



# **Sexual Misconduct Policy 2019-2020**

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## Union College Statement of Equity

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. It is the policy of Union College to maintain an environment for students, faculty, administrators, staff, and visitors that is free of all forms of discrimination and harassment, including sexual and gender-based misconduct. The College has enacted this Sexual Misconduct Policy (the "Policy") to reflect and maintain its institutional values and community expectations, to provide for fair and equitable procedures for determining when this Policy has been violated, and to provide recourse for individuals and the community in response to violations of this Policy.

Union does not discriminate on the basis of sex in its educational, extracurricular, athletic or other programs or in the context of admissions or employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides:

*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.*

Sexual misconduct is a form of sex discrimination. This Policy prohibits all forms of sexual and gender-based misconduct, including harassment, sexual assault, non-consensual sexual contact, stalking, and intimate partner violence ("Sexual Misconduct"). The College strives to cultivate a culture of reporting and shared responsibility for responding to incidents of Sexual Misconduct. To this end, this Policy also prohibits retaliation against a person who reports, complains about, or who otherwise participates in good faith in, any matter related to this Policy.

Upon receipt of a report, the College will take prompt and equitable action to eliminate the Sexual Misconduct (if any), prevent its recurrence, and remedy its effects. In addition, the College will fulfill its obligations under the Violence Against Women Reauthorization Act of 2013 ("VAWA") amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") in response to reported Prohibited Conduct. Students or employees who are found to have violated this Policy may face disciplinary action up to and including expulsion (students) or termination of employment (faculty or staff).

The College's Title IX Coordinator is responsible for ensuring the College meets its Title IX obligations and will maintain oversight of the College's investigation, resolution and response to reports of gender-based and sexual misconduct. Questions about Title IX, including questions about the application of this Policy, may be directed to the Title IX Coordinator:

**Melissa Kelley**  
**403E Reamer College Center**  
**518-388-6865**  
[kelleym2@union.edu](mailto:kelleym2@union.edu)

A healthy and productive educational community is one in which students, faculty, and staff all treat each other with mutual respect. Nothing in this policy statement should be taken to supersede the College's commitment to the free and vigorous discussion of ideas and issues, which this policy preserves. Union College is committed to protecting the academic freedom and freedom of expression of all members of the College community. This policy shall be applied in a manner that protects the academic freedom and freedom of expression of all parties to a complaint. Academic freedom includes, but is not limited to, expression of ideas, however controversial, in the classroom, residence hall, and in workplaces everywhere in the College community.

## **Role of the Title IX Coordinator**

The College has a designated Title IX Coordinator. The Title IX Coordinator monitors the College's overall compliance with Title IX, ensures appropriate training and education, and monitors the College's investigation, response, and resolution of reports made under this Policy. Upon receiving reports of Sexual Misconduct, the Title IX Coordinator ensures that appropriate action is taken to eliminate that conduct, prevent its recurrence, and remedy its effects. The Title IX Coordinator is available to advise all individuals—including individuals who have experienced misconduct, individuals who are alleged to be responsible for misconduct, and third-parties — on this Policy and the appended Grievance Processes.

One should contact the Title IX Coordinator in order to:

- file a complaint or make a report of sex discrimination, including sexual misconduct,
- notify the College of an incident or policy or procedure that may raise potential Title IX concerns,
- get information about available resources (including confidential resources) and support services relating to sex discrimination, including sexual misconduct, and
- ask questions about the College's policies and procedures related to sex discrimination, including sexual misconduct,
- seek information or training about student, staff, and faculty rights and courses of action available to resolve reports or complaints that involve potential sex discrimination, including sexual misconduct.

The Title IX Coordinator's functions and responsibilities include:

- assessing whether a report or complaint alleges conduct that may (more likely than not), upon investigation, constitute behavior that could be considered prohibited sexual misconduct,
- appointing an investigative team upon such determination,
- making certain that individual reports and complaints are handled properly and in a prompt and timely manner,
- informing all parties regarding the grievance process,
- confirming that all parties have been notified of grievance decisions and of the right to, and procedures for, appeal,
- monitoring compliance with timeframes specified in the grievance procedures,
- promptly taking steps to ensure interim or remedial measures are utilized as needed or requested,
- training for students, faculty, and employees of the College
- coordinating an annual climate survey, in consultation with research personnel with expertise in survey design and data collection and analysis,
- analyzing data collected by the annual climate survey to assess the rates and nature of sexual misconduct, any location hot-spots or risk factors, knowledge of the College's sexual misconduct policies, procedures and resources, and the consequences of violating such policies, and the effectiveness of the College's efforts to strive to ensure that the College is free from sexual misconduct,
- reviewing all reports and complaints raising potential Title IX issues throughout the College to ensure that the College responded consistent with its Title IX obligations, even if the report or complaint was initially filed or raised with another individual,
- reviewing all reports and complaints raising potential Title IX issues throughout the college to identify and address any patterns,
- reviewing the College's policies and procedures to strive to ensure that they comply with the requirements of Title IX and New York State Education Law Article 129-B,
- organizing and maintaining files related to grievances, reports, complaints, and other records of potential sex discrimination, including sexual misconduct, in a secure manner,
- assessing regularly the College's compliance with, and the effectiveness of, policies and procedures related to sex harassment, sexual misconduct, and recommending modifications where appropriate,

- coordinating regularly with Campus Safety with respect to overlapping obligations related to sexual misconduct against students, including prevention, education, and training,
- consulting regularly with the College President and/or his/her designee and campus stakeholders to promote campus-wide awareness and discussion of Title IX-related issues, and develop and implement any modifications of policies and procedures to prevent and eliminate sex discrimination, including sexual misconduct, and
- ensuring that appropriate policies and procedures are in place for working with local law enforcement and coordinating with local victim advocacy organizations and service providers, including rape crisis centers.

