complainant will be viewed as a clear demonstration of non-consent.

3. **Coercion**
Coercion is the improper use of pressure to compel another individual to initiate or continue sexual activity against his/her will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. A person’s words or conduct are sufficient to constitute coercion if they wrongfully impair another individual’s freedom of will and ability to choose whether or not to engage in sexual
activity. Examples of coercion include threatening to “out” someone based on sexual orientation, gender identity or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity

4. Incapacitation
Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because he/she lacks conscious knowledge of the nature of the act (e.g., to understand the “who, what, when, where, why or how” of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if he/she is asleep, unconscious, or otherwise unaware that sexual activity is occurring.

Incapacitation may result from the use of alcohol and/or drugs. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and other drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impact an individual’s:

— Decision-making ability;
— Awareness of consequences;
— Ability to make informed judgments; or
— Capacity to appreciate the nature and the quality of the act.

Evaluating incapacitation also requires an assessment of whether a respondent knew or should have known, that the complainant was incapacitated.

5. Alcohol and Other Drugs
In general, sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and other drugs impair a person’s decision-making capacity, awareness of the consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person’s level of intoxication. If there is any doubt as to the level or extent of the other individual’s intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Being intoxicated or impaired by alcohol or other drugs is never an excuse for sexual misconduct, relationship violence, sexual harassment, or stalking and does not diminish one’s responsibility to obtain consent.
V. Resources
The College is committed to treating all members of the community with dignity, care and respect. A student who experiences or is affected by sexual misconduct, relationship violence, sexual harassment, or stalking whether as a complainant, a respondent, or a third party, will have equal access to support and counseling services through the College. Interim remedies are also available to all parties (see Section VII below “Interim Measures, Remedies, and Accommodations”).

The College recognizes that deciding whether or not to make a report, either to the College or law enforcement, and choosing how to proceed can be difficult decisions. Making a report means telling someone in authority what happened, in person, by telephone, in writing or by email. All individuals are encouraged to seek the support of campus and community resources. These trained professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to either party in the event that a report and/or resolution under this policy is pursued. Individuals are encouraged to use all available resources on and off campus, regardless of when or where the incident occurred.

There are many resources available on campus and in the surrounding community. As detailed below, there are confidential resources which by law cannot share information without the consent of the individual seeking assistance. There are also a variety of College resources that will be discreet and private, but are not considered confidential. These resources will maintain the privacy of an individual’s information within the limited circle of those involved in the resolution of a complaint under this policy. For more information about the difference between privacy and confidentiality, see Section III above “Privacy v. Confidentiality”.

A. Confidential Resources
The College encourages all community members to make a prompt report of any incident of sexual misconduct, relationship violence, sexual harassment, or stalking to local law enforcement and the College. For individuals who are not prepared to make a report, or who may be unsure what happened, but are still seeking information and support, there are several legally-protected confidential resources available as designated below. These confidential resources will not share information with the College or anyone else without the individual’s permission.
CAMPUS RESOURCES

<table>
<thead>
<tr>
<th>Service</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual Assault Resource Hotline</td>
<td>518-388-6600 ext. 1</td>
</tr>
<tr>
<td>Counseling Center-Wicker Wellness Center</td>
<td>518-388-6161</td>
</tr>
<tr>
<td>Health Services-Wicker Wellness Center</td>
<td>518-388-6120</td>
</tr>
<tr>
<td>Campus Minister</td>
<td>518-388-6618</td>
</tr>
</tbody>
</table>

OFF CAMPUS RESOURCES

<table>
<thead>
<tr>
<th>Service</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schenectady County Sexual Assault Support Services</td>
<td>518-346-2266</td>
</tr>
<tr>
<td>Schenectady YWCA Domestic Violence Hotline</td>
<td>518-374-3386</td>
</tr>
</tbody>
</table>

B. Confidential Medical Resources

A medical provider can provide emergency and/or follow-up medical services. The medical exam has two goals: first, to diagnose and treat the full extent of any injury or physical effect (including prevention of sexually transmitted illnesses and pregnancy) and second, to properly collect and preserve evidence. There is a limited window of time (within 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Taking the step to gather evidence immediately does not commit an individual to any particular course of action. The decision to seek timely medical attention and gather any evidence, however, will preserve the full range of options to seek resolution under this policy or through the pursuit of criminal prosecution.

On campus, Wicker Wellness Center can provide medical care; however, Wicker is not equipped for forensic examinations.

<table>
<thead>
<tr>
<th>Wicker Wellness Center</th>
<th>Health: 518-388-6120</th>
<th>Counseling: 518-388-6161</th>
</tr>
</thead>
</table>

Emergency Medical Contact Information

<table>
<thead>
<tr>
<th>Location</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ellis Hospital ER, Nott Street</td>
<td>518-243-4121</td>
</tr>
<tr>
<td>Ellis Health Center ER, McClellan Street</td>
<td>518-382-2222</td>
</tr>
<tr>
<td>Urgent Care, Community Care Physicians, Niskayuna, NY</td>
<td>518-713-5341</td>
</tr>
<tr>
<td>Urgent Care, Surya Immediate Care, Latham, NY</td>
<td>518-867-8080</td>
</tr>
<tr>
<td>Urgent Care, Albany Med EmUrgentCare, Glenville, NY</td>
<td>518-264-2900</td>
</tr>
</tbody>
</table>

C. Campus Resources

In addition to the confidential resources listed above, Union College community members have access to a variety of resources provided by the College. The staff members listed below are trained to support individuals affected by sexual harassment or misconduct and to coordinate with the Title IX Coordinator consistent with the College’s commitment to a safe and healthy educational environment. While not bound by confidentiality, these resources will maintain the privacy of an individual’s information within the limited circle of those involved in the Title IX resolution process.
1. **Campus Safety**  
518-388-6911; campussafety@union.edu; website: union.edu/safety; College Park Hall, Union College, 807 Union Street, Schenectady NY 12308-3103.

2. **Dean of Students**  
518-388-6116; dos_office@union.edu; website: union.edu/dean; Reamer Campus Center 306, Union College, 807 Union Street, Schenectady NY 12308-3103

3. **Title IX Coordinator**  
Gretchel Hathaway, Chief Diversity Officer, 518-388-8327; hathawag@union.edu; Armand V. & Donald S. Feigenbaum Hall; Union College, 807 Union Street, Schenectady NY 12308-3103.  
— Duties and Responsibilities: Monitoring and oversight of overall implementation of Title IX compliance at Union College including coordination of training, education, communications, and administration of grievance procedures for faculty, administrative staff, and hourly staff.  
— Additionally, if you have a complaint against a Union College faculty member, administrator, staff member, or visitor for sexual harassment, sex discrimination, or sexual assault, you should contact the Title IX Coordinator.

4. **Title IX Deputy Coordinators**

   a. **Complaints Related to Athletics Against/By Union Students and Employees**  
   If you have a complaint against a Union College student, coach, athletics’ administrator, or visiting student athlete, coach, or athletics personnel, or visiting spectator for sexual discrimination, harassment, misconduct (including sexual assault), or retaliation, you may contact Senior Associate Director of the Athletic Department who will facilitate the handling of the complaint, the Title IX Coordinator, or one of the other Deputy Coordinators listed below.

   b. **Gender Equity in Athletics**  
   If you have a complaint about gender equity in Union College athletics programs, you should contact the Senior Associate Director of the Athletic Department who is responsible for Title IX Compliance in matters related to gender equity in Union College athletics programs:  
   - Joanne Little, Senior Associate Director, 518-388-6433; littlej@union.edu; Voice Mail: 518-388-6433; Athletic Department, Alumni Gym, Union College, 807 Union Street, Schenectady NY 12308-3103.

   c. **Complaints Against Union Students**  
   If you have an inquiry or complaint against a Union College student for sexual discrimination, sexual harassment (including stalking), sexual misconduct (including sexual assault), or retaliation; you may contact any of the following officials listed:
VI. Reporting

A. Emergency and External Reporting Options
The College encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual misconduct. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. The College will help any student to get to a safe place and will provide transportation to the hospital, coordination with law enforcement, and information about on- and off-campus resources and options for resolution.

