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# Hamilton

*Department of Campus Safety*

**2023**  
***Annual Safety, Security and  
Fire Safety Report***





# Hamilton

## *Department of Campus Safety*

Francis S. Coots  
Director

Wayne A. Gentile, Jr.  
Assistant Director

Anthony M. Scalise  
Investigator

Campus Safety Building  
Hamilton College  
198 College Hill Road  
Clinton, New York 13323

EMERGENCY: (315) 859-4000  
Non-Emergency: (315) 859-4141  
<http://www.hamilton.edu/college/safety>



## **Message from the Director of Campus Safety**

Hamilton College attracts the nation's most talented students and scholars. College Hill is truly a special place, yet in today's society, the Hamilton College Campus Safety Department faces the same challenges as other schools across the country. Campus Safety is committed to providing a safe and secure learning and working environment for every student, faculty member, staff and visitor to Hamilton. Safety and well-being is our highest priority and my primary concern.

Campus Safety's dedicated and experienced staff is ready to assist the Hamilton community at all times. The security of our campus is a joint effort that involves us all. Your thoughts and ideas are important to the continuous advancement of our safe learning, working and living environment. By cooperating with each other, exercising good judgment and using basic crime prevention safety measures we can all be assured of the safest possible experience.

This handbook is designed to inform the Hamilton community of the programs and services Campus Safety will provide. In 1990, Congress enacted the Crime Awareness and Campus Security Act of 1990 (Title II of public Law 101-542), which amended the Higher Education Act of 1965 (HEA). This act required all postsecondary institutions participating in HEA's Title IV student financial assistance programs to disclose campus crime statistics and security information. It is generally referred to as the Clery Act. We also hope it will influence and encourage safe behavior and inspire and invite others to partner with us in our mission to reduce criminal activity on and near our campus. The procedures for preparing the annual disclosure of crime statistics including reporting statistics to the campus community are obtained from the following sources: Campus Safety, law enforcement, and non-police officials. For statistical purposes, crime statistics reporting to any of these sources are recorded in the calendar year the crime was reported. In addition, a written request for statistical information is made on an annual basis to all campus security authorities.

All statistics gathered are compiled and reported to the campus community via this report, published by Campus Safety. Campus Safety submits the annual crime statistics published in this report to the Department of Education. The statistical information obtained by the Department of Education is available to the public through the DoE website.

Cooperation is critical to the success of our mission. I ask all members of the Hamilton community to make responsible choices, discourage careless behavior, and to promptly report any suspicious activity. It is my pleasure to work with everyone collaboratively as we strive to achieve our goals.

*Francis S. Coots  
Director of Campus Safety*

## **Campus Safety: Educators and Protectors**

The Department of Campus Safety is dedicated to providing the highest quality of public safety services to the college community in support the College's academic mission.

Every encounter between a Hamilton community member and a Campus Safety officer is an educational opportunity. We strive to make all encounters positive, but confrontations are inevitable. By explaining the nature of campus policies and referring infractions to College administrators for follow-up discussions, Campus Safety officers attempt to make confrontations beneficial.

Campus Safety officers derive their authority from Article 7-A of the New York State General Business Law. Our personnel are officials of the College with specific responsibilities for safety, security and traffic control enforcement. Officers completing The Enhanced Security Officer Training Course also derive limited law enforcement authority from Article 129-A, sub-section 6435 of the New York State Education Law. Enhanced officers are authorized by state law to make arrests. Campus Safety officer's jurisdiction is confined to the geographical boundaries of all properties owned by Hamilton College. The officers of the Department work closely with the Town of Kirkland Police Department in criminal cases and situations where arrests may be warranted.

The Department takes pride in its strong working relationship with the Town of Kirkland Police Department, as well as state and federal law enforcement agencies. We communicate directly with each other and cooperate in many investigations.

The Department of Campus Safety is located in the ranch-style building south of Dunham Residence Hall. The office is open 24 hours a day. Campus Safety personnel are always on duty, 24 hours per day.

This handbook is produced in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. It outlines the Department's services and resources that are available to everyone on College Hill. Hamilton College's crime stats are made available electronically on the Campus Safety webpage and in written form upon request.

### Contacting Campus Safety

**EMERGENCY: 315-859-4000 (x4000)**  
**Non-Emergency: 315-859-4141 (x4141), [safety@hamilton.edu](mailto:safety@hamilton.edu)**  
**Anonymous reporting by voicemail, text or e-mail message - (315) 859-2222**  
**Directory Assistance: 315-859-4444 (x4444)**

### **Campus Safety Leadership**

#### ***Francis S. Coots, Director of Campus Safety***

Francis Coots became the Director of Campus Safety on March 1, 2017. Coots concluded a thirty-three year career with the New York State Police retiring as the Troop Commander of Troop D, which is located in central New York. Coots' career had him assigned too many different areas of both central and western New York consisting of multiple ranks within the organization. He is a graduate of the F.B.I National Academy and served as President of the National Academy Associates - New York/Eastern Canada Chapter. Coots has attained the highest level of the Incident Command System and has participated in multiple training events at area colleges including several at Hamilton College. Coots has a Bachelor's of Science Degree from Elmira College and is a graduate of the New York State Department of Criminal Justice Services Law Enforcement Executive Institute. He is married and has three children, four step-children and eight grandchildren. He resides in Syracuse, NY.

#### ***Wayne A. Gentile, Jr., Associate Director***

Following his service in the United States Marine Corps, Supervisor Gentile returned to Central New York and began serving Hamilton as a patrol officer in 1999. Wayne was appointed as an administrator in 2001 with the title of Evening Supervisor and was then appointed to the title of Assistant Director in 2002. He served in that capacity until assuming his current position in August of 2007. He is a graduate of the New York State Phase I Basic Course for Police Officers held at Cazenovia College. Supervisor Gentile is responsible for evening shift operations in the Campus Safety Department as well as Clery Act compliance and serves as our liaison to the Office of Residential Life. He earned an Associate Degree in Criminal Justice from Mohawk Valley Community College and a Bachelor of Science in Public Affairs from Empire State University. Wayne has also completed specialized training in crime scene investigation, women's self-defense instruction, and is one of our training instructors. Wayne is a member of the Northeast Colleges and Universities Security Association.

#### ***Anthony Scalise, Investigator***

Investigator Anthony Scalise was appointed to the position of Campus Safety Investigator in August 2015. Anthony joined Hamilton College as a Safety Officer in 2011 after completing 20 years of service with the Utica Fire Department retiring at the rank of Lieutenant. Anthony is a graduate of the Mohawk Valley Community College earning an associate degree in Criminal Justice. In addition, Anthony is a level 1 Fire Investigator, certified instructor and holds numerous certifications from NYS OFPC and FEMA. Anthony will be responsible for investigating all serious incidents occurring on campus.