In addition, based on the relationship of the Reporting Party and/or the Responding Party to the College, the Title IX Coordinator may be supported by other administrators, including but not limited to: Student Affairs Administrators, the Director of Campus Safety, the Dean of Faculty, and/or a representative from Human Resources. Collectively, the Title IX Coordinator and the individuals supporting the Coordinator are the “Title IX Team.” The Title IX Team is a small circle of individuals who have a “need to know” of any alleged prohibited conduct to effectuate this Policy.

## **Deputy Title IX Coordinator – Athletics**

If you have a sexual misconduct complaint against a Union College athlete, coach, or athletics’ administrator; or visiting student athlete, coach, athletic personnel or spectator; or you have a complaint of gender inequity in Union College’s athletic programs, you may contact the Senior Associate Director of the Athletic Department who will facilitate the handling of the complaint alongside the Title IX Coordinator. Union College has designated the following individual to serve as Deputy Title IX Coordinator for Athletics: Joanne Little, Senior Associate Director of Athletics, 618-388-6433, [littlej@union.edu](mailto:littlej@union.edu).

## **Campus Sexual Misconduct Bill of Rights**

Under this Policy, all members of the Union College community have the right to:

1. Make a report to local law enforcement and/or state police;
2. Request that the police remain at the scene until safety is assured;
3. Request that a police officer assist with arranging transportation or to take someone to a safe place such as a shelter or a family member/friend’s residence;
4. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;

5. Make a decision about whether or not to disclose a crime or violation and participate in the conduct process and/or criminal justice process free from pressure by the institution;
6. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
7. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
8. Be free from any suggestion that the Reporting Party is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
9. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
10. Be protected from retaliation by the institution, any student, the accused and/or the Responding Party, and/or their friends, family and acquaintances within the jurisdiction of the institution;
11. Access to at least one level of appeal of a determination;
12. Be accompanied by an advisor of choice who may assist and advise a Reporting Party, accused, or Responding Party throughout the conduct process including during all meetings and panels related to such process;
13. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of the institution;
14. Go to court and file a domestic abuse complaint requesting an order restraining the Responding Party from abuse and/or an order directing the Responding Party to leave the Reporting Party's apartment, residence hall, College, or workplace;
15. Seek a criminal complaint for threats, assault and battery, or other related offenses;
16. Seek medical treatment (police or Campus Safety can arrange transportation to the nearest hospital); and
17. Obtain a copy of the police incident report at no cost from the police department.

## **Scope of Policy**

The College strongly encourages all members of our community to take action to maintain and facilitate a safe, welcoming, and respectful environment on campus. In particular, the College expects that all Union community members will take reasonable and prudent actions to prevent or stop Sexual Misconduct. This Policy applies to all reports of Sexual Misconduct occurring on or after the effective date of this Policy. Where the date of the reported Prohibited Conduct precedes the effective date of this Policy, the definitions of misconduct in existence at the time of the report will be used. The Grievance Process under this Policy, however, will be used to investigate and resolve all reports made on or after the effective date of this Policy, regardless of when the incident(s) occurred.

When used in this Policy, "Reporting Party" refers to the individual who is identified as the recipient of Prohibited Conduct. "Responding Party" refers to the individual alleged to have

engaged in Prohibited Conduct. A “Third-Party” refers to any other participant in the process, including a witness or an individual who makes a report on behalf of a Reporting Party.

- **Persons Covered**

This Policy applies to all Union community members including students, faculty, administrators, staff, volunteers, vendors, contractors, visitors, and individuals paid or unpaid, regularly or temporarily employed, interns, conducting business, studying, living, visiting, or having any official capacity with the College or on its property (collectively referred to as "any person covered").

The College strongly encourages reports of Sexual Misconduct regardless of who engaged in the conduct. Even if the College does not have jurisdiction over the Responding party, the College will take prompt action to provide for the safety and well-being of the Reporting Party and the broader campus community.

- **Locations Covered**

This policy applies to conduct that occurs on any part of Union’s campus or property as well as when students, staff, or faculty travel off-campus as part of a College activity, team, organization, event, or College sponsored study abroad programs.

The policy also covers conduct that occurs off-campus, in the City, and/or during a time when the College is not in session when 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). The Title IX Coordinator will consult with the Dean of Students in making this determination. 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.