<table>
<thead>
<tr>
<th>Emergency Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York State Police, Sexual Assault Victims Unit</td>
</tr>
<tr>
<td>Schenectady Police Department, 531 Liberty Street, Schenectady</td>
</tr>
<tr>
<td>Ellis Hospital ER, Nott Street, Schenectady</td>
</tr>
<tr>
<td>Ellis Health Center ER, McClellan Street, Schenectady</td>
</tr>
<tr>
<td>Urgent Care, Community Care Physicians, Niskayuna</td>
</tr>
<tr>
<td>Urgent Care, Surya Immediate Care, Latham</td>
</tr>
<tr>
<td>Urgent Care, Albany Med Urgent Care, Glenville</td>
</tr>
</tbody>
</table>

B. Campus Reporting Options
The College has a strong interest in supporting survivors of sexual misconduct, relationship violence, sexual harassment, and stalking and encourages all individuals or third party witnesses to report any incident to the College.

Making a report means telling someone in authority what happened -- in person, by telephone, in writing or by email. At the time a report is made, a complainant does not have to decide whether or not to request any particular course of action, nor does a complainant need to know how to label what happened. Choosing to make a report, and deciding how to
proceed after making the report, can be a process that unfolds over time. The College provides support that can assist each individual in making these important decisions, and to the extent legally possible will respect an individual’s autonomy in deciding how to proceed. In this process, the College will balance the individual’s interest with its obligation to provide a safe and non-discriminatory environment for all members of the College community.

Any individual who reports sexual misconduct, relationship violence, sexual harassment, or stalking can be assured that all reports will be investigated and resolved in a fair and impartial manner. The complainant, respondent, and all individuals involved can expect to be treated with dignity and respect. In every report under this policy, the College will make an immediate assessment of any risk of harm to the complainant or to the broader campus community and will take steps necessary to address those risks. These steps will include interim measures to provide for the safety of the individual and the campus community.

The College encourages all students to report misconduct to College staff members listed above in Section V.C above (“Campus Resources”) or a College employee whom the complainant trusts and feels comfortable with. In general, most College employees do not have legally protected confidentiality. Under Title IX, a College is required to take immediate and corrective action if a Responsible Employee knew or, in the exercise of reasonable care, should have known about sexual misconduct, relationship violence, sexual harassment, or stalking.

The College requires that all Responsible Employees share a report of misconduct with the Director of Campus Safety. The Director of Campus Safety will notify the Senior Associate Dean of Students/Director of Student Conduct and Title IX Coordinator. The Title IX Team will conduct an initial assessment of the conduct, the complainant’s expressed preferences, if any, as to course of action, and the necessity for any interim remedies or accommodations to protect the safety of the complainant or the community.

C. Anonymous Reporting
Any individual may make an anonymous report concerning an act of sexual misconduct, relationship violence, sexual harassment, or stalking. An individual may report the incident without disclosing his/her name, identifying the respondent or requesting any action. Depending on the extent of information available about the incident or the individuals involved, however, the College’s ability to respond to an anonymous report may be limited. The Anonymous Reporting Form can be found at:
The Title IX Coordinator will receive the anonymous report and will determine any appropriate steps, including individual or community remedies as appropriate, and in consultation with the Director of Campus Safety, compliance with all Clery Act obligations.

**D. Reporting Considerations: Timeliness and Location of Incident**
Complainants and third-party witnesses are encouraged to report sexual misconduct, relationship violence, sexual harassment, and stalking as soon as possible in order to maximize the College’s ability to respond promptly and effectively. The College does not, however, limit the time frame for reporting. If the respondent is not a member of the Union College community, the College will still seek to meet its Title IX obligation by taking steps to end the sexual misconduct, relationship violence, sexual harassment, or stalking, prevent its recurrence, and address its effects, but its ability to take disciplinary action against the respondent may be limited.

An incident does not have to occur on campus to be reported to the College. Off-campus conduct that is likely to have a substantial effect on the complainant’s on-campus life and activities or poses a threat or danger to members of the Union College community may also be addressed under this policy.

**E. Amnesty for Alcohol or Other Drug Use**
The health and safety of every student at Union College is of utmost importance. The College recognizes that students who have been drinking alcohol and/or using other drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to sexual misconduct, relationship violence, sexual harassment, or stalking occurs may be hesitant to report such incidents due to fear of potential consequences for their conduct. Union College strongly encourages students to report sexual misconduct, relationship violence, sexual harassment, or stalking to College officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of sexual misconduct, relationship violence, sexual harassment, or stalking to College officials or law enforcement will not be subject to Union College’s Code of Conduct action for violations of alcohol and/or other drug use policies occurring at or near the time of the commission of sexual misconduct, relationship violence, sexual harassment, or stalking.

**F. Statement Against Retaliation**
It is a violation of College policy to retaliate in any way against an individual because he or she raised allegations of sexual misconduct, relationship violence, sexual harassment, or stalking. The College recognizes that retaliation can take many forms, may be committed by or against an individual or a group, and that a complainant, respondent, or third party may commit or be the subject of retaliation.
The College will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting sexual misconduct, relationship violence, sexual harassment, or stalking is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven.

**G. False Reports**
The College will not tolerate intentional false reporting of incidents. The College takes the accuracy of information very seriously as a charge of sexual misconduct, relationship violence, sexual harassment, or stalking may have severe consequences. A good-faith complaint that results in a finding of not responsible is not considered a false or fabricated accusation of sexual misconduct. However, when a complainant or third party witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, the complainant or third party witness may be subject to disciplinary action. It is a violation of the Code of Student Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

**VII. Interim Measures, Remedies, and Accommodations**

**A. Overview**
Upon receipt of a report, the College will impose reasonable and appropriate interim measures designed to eliminate the hostile environment and protect the parties involved. The College will make reasonable efforts to communicate with the parties to ensure that all safety, emotional and physical well-being concerns are being addressed. Interim measures may be imposed regardless of whether formal disciplinary action is sought by the Complainant or the College.

A complainant or respondent may request a No Contact Order or other protection, or the College may choose to impose interim measures at its discretion to ensure the safety of all parties, the broader College community and/or the integrity of the process.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by an interim measure. The College will take immediate and responsive action to enforce a previously implemented measure.

The respondent and the complainant, upon written request to the Dean of Students or designee, shall have the right to:

- request a review of the need for, and terms of, interim measures which were imposed in accordance with paragraph VII of the Sexual Misconduct Policy; and/or
- request modifications to the terms of the interim measures.
The respondent and the complainant shall be allowed to submit evidence in support of their request. The request must be initiated within five (5) business days of the imposition of the interim measures.

The Dean of Students or designee shall review the request and supporting evidence, if submitted, promptly. A decision will be issued within three (3) business days of receipt of the written request. The decision is final.

B. Range of Measures
Interim measures will be implemented at the discretion of the College. Potential remedies, which may be applied to the complainant and/or the respondent, include:

- Access to counseling services and assistance in setting up initial appointment, both on and off campus.
- Imposition of campus “No Contact Order.”
- Rescheduling of exams and assignments (in conjunction with appropriate faculty).
- Providing alternative course completion options (with the agreement of the appropriate faculty).
- Change in class schedule, including the ability to take an “incomplete,” drop a course without penalty or transfer sections (with the agreement of the appropriate faculty).
- Change in work schedule or job assignment.
- Change in on-campus housing.
- Arranging to dissolve a housing contract and pro-rating a refund in accordance with campus housing policies.
- Assistance from College support staff in completing housing relocation.
- Limit an individual or organization’s access to certain College facilities or activities pending resolution of the matter.
- Voluntary leave of absence.
- Providing an escort to ensure safe movement between classes and activities.
- Providing medical services.
- Providing academic support services.
- Interim suspension or College-imposed leave.
- Any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.
- To seek an Order of Protection from a court of competent jurisdiction; the College will enforce the Order of Protection once notified by the complainant of its existence and terms.
C. No Contact Order
In cases involving allegations of sexual misconduct, relationship violence, sexual harassment, or stalking, the Dean of Students (or designee), regardless of whether the complainant wishes to pursue a formal or informal resolution or no resolution, shall afford each party (the complainant and respondent) the opportunity to request a No Contact Order. Each request shall be reviewed promptly. Additionally, a No Contact Order may be issued upon notification of a report of sexual misconduct, relationship violence, sexual harassment, or stalking if appropriate to do so in the judgment of the Dean of Students (or designee).

A No Contact Order typically will include a directive that the complainant and respondent refrain from having contact with one another, directly or through third parties, whether in person or via electronic means, pending the investigation and resolution of the matter. If the complainant and respondent observe each other in a public place, it shall be the responsibility of the respondent to leave the area immediately and without directly contacting the complainant. The No Contact Order may establish a schedule for the complainant and respondent to access applicable buildings and properties when the complainant is not accessing the same. The Dean of Students (or designee) shall make the No Contact Order available to the complainant and respondent as soon as it is issued.