### **Campus Security Authorities**

Campus officials that have a significant responsibility for student and campus activities are considered to be *Campus Security Authorities* as defined by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998. The following list denotes the *Campus Security Authorities* for Hamilton College:

- Dean of Students Office
- Residential Life Office
- Resident Advisors
- Student Activities Office
- Advisors to Student Organizations
- Athletic Directors and Team Coaches
- Department of Campus Safety
- Contract Security of any Campus Office

### **Clery Policy Statement Addressing Counselors**

Campus "Pastoral Counselors" and Campus "Professional Counselors", when acting as such, are not considered to be a campus security authority and are not required to report crimes for inclusion into the annual disclosure of crime statistics. As a matter of policy they are encouraged, if and when they deem it appropriate, to inform persons being counseled of the procedures to report crimes on a voluntary (not confidential) basis for inclusion into the annual crime statistics. Campus Safety does not have a voluntary confidential reporting procedure and therefore, professional or pastoral counselors cannot notify their clients of that type of reporting option at Hamilton College. Counselors are defined as:

- Pastoral Counselor is an employee of an institution, who is associated with a religious order or denomination, recognized by that religious order or denomination as someone who provides confidential counseling and who is functioning within the scope of that recognition as pastoral counselor.

- Professional Counselor is an employee of an institution whose official responsibilities including providing psychological counseling to members of the institution's community and who is functioning within the scope of his or her license or certification.

## **Security Awareness Programs Education and Outreach**

The Department of Campus Safety and the Dean of Students Office promotes security awareness and personal safety and responsibility and proactively deters crime on campus through the following outreach programs.

### **Primary Prevention Programs**

All incoming students are required to attend a three-part educational program intended to prevent and begin to address dating violence, domestic violence, sexual assault, and stalking. All incoming students were required to take a *Think About It* online course, attend a Title IX Fundamentals Training by the Title IX Coordinators, and attend a *Speak About It* performance about healthy relationships and consent. All new faculty and staff are required to attend a Title IX Fundamentals for Employees training by the Title IX Coordinators and an online Harassment awareness course by United Educators.

### **Awareness Programs**

In the past year, the Dean of Students Office hosted a range of community-wide and audience-specific programming that increased audience knowledge of information and resources to prevent violence, promote safety, and reduce perpetration of dating violence, domestic violence, sexual assault and stalking. These initiatives include seventeen Title IX Fundamentals training sessions for student leaders and student athletes, three contracted speakers/programs from outside agencies, and four discussion-based Title IX Policy and Process training sessions.



### **Rape Aggression Defense**

This nationally-recognized basic self-defense class for women is offered through the Department of Campus Safety in collaboration with the Office of the President and the Harassment Grievance Board. Participants learn physical techniques for defending themselves against aggressors and participate in the culminating simulation experience where they can apply and hone their skills. This twelve-hour course is typically offered once or twice per year. While enrollment preference is given to students, all Hamilton women are able to participate in this program free of charge.

### **Basic Self-Defense**

This class is offered to both men and women, and participants learn the same physical techniques as RAD for defending themselves against aggressors and participate in the culminating simulation experience where they can apply and hone their skills. This twelve-hour course is typically offered twice per year.

### **Fatal Vision**

Using unique and specialized eyewear, Campus Safety instructors are able to simulate the disabling effects of alcohol consumption for student participants in this program. The students are asked to complete simple tasks while wearing the specialized eyewear that simulate varying levels of intoxication. This very popular program lasts about one hour and is offered in Hamilton's residence halls in cooperation with the Department of Residential Life and their staff of Resident Advisors (RAs). This program is offered at the beginning of the fall semester for presentation to all students. In addition, Fatal Vision can be presented at any time, throughout the class year, for any community member interested in the program.

During the 2017-2018 academic year Hamilton College offered four security awareness programs to the campus community. The common theme throughout these programs is to encourage students and employees to be responsible for their own safety and security as well as the safety and security of others.

### **Crime Prevention and Fire Safety**

Campus Safety officers are available to assist RAs with residence hall programming about crime prevention, personal safety issues and fire hazards. These programs are also offered in non-residential settings and are available to any member of the community. These programs are typically offered at the beginning of the fall semester but are available for presentation to any community member throughout the school year.

In addition to offering programs, the Department of Campus Safety takes an active role in assisting with the fire safety and inspection programs mandated by the State of New York. These mandates include performing fire drills, performing fire inspections of all college owned property, and actively monitoring conditions to prevent any potentially dangerous conditions that could lead to a fire.

The State of New York requires that four fire drills be performed, in every college owned building that is used as a residence hall, during the course of the school year. This is divided so that two drills are performed in the fall semester and two drills are performed in the spring semester. The drills are designed to give the building's occupants a sense of familiarity with procedures in the event of a real fire or emergency.

Academic and Administrative buildings have three fire drills, per year, performed to assist the occupants with gaining familiarity with emergency procedures. These fire drills are spread out over the course of the academic year.

### **Reporting Emergencies, Crimes and Policy Violations (315-859-4141 non-emergency, 315-859-4000 emergency)**

Despite Campus Safety's best efforts, crimes and policy violations do occur on College Hill. Community members should promptly report all crimes, emergencies, policy violations, and any suspicious behavior that they witness. Campus Safety will investigate all reports and activate the appropriate College judicial procedures. A dispatcher is always on duty to answer calls from concerned members of the Hamilton community. Campus Safety is ready to respond to all situations on campus and will coordinate with local agencies to ensure that the proper resources are available. Campus Safety incident reports are forwarded to the Dean of Students Office for review and referral to the Judicial Affairs for potential disciplinary action. A Campus Safety Investigator will investigate a report when it is deemed appropriate. Additional information obtained through the investigation is also forwarded to Judicial Affairs. If assistance is required from the local police department or the local fire department Campus Safety will contact the appropriate authority. In the event a sexual assault is reported staff on the scene, including Campus Safety, will offer the victim a wide variety of services. All emergencies should be reported to the Department of Campus Safety; persons who dial 911 on a campus phone will be connected to Campus Safety. All members of the campus community are strongly encouraged to promptly and accurately report any suspicious behavior or activity, crime, acts of violence against themselves or another or any circumstances that require attention when the victim of a crime elects to file a police report. These reports should be made to Campus Safety so they can be assessed for issuance of a timely warning notice and for inclusion in the annual disclosure of crime statistics. A timely warning notice will be issued if there is a serious or continuing threat to the campus. Members of the Hamilton community should report crimes to any member of the Campus Safety Department, any Dean within the Dean of Students Office, or any Campus Security Authority (CSA). Campus Safety **cannot guarantee** the confidentiality of any reporting party and therefore does not have any procedures for voluntary, confidential reporting of crimes for inclusion in the annual disclosure of crime statistics.