Similarly, for staff and faculty, this policy covers conduct that takes place off campus when it impacts the work environment. In making this determination, the Title IX Coordinator or appropriate administrator will consider whether the alleged action took place during a Union College sponsored event or activity, used College property in a way to commit the alleged action, or affects the employment relationship. For example, an email or communication from a home computer or behavior that takes place off campus between employees that affects the employment relationship may be considered a violation of this policy.

A Reporting Party 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 responding party, the College will still take prompt action to provide for the safety and well-being of the Reporting Party and the broader community.



- **Conduct Covered**

This Policy covers Sexual Misconduct, a form of sex discrimination. To report other forms of sex discrimination, such as disparate treatment, or discrimination based on other protected statuses, please refer to the Student Code of Conduct, Faculty Manual, and/or Employee Manuals.

## Procedures Under This Policy

The specific procedures for investigating, and resolving Sexual Misconduct are based upon the nature of the Responding Party's relationship to the College (Student, Staff, Faculty member or Third Party). Each set of procedures referenced below is guided by the same principles of fairness and respect for the Reporting Party and Responding party.

The College applies the preponderance of the evidence standard when determining whether this policy has been violated. Preponderance of the evidence means that it is more likely than not that a policy violation occurred.

- **When the Responding Party is a Student**

The procedures for responding to reports of misconduct committed by Students are detailed in [Appendix A: Resolution of a Complaint Against a Student](#).

- **When the Responding Party is a Faculty Member**

The procedures for responding to reports of misconduct committed by a Faculty Member are detailed in [Appendix B: Resolution of a Complaint Against a Faculty Member](#).

- **When the Responding Party is a Staff Member/Employee of the College**

The procedures for responding to reports of misconduct committed by staff or employees are detailed in [Appendix C: Resolution of a Complaint Against an Employee](#).

- **When the Responding Party is Both a Student and Employee**

The Student-Responding party procedures (Appendix A) will apply if the Responding party is a full-time Student but not a full-time Employee; The Employee-Responding party procedures (Appendix C) will apply if the Responding party is a full-time Employee but not a full-time Student; or if there is a question as to the predominant role of the Responding party, the College's Title IX Coordinator will determine which of the procedures applies based on the facts and circumstances (such as which role predominates in the context of the Prohibited Conduct). Further, where a Responding party is both a Student and an Employee, the Responding party may be subject to any of the sanctions applicable to Students or Employees.

- **When the Responding Party is a Third Party**

The College's ability to take appropriate corrective action against a Third Party will be determined by the nature of the relationship of the Third Party to the College. The Title IX Coordinator, in consultation with a senior administrator, will determine the appropriate manner of resolution consistent with the College's commitment to a prompt and equitable process consistent with federal law, federal guidance, state law, the Rules of Public Order, and this policy.

- **When a Complaint is Received from a Non-Union College Community Member**

The College's ability to provide appropriate response will be determined by the nature of the reported concern and the relationship between the non-Union College Community Member and the College. The Title IX Coordinator, in consultation with a senior administrator, will determine the appropriate manner of resolution consistent with the College's commitment to a prompt and equitable process consistent with federal law, federal guidance, state law, the Rules of Public Order, and this policy.

## **Affirmative Consent**

Affirmative consent is the basis of this Policy. Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression. Whenever the word "consent" is used in this policy, it should be understood to mean affirmative consent as defined here.

There are several important principles to keep in mind:

- Relying solely upon non-verbal communication can lead to miscommunication. It is important not to make assumptions and if confusion or ambiguity on the issue of consent arises anytime during the sexual interaction it is essential that each person stops and clarifies, verbally, willingness to continue.
- Consent to any sexual act or prior consensual 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 cannot otherwise consent. Depending upon the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants may be incapacitated and therefore unable to consent.
  - Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surrounds, or the inability to communicate for any reason. Among other circumstances, individuals may experience a blackout state in which they appear to be giving consent, but do not actually have conscious awareness or the ability to consent. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. Warning signs that an individual may be approaching incapacitation due to intoxication include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness and/or emotional volatility.
  - When a person's incapacitation is in question, the relevant standard that will be applied is whether the individual(s) knew, or a sober reasonable person in the same position should have known, that the other party was incapacitated and therefore could not consent to the sexual activity.
- Consent cannot be given when it is the result of any **coercion, intimidation, force or threat of harm**.
  - Coercion and intimidation include: (1) using physically or emotionally manipulative conduct against the Reporting party or (2) expressly or implicitly threatening the Reporting party or a third party with negative actions that would compel or induce a reasonable person in the Reporting Party's situation to engage in the sexual activity at issue. Examples of sexual coercive statements include those such as; "I will ruin your reputation"; "I will tell everyone"; "your or education at Union will be over" or "I will post an image of you naked." Coercion is evaluated based on the intensity, frequency and duration of the comments or actions.
  - Examples of force or a threat of harm include (1) using physical force or (2) threat of physical violence to overcome an individual's freedom of will to choose whether or not to participate in sexual activity or provide consent. For the use of force to be demonstrated, there is no requirement that a Reporting Party resist the sexual advance or request. However, evidence of resistance by the Reporting Party will be viewed as a clear demonstration of a lack of consent.
- When consent is withdrawn or can longer be given, sexual activity must stop.