In the event the Dean of Students (or designee) is notified of a violation of the terms of a No Contact Order, the party in alleged violation of the No Contact Order shall be provided an opportunity to review the matter with the Dean of Students (or designee). If the Dean of Students (or designee), based upon the information available, decides that the No Contact Order has been violated, the Dean of Students (or designee) may suspend the party temporarily pending the resolution of the underlying complaint. The Dean of Students (or designee) may also take further protective action that he/she deems appropriate concerning the interaction of the parties pending the hearing, if any, including without limitation asking the Dean of Studies to alter the student’s academic schedule and/or the Director of Residential Life to alter the student’s housing.

D. Interim Suspension
An interim suspension of the respondent may be imposed only by the Dean of Students (or designee) and shall become effective immediately without prior notice whenever there is evidence that the continued presence of the respondent poses a substantial and continuing threat to the complainant or to the College community. The complainant may submit evidence supporting an interim suspension. Should an interim suspension be issued and resolution of the matter that prompted it is not resolved within two (2) weeks, the interim suspension may convert to an administrative leave of absence. The College may notify parent(s) or legal guardian(s) of dependent students or students under eighteen (18) years of age of the interim suspension and, when applicable, of any alternative housing arrangements.
VIII. Resolving Reports and Complaints

A. Overview
As outlined in the Reporting section of this policy (Section VI above), an individual who wishes to make a report of sexual harassment, sexual violence, stalking or intimate partner violence is encouraged to make a report directly to the Title IX Coordinator, Deputy Title IX Coordinators, the Dean of Students Office, or Campus Safety. In every instance under this policy, the College, through the coordinated efforts of the Senior Associate Dean of Students/Director of Student Conduct, will conduct an initial Title IX Assessment. The Director of Campus Safety will make an immediate assessment of imminent risk to the individual or the campus community and respond accordingly.

B. Timely Warning
If a report of misconduct discloses a serious or continuing threat to the Union College community, the College may issue a campus wide timely warning (which can take the form of an email to campus) to protect the health or safety of the community. The timely warning will not include any identifying information about the complainant. Even where there is no imminent threat, the College may send campus-wide e-mail notifications on all reported sexual misconduct.

At no time will the College release the name of the complainant to the general public without the express consent of the complainant. The release of the respondent’s name to the general public is guided by Family Educational Rights and Privacy Act (FERPA) and the Clery Act.

All College proceedings are conducted in compliance with the requirements of FERPA, the Clery Act, Title IX, and state and federal law. No information shall be released from such proceedings except as required or permitted by law and College policy.

C. Coordination with Law Enforcement
Upon receipt of a report, Campus Safety will comply with any legal requirements to notify local law enforcement if a violent felony is suspected to have occurred and/or when physical evidence of the sexual misconduct, relationship violence, sexual harassment, or stalking incident is available and/or offered; to the fullest extent permitted by law, the identity of the complainant will not be disclosed without his/her permission being given. Physical evidence must be properly documented and stored by local law enforcement to maintain the ability for it to be presented as evidence and used in a legal case if a complaint is filed by the complainant with local law enforcement.

Information regarding Campus Safety’s Emergency Response Protocol can be found at: http://www.union.edu/offices/safety/
The College encourages complainants to pursue criminal action for incidents of sexual misconduct, relationship violence, sexual harassment, and stalking that may also be crimes under New York law. The College, through Campus Safety, will assist a complainant in making a criminal report and cooperate with law enforcement agencies if the complainant decides to pursue the criminal process to the extent permitted by law.

The College’s Sexual Misconduct Policy may contain provisions, including definitions, burden of proof, and standards that differ from New York criminal law. A Complainant may seek recourse under this policy and/or pursue criminal action. Neither law enforcement’s determination whether or not to prosecute a respondent nor the outcome of any criminal prosecution are determinative of whether a violation of this policy has occurred. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

At the request of law enforcement, the College may agree to defer its Title IX fact-gathering until after the initial stages of a criminal investigation, but the College is not obligated to make such deferral. The College will nevertheless communicate with the complainant regarding Title IX rights, procedural options, and the implementation of interim measures to assure safety and well-being. If the College defers its Title IX fact-gathering, the College will promptly resume its Title IX fact gathering as soon as it is informed that law enforcement has completed its initial investigation or once it decides to stop deferring fact-gathering during a criminal investigation.

**D. Initial Title IX Assessment**

Upon receipt of a report, the College, through the coordinated efforts of the Title IX Team (the Senior Associate Dean of Students/Director of Student Conduct, the Director of Campus Safety, and a Deputy Title IX Coordinator), will conduct an initial Title IX assessment. The first step of the assessment will usually be a preliminary meeting with the complainant with the Title IX Team. The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report; it is not intended to be a full forensic interview. At this meeting, the complainant will be provided with information about resources, procedural options and interim remedies.

As part of the initial assessment of the report, the Senior Associate Dean of Students/Director of Student Conduct and the assigned Deputy Title IX Coordinator will:

- Assess the nature and circumstances of the allegation.
- Address immediate physical safety and emotional well-being needs.
- Notify the complainant of his/her right to contact law enforcement and seek medical treatment, including the importance of preservation of evidence.
o Enter the report into the College’s daily crime log.

o Provide the complainant with information about:
  — On- and off-campus resources including intervention, mental health counseling, and medical services, which shall include information on whether such resources are available at no cost or for a fee.
  — Sexually transmitted infections, sexual assault forensic examinations, and resources available through the New York State Office of Victim Services (found at https://ovs.ny.gov/)
  — The range of interim accommodations and remedies.

o An explanation of the procedural options, including Informal Resolution and Formal Resolution and the process for filing a Formal Complaint (see Section VIII.H.1 below, “Filing a Disciplinary Complaint”).

o Assess for pattern evidence or other similar conduct by respondent.

o Discuss the complainant’s expressed preference for manner of resolution and any barriers to proceeding.

o Explain the College’s policy prohibiting retaliation.

This initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made. Thereafter, an investigation may continue depending on a variety of factors, such as the complainant’s wish to pursue disciplinary action (Formal Complaint), the complainant’s request to maintain confidentiality (see Section VIII.E below “Request for Confidentiality”), the risk posed to any individual or the campus community by not proceeding, and the nature of the allegation.

If the complainant elects to file a disciplinary or Formal Complaint, a complainant’s Statement, in addition to other forms, is required to initiate the action.

At the conclusion of the Title IX assessment, the Title IX Team will determine the appropriate manner of resolution and, if appropriate, refer the report for further Investigation, Informal Resolution or Formal Resolution.

The determination as to how to proceed will be communicated to the complainant in writing. Depending on the circumstances and requested resolution, the respondent may or may not be notified of the report or resolution. A respondent will be notified when the College seeks action that would impact a respondent, such as protective measures that restrict his/her movement on campus, the initiation of an investigation after the initial assessment or the decision to involve the respondent in Informal Resolution.
E. Request for Confidentiality
When a complainant requests that his/her name or other identifiable information not be shared with the respondent or that no formal action be taken, the Title IX Team will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all College community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before action is taken against a respondent. In making this determination, the College may consider the following factors, including but not limited to:

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

The College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the complainant. Where the College is unable to take action consistent with the request of the complainant, a member of the Title IX Team will inform the complainant about the chosen course of action, which may include the College seeking disciplinary action against a respondent. Alternatively, the course of action may also include steps to limit the effects of the alleged harassment and prevent its recurrence that do not involve formal disciplinary action against a respondent or revealing the identity of the complainant.

F. Informal Resolution
Informal resolution is designed to assist the parties in reaching a mutually agreeable resolution. An individual wishing to employ an informal resolution of a complaint will meet with the Dean of Students or designee who will explain the process and options available to the student. The Dean of Students Office may seek to resolve certain sexual misconduct cases through an informal process involving both the complainant and accused. (For example, a complainant and respondent may agree with the office that education and training for the respondent are an appropriate and sufficient conclusion. If, based on the information provided about the incident, the Dean of Students office believes such a resolution is possible and appropriate, the office will speak with the complainant. If the complainant agrees, the office will then speak with the respondent. If both the complainant and respondent are satisfied with a proposed resolution and the office believes the resolution satisfies the
College’s obligation to provide a safe and nondiscriminatory environment for all students, the resolution will be implemented, the disciplinary process will be concluded and the matter will be closed. If these efforts are unsuccessful, the disciplinary process will continue. Before starting these discussions, the Dean of Students Office will notify the complainant and respondent that each has the right to end the informal process at any time. The College will not use informal resolution for cases involving allegations of sexual assault.

The Dean of Students will maintain records of all reports and conduct referred for informal resolution. Informal resolution will typically be completed within thirty (30) business days of the initial report.