Anonymous reporting by voicemail, text or e-mail message - (315) 859-2222

Anonymously report suspicious activity by texting, emailing, or leaving a voicemail from a cell phone or computer regarding the activity they have observed. The information sent by the user is delivered to Campus Safety computers and cell phones and can be immediately acted upon by members of Campus Safety. Information received remains anonymous for all users

It is important to remember that if a situation needs immediate attention, such as a fire or medical emergency, community members should dial 4000 and report the situation in person. Emergencies often require additional information that cannot be quickly or easily obtained from the AppArmor.

### **Blue Light Emergency Phones**

Several call box telephones are installed across campus and are indicated with signage and/or blue lights. These phones are directly connected to the Campus Safety dispatcher and are intended for emergency use only. Community members are strongly encouraged to utilize these emergency phones anytime they feel uncomfortable in a situation or require immediate assistance from the department.

There are ten blue light emergency phones located throughout the campus. They are located in the following areas:

North Lot	Fieldhouse Lot
Woolcott House (Front)	New Lot
Bristol Campus Center (Rear)	The Little Pub
Martin's Way Bridge (South Entrance)	Root Extension Lot
Major/McIntosh/Minor	

### **Available Resources**

Many Hamilton offices and local agencies are available to assist members of the community in emergency and crisis situations.

### **HCEMS (dispatched through Campus Safety 315-859-4000)**

A squad of certified student Emergency Medical Technicians responds to all on-campus medical emergencies. This service is overseen by the Department of Student Health Services and maintains a strong working relationship with area EMS agencies such as Clinton Fire Rescue and Central Oneida County Volunteer Ambulance Corps.

### **Counseling Center**

- [Peer Counselors](#) are available in-person or by phone Mondays & Tuesdays from 5-8 pm, Wednesdays & Thursdays from 4-10 pm, and Saturdays from 3-6 pm. Call **315-859-4508** or [schedule online](#).
- Counselors are available by call 315-859-4340 and press option 2 to speak with a counselor 24/7/365 (you don't need to wait for the message to end).
- You can be connected to the [National Suicide Prevention Lifeline](#) by calling **1-800-372-TALK** or the [Crisis Text Line](#) by texting "START" to **741-741**.

## Kirkland Police Department (315-853-2924 non-emergency)

Informational questions about local laws or reports of civil crimes can be directed to the Town of Kirkland Police Department by telephone. KPD will not respond to a campus call without informing the Department of Campus Safety. Campus Safety officers may request additional support from KPD. As the local police authority, KPD is the contact agency for questions relating to our local sex offender registry. Community members may also access the New York State Sexual Offender Registry at the following web address:  
[http://criminaljustice.state.ny.us/SomsSUBDirectory/search\\_index.jsp](http://criminaljustice.state.ny.us/SomsSUBDirectory/search_index.jsp)

The Hamilton College Department of Campus Safety (HCS) maintains a close working relationship with the Kirkland Police Department, the New York State Police, and the Oneida County Sheriff's Office. Meetings are held between the leaders of these agencies on both a formal and informal basis. The Officers of HCS and KPD communicate regularly on the scene of incidents that occur in and around the campus area. Hamilton College Campus Safety Investigator works closely with these agencies when incidents arise that require joint investigative efforts, resources, crime related reports and exchanges of information. Hamilton College has signed Memorandums of Understanding (MOU's) with the New York State Police and the Oneida County Sheriff's Office regarding the investigation of all missing students and violent felonies.

<b>EMERGENCY COMMUNICATIONS On-Campus Emergency Contact Information</b>	
<b>Campus Safety (all emergency types)</b>	<b>x4000</b>
<b>Campus Safety (non-emergencies)</b>	<b>x4141</b>
<b>General Information</b>	<b>x4444</b>
<b>Hamilton College Emergency Medical Services (HCEMS)</b>	<b>x4000</b>
<b>Student Health Center</b>	<b>x4111</b>
<b>Maintenance Emergencies</b>	<b>x4500</b>
<b>*Note—dialing 911 from on-campus phones directs you to the x4000 ext.</b>	

## Daily Crime Log

Campus Safety maintains a daily crime log, which is available to the public. The crime log is maintained at the Campus Safety Administrative building and is available during normal business hours.

## Planning & Preparedness

Hamilton College routinely operates in a manner which avoids emergencies. However, the College is not immune to critical incidents, and strives to plan and prepare for them through written plans and protocols, training, effective communication strategies, and regular meetings of the [Hamilton Emergency Response Team \(HERT\)](#). A broader group, the Hamilton Incident Management Team (HIMT), is composed of additional senior staff and other essential personnel with overall administrative and managerial responsibility for the College during emergency incidents.

## Emergency Notification Systems and Procedures

In the event of a serious incident which poses an immediate threat to members of the Hamilton College community, the college has various systems in place for communicating information quickly to those individuals. Messages are sent out in a timely and understandable fashion utilizing a Reverse 911 system (Everbridge Mass Notification), Desktop computer notifications (Alertus Technologies), Wall-mounted alert beacons (Alertus Technologies), Classroom speakers (Singlewire InformaCast), and Outdoor sirens with public announcement capabilities (Whelen Engineering). The sirens issue a warning to provide notice to the community of a pending emergency. Upon confirmation by the Department of Campus Safety or a member of the HERT, of a significant emergency or dangerous situation involving an immediate threat to the health or safety of the students or employees occurring on campus an immediate notification will be sent using some or all of these methods of communication. These methods of communications may include activating Everbridge Mass Notification, an emergency notification system utilizing email, SMS text messaging and telephone voice messaging. Face to face communications may also be used if situationally appropriate. Phone numbers and email addresses of parents or other persons identified by students or employees in official college registrar or employee records as emergency contact persons will be included in the Everbridge and they may receive emergency messages as well. Members of the larger community, such as campus neighbors, may tune into local media or check the Hamilton College web-site for updates and information about emergencies on campus.

Serious threats of this nature may involve weather, health, or personal safety situations. Based on the nature of the emergency the responsibility for assessing the severity of the threat begins with the HERT. Upon a determination by the Hamilton Emergency Response Team, that a significant threat exists, a member(s) of HERT will promptly make a decision regarding emergency notification and determine the appropriate segment(s) to receive the message if the emergency is isolated to a particular section of campus. Staff from the Office of Communications and Development will generally have the responsibility for preparing and disseminating emergency messages and updates. In the event of confirmation of a threat involving imminent risk to personal safety any member of the HERT may develop a message and activate Blackboard Connect immediately, prior to notifying the entire Hamilton Emergency Response Team.