- According to New York State law, an individual cannot give valid consent if the individual is under 17 years old.

## Sexual Misconduct Definitions

Sexual misconduct is a term used to describe a broad range of sexual behavior committed without affirmative consent. The following forms of sexual misconduct violate this Policy: (1) *Sexual or Gender-based Harassment*; (2) *Sexual Assault*; (3) *Non-Consensual Sexual Contact*; (4) *Sexual Exploitation*; (5) *Stalking*; and (6) *Intimate Partner Violence*. In instances where the alleged Sexual Misconduct involves more than one violation of this Policy, multiple violations of this Policy may be alleged against a Responding Party based on the same incident.

### (1) Sexual or Gender-Based Harassment

**Sexual or Gender-Based Harassment** is unwelcome verbal, visual or physical conduct that subjects an individual to inferior terms, conditions or privileges of education or employment because of the individual's sex, sexual orientation, gender identity, or gender expression. All such conduct is unlawful and prohibited by this Policy.

Sexual or Gender-Based 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.
- 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 Reporting Party 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, sexual orientation, gender identity, or gender expression.
- 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 Reporting Party and/or third Parties who witness or observe harassment and are affected by it.

Examples of conduct that may constitute Sexual or Gender-Based Harassment as defined above may include unwelcome conduct such as:

- **Physical conduct**, including unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements, or unwanted sexual advances;
- **Verbal conduct**, including 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; or objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes;
- **Visual conduct**, including leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons, or posters in a public space or forum; or severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate;
- **Written conduct**, including letters, notes or electronic communications containing comments, words, or images described above;
- **Quid pro quo conduct**, including direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists; offering educational or 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; or making or threatening reprisals after a negative response to sexual advances.

When considering whether conduct constitutes harassment under this Policy, the College will consider whether the conduct in question is legally protected by academic freedom in accordance with the Academic Freedom Policy statement contained in the Faculty Manual (FM V.II), which is adapted from the AAUP "1940 Statement of Principles on Academic Freedom and Tenure." If the conduct is believed to be protected speech, it is incapable of legally creating a hostile environment in and of itself. To the extent allowed by applicable law, a determination of whether speech serves a pedagogical purpose is

initially guided by the faculty speaker and his/her faculty peers (defined as senior members of the FEC), in accordance with grievance procedures to resolve a formal complaint of harassment which goes to hearing (see Appendix B).

## **(2) Sexual Assault**

Sexual Assault is having or attempting to have sexual intercourse with another individual without affirmative consent.

Sexual assault refers to any sexual penetration (anal, oral, or vaginal), however slight, with any object, or sexual intercourse between two (2) or more parties 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.

## **(3) Non-Consensual Sexual Contact**

Non-Consensual Sexual Contact is having sexual contact with another individual without affirmative consent.

Non-Consensual Sexual Contact includes intentional contact with the intimate parts of another, causing an individual to touch their own intimate body parts, or disrobing or exposure of another without permission. Intimate body parts may include the breasts, genitals, buttocks, groin, mouth or any other part of the body that is touched in a sexual manner.

## **(4) Sexual Exploitation**

Sexual Exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples of Sexual Exploitation include, but are not limited to:

- surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all Parties involved;
- non-consensual sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity of the person being exploited, or distribution of such without the knowledge and consent of all Parties involved;
- Prostitution (such as selling or exchanging sexual acts for money or something else of value or benefit).
- exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances;

- knowingly exposing another individual to a sexually transmitted disease or virus without their knowledge; and
- inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

## (5) Stalking

Stalking occurs when a person engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. To qualify as stalking, the conduct is not required to be sexual in nature.

- A **course of conduct** consists of two or more acts, including, but not limited to, acts in which a person directly, indirectly, or through third Parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.
- **Reasonable person** means a reasonable person under similar circumstances and with similar identities to the Reporting Party.
- **Substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

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

Examples of Stalking include, but are not limited to:

- Non-consensual communication including in-person communication, telephone calls, voice messages, text messages, email messages, social networking site postings, instant messages, postings of pictures or information on web sites, written letters, gifts, or any other communications that are undesired and/or place another person in fear;
- Following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by a person;
- Surveillance and other types of observation, whether by physical proximity or electronic means; and
- Gathering of information about a person from family, friends, co-workers, and/or classmates.

## **(6) Intimate Partner Violence**

Intimate Partner Violence includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, spousal, domestic, or other intimate relationship with the Responding party. The College will not tolerate Intimate Partner Violence of any form.

Intimate Partner Violence is often referred to as dating violence, domestic violence, or relationship violence. Intimate Partner Violence can encompass a broad range of behavior including, but not limited to, physical violence, sexual violence, psychological and/or emotional violence, and economic abuse. It may involve one act or an ongoing pattern of behavior. Intimate Partner Violence may take the form of threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner, or to the family members or friends of the sexual or romantic partner. Intimate Partner Violence affects individuals of all sexes, sexual orientations, gender identities, and gender expressions, races and social and economic backgrounds.