G. Administrative Complaint
Union College may independently initiate a disciplinary complaint against a student under this policy pursuant to a complaint called a “Dean’s Complaint.” In this type of Administrative Complaint, the College will act as the complainant in the adjudication of a sexual misconduct complaint against a student. Such complaints will proceed under the processes outlined in this policy and may result in disciplinary action as if the complainant were a student.

H. Sexual Misconduct Adjudication Process
Formal Resolution of a complaint under this policy will occur through the use of a Conduct Conference (Section VIII.I.1 below) or a Judicial Board (Section VIII.I.2 below)

1. Filing A Disciplinary Complaint
A person who has experienced an incident of sexual misconduct, including sexual harassment, sex/gender discrimination, sexual assault, relationship violence, stalking, sexual exploitation and any other sexual misconduct committed by a Union College student, may file a complaint against the student responsible for that conduct. Complaints should be filed with the Senior Associate Dean of Students/Director of Student Conduct. The contact information at the time of publication of this Policy is: Trish Williams, 518-388-6116/6061, williamt@union.edu, Reamer Campus Center 306A, Union College, 807 Union Street, Schenectady New York 12308.

The individual bringing the allegation is called the complainant. The complainant will be asked to submit three forms (see Sections VIII.H.1.b, c, and d below) to initiate the disciplinary complaint. The complainant’s forms should be signed, dated, and submitted to the Senior Associate Dean of Students/Director of Student Conduct. The complainant is welcome to have an Advisor (as defined hereafter in this Policy) attend any meetings the Senior Associate Dean of Students/Director of Student Conduct has with the complainant.
a. **Timing of Complaints**

There is no time limit for the submission of a complaint alleging sexual misconduct. A complaint may be filed at any time as long as the respondent remains enrolled at the College. A complaint received after the term has ended or during a College break may result in a delay in the adjudication of the complaint until the beginning of the subsequent term in which the respondent is enrolled. Please note that the College only has jurisdiction over students when they are enrolled.

The College reserves the right to initiate adjudication of a complaint immediately to protect the interests and safety of the College community even when the incident takes place after the end of the term.

b. **Complainant’s Statement**

For a complainant to file a disciplinary complaint against a student, the complainant must submit a written statement detailing the allegations of the sexual misconduct. This statement is the first opportunity for the complainant to describe the allegations against the respondent. The statement should communicate the complainant’s full account of the event and its context, as well as the complainant’s reflections. To facilitate the process, the complainant should follow these guidelines:

- **Tell the story in full.** Relate in full the facts of the incident as you recall them. Take care to distinguish between what you saw, heard, or experienced first-hand from what you may have learned later from others.

- **Describe the context.** It is important for you to give your perception of the respondent’s conduct and the context in which the alleged incident occurred, including its location, and any witnesses to it.

- **Reflect on the event.** It is helpful for you to provide any conclusions you have drawn about the incident, stating clearly why you believe the respondent’s actions may have violated College policy or the Code of Conduct.

The Complainant’s Statement should include the name of the respondent, the date and location of the alleged sexual misconduct and the details of the alleged misconduct. This statement should provide as much detail as possible about the facts surrounding the alleged sexual misconduct.

A descriptive list of all sources of information (e.g., witnesses, correspondence, records, etc.) should be attached to the Complainant’s Statement. This list should include information which the complainant believes should be considered in deciding this disciplinary complaint, along with a brief explanation of why this information
would be relevant and helpful to the process. The sources and/or location of this supporting information should be identified. Complainants are advised to not attempt to obtain this information themselves. The Investigator(s) will solicit any relevant statements or documents referenced through this process.

The Complainant’s Statement is one of the most important documents to be considered in the sexual misconduct Adjudication Process. Once submitted, the Complainant’s Statement may not be amended, but it may be supplemented through interviews with the Investigator(s) as set forth in Section VIII.H.3.b below. The statement must be prepared by the complainant.

It is unacceptable for a complainant to submit a statement written by others, including parents, support persons, or attorneys. However, complainants are encouraged to share a draft of the statement with a support person who is well-positioned to discuss, among other matters, the statement’s style, organization, length, and clarity, while also anticipating questions it may raise for the fact-finder. The complainant will be required to sign a statement verifying that he/she authored the Complainant’s Statement.

The respondent will not be allowed to see the Complainant’s Statement until after the respondent has filed their statement in response to the original Complaint Form. Once the respondent has submitted their statement, they will be given a copy of the Complainant’s Statement. The complainant will also be given a copy of the Respondent’s Statement.

c. Complaint Form
In addition to the Complainant’s Statement, the complainant will be asked to complete a less detailed Complaint Form. This document will contain basic information about the complaint made against the respondent student, such as the time, date, location, and brief description of the allegations underlying the disciplinary complaint. This Complaint Form must contain sufficient detail to permit a reasonable person to understand the charges being brought and to be able to adequately respond. The respondent will be given access to the Complaint Form prior to filing a written response statement.

d. Confidentiality/Non-Retaliation Acknowledgment
The complainant will be required to sign a Confidentiality/Non-Retaliation Acknowledgment, agreeing not to disclose or discuss anything relating to the disciplinary complaint with anyone other than those authorized to see such information under this process. The complainant will still be able to discuss the facts
underlying the subject of the disciplinary complaint with attorneys, counselors, clergy, physicians, other therapeutic professionals and family. The complainant should refrain from discussing the disciplinary complaint itself and/or the adjudication process with anyone affiliated with Union College. This is to preserve the integrity of the investigative process and also to prevent allegations of retaliation. Through this Acknowledgment, the complainant also agrees to refrain from any retaliatory conduct against the respondent or any witnesses in the matter, as discussed under Section IV.A.5 above “Retaliation”, and may be responsible for any retaliation by persons affiliated with the complainant (i.e. a friend or family member).

2. **Responding To A Disciplinary Complaint**

The person against whom the disciplinary complaint is brought is called the respondent. The respondent shall be given written notification when a disciplinary complaint has been filed against him or her.

a. **Initial Meeting/ Confidentiality/Non-Retaliation Acknowledgment**

   Within **five (5) business days** of receiving notice of the disciplinary complaint, the respondent must meet with the Senior Associate Dean of Students/Director of Student Conduct, presently Trish Williams (518-388-6116/6061; williamt@union.edu). The respondent is welcome to have an Advisor (as defined hereafter in this Policy) attend any meetings between the Senior Associate Dean of Students/Director of Student Conduct and the respondent. At this meeting, the Senior Associate Dean of Students/Director of Student Conduct will provide the respondent with a copy of the Complaint Form, discuss the nature of the Complaint, explain the rights and responsibilities of the respondent, explain the prohibition against retaliation, explain the Sexual Misconduct Adjudication Process and give the respondent a copy of the relevant policies. Prior to reviewing the Complaint Form, the respondent will be required to sign a Confidentiality/Non-Retaliation Acknowledgment, agreeing not to disclose or discuss anything relating to the disciplinary complaint with anyone other than those authorized to see/hear such information under this process. Through this Acknowledgment, the respondent also agrees to refrain from any retaliatory conduct against the complainant or any witnesses in the matter, as discussed under Section IV.A.5 above “Retaliation”, and may be responsible for any retaliation by persons affiliated with the respondent (i.e. a friend or family member). Refusal/failure by the respondent to meet and cooperate with the Senior Associate Dean of Students/Director of Student Conduct or Investigator(s) regarding this matter or to sign the Confidentiality/Non- Retaliation Acknowledgment, as determined by the Vice President for Student Affairs/Dean of Student Affairs, may result in either or both: (1) an automatic suspension of the respondent from the College and/or (2) the adjudication of the disciplinary complaint without input from the respondent.
b. Pre-Fact-Finding Resolution of Complaint/Acceptance

After meeting with the Senior Associate Dean of Students/Director of Student Conduct and reviewing the Complaint Form, the respondent has the right to end the Sexual Misconduct Adjudication Process by signing a document accepting responsibility for the conduct alleged in the Complaint Form. If the respondent accepts responsibility for the conduct alleged in the Complaint Form, the process would not proceed to the Fact Finding Investigation phase. Instead, the matter would be referred to the Judicial Board to decide the issue of the appropriate disciplinary action against the respondent.