Many factors are considered when assessing a situation to determine whether to activate one or more of the emergency communications systems and if so, the content of the message and whether to send the emergency message to all or some of the campus community. Among the factors to be considered is the nature and anticipated duration of the emergency situation and whether the emergency applies to a particular building or segment of the population or to the entire campus. The Hamilton Emergency Response Team will make a decision without delay of the appropriate segment of the community to send the message, taking into account the safety of the community, determine the content of the notification and initiate the

notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency. The HERT will provide regular updates to the Hamilton community as they become available through the Blackboard Connect system. The Hamilton Emergency Response Team plans, publicizes and conducts a test of the emergency response and notification system at least semi-annually, which may be announced or unannounced, and maintains a record documenting each test, including a description of the exercise, the date, time and whether it was announced or unannounced.

## **Timely Warnings**

Hamilton College sends out timely warnings and campus alerts to the college community in the event any situation arises that is considered to be an ongoing threat to students, faculty, staff, and visitors. The situation may involve safety, security, or health. The decision to issue a timely warning is made on a case by case basis in light of all of the facts surrounding an incident, including factors such as the nature of the incident, the continuing danger to the campus community, and where it occurred (within the geographic reporting area required by the Clery Act or within the local community).

The college will immediately notify the campus community upon confirmation of a significant emergency or dangerous situation involving an immediate or ongoing threat. The campus alert will result in a notification that is disseminated with the goal of notifying as many people as possible, as rapidly as possible. Warnings may be dispersed through texts, and/or email.

The decision to issue a Timely Warning is made by Campus Safety often in consultation with members of the Dean of Student's Office and Communications. The Director of Community Standards is involved in the decision to issue a timely warnings involving allegations of sexual misconduct or violations of the student code of conduct. In an extreme emergency, the notification process will be implemented at the sole direction of the Director of Campus Safety or deputy.

Clery Act regulations do not specify what information should be included in a timely warning. However, the warning should include all information that would promote safety, because the intent of the warning is to enable members of the campus community to protect themselves.

Generally, the warning will specify the type of reported crime, the time and location at which the reported crime occurred, and specific advice to the campus community regarding steps to take to avoid becoming a victim. The timely warning will not contain personally identifiable information about any victim.

**An institution may, in appropriate circumstances, include personally identifiable information in a timely warning. Although personally identifiable information is generally protected from disclosure under FERPA, such information may be released in an emergency situation. The Department's FERPA regulations, at 34 CFR 99.36, describe the rule relating to the disclosure of information in health and safety emergencies.**

## **Evacuation Procedures**

### **Initial Gathering Points**

- All routinely occupied College facilities have an initial gathering point, which is a location selected by designated Building Coordinators and/or RA's where occupants should gather immediately following an evacuation signal (fire alarm) to await further instructions. Please contact your designated Building Coordinator or RA if you have not been advised of your building's initial gathering point.

### **Assembly Points**

- All routinely occupied College facilities also have primary and alternate assembly points, which are secure locations of assembly and head-counting in the event of actual emergencies that necessitate building evacuations. Should such an incident occur, individuals should proceed from their initial gathering point to their primary assembly point (or alternate assembly point if the primary point is also affected by the incident), until either the emergency is terminated or further direction is provided. See the last section of this document for your building's primary and alternate assembly points.

## **Lockdown/Shelter-In-Place Procedures**

In some emergency situations, evacuating the building/facility is not desired, and lockdown/shelter-in-place procedures are the best courses of action. A lockdown would typically be called for when some criminal element is threatening the campus, such as an active shooter, hostile intruder, or fugitive from justice. Shelter-in-place procedures would typically be called when some environmental element is threatening the campus, such as an airborne chemical plume or weather related event (like a tornado or ice storm). Despite these technical differences, the actions that personnel should take essentially remain the same. Once a lockdown or shelter-in-place command has been ordered, take the following actions:

- Stay inside the building you are in, even if you do not normally work or reside in that building.
- If you are in an outdoor location, proceed to the nearest building or other source of shelter.
- Close and lock exterior and interior doors to the greatest extent possible to maximize security. Also, close windows, blinds and drapes, and stay away from any objects that could fall or otherwise become projectiles.
- Terminate any on-going teaching activities (instruction, lab experiments, studio work, etc.), and turn off all local ventilation, fans, fume hoods, window air conditioners, etc.
- Be prepared to go to more secure locations, as directed by College personnel, and do not leave the building or secured area until and unless told to do so.



## **Community Services**

### **Security of and Access to Campus Facilities**

Access to campus administrative and academic buildings and grounds is available during normal business hours to students, faculty members, staff members, and guests. With the exception of the residence halls, which are locked at all times, most campus facilities are normally open when classes are in session, or by special request coordinated with the Department of Campus Safety. When class is not in session and when the campus is officially closed, all buildings are secured and only faculty, staff and students with proper authorization are allowed access. The general public may attend cultural and recreational events on campus, however access is limited to the facility in which the event is being held. Officers' conduct routine security patrols of academic and administrative buildings to monitor activity.

Authorization for use of the campus grounds for assembly purposes must be obtained in advance from the Office of Student Activities or the Office of Summer Programs/Conference Services.

Residence Halls are locked at all times and access is restricted to building residents and their authorized guests. Resident Advisors routinely monitor safety and security concerns inside residence halls and, if necessary, report security concerns to Campus Safety. Campus Safety Officers make regular patrols through and around residence halls and have regular contact with Resident Advisors.

### **Escorts**

Campus Safety will escort any student from one campus location to another if they contact the office and report feeling unsafe between the hours of dusk and dawn. These escorts may be given in a Campus Safety vehicle or on foot, by Campus Safety officers or student employees. The Department will provide vehicular escorts between campus locations to those physically disabled students whose disabilities have been certified by the Department of Student Health Services. Medical escorts are given at all times of day.

### **Lockouts**

Students are strongly encouraged to lock their rooms at all times. If a student is accidentally locked out of their room, Campus Safety personnel will grant them admittance after checking their official room assignment and photo identification. After the first lockout call, a student will be charged \$10 per lockout. Students who lose their room keys should report the loss to the Department of Residential Life (x4023) so that their locks can be changed.

### **Deliveries**

Off-campus delivery services are not permitted to enter any College buildings. All deliveries must be received at the Campus Safety office.

### ***Campus Safety's Routine Responsibilities***

#### **Monitoring and Recording Off-Campus Crimes**

Local law enforcement agencies regularly notify Campus Safety of non-campus crimes that involve members of the Hamilton community, particularly those involving students engaged at non-campus locations to include non-campus housing. The Department's role in non-campus investigations is limited, but information is often shared and cooperative work regularly takes place. The Hamilton College Code of Conduct prohibits violations of local, state, and federal laws; the College may take disciplinary action, independent of civil authorities, for activities that take place non-campus when the interests of the College are adversely affected. In instances where crime reporting is necessary in Hamilton overseas locations those statistics will also be reported in compliance with the Jeanne Clery Act.