- **Dating Violence** is 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 Reporting Party 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.
- **Domestic Violence** is 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 Reporting Party by their current or former spouse or intimate partner or any other person from whom the Reporting Party is protected under federal or state law.

## **Retaliation**

Retaliation includes adverse action taken against a person for making a good faith report of Prohibited Conduct or participating in any proceeding under this Policy. Adverse action includes conduct that threatens, intimidates, harasses, coerces or in any other way seeks to discourage a reasonable person from engaging in activity protected under this Policy. Retaliation can be committed by or against any individual or group of individuals, not just a Responding Party or Reporting Party. Retaliation does not include good faith actions lawfully pursued in response to a report of Sexual Misconduct. Retaliation may be present even where there is a finding of "no responsibility" on the allegations of Sexual Misconduct.



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 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.

## **Privacy and Confidentiality**

All employees with supervisory and leadership responsibilities – including faculty, coaches, administrators, Resident Directors and Resident Advisors – are expected to immediately report actual or suspected discrimination, including Sexual Misconduct, to the Title IX Coordinator or Director of Campus Safety. These employees have been designated as Responsible Employees by the College and cannot maintain confidentiality of reports of Sexual Misconduct.

The College is committed to protecting the privacy of all individuals involved a report or in the investigation and resolution of reports under this Policy. The College also is committed to assisting students, employees, and third Parties in making informed choices. With respect to any report under this Policy, the College will make reasonable efforts to protect the privacy of participants, in accordance with Article 129-B of the New York State Education Law, FERPA, and other applicable federal laws, while balancing the need to gather information to take steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. All College employees who are involved in the College’s Title IX response receive specific instruction about respecting and safeguarding private information.

Privacy and confidentiality have distinct meanings under this Policy.

- **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 and for student parties subject to FERPA.
- **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.

## **Support and Reporting Options**

The College is committed to treating all members of the community with dignity, care and respect and fostering a culture of reporting incidents of Sexual Misconduct. A student, staff, or faculty

member who experiences or is affected by Sexual Misconduct, whether as a Reporting Party, a Responding Party, or a Third Party, will have equitable access to support and counseling services through the College. Interim remedies (see page 25) are also available to all parties. The College has a strong interest in supporting survivors of sexual misconduct and encourages all individuals or third-party witnesses to report any incident to the College.

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. Below is information related to making a report that may be helpful to consider:

- Making a report means telling someone in authority what happened -- in person, by telephone, in writing, or by email.
- Making a report does not automatically trigger the College's formal grievance procedures. In response to a report, the College will provide support that can assist individuals in deciding how to proceed. To the extent legally possible, the College will respect the wishes of the Reporting Party regarding how and if to move forward.
- Under certain circumstances, the College will have to move forward. These circumstances are limited to when the College has weighed the request for confidentiality or not to proceed under the College's formal grievance procedures against the following factors: the seriousness of the alleged misconduct, any potential threats to community safety, the respective ages and positions of the Reporting Party and Responding Party, whether there have been other complaints against the Responding Party, and the Responding Party's right to receive information under applicable law.
- The health and safety of every student at Union College is of utmost importance, therefore, the College provides amnesty for alcohol or other drug use by students in the course of an incident of sexual misconduct. 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 sexual misconduct 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 to College officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of sexual misconduct 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 sexual misconduct incident.
- 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 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 Reporting Party or third party witness is found to have fabricated allegations or given

false information with malicious intent or in bad faith, the Reporting Party 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.

All covered persons shall have the right to emergency access to the Title IX Coordinator or other trained official who shall be available upon the first instance of disclosure by a Reporting Party to provide information regarding options to proceed and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, as well as other pertinent information.

If the accused is an employee of the College, the Reporting Party shall have the right to report the incident to the College's Human Resources Department or may request that a confidential or private employee assist in reporting to the appropriate human resources authority.

Reporting Parties also have the right to receive assistance from appropriate institution representatives in initiating legal proceedings in family court or civil court.

### **Emergency Support and 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.

**Confidential Medical Resources.** A medical provider can provide emergency and/or follow-up medical services. The medical exam, referred to as a SAFE (sexual assault forensic exam) has two goals: (1) to diagnose and treat the full extent of any injury or physical effect (including prevention of sexually transmitted illnesses and pregnancy) and (2) to properly collect and preserve evidence. There is a limited window of time (typically 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, 518-388-6120, can provide medical care to students; however, Wicker is not equipped for SAFE examinations or able to provide services to staff or faculty. Members of the Union community are welcome to seek medical services wherever they are most comfortable. Below are two options for seeking a SAFE exam nearby to campus:

- **Ellis Hospital Emergency Department, 1101 Nott Street, Schenectady, 518-243-4121**  
For patient privacy, at Ellis Emergency Department, patients need only to ask for the "SAFE room" and they will be brought immediately to the patient room dedicated to caring for sexual assault survivors.

- **Ellis Emergent Care Center, 103 Sitterly Road, Clifton Park, 518-579-2800**

**Law Enforcement.** Individuals have the right to notify or decline to notify law enforcement. The College strongly encourages all individuals to seek assistance from 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 individuals 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.