The Judicial Board may take the respondent’s acceptance of responsibility into consideration in determining the appropriate sanction. Once the respondent accepts responsibility, such acceptance cannot be withdrawn. A written finding of the acceptance of responsibility and the resulting disciplinary action will be issued by the Judicial Board, which will become part of the respondent’s student records and will be shared with the complainant. If the respondent does not wish to participate in this resolution process, then he/she will need to prepare a Respondent’s Statement as noted below. The respondent must decide whether he/she would like to utilize this resolution process before expiration of the **seven (7) days** for submitting the Respondent’s Statement.

c. **Respondent’s Statement**

The respondent will be asked to provide a written response to the information contained in the Complaint Form. The Respondent’s Statement must be submitted to the Senior Associate Dean of Students/Director of Student Conduct within **seven (7) days** after the meeting between the respondent and the Senior Associate Dean of Students/Director of Student Conduct. The Respondent’s Statement should contain the respondent’s full recollection of the alleged incident. This statement is the respondent’s first opportunity to respond to the allegations made by the complainant. The statement should communicate the respondent’s recollection of the event and its context, as well as the respondent’s reflections by following these guidelines:

— **Tell the story in full.** Relate in full the facts of the incident as you recall them. You should take care to distinguish between what you saw, heard, or experienced from what you may have learned later from others.

— **Describe the context.** It is important for you to give your perception of the conduct and the context in which the alleged incident occurred, including its location, and any witnesses to it.

— **Reflect on the event.** It is helpful for you to provide any conclusions you have drawn about the incident, stating clearly why you believe that your actions have not violated College policy or the Code of Conduct.
A descriptive list of all sources of information (e.g., witnesses, correspondence, records, etc.) should be attached to the Respondent’s Statement. That list should include information which the respondent believes should be considered in deciding the disciplinary complaint, along with a brief explanation of why this information would be relevant and helpful to the process. The sources and/or location of this supporting information should be identified. Respondents are advised to not attempt to obtain the information themselves. The Investigator(s) will solicit relevant statements or documents referenced through this process.

The Respondent’s Statement will be one of the most important documents to be considered in the Sexual Misconduct Adjudication Process. Once submitted, the Respondent’s Statement may not be amended, but it may be supplemented through interviews with the Investigator(s) as set forth in Section VIII.H.3.b below. The statement must be prepared by the respondent. It is unacceptable for a respondent to submit a statement written by others, including parents, support persons, or attorneys. However, the respondent is encouraged to share a draft of the statement with a support person who is well positioned to discuss, among other matters, the statement’s style, organization, length, and clarity, while also anticipating questions it may raise for the fact-finder. The respondent will be required to sign a statement verifying that they authored the Respondent’s Statement. Once the respondent has submitted their statement, the respondent will be given a copy of the Complainant’s Statement. The complainant will also be given a copy of the Respondent’s Statement.

3. Fact Finding Investigation
After both parties have submitted their statements, the Senior Associate Dean of Students/Director of Student Conduct will initiate a Fact-Finding Investigation, utilizing the College’s neutral investigators. It is the responsibility of the Investigator(s), not the parties, to gather the evidence relevant to the Complaint and the facts raised in the parties’ statement, to the extent reasonably possible. During the course of the investigation, the Investigator(s) may utilize some or all of the following procedures, in whatever order the Investigator(s) deems most appropriate. The scope of the Fact Finding Investigation will not be limited to information provided by the parties or to the violations outlined in the disciplinary complaint. In all cases, the Investigator(s) will conduct an impartial investigation into the allegations of the disciplinary complaint, reviewing all evidence deemed to be relevant. Parties and witnesses will be requested to make themselves reasonably available to the Investigator(s). Refusal by a party or witness to cooperate with the Investigator(s) in the Fact Finding Investigation, as determined by the Senior Associate Dean of Students, may result in disciplinary action against the person refusing to cooperate. A refusal to cooperate does not preclude completion of the investigation.
a. Document Review
Once statements have been submitted by the parties, the Investigator(s) will review the statements and all of the supporting material referenced. The Investigator(s) will then attempt to obtain any documents or other materials deemed relevant to the investigation. Any documents or information deemed to be material to the findings regarding the disciplinary complaint or any other violations will be disclosed to both parties for comment or rebuttal.

b. Party Interviews
The Investigator(s) will interview the complainant and the respondent separately. This meeting is an opportunity for the participant to discuss his/her recollection of any event in question, supplement any written statements already submitted, voice any concerns, and work with the Investigator(s) to determine what information may be helpful in the investigation of the allegations. Parties may also discuss the impact that this experience has had on them. All of the materials provided to the Investigator(s) by either the complainant or the respondent will be disclosed to the other party in advance of their respective interviews, including the complete statement of the other party. The Investigator(s) may interview the parties more than once and as necessary. Both the complainant and respondent may have his/her Advisor (as defined hereinafter in this Policy) accompany them to the meetings between the Investigator(s) and the party being assisted by the Advisor, but such Advisor may not participate in the conversation. Prior to sitting in on any interviews, the Advisor will be required to sign a Confidentiality/Non-Retaliation Acknowledgment, agreeing not to disclose or discuss anything relating to the disciplinary complaint with anyone other than those authorized to see or hear such information under this process. At the conclusion of the interview, participants are permitted to make an optional closing statement.

c. Witness Interviews
The Investigator(s) will attempt to contact and interview any witnesses identified by the parties that the Investigator(s) deems to be relevant to the resolution of the disciplinary complaint. The Investigator(s) may also interview any other persons they find to be potentially relevant to this matter. Witnesses may not bring Advisors to their interviews. Prior to being interviewed, a witness will be required to sign a Confidentiality/Non-Retaliation Acknowledgement, agreeing not to disclose or discuss anything relating to the disciplinary complaint and their interview with anyone. Through this Acknowledgment, the witness will also agree to refrain from any retaliatory conduct against the parties or any witnesses in the matter, as discussed under Section IV.A.5 above “Retaliation”, and may be responsible for any retaliation by persons affiliated with them (i.e. a friend or family member). The Investigator(s) will employ best efforts to interview relevant witnesses who are no longer on campus or in the Schenectady area, attempting to contact them by phone or internet.
d. **Expert Witnesses**
   The Investigator(s) reserve the right to consult with any experts which the Investigator(s) deems helpful to the determination of the facts of this case. An expert witness could be consulted to review the allegations and information and provide a professional opinion or otherwise give input regarding information or evidence discovered in the Fact Finding Investigation.

e. **Admissibility of Evidence**
   The fact finding investigation process is intended to arrive at the truth of the matter without the formalities associated with rules and procedures specifically designed by lawyers to manage courtroom litigation. Students can address issues and present documents to the Investigator without concerns about admissibility. It should be noted that if the Investigator determines that the issues raised and/or documents presented are relevant and suggest whether the alleged conduct occurred then, in the interest of fairness, that information will be disclosed to the parties at or before the time the Investigative Report is made available for review by the parties.

   (i) **Sexual History**
   In general, a complainant’s prior sexual history is not relevant and will not be admitted as evidence at a hearing. Where there is a current or ongoing relationship between the complainant and the respondent, and the respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of this policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the complainant with other individuals is typically not relevant and will not be permitted.

   (ii) **Medical and Counseling Records**
   The use of medical and/or counseling records in the adjudication process is rare. Medical and counseling records are confidential documents that students will never be required to disclose in the process. Medical and counseling documents being privileged means that they cannot be shared with anyone other than the treating professional unless the patient agrees to disclosure. **Students should be aware that there are legal implications to agreeing to produce privileged records.** Students are encouraged to seek advice from a knowledgeable source about the possible consequences of releasing this information.

   A complainant or respondent who, after due consideration, believes that his/her own medical or counseling records would be helpful in determining whether
sexual misconduct occurred has several options for **voluntarily** presenting this information:

- The complainant or respondent can voluntarily decide to present their own medical or counseling records to the Investigator as part of the documents which they would like to have the fact finder consider in deciding the disciplinary complaint. Please note that if a party decides to produce such records, they must be produced in their entirety. The production of excerpts or selected documents is inappropriate and will not be considered.

- On occasion, the Investigator may ask the complainant or respondent to voluntarily agree to provide these records if the Investigator believes that such documentation exists and that it would be helpful in deciding the disciplinary complaint. A party is under **no obligation** to provide this information and may simply say “no” to this request. A party has a right to refuse to provide these records and that refusal is completely acceptable. Prior to responding to such a request, a party is encouraged to consult with their Advisor about the implications of agreeing or denying the request. Please note that if a party does decide to produce such records, they must be produced in their entirety. The production of excerpts or selected documents is inappropriate and will not be considered.

- The Investigator may ask a complainant or respondent to voluntarily provide a verification of therapeutic or medical services to confirm simply that such treatment occurred; however, the verification will not provide any details regarding that treatment.