#### **Building Check and Maintenance of Campus Facilities**

Hamilton College is maintained in a manner that minimizes hazardous conditions. Prior to securing a building at night, Campus Safety officers will visually inspect its exterior, making note of any damage. Officers will also conduct an interior walk-through of all buildings in their entirety, ensuring that doors are secured, that fire safety equipment is present and in working order, and that there are no apparent safety, fire, or health hazards. This walk through includes mechanical rooms and a basic check of the building's heating and electrical systems.

All hazards and physical problems are referred to the Department of Physical Plant for action during the next business day. Physical Plant personnel can be called in after hours to address serious situations.

#### **Parking and Traffic Enforcement**

The Department of Campus Safety is responsible for regulating all vehicular traffic and parking on campus. Detailed information about the Department's current policies is available from the Campus Safety office or electronically on their website. All vehicles, including those belonging to temporary visitors, must be registered with the Department of Campus Safety.

## Closed Circuit Video Monitoring System

Hamilton has installed an IP-based closed circuit television system throughout the campus. The cameras record activity in the public areas and parking lots; activity is not always monitored in real time. The purpose of this system is to deter crime and assist in the apprehension of people who commit vandalism or other criminal acts in these areas. Campus Safety personnel have received training to ensure that the system is utilized in a professional, ethical and legal manner consistent with the best practices.

## MISSING PERSON POLICY

### Designated Contact Person

Students have the option to register a confidential contact person to be notified in the case that the student is determined to be missing. Students may register a confidential missing person contact at the following link: <https://mv.hamilton.edu/registrar/personal-evacuation-form>. The student may indicate that person to be a parent, guardian or another person if they choose. The contact information will be registered confidentially and this information will only be accessible to authorized campus and law enforcement officials and may not be disclosed outside of a missing person investigation. *In the case that a designated contact person is not registered the missing persons emergency contact information will be used.*

Persons reporting missing students may make their first contact with the Department of Campus Safety, the Office of Residential Life, or the Office of the Dean of Students. Said reports may come from parents, fellow students, professors, Resident Advisors, or others. Regardless of the source or the office contacted first, the Department of Campus Safety will be immediately notified of all missing-student reports. Hamilton College will notify any missing student's confidential contact(s), if provided, within 24 hours of the determination the student is missing.

Upon receiving such notification, the dispatcher, with direction from a supervisor, will report via phone to the Kirkland Police Department that a student has been reported missing. Initially, however, the Department of Campus Safety will be fully responsible for the investigation.

If the student resides in an on-campus student housing facility and is determined missing for 24 hours, the following steps will be taken immediately:

- If the student has designated a missing person contact, notifying that contact person within 24 hours
- If the student is under 18 years of age and is not emancipated, notifying the student's custodial parent or guardian and any other designated contact person within 24 hours
- Regardless of whether the student has identified a contact person, is above the age of 18, or is emancipated minor, informing the local law enforcement agency that has jurisdiction in the area that the student is missing within 24 hours.

Department personnel will interview any members of the Hamilton community who might have information about the missing student's whereabouts. Such interviewees may include, but will not be limited to, Resident Advisors, faculty and staff members, roommates, friends, and family members. Particular attention will be given to possible locations of the missing student and his/her most recent mental state and/or personal problems. The Department of Campus Safety has the right to enter student rooms in search of missing persons.

Campus Safety personnel will contact the Business Office to determine the last Campus Card transaction completed by the student in question and request to be alerted if any further transactions are attempted.

All missing student reports must be relayed promptly to both the Director of Campus Safety. Periodic updates should be given to both the Director. The Director will determine which other College officials need to be notified. The local police authorities will be regularly updated on the progress of the investigation and will become involved at their discretion. If it is determined by the local police or the Director of Campus Safety that the entire college community is at risk, the Department of Campus Safety will be responsible for communicating that danger to the campus via any medium that the Director shall deem appropriate.

After the situation is resolved, the Director will prepare a detailed report to be provided to both the municipal authorities and the Dean of Students.

## *Drug and Alcohol Policies*

Hamilton College has several regulations pertaining to the possession, use, and distribution of intoxicating beverages and illegal drugs; these policies are fully outlined in the Student Handbook. All students should carefully review these policies as the disciplinary penalties for violating them can be severe.

### Hamilton College Alcohol Policy

#### I. Introduction

The Hamilton College alcohol policy and related educational programs are designed to promote responsible decision-making concerning the use of alcohol in this community. The College expects all members of the community to be respectful of the rights of others in order to contribute to an environment conducive to education and personal growth. Intoxication is never justification for behavior that violates the standards of conduct and expectations of the College.

This policy reflects local and state laws governing the possession, sale, use and distribution of alcohol, recognizing the rights of individuals who are

21 years of age or older to consume alcohol in a legal manner. Campus Safety enforces all New York State underage drinking laws. The College expects community members to abide by the laws of New York State and the policies of the College. Any member of the community, including resident advisors and Campus Safety personnel, may confront and detain students whose behavior is in violation of these policies. Sanctions, ranging from one judicial point to separation from the College, may be imposed upon students who violate this policy, or other policies of the College.

## II. Summary of New York State Laws Governing Alcohol

### Under New York State law it is illegal:

1. To provide alcohol to persons under the age of 21 or to persons who are visibly intoxicated. Providing alcohol to persons under the age of 21 is a Class A misdemeanor which is punishable by imprisonment for up to one year, a fine of not more than \$1,000 and/or 3 years' probation;
2. To misrepresent the age of a person under the age of 21 for the purpose of inducing a sale of alcohol. Those found guilty of violating this law shall be punished by a fine of not more than \$200, or by imprisonment for not more than five days, or by both fine and imprisonment;
3. For a person under the age of 21 to possess alcohol with the intent to consume it. Those found guilty of violating this law shall be punished by a fine of not more than \$50 and/or required to complete an alcohol awareness program and/or required to provide up to 30 hours of community service;
4. For any person under the age of 21 to present or offer any written evidence of age which is false, fraudulent or not actually his own, for the purpose of purchasing or attempting to purchase alcohol. Those found guilty of violating this law shall be punished by a fine of not more than \$100, and/or required to complete an alcohol awareness program and/or required to provide up to 30 hours of community service. Additionally, if it is found that a New York State driver's license was the written evidence of age used for the purpose of the purchase or attempted purchase, the person's license to drive a motor vehicle may be suspended for 90 days. Lastly, alteration of the required forms of identification (driver's license, passport or armed forces ID card) may constitute "possession of a forged instrument... with intent to defraud," which is a Class D felony under New York State penal law.
5. To sell alcohol, including charging admission at the door of an event where alcohol is distributed free of charge, without an Alcoholic Beverage Control license. Under New York State civil law the provider of alcohol may be liable for any damages or injuries caused by an intoxicated person.