- **Campus Safety.** All members of the Union College community have 24-hour emergency access to Campus Safety by calling 518-388-6911. Please note that a report to Campus Safety will initiate a Campus Safety Report and initial Title IX assessment.
- **Law enforcement.** All members of the Union community have emergency access to the Schenectady Police Department by calling 911. Additionally, the New York State Police have a dedicated Sexual Assault Victims Unit that can be reached by calling: 1-844-845-7269. Police have unique legal authority, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking emergency protective orders.

### **To Speak to Someone Confidentially**

All members of the College community can elect to report an incident of sexual misconduct to a confidential resource. When a confidential resource receives a report of sexual misconduct they do not have an obligation to report such conduct to the College.

For counseling or other confidential support, the following on campus resources are available for use by our students:

- **Wicker Wellness Center:** (518) 388-6120
- **Eppler-Wolff Counseling Center:** (518) 388-6161
- **Office of Religious and Spiritual Life,** (518) 388-6618

For off Campus confidential resources for students, faculty, and/or staff:

- **Sexual Assault and Crime Victims Services:** (518) 346-2266
- **Schenectady County YWCA Domestic Violence Hotline:** (518) 374-3386
- **Employee Assistance Program\*** (e4Health): 1 (800) 828-6025 *\*only for Staff and Faculty*

### **To Report Anonymously**

Any individual may make an anonymous report concerning an act of sexual misconduct. An individual may report the incident without disclosing his/her name, identifying the responding

party 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 on the Union College Title IX Website. The form will be sent to the Title IX Coordinator who 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.

### **To Privately Report Sexual Misconduct to the College**

The College strongly encourages individuals affected by Sexual Misconduct to report it to the College. The staff members listed below are trained to support individuals affected by Sexual 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.

- **VP Student Affairs/Dean of Students**, Fran'cee Brown-McClure, 306 Reamer Campus Center, 518-388-6116, [brownmcf@union.edu](mailto:brownmcf@union.edu)
- **Human Resources**, Amanda Brink-Forrest, 17 South Lane, 518-388-6304, [brinkfoa@union.edu](mailto:brinkfoa@union.edu)
- **Dean of Diversity and Inclusion**, Gretchel Hathaway, Feigenbaum Hall, 518-388-8327, [hathawag@union.edu](mailto:hathawag@union.edu)
- **Director of Athletics**, Jim McLaughlin, Alumni Gym, 518-388-6284, [mclaughj@union.edu](mailto:mclaughj@union.edu)

### **To Report to a Responsible Employee**

The College encourages all students, staff, and faculty to report misconduct to College staff members or a College employee whom the Reporting Party 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.

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 the sexual harassment or 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 Title IX Coordinator or the Director of Campus Safety. For more information regarding Responsible Employees and their responsibilities, please visit: [www.union.edu/titleix](http://www.union.edu/titleix).

### **Other Reporting Options**

In addition to reporting to law enforcement or the College, students, faculty, and staff should be aware of the following external governmental agencies that investigate and prosecute complaints of prohibited discrimination and harassment:

- **Title IX Compliance.** Inquiries or complaints concerning the College's compliance with Title IX may be referred to the U.S. Department of Education's Office for Civil Rights, 1 (800) 368-1019.
- **Employment Discrimination or Harassment.** Any employee may pursue any charge of discrimination or harassment with the New York Division of Human Rights, 518-474-2705 or with the US Equal Opportunity Commission, 1-800-669-4000.

### **Initial Title IX Assessment**

Unless a report is made directly to the Title IX Coordinator or Deputy Title IX Coordinator, reports received by the Title IX Coordinator from private reporting resources or responsible employees will result in a request by the Title IX Coordinator or Deputy Title IX Coordinator to meet with the Reporting Party. The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report in order to conduct an initial assessment; it is not intended to be a full forensic interview.

As part of the initial assessment of the report, the College will:

- Assess the nature and circumstances of the allegation.
- Address immediate physical safety and emotional well-being needs.
- Notify the Reporting Party of their right to contact law enforcement and seek medical treatment, including the importance of preservation of evidence.
- Enter the report into the College's daily crime log.
- Provide the Reporting Party 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.

- An explanation of the procedural options, including Informal Resolution and Formal Resolution and the process for filing a Formal Complaint or Grievance
- Assess for pattern evidence or other similar conduct by responding party.
- Discuss the Reporting Party's expressed preference for manner of resolution and any barriers to proceeding.
- Discuss the role of an Advisor and offer suggestions for obtaining one if desired.
- 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.

**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 identifying information about the Reporting Party. 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 Reporting Party to the general public without the express consent of the Reporting Party. The release of the responding party's name, if a student, to the general public is guided by Family Educational Rights and Privacy Act (FERPA) and the Clery Act.

All College proceedings are conducted in good faith compliance with the requirements of FERPA, the Clery Act, Title IX, Article 129-B of the New York State Education Law, and other federal laws. No information shall be released from such proceedings except as required or permitted by law and College policy.