On rare occasions, a person may be in possession of the medical and/or counseling records of another party or witness. Such records can only be presented to the Investigator under the following circumstances: (i) The person can show that the records are relevant to the pending disciplinary complaint; (ii) the person can document or otherwise prove that the records were legally obtained and may be disclosed to those not in possession of the records; and (iii) the records can be authenticated. Failure to meet any of these conditions means that the records will not be considered in the determination regarding sexual misconduct.

4. **Investigation Report**

Once the Fact Finding Investigation has been completed, the Investigator(s) will evaluate the information obtained during this process. The Investigator(s) will prepare a report
summarizing and analyzing the relevant facts received through the Investigation, noting any supporting documentation or statements. The Investigation Report may include assessments regarding the credibility of witnesses and reliability of documentation. The Investigator(s) will present the Investigation Report to the Senior Associate Dean of Students/Director of Student Conduct and, if the case goes to a hearing, the Judicial Board. Under ordinary circumstances, the Investigation Report should be submitted to the Senior Associate Dean of Students/Director of Student Conduct within **fifteen (15) business days** after the completion of the Fact Finding Investigation.

**I. Formal Resolution**  
Formal resolution of a complaint under the Sexual Misconduct Policy will occur through the use of a Conduct Conference or a Judicial Board.

1. **Conduct Conference**  
A complainant or respondent may request resolution through an administrative conduct conference, in which the Senior Associate Dean of Students/Director of Student Conduct will meet with the complainant and respondent to determine responsibility and render a decision as to what sanctions, if applicable, should be implemented. Both parties and the Senior Associate Dean of Students/Director of Student Conduct must agree that the matter is appropriate for resolution by a conduct conference. Depending upon the nature and severity of the allegations, the Senior Associate Dean of Students/Director of Student Conduct may decline to handle the matter administratively and refer the case to a Judicial Board.

A conduct conference is particularly appropriate when the respondent has admitted to the harassment or misconduct and there is no discernible dispute in the relevant facts of the investigation report; however, at the discretion of the Senior Associate Dean of Students/Director of Student Conduct, it may also be used when the facts are in dispute. The investigative report will serve as the primary evidence in making a determination of responsibility.

Both parties must have notice, the opportunity to review the investigative report in advance, and an opportunity to present any additional relevant information to the Senior Associate Dean of Students/Director of Student Conduct. In reaching a determination as to whether this policy has been violated, the Senior Associate Dean of Students/Director of Student Conduct will reach a determination by a preponderance of the evidence, that is, whether the conduct was more likely than not to have occurred as alleged. Based on the outcome of the conduct conference, the Senior Associate Dean of Students/Director of Student Conduct will issue an appropriate sanction.
Both a complainant and respondent may appeal the determination of the Senior Associate Dean of Students/Director of Student Conduct as provided in Section VIII.I.8 below “Appeals”.

2. Judicial Hearing Board (Judicial Board)
The Judicial Hearing Board, is normally composed of two (2) faculty members, two (2) students, and the chair, a Senior Student Affairs Administrator. Each member, including the chair, will have an equal vote. The recording secretary of the Judicial Hearing Board will be elected annually by the members of the Judicial Hearing Board. A quorum of the Judicial Board for conducting a hearing shall consist of the chair, one (1) faculty, and one (1) student.

The Judicial Hearing Board has been given the responsibility by the College Administration to adjudicate Proscribed Conduct. The Judicial Hearing Board will adjudicate cases involving an alleged violation of the Sexual Misconduct Policy in accordance with the procedures set forth in Section VIII.I.5 below, “Hearing Panel Procedures.”

3. Advisors
An advisor is any individual selected by the complainant or respondent, including retained legal counsel. If the complainant or respondent elects to have an advisor attend, the advisor is permitted, subject to restrictions, to attend the sessions with the investigators, meetings with the Senior Associate Dean of Student/Director of Student Conduct, meetings with Dean of Students Office to discuss Informal Resolution, attend conduct conference, and/or appearances before the Judicial Hearing Board. The advisor is permitted to provide the complainant or respondent advice during these meetings at appropriate times when the student being advised is not giving testimony or answering questions. The advisor is not allowed to argue for, advocate for, or present the case for the respondent or complainant or directly address the investigators, the Senior Associate Dean of Student/Director of Student Conduct, Dean or Students or designee, or Board. The College reserves the right to remove or dismiss advisors from meetings who become disruptive, who do not abide by the restrictions set forth herein, or who intentionally delay the investigation or adjudication process.

Advisors who wish to communicate about the case may contact the College’s legal counsel, currently Higgins, Roberts & Suprunowicz, P.C., 518-374-3399 (ask for Charles Assini, Esq., or Michael Basile, Esq.)
4. **Pre-Hearing Procedures**

   a. **Notice of Charges**
   The Senior Associate Dean of Students/Director of Student Conduct will send a copy of a written Notification Letter to both the complainant and the respondent. The Notification Letter provides each party with a brief summary of the conduct at issue and the specific provisions of the policy that are alleged to have been violated.

   b. **Pre-Hearing Meeting with Complainant and Respondent**
   Following the Notification Letter, the Senior Associate Dean of Students/Director of Student Conduct will contact the complainant and respondent to schedule separate meetings with each party. At this pre-hearing meeting, each party will receive an explanation of the hearing process, be provided a list of potential Judicial Board members, and have the opportunity to ask any questions.

   The complainant and the respondent may submit a written request to the Senior Associate Dean of Students/Director of Student Conduct that a member of the hearing panel be removed. The request must clearly state the grounds to support a claim of bias, conflict of interest or an inability to be fair and impartial. This challenge must be raised within **two (2) business days** of pre-hearing meeting. All objections must be raised prior to the commencement of the hearing. Failure to object within **two (2) business days** of the Pre-Hearing Meeting or prior to the hearing will forfeit one's ability to appeal the outcome based on perceived or actual bias.

   If the complainant and/or respondent have elected to have advisors throughout the hearing process, the advisor is encouraged to accompany the complainant/respondent to this initial meeting.

   c. **Notice of Hearing**
   Once each party has met with the Senior Associate Dean of Students/Director of Student Conduct, a Notice of Hearing is sent to the complainant and the respondent. In addition, the Notice provides the parties with the date, time, and place of the hearing, as well as the name(s) of the person(s) hearing the case.

   In general, the hearing will be scheduled within **ten (10) business days** of the date of the Notice of Hearing. Under extenuating circumstances, this time frame may be extended.
d. **Pre-Hearing Review of Documents**
The complainant and the respondent will each have the opportunity to review the Investigation Report, subject to the privacy limitations imposed by state and federal law, at least **five (5) business days** prior to the hearing. The Investigation Report will include any witness statements or interviews, statements or interviews by both parties, and any other documentary information that will be presented to the hearing panel.

e. **Witnesses**
The complainant, respondent, and the hearing panel all have the right to call witnesses to testify at a hearing before the Judicial Hearing Board. Witnesses must have observed the conduct in question or have information relevant to the incident and cannot be called solely to speak about an individual’s character.

In general, witnesses for both parties will be interviewed by the Investigator. If either party wishes to call witnesses not previously interviewed, the following must be submitted no later than **five (5) business days** before the hearing to the Senior Associate Dean of Students/Director of Student Conduct via e-mail or in hardcopy format:

— The names of any witnesses that either party intends to call;
— A written statement and/or description of what each witness observed, if not already provided during investigation;
— A summary of why the presence of any witness is relevant to making a decision about responsibility at the hearing; and,
— The reason why the witness was not interviewed by the investigator, if applicable.

The Senior Associate Dean of Students/Director of Student Conduct will determine if the proffered witness(es) has relevant information and if there is sufficient justification for permitting a witness who was not interviewed by the investigator. The Senior Associate Dean of Students/Director of Student Conduct may also require the investigator to interview the newly proffered witness.