## III. General Policies

1. Persons 21 years of age and older may possess and consume alcohol in residence hall rooms, suites and apartments.
2. Open containers of alcohol are not permitted in public areas. Public areas include, but are not limited to, academic buildings, residence hall lounges and hallways, and outdoors. For purposes of this policy, suite lounges are not considered public areas.
3. Gatherings with bulk alcohol (defined as any quantity of beer in excess of two cases (48 twelve oz. cans), or the alcohol equivalent of wine or liquor) are not permitted in the residence halls (except where noted below). Kegs, beer balls and/or taps are not permitted in residence halls (except where noted below). Empty kegs may not be stored in residence halls.
4. Gatherings with bulk alcohol are permitted in College designated social spaces (Bristol Center Hub, Bundy Dining Hall, Beinecke Annex A & B, and Emerson Hall [ELS] basement). Social hosts are required to comply with the "Policy for Student-Sponsored Social Events," published here and in A Guide to Social Programming available in the Office of Student Activities.
5. The College reserves the right to notify the parents or guardian of a student who is transported to the hospital for an alcohol or drug-related overdose, and to require that the student participate in an educational program on alcohol and/or other drugs. The College may also choose to notify parents or guardian of any alcohol or drug-related violation.

### Educational Programs

The Coalition on Alcohol and Other Drugs is appointed by the President, and charged with finding ways to reduce the negative consequences associated with the abuse of alcohol and other drugs at Hamilton. Membership is open to any member of the College community.

Additional intervention and support programs are offered through the Office of Counseling and Psychological Services, the Student Health Center and the Dean of Students Office, as well as in the town of Clinton and surrounding communities. For further information, please refer to Section III of the Illegal Drugs Policy or contact the Office of Counseling and Psychological Services.

### Illegal Drug Policy

Students who are involved with drugs are encouraged to seek assistance through the College health services, counseling services or other professional assistance. These services are completely confidential. Hamilton College is committed to the development and maintenance of a drug-free environment and, in accordance with the Drug-Free Workplace Act of 1988, will not tolerate the unlawful possession, sale, use, manufacture, distribution or dispensation of a controlled substance in or on property owned or controlled by Hamilton College. This policy can also be viewed in Hamilton College's Administrative Handbook found at the following link: [http://www.hamilton.edu/documents/admin\\_handbook.pdf](http://www.hamilton.edu/documents/admin_handbook.pdf)

Campus Safety will enforce all New York State and Federal drug laws. Drug paraphernalia and water pipes of all kinds are prohibited. The Judicial Board will normally hear cases involving the alleged possession, use, or distribution of illegal drugs. Students found responsible for possession, use, or distribution of drugs will be subject to appropriate disciplinary action, which may include separation from the College. The laws of New York State and the federal government and policies of Hamilton College prohibit the possession, use or distribution of illegal drugs. The penalties imposed on violators are severe. The College will offer no protection or immunity from prosecution by police agencies.

## Penalties for alcohol or drug-related violations

Driving while intoxicated is a crime. Your judgment, coordination and ability to drive a vehicle change when you consume any amount of alcohol. The level of impairment depends on five conditions

- the amount of alcohol you drink
- the amount of food you eat before or while you drink alcohol
- the length of time you drink alcohol
- your body weight
- your gender

There is no quick method to become sober. The best method is to wait until your body absorbs the alcohol. The average rate that your body processes alcohol is approximately one drink per hour.

### Types of alcohol and drug-related violations in New York State

- **Driving While Intoxicated (DWI)**  
.08 Blood Alcohol Content (BAC) or higher or other evidence of intoxication. For drivers of commercial motor vehicles: .04 BAC or other evidence of intoxication.
- **Aggravated Driving While Intoxicated (Aggravated DWI)**  
.18 BAC or higher
- **Driving While Ability Impaired by Alcohol (DWAI/Alcohol)**  
More than .05 BAC but less than .07 BAC, or other evidence of impairment.
- **Driving While Ability Impaired by a Single Drug other than Alcohol (DWAI/Drug)**
- **Driving While Ability Impaired by a Combined Influence of Drugs or Alcohol (DWAI/Combination)**
- **Chemical Test Refusal**  
A driver who refuses to take a chemical test (normally a test of breath, blood or urine).
- **Zero Tolerance Law**  
A driver who is less than 21 years of age and who drives with a .02 BAC to .07 BAC violates the Zero Tolerance Law.

### *Responding to Sexual Harassment and Sexual Assault*

#### Important Resource Phone Numbers

EMERGENCY: 315-859-4000 (x4000)  
Campus Safety Non-Emergency: 315-859-4141 (x4141)  
Counseling Center: 315-859-4340 (x4340)  
YWCA Rape Crisis Hotline: 315-797-7740 (x5000)  
Administrator/Counselor on Call, after hours: 315-859-4000 (x4000)  
Title IX Coordinator: 315-859-4020

## Sexual Assault

Hamilton College is committed to the personal safety of members and guests of the Hamilton community. Hamilton College informs incoming students about sexual assault prevention measures through campus programs that include workshops, discussion groups, and on-going orientation seminars. The purpose of these programs is to disseminate information about sexual assault, promote discussion, encourage reporting of incidents of sexual assault, and facilitate prevention of such incidents.



### Sexual Assaults on College Campuses

The most prevalent form of rape on college campuses is acquaintance rape. The acquaintance may be a date or friend, or someone the survivor knows only casually, from a residence hall, a class, or through mutual friends. Regardless of the relationship, if one person uses force to coerce another into submitting to sexual behaviors, or if the other party does not give consent, the act violates Hamilton College policy. Criminal laws and penalties also may apply in cases of acquaintance rape and other forms of sexual assaults.

Many acquaintance rapes involving college students follow similar patterns. Acquaintance rapes often occur at parties or in residential settings. Frequently, the students involved in these assaults have been drinking heavily or using drugs. Detailed crime reports and prevention information can be obtained from the Office of Campus Safety. As a community, we can work together to protect students from sexual violence and encourage peers to respect one another.