**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. To the fullest extent permitted by law, the identity of the Reporting Party will not be disclosed without his/her express 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 Reporting Party 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 a Reporting Party 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 Reporting Party in making a criminal report and cooperate with law enforcement agencies if the Reporting Party 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 Reporting Party may seek recourse under this policy and/or pursue criminal action. Neither law enforcement's determination whether or not to prosecute a responding party 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 Reporting Party 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.

**Requests for Confidentiality/No Further Action.** When a Reporting Party requests that their name or other identifiable information not be shared with the Responding Party 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 Responding Party. In making this determination, the College may consider the following factors, including but not limited to:

- Whether the Responding Party has a history of violent behavior or is a repeat offender.
- Whether the incident represents an escalation in unlawful conduct on behalf of the Responding Party from previously noted behavior.
- The increased risk that the responding party will commit additional acts of violence.
- Whether the responding party used a weapon or force.
- Whether the Reporting Party 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 Reporting Party. Where the College is unable to take action consistent with the request of the Reporting Party, a member of the Title IX Team will inform the Reporting Party about the chosen course of action, which may include the College seeking disciplinary action against a Responding Party. Alternatively, the course of action may also include steps to limit the effects of the alleged misconduct



and prevent its recurrence that do not involve formal disciplinary action against a Responding Party or revealing the identity of the Reporting Party.

**Requests to File a Formal Report/Complaint.** When a Reporting Party wishes to file a formal complaint, the Initial Title IX Assessment will include review of the information gathered from the Reporting Party and determination by the Title IX Team whether the information collected gives reasonable cause to believe a violation of this Policy may have occurred and warrants further investigation under the College's grievance procedures.

At the conclusion of the Title IX assessment, and in consultation with the Reporting Party, the Title IX Coordinator will determine the appropriate manner of resolution and, if appropriate, refer the report for further Investigation, Informal Resolution or Formal Resolution.

The determination/recommendation as to how to proceed will be communicated to the Reporting Party in writing. Depending on the circumstances and requested resolution, the responding party may or may not be notified of the report or resolution. A Responding Party will be notified when the College seeks action that would impact a Responding Party, 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 responding party in Informal Resolution.

## **Interim Measures, Remedies, and Accommodations**

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 Reporting Party or the College.

A Reporting Party or Responding Party may request a No Contact Order/Agreement (see information about such requests, below) 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 to the Title IX Coordinator or Campus Safety. The College will take immediate and responsive action to enforce a previously implemented measure.

The Responding Party and the Reporting Party, upon written request to the Title IX Coordinator, shall have the right to:

- Request a review of the need for, and terms of, interim measures including No Contact Orders/Agreements which were imposed in accordance with the Sexual Misconduct Policy; and/or request modifications to the terms of the interim measures.
- The Responding Party and the Reporting Party shall be allowed to submit evidence in support of their request. The request must be initiated within five (5) days of the imposition of the interim measures.
- The Title IX Coordinator shall review the request and supporting evidence, if submitted, promptly. A decision will be issued within three (3) days of receipt of the written request. The decision is final.

**Interim measures.** Any measure will be implemented at the discretion of the College. Potential remedies, which may be applied to the Reporting Party and/or the Responding Party, include:

- Access to counseling services and assistance in setting up initial appointment, both on and off campus.
- Imposition of campus No Contact Order or No Contact Agreement.
- 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 and/or Dean of Studies).
- Change in work schedule or job assignment (with the agreement of the Chief of Human Resources and/or responsible Vice President).
- 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 for students.
- 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 student 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 Reporting Party of its existence and terms, or request local law enforcement to make an arrest.

**No Contact Order.** In cases involving allegations of sexual misconduct, the appropriate Dean (or designee), Administrator, or the Title IX Coordinator, regardless of whether the Reporting Party wishes to pursue a formal or informal resolution or no resolution, shall afford each party (the Reporting Party and Responding Party) the opportunity to request a No Contact Order or No Contact Agreement. Each request shall be reviewed promptly. Additionally, a No Contact Order may be issued upon notification of a report of Sexual Misconduct, if appropriate to do so in the judgment of the appropriate Dean (or designee), administrator, or the Title IX Coordinator, in accordance with both parties' rights, set forth on page 4.

A No Contact Order typically will include a directive that the Reporting Party and Responding Party 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 Reporting Party and Responding Party observe each other in common College facilities (such as Reamer Dining, parking areas, Schaffer Library, and athletic facilities), it shall be the responsibility of the Responding Party to leave the area immediately and without directly contacting the Reporting Party. The No Contact Order may establish a schedule for the Reporting Party and Responding Party to access applicable buildings and properties when the Reporting Party is not accessing the same. The Dean (or designee), administrator, or Title IX Coordinator shall make the No Contact Order available to the Reporting Party and Responding Party as soon as it is issued.

In the event that the Title IX Coordinator or Campus Safety 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 appropriate administrator. If the Administrator, based upon the information available, decides by preponderance of evidence that the No Contact Order has been violated, the Administrator may elect to impose additional restrictions, discipline, or suspend the party temporarily pending the resolution of the underlying complaint. The Administrator may also take further protective action that he/she deems appropriate concerning the interaction of the parties pending the outcome of disciplinary action or adjudication process, if any, including without limitation asking the appropriate Dean (or designee) or administrator to alter the one's schedule and/or housing, if applicable.