If witnesses are approved to be present, the respondent and complainant are provided with a list of witnesses and any relevant documents related to their appearance at the hearing no later than **five (5) business days** before the hearing. All parties have the opportunity to ask questions of witnesses (through the panel), regardless of who called them to the hearing.
f. Relevance
The Senior Associate Dean of Students/Director of Student Conduct will review the investigative report, any witness statements and any other documentary evidence to determine whether the proffered information contained therein is relevant and material to the determination of responsibility given the nature of the allegation. In general, the Senior Associate Dean of Students/Director of Student Conduct may redact information that is irrelevant, more prejudicial than probative, or immaterial. The Senior Associate Dean of Students/Director of Student Conduct may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty. Neither the complainant nor the respondent shall have the right to review redactions from the Investigative Report.

g. Prior Sexual History
In general, a complainant’s prior sexual history is not relevant and will not be admitted as evidence at a hearing. Where there is a current or ongoing relationship between the complainant and the respondent, and the respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of this Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the complainant with other individuals is typically not relevant and will not be permitted.

h. Request to Reschedule Hearing
Either party can request to have a hearing rescheduled. Absent extenuating circumstances, requests to reschedule must be submitted to the Senior Associate Dean of Students/Director of Student Conduct with an explanation for his or her request at least three (3) business days prior to the hearing. The Senior Associate Dean of Students/Director of Student Conduct will have sole discretion to grant or deny any request to reschedule a hearing.

i. Consolidation of Hearings
At the discretion of the Senior Associate Dean of Students/Director of Student Conduct, in consultation with the Title IX Coordinator, multiple reports may be consolidated against a respondent in one hearing, if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident. Matters that include related conduct that would regularly have been heard under the Code of Student Conduct may be consolidated even if they involve multiple complainants and/or multiple respondents.
5. Hearing Panel Procedures

a. Attendance at Hearing
When a party fails to attend a hearing with a reason that the Senior Associate Dean of Students/Director of Student Conduct finds compelling, the hearing may be held in their absence at the discretion of the Senior Associate Dean of Students/Director of Student Conduct.

Once the investigation has commenced, a respondent will not be permitted to withdraw from the College. If a respondent chooses not to participate, the College may move forward with the hearing and imposition of sanction, if any, in absentia. The respondent’s academic transcript will be marked Withdrawal Pending Disciplinary Action, or, if finally resolved in absentia, with the final outcome in accordance with regular practice under this Policy.

A complainant or respondent may also request alternative testimony options that would not require physical proximity to the other party. Any proposed alternative must be reviewed in advance of the hearing to ensure that it is consistent with the goals of a fair and equitable process. While these options are intended to help make the alleged complainant or respondent more comfortable, they are not intended to work to the disadvantage of the other party.

b. Participants in Judicial Hearing Procedures
The Judicial Hearing Board is a closed hearing; it is not open to the public. The individuals who may appear before the Judicial Board are: the complainant; the respondent; any individual serving as an approved Advisor; and any individuals appearing as witnesses. Before and after giving testimony, witnesses may be excluded from the room or building where the hearing occurs.

c. Safeguarding of Privacy
All parties involved in a hearing are required to keep the information learned in preparation for the hearing and at the hearing private. No copies of documents provided are to be made or shared with any third parties. All copies provided must be returned to the College at the conclusion of the hearing and any appeals. Any breach of this duty is subject to further disciplinary action by the College.

d. Judicial Board Procedures
A hearing is not intended to be adversarial. It is intended to provide a fair and ample opportunity for each side to present his/her account of the incident and for the hearing panel to determine the facts of the case, make a determination as to whether College policy was violated, and to recommend appropriate sanctions, if necessary. The
hearing is an informal proceeding not comparable to a criminal or civil trial; it is the mechanism by which the College assesses, and as appropriate, takes formal disciplinary action regarding a violation of College policy.

Notes may be taken by the participants in the hearing solely for their personal use. There will be a single verbatim recording made of the hearing which shall be the sole property of the Dean of Students Office. The recording will be available only for review by the complainant, respondent or the College in the Dean of Students Office for the purpose of review in connection with an appeal. The recording will be maintained for a period of four (4) months from the date the appeal period has lapsed or until an appeal decision has been rendered, whichever is later.

The Judicial Board must review the Investigation Report containing all pertinent information regarding the incident in question prior to the Judicial Board hearing. Relevant information supporting the violation(s) alleged may be offered in the form of written statements, documents, items, or oral information from the complainant, the respondent, and witnesses.

A hearing will be called to order by the Judicial Board chair. The chair will orally explain the hearing process and will provide an opportunity for all parties to ask procedural questions prior to initial statements and the presentation of information.

The Investigator(s) will provide a summary of the investigation. This summary should include a focus on the areas of agreement and disagreement in order to assist the Judicial Board in prioritizing areas of inquiry. The Judicial Board, complainant, or respondent may make inquiries of the Investigator(s) at this juncture, as there will be additional opportunity to ask questions of the Investigator(s) after the Judicial Board has heard from the complainant, the respondent, and any witnesses.

The complainant may supplement the information provided to the Judicial Board with a brief statement. This is not intended to be a retelling of the event. The Judicial Board may pose questions to the complainant, including a written list of questions suggested by the respondent and forwarded to the Judicial Board in advance of the hearing.

After the complainant is finished, the respondent will be given an opportunity to make a brief statement. This is not meant to be a retelling of the event. The Judicial Board may pose questions to the respondent, including a written list of questions suggested by the complainant and forwarded to the Judicial Board in advance of the hearing.
The Judicial Board may hear from witnesses on behalf of the complainant and the respondent. Each witness will be questioned by the Judicial Board, and, as appropriate, the complainant and the respondent.

The Judicial Board, complainant, and respondent may then question the Investigator(s). The Investigator(s) is not permitted to offer an opinion as to the ultimate issue.

At the conclusion of the presentation of all witnesses, the complainant and respondent will each be given a brief final opportunity to address any outstanding issues of fact and submit additional written questions to the chair. The chair, in consultation with the Judicial Board will determine the appropriateness and relevance of the questions.

e. **Questioning of Witnesses**
   It is the responsibility of the Judicial Board to assure that the information necessary to make an informed decision is presented. The Judicial Board members may play an active role in questioning both parties and witnesses involved in the case. At times, the Judicial Board members may need to ask difficult or sensitive questions in order to understand areas of factual dispute or gain a full understanding of the context.

   The complainant and the respondent may not directly question one another. As outlined above, the parties may submit questions to the Judicial Board in writing, which may be posed at the discretion of the hearing panel. Similarly, the Judicial Board members are under no obligation to allow either party to directly question witnesses, and the Judicial Board may require that questions to witnesses be submitted in writing.

   Parties and other individuals who offer information at a hearing are expected to respond honestly, and to the best of their knowledge. The Judicial Board reserves the right to recall any party or witness for further questions and to seek additional information necessary to make a decision.

f. **Deliberation**
   After all of the information has been presented, all parties will be dismissed and the hearing will be formally concluded.
The Judicial Board members will conduct their deliberations in private. The Judicial Board will normally complete their deliberations within three (3) business days, but every attempt will be made to complete the deliberations promptly.

The Judicial Board will determine a respondent’s responsibility by a preponderance of the evidence. This means that the Judicial Board will decide whether it is “more likely than not,” based upon all of the relevant information, that the respondent is responsible for the alleged violation(s). The Judicial Board must reach a decision on responsibility by majority vote.

If the Judicial Board finds the respondent responsible, the Judicial Board will then recommend appropriate sanctions to the Senior Associate Dean of Students/Director of Student Conduct. The Senior Associate Dean of Students/Director of Student Conduct will review the recommendations and impose an appropriate sanction.

The findings of the Judicial Board will be submitted to the Senior Associate Dean of Students/Director of Student Conduct in writing. The findings will detail the findings of fact and the basis/rationale for the decision of the Judicial Board, making reference to the evidence that led to the finding.

6. Sanctions and Impact Statements
A Judicial Board that finds a respondent responsible for a violation of this Policy may consider the impact statements of the complainant and respondent, if submitted, and recommend appropriate sanctions that may include, but are not limited to, those set forth below. Sanctions may be issued individually, or a combination of sanctions may be imposed. The complainant and respondent will each have one (1) business day from being notified of a finding of a violation to present a written statement about impact and/or requested sanctions. The Judicial Board will review these statements only if the respondent has been found responsible for one or more violation.

— New York State law requires that any student determined to have committed sexual assault may receive a sanction ranging from suspension to expulsion. A student returning from suspension will return on probation, with 8 points.
— Any student who is determined to have committed non-consensual sexual contact or any other prohibited form of conduct may receive 2-9 points and a sanction ranging from conduct warning to expulsion.

The Senior Associate Dean of Students/Director of Student Conduct may deviate from the range of recommended sanctions, based upon a full consideration of the following factors:
— The respondent’s prior discipline history;
— How the College has sanctioned similar incidents in the past;
— The nature and violence of the conduct at issue;
— The impact of the conduct on the complainant;
— The impact of the conduct on the community, its members, or its property;
— Whether the respondent has accepted responsibility for his/her actions;
— Whether the respondent is reasonably likely to engage in the conduct in the future;
— The need to deter similar conduct by others; and
— Any other mitigating or aggravating circumstances, including the College’s values.