### Prevention

There are things that all members of the Hamilton Community can do to reduce the rate of sexual violence on campus. As a Hamilton student, please be aware of the following suggestions:

- When you go out, do so with people that you trust to look out for your safety and the safety of others. Be a good friend—keep an eye on your friends to make sure they are safe and hold your friends responsible for treating others with respect.
- If you want to be intimate with someone, remember to get that person's consent and communicate your boundaries actively. You and the other person(s) have the right to withdraw consent at any time.
- Since alcohol and drugs interfere with effective communication, avoid excessive use of these substances. It may not be safe to be intimate with someone if you or they have been drinking or using other substances.
- When you are at a party, make sure that someone knows where you are. Check on your friends to make sure they are safe too.
- Get your own drinks. Only accept beverages from people you trust and never drink out of a cup that has been left unattended.
- Know your sexual desires and limits and choose a partner or partners who respect them. Make sure you understand and respect your partner(s)'s desires and limits.
- Try to avoid walking home alone from bars or parties. Have a friend walk with you, call Campus Safety at 315-859-4141 for an escort, or let the Events Staff know that you need an escort. If you see someone walking alone at night, make sure they are safe; call Campus Safety if you are concerned for them.
- Lock your residence hall room door. Do not let people you have not invited over into residence hall buildings.
- If you find yourself locked out of your residence hall, call Campus Safety to let you in.
- If you do not feel well and need to lie down, make sure that a friend stays with you to check on you. If you see someone who is sick or unconscious, make sure they are safe and call the EMTs through Campus Safety's emergency number at 315-859-4000.
- If you find yourself alone or in an unfamiliar place, be aware of your surroundings. Call Campus Safety (emergency: 315-859-4000), nonemergency: (315-859-4141) if you feel unsafe. Trust your instincts. If you feel uncomfortable in your surroundings for any reason, you have the right to leave.
- Communicate clearly and honestly with your sexual partner(s) and respect their boundaries.

### Reporting and Obtaining Assistance

Report to the College's Title IX Coordinator

- If you wish report the incident, pursue a complaint against the alleged perpetrator, and/or if you wish to discuss your options, consult with the College's Director of Community Standards (Title IX Coordinator), [Catherine Berryman](#) (315-859-4020 from 8:30am-4:30pm M-F or on call at 315-859-4000). Conversations will be kept as private as possible. The Title IX coordinator may be required to take some form of action in order to prevent further acts from occurring on Hamilton's campus. See the Hamilton Sexual Misconduct Policy ([Article VII, Section B](#)) for more details.

Seek Confidential Help

- Confidential resources will not share any information with outside parties, except in very limited situations (e.g. minors, imminent danger). Hamilton's confidential resources are the College Counseling Center, the College Health Center, and the College Chaplain. All other Hamilton faculty, staff, coaches and residential advisors are obligated to report incidents of sexual violence to the Title IX coordinator.
- A member of the Hamilton College Counseling Center is on-call at all times. The Counselor On-Call can provide immediate crisis support and information about resources for survivors on and off campus. Contact the Counseling Center (24/7, 365 days a year) by calling 315-859-4340. This is a completely confidential service.

- The Hamilton College Chaplaincy is also available at 315-8594130

Medical attention should be sought as soon as possible following a sexual assault

- Not all injuries are immediately apparent. Contact the Hamilton Student Health Service 315-859-4111; 8:30-4:30 M-F), Hamilton's Emergency Medical Technicians (315-859-4000), or go to the hospital Emergency Room for medical services. Transportation to the hospital can be arranged by request through the Office of Campus Safety or Health Center.
- For treatment of any major injuries and/or a Sexual Assault Forensic Exam (SAFE), call Help Restore Hope Center or the Hamilton College Title IX Coordinator to arrange a hospital visit. Help Restore Hope Center coordinates Sexual Assault Nurse Examiner (SANE) services for medical attention (injuries from a sexual assault are not always immediately apparent) and collecting physical evidence (a "rape kit") at a regional hospital. The College strongly encourages any individual who has experienced sexual violence to obtain a rape kit, which is critical: (1) to diagnose and treat the full extent of any injury or physical effect and (2) to properly collect and preserve evidence. There is a limited window of time (typically up to 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Gathering such evidence does not commit an individual to pursuing legal action against the assailant, but does preserve that option. Although it may be difficult following a sexual assault, individuals who are considering or may consider legal action should try not to shower, rinse mouth, brush teeth or change clothes to allow for the maximum possible collection of evidence by a SANE nurse or other health care provider. The results of the SAFE exam will not be shared with on- or off-campus disciplinary authorities unless you choose to share them yourself. SANE services are coordinated through Help Restore Hope Center's 24/7 hotline every Thursday at 6pm through Monday at 8am, Help Restore Hope can still provide resources and care outside of these times.
- Confidential help is also available through YWCA Crisis Services by calling 315-797-7740 The YWCA Crisis Services Advocates are trained and available by phone or to accompany survivors to the hospital or the police. This service is confidential and is not connected with the College.

Pursue a Criminal Complaint

- Filing a police report does not obligate you to follow through with legal action but it does preserve physical evidence. This process can happen simultaneously with filing a complaint with the College. Contact Campus Safety at 315-859-4141 or the Title IX coordinator at 315-859-4020 to arrange a meeting with the New York State Police or the Oneida County Sheriff.
- Contact the New York State Police directly through the Campus Sexual Assault Victim Unit's 24-hour hotline: 1-844-845-7269.

## Article I.

### Hamilton College Sexual Misconduct Policy

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## **Article II. Introduction**

All members of the Hamilton College community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Hamilton seeks to provide an environment in which students, faculty, staff, and guests can work, study, and enjoy the College community without experiencing Sexual Misconduct. When such actions are brought to its attention, the College is committed to providing prompt and thorough responses to actions that adversely impact, or have the potential to adversely impact, the educational or workplace environment of any member of the Hamilton community.

The College strongly encourages all members of its community to report any prohibited act of Sexual Misconduct which they experience (including sexual assault, dating violence, domestic violence, stalking, sexual harassment, and/or related retaliatory behavior, as more fully defined in Article VI, and referenced herein as “Sexual Misconduct”) to the College and to immediately seek appropriate support and health care. In addition, many College employees are considered Responsible Employees who are required to report instances of Sexual Misconduct that they are made aware of to the Title IX Coordinator (see Definitions, Responsible Employees). The College also encourages all community members to contribute to the creation of a safe, welcoming, and respectful environment on campus. This includes taking 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 law enforcement, or seeking assistance from a person in authority. Community members who choose to positively intervene will be supported by the College and protected from retaliation.

This Policy has been developed to provide recourse for individuals who believe their rights have been violated, and serves as a means to determine, after the fact and with fairness to all involved, if specific behaviors constitute violations of this Policy.

Any individual who has experienced Sexual Misconduct has the right to make a report to Campus Safety, local law enforcement, and/or the New York State Police, or choose not to report; to report the incident to the Title IX Coordinator; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from the College.

This Policy describes support resources and accommodations available to members of the Hamilton community who experience Sexual Misconduct, whether or not that individual decides to pursue a formal report on campus.