**Interim Suspension – Students.** An interim suspension of the Responding Party 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 Responding Party poses a substantial and continuing threat to the Reporting Party or to the College community. The Reporting Party 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. Additionally, in accordance with Article 129-B, Section 6444, Subsection 4(f), when an interim suspension is imposed, the responding party is entitled to a prompt review of the need for, and terms of, an interim suspension, including a potential modification and shall be allowed to submit evidence to support his/her request.

## **Prohibited Relationships by Persons in Authority**

Sexual or other intimate relationships in which one Party maintains — and fails to promptly report and discontinue — a direct supervisory or evaluative role over the other Party are prohibited. In general, this includes all sexual or other intimate relationships between students and their employers, supervisors, professors, coaches, advisors, or other College employees. Similarly, College employees (faculty and staff) who supervise or otherwise hold positions of authority over others are prohibited from having a sexual or other intimate relationship with an individual under the employee's direct supervision.

The College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the College. However, faculty, administrators, and others who educate, supervise, evaluate, employ, counsel, coach, or otherwise guide students should understand the fundamentally asymmetrical nature of the relationship they have with students, employees (as applicable), or subordinates. Intimate or sexual relationships where there is a differential in power or authority produce risks for every member of our community and undermine the professionalism of faculty and supervisors. In either context, the unequal position of the Parties presents an inherent element of risk and may raise sexual harassment concerns if one person in the relationship has the actual or apparent authority to supervise, evaluate, counsel, coach, or otherwise make decisions or recommendations as to the other person in connection with their employment or education at the College.

Sexual relations between persons occupying asymmetrical positions of power, even when both consent, raise suspicions that the person in authority has violated standards of professional conduct and potentially subject the person in authority to charges of sexual harassment based on changes in the perspective of the individuals as to the consensual nature of the relationship. Similarly, these relationships may impact third Parties based on perceived or actual favoritism or special treatment based on the relationship.

The College has adopted a policy that balances, on the one hand, its wish not to interfere with the private choices of its community members and, on the other hand, concerns regarding relationships in which one Party maintains a direct supervisory or evaluative role over the other Party. Specifically, if an individual contemplates beginning, or is involved in, a sexual or other intimate relationship with another, over whom the individual holds direct supervisory or evaluative responsibilities, the individual must promptly: (1) discontinue any supervising role or relationship over the other person; and (2) report the circumstances to their own supervisor or the VP of Academic Affairs (Faculty) and Human Resources. Failure to fully or timely comply with these requirements is a violation of this Policy, and the person in authority could be subject to disciplinary action, up to and including dismissal from employment by the College.

Any individual may file a complaint alleging harassment or discrimination, including third Parties outside the relationship directly affected by the perceived harassment or discrimination.

## **Training and Prevention Programming**

The College is committed to providing a safe and nondiscriminatory environment for all members of the College community. The College is equally committed to the prevention of prohibited conduct through regular and ongoing education and awareness programs. Incoming students and new employees receive primary prevention and awareness programming as part of their orientation, and returning students and current employees receive ongoing training and related programs. The College provides training to students, staff, and faculty members to ensure they understand the policy and the topics and issues related to maintaining an education and employment environment free from harassment and discrimination.

The College offers online and in-person training to students, staff, and faculty to ensure they understand the policy, including how to report incidents of prohibited conduct, and how to access confidential sources following an incident of prohibited conduct. Topics include Title IX and what constitutes prohibited conduct under the policy; the definition of affirmative consent, including examples; how the College analyzes whether conduct was unwelcome and the existence of a hostile environment for purposes of sexual or gender-based harassment; options for reporting prohibited conduct; the availability of confidential sources, on and off grounds; the College's resolution options for pursuing complaints under the policy; the potential sanctions for violating the policy; effects of trauma, including neurobiological changes; the role alcohol and drugs often play in incidents of prohibited conduct, including the deliberate use of alcohol and/or other drugs to perpetrate sexual assault; strategies and skills for bystanders to intervene to prevent sexual, gender-based, and other forms of interpersonal violence; how to report prohibited conduct to Campus Safety or local law enforcement and the ability to pursue, simultaneously, a disciplinary and criminal complaint; and the protection against retaliation afforded by the policy.

In accordance with NYS Labor Law, all employees of the College complete onboarding and continuing education related to sexual misconduct and harassment. For questions about employee training, please contact Human Resources.

For information about the training and programming available on campus, please contact the Title IX Coordinator.

**Take Back the Night and Other Public Awareness Events.** Consistent with guidance from the Office for Civil Rights of the Department of Education, public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, or other forums in which community members disclose incidents of Prohibited Conduct do not initiate the College's Title IX obligations, including its obligation to investigate reports of sexual harassment or sexual violence. Such events may, however, inform the need for campus-wide educational and

prevention efforts, and the College may implement broad community initiatives in response to such events where appropriate.

**Any questions about this Policy can be directed to:**

Melissa Kelley, Title IX Coordinator  
518-388-6865, [kelleym2@union.edu](mailto:kelleym2@union.edu)

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