In appropriate cases, a Judicial Board may determine that the conduct was motivated by bias, insofar as a complainant was selected on the basis of his or her race, color, ethnicity, national origin, religion, age, disability or other protected class as defined in federal and/or state laws. Where the Judicial Board determines that student misconduct was motivated by bias, the panel may elect to recommend an increase in the sanction imposed as a result of this motivation.

The Judicial Board will make a recommendation about the appropriate sanction(s). The Senior Associate Dean of Students/Director of Student Conduct may affirm or modify the recommended sanction(s).

Upon a finding of proscribed conduct, points ranging from 0-10, accompanied by sanctions including but not limited to those listed below, may be imposed.

a. **Educational Programs**
   Requirement that the respondent take part in a required educational program on or off campus. The Judicial Board may require respondent to participate in an online educational program that addresses particular issues.

b. **Expulsion**
   Permanent separation from the College including loss of student status; reinstatement or readmission is not possible.

c. **Interim Restrictions**
   Imposition on an interim basis of any sanction or sanctions listed in this section.
d. **Loss of Privileges**
Denial of specified privileges for a designated period of time. These may include loss or housing privileges or opportunity to participate in term abroad, or in sports.

e. **Physical Restrictions**
A directive given to the respondent that does not permit him/her/them to be in specified locations on College Premises.

f. **Probation**
The next violation is likely to result in Suspension or Expulsion.

g. **Residence Reassignment**
Relocation to another living space on campus.

h. **Residence Termination**
Removal from campus housing.

i. **Suspension**
Separation from the College community for a defined period of time, usually no fewer than **two (2) Academic Terms**. Additional stipulations or conditions for reinstatement may be assigned. Reinstatement is contingent upon a positive administrative review. A student under suspension is not allowed to transfer in credit for courses taken at other institutions during the defined period of time of the suspension.

j. **Suspension with Academic Delay**
The student will be suspended from the College, but the commencement of the suspension will be deferred and the student will be permitted to remain enrolled in classes until the end of the term. However, if the student fails to comply with any interim restriction which may be imposed during the deferral period (e.g., fails to comply with a “no contact” order), violates the Student Conduct Code while in the deferral period and is found responsible, or fails to complete the assigned sanctions by the given deadline(s), the student will be immediately suspended. During the deferral period, the student is not considered to be in good standing with the College and may not represent the College on any athletic team other than intramurals, hold an office in any student organization registered with the College, represent the College in any extracurricular activity or official function, or participate in any study abroad program.
k. Withholding the Granting of a Degree or Revocation of a Degree
Action by the College to revoke a student’s degree or to withhold it for a specified amount of time.

More than one of the sanctions listed above may be imposed for any single violation.

7. Outcome Letter
The outcome of the Judicial Board will be final and communicated to the complainant and respondent in writing, usually within seven (7) business days from the date the hearing is concluded. The notification of each party should occur at or near the same time.

Both parties have the right to be informed of the findings of fact, decision, rationale for the decision, and sanction (if any), in accordance with applicable law.

The imposition of sanctions will take effect immediately and will not be stayed pending the resolution of the appeal.

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 other drug policy violations. Where a student is not 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 will notify the Title IX Coordinator and Deputy Title IX Coordinators of the outcome and also reserves the right to designate which College officials have a need to know about individual conduct complaints pursuant to FERPA requirements.

8. Appeals
The point of an appeal is not to provide complainant and/or respondent with a new hearing nor is it intended to provide complainant and/or respondent with the opportunity to simply declare that the Judicial Hearing Board decision was wrong. The complainant and respondent may appeal the decision of the Judicial Hearing Board based only upon the grounds outlined below with respect to the each of the violation(s) found to have occurred. The party filing the appeal is the Appellant. Appeals of hearing decisions must be submitted to the Chief of Staff in writing within five (5) days of written notification of the hearing results. Appeals are heard by an Appeals Panel comprised of three (3) impartial, trained persons: the Chief of Staff, who acts as the chair of the Panel, and two (2) members of the Judicial Board, who were not part of the hearing, designated by the
Title IX Coordinator. The imposition of sanctions remain in effect during the period of the appeal proceedings. The opposing party will be notified that an appeal been filed. In some situations, both the complainant and the respondent may file an appeal. In this situation, the Appeals Panel will consider and review both appeals together.

The Appeals Panel may review all materials presented at the hearing and may consult with the chair of the Judicial Board on questions of judicial procedure and with the Senior Associate Dean of Students/Director of Student Conduct on questions of appropriateness of the sanction(s).

Appeals shall be submitted based on the student’s ability to demonstrate that one or more of the grounds listed below for appeal are meritorious:

— **Procedural Error**: The Appellant alleges that there was a deviation or change from the procedures outlined in the Sexual Misconduct Policy which adversely impacted the outcome of the matter. If the Appeals Panel determines that there was a procedural error which could have altered the outcome of the case, the matter will be remanded to the Judicial Hearing Board for a determination regarding the impact of the procedural error on the outcome of the complaint. The Judicial Hearing Board’s determination on whether there was an impact on the outcome of the complaint is final.

— **New Evidence**: The Appellant alleges that, subsequent to the issuing of the Judicial Hearing Board’s decision, new evidence became available which would have impacted the outcome of the disciplinary complaint. The Appellant must: (i) present the new evidence; (ii) show why it was unavailable prior to the Judicial Hearing Board’s decision; and (iii) show that the new evidence could have altered the outcome of the complaint. The opposing party will be given an opportunity, within two (2) days of being notified of the appeal, to rebut these assertions by the Appellant. If the Appeals Panel determines that there is evidence that warrants a new hearing, it will remand the matter to the Judicial Hearing Board.

— **Severity of The Disciplinary Action**: The Appellant alleges that the disciplinary action issued by the Senior Associate Dean of Students/Director of Student Conduct is unduly harsh or lenient. If the Appeals Panel determines that that disciplinary action was unduly harsh or lenient, it will remand the matter to the Senior Associate Dean of Students/Director of Student Conduct for reconsideration. The decision of the Senior Associate Dean of Students/Director of Student Conduct after reconsideration is final.

The foregoing are the only grounds for appeal.

The written appeal must specifically state the grounds under which the appeal has been filed and must be submitted within the ten (10) day time limit after the complainant and the respondent have met with the Senior Associate Dean of Students/Director of Student Conduct.
Conduct and the chair of the Judicial Hearing Board. The appeal must set forth the information and evidence to support the appeal.

A written decision will be rendered by the Chief of Staff and provided to each party by either being mailed to the parties at their local addresses (or another address if a student has no local address) or emailed to the parties at the email addresses that the College has provided the students (or another email address a student has provided the College), ordinarily within ten (10) business days of receipt of the appeal.

The outcome of the appeal is final.

9. Concerns about the Implementation of this Policy
The College has appointed a Title IX Coordinator, the Chief Diversity Officer at Union College, to oversee all aspects of the College’s Title IX compliance efforts. An individual who believes that any aspect of this policy has not been properly followed should contact the Title IX Coordinator at x8327 (518-388-8327) or pursue a complaint by contacting the Title IX Coordinator in accordance with the College’s Discrimination Grievance Procedures contained in the Student Handbook. Retaliation against any person who files a complaint of alleged discrimination is prohibited.

10. Integrity of Proceedings
These procedures are entirely administrative in nature and are not considered legal proceedings. As there will be an official recording of the hearing, neither party may make an audio or video recording of the proceedings. No computers, cell phones, or other electronic means of communication are allowed to be used by the complainant, respondent, advisors, or a witness.

At the discretion of the hearing panel chair, anyone disrupting the hearing may be removed.

11. Records
The Dean of Students Office will retain records of all reports and complaints, regardless of whether the matter is resolved by means of Title IX assessment, informal resolution or formal resolution. Complaints resolved by means of Title IX assessment or informal resolution are not part of a student’s conduct file or academic record.

Affirmative findings of responsibility in matters resolved through formal resolution are part of a student’s conduct record. Such records shall be used in reviewing any further conduct, or developing sanctions, and shall remain a part of a student’s conduct record.
Suspension, expulsion, and withdrawal pending disciplinary action are permanently noted on a student’s transcript. For students who withdraw from the College while a disciplinary process is on-going, the student’s transcript will read: “Withdraw with conduct charges pending.” *(An appeals process for removal of such notation will be provided.)*

The conduct files of all students, including those who have been suspended or expelled from the College, are maintained in the Dean of Students Office for no fewer than seven *(7) years* from the date of the incident.

Further questions about record retention should be directed to the Dean of Students Office.

*July 29, 2015*