When a community member (i.e., a current student or member of the faculty or staff) decides to make a formal report of an incident of Sexual Misconduct involving another community member, Hamilton will use the procedures outlined below (see Articles X, XI, XII and XIX) to take reasonable, prompt, and appropriate action to respond. When a guest or other non-College community member decides to make a formal report, or a community member makes a formal report involving a guest or non-College community member, the process in Article XIII will apply. For purposes of this Policy, a formal report by a former student about an incident involving another community member which occurred while that former student was a current student, will be processed under this Policy in the same manner as a formal report by a current student.

## **Article III. What Do Title IX and the Violence Against Women Reauthorization Act (VAWA) Require? Who is the Title IX Coordinator?**

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §1681, *et seq.*, a federal law, prohibits discrimination on the basis of sex in education programs and activities:

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.

All public and private elementary and secondary schools, school districts, colleges, and universities receiving any federal funds must comply with Title IX. Title IX mandates that colleges and universities create an environment free from sexual discrimination and harassment for all community members. The College recognizes its obligation under Title IX to take steps to prevent the recurrence of Sexual Misconduct and to correct its discriminatory effects.

Under Title IX, discrimination on the basis of sex includes sexual harassment, gender-based harassment, sexual violence, sexual assault, and other forms of sexual misconduct. Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, and other applicable statutes.

Pursuant to the Violence Against Women Reauthorization Act, the College also prohibits domestic violence, dating violence, and stalking.

This Policy also reflects the requirements of New York Education Law Article 129-B, relating to sexual assault, domestic violence, dating violence and stalking.

The College’s Title IX Coordinator is responsible for ensuring that the College responds to such complaints in a manner that is equitable, effective, and eliminates the harassment through remedies designed for the individual and, as needed, the entire College community.

The Title IX Coordinator is:

- responsible for oversight of the investigation and resolution of all reports of Sexual Misconduct;
- knowledgeable and trained in relevant state and federal laws and the College’s Policy and procedure;

- available to advise any individual, including a Complainant (defined below), a Respondent (defined below), or a third party, about the courses of action and resources available at the College, both informally and formally, and the courses of action and resources available externally, including reports to law enforcement;
- available to provide assistance to any Hamilton community member regarding how to respond appropriately to reports of Sexual Misconduct;
- responsible for monitoring full compliance with all requirements and timelines specified in the complaint procedures; and
- responsible for compiling and maintaining required reports.

Hamilton's Title IX Coordinator is Catherine Berryman (315-859-4020 or cberryma@hamilton.edu).

#### **Article IV. Scope**

All College community members are responsible for their actions and behavior, and for adhering to College policies and local, state, and federal law. This Policy, therefore, applies to all members of the Hamilton College community who participate in any of Hamilton's programs or activities, including students, employees, contractors, and visitors. Those who conduct business with the College on College property must also adhere to this Policy.

This Policy applies to:

- conduct occurring on College property and
- conduct occurring at College-sanctioned events.

In addition, this Policy applies to off-campus conduct that is likely to have a substantial adverse effect on, or poses a threat of danger to, any member of the Hamilton College community or at activities that take place at events hosted by organizations recognized by the College, including fraternities and sororities; study abroad and internship programs; or conduct that has continuing effects on campus or in an off-campus education program or activity.

The protections of this Policy apply regardless of a person's race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, pre-disposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

#### **Article V. Options for Immediate Assistance**

If you have experienced an act of Sexual Misconduct and desire immediate assistance, you have several on and off-campus options:

##### **A. On Campus Support Resources**

The **Counseling Center** (315-859-4340) is a **confidential** resource, available 24-hours a day/7 days a week, whose staff can provide students emotional support and information about reporting options.

The **Health Center** (315-859-4111) is a **confidential** resource whose staff can provide students medical assistance and can share information about reporting options. After hours, **Emergency Medical Technicians** (EMTs) are available (reached through Campus Safety at 315-859-4000).

The **Chaplaincy** (315-859-4130) is a **confidential** resource for students and employees whose staff can provide pastoral counsel, emotional support, and information about reporting options. Visit the [Chaplaincy site \(http://www.hamilton.edu/chaplain/office-hours\)](http://www.hamilton.edu/chaplain/office-hours) to learn how to contact individual staff in the Chaplaincy.

**Employee Assistance Program (EAP)** (1-800-834-3947) through BRiDGES is a **confidential** resource for employees regarding issues ranging from alcohol and drug abuse to financial and legal concerns. Appointments with a BRiDGES EAP professional are available 8:00 am until 5:00 pm Monday through Friday with evening hours on Tuesday. Call 315-697-3949 or 1-800-834-3947 during working hours and a staff member will assist in booking an appointment and/or answering any of your questions. A 24-hour answering machine is also available after hours to provide callers with the numbers for crisis services or to take messages. An employee or a family member may attend up to five sessions unless a referral to a community provider is recommended.

**Campus Safety** (315-859-4000) is available to students and employees 24 hours a day, 7 days a week to respond to any community concern. Students who call Campus Safety after normal business hours may request to speak with the Title IX Coordinator. Campus Safety will notify the Title IX Coordinator after responding to a call related to alleged Sexual Misconduct. Campus Safety is not a confidential resource; however, every effort will be made to maintain privacy.

The College's **Title IX Coordinator**, Catherine Berryman, is also available to students and employees as an immediate resource. **Talking with the Title IX Coordinator about a specific incident of Sexual Misconduct constitutes a report under this Policy to which the College must respond, although this does not necessarily mean that the College will take formal action if the Complainant does not wish for action to be taken (see Section VII Confidentiality).** However, general conversations or questions about Hamilton's processes, without disclosure of identifiable information about specific incidents, can remain private [see "Privacy of Resources"]. The Title IX Coordinator can provide information about all



resources available to individuals who have experienced Sexual Misconduct, including where to obtain emergency mental health services and health care. The Title IX Coordinator can review and determine the immediate academic and administrative accommodations that can be made to protect a Hamilton community member who has experienced Sexual Misconduct. The Title IX Coordinator can also advise about options for reporting, including the option to report to local law enforcement, to initiate the on-campus resolution procedures, to do both, or to do neither. The Title IX Coordinator will provide guidance and assistance through the process of reporting on- and/or off-campus. She can be reached at 315-859-4020 or after hours for emergencies through Campus Safety at 315-859-4000.

## **B. Off Campus Support Services**

**YWCA Rape Crisis Services** (315-797-7740) is an anonymous hotline available to provide counsel as well as in-person assistance getting to a hospital or the police. If requested, YWCA Rape Crisis Service may also provide victim advocacy services.

**Help Restore Hope Center** coordinates **Sexual Assault Nurse Examiner** (SANE) services for medical attention (injuries from a sexual assault are not always immediately apparent) and collecting physical evidence (a “rape kit”) at a regional hospital. The College strongly encourages any individual who has experienced sexual violence to obtain a rape kit, which is critical: (1) to diagnose and treat the full extent of any injury or physical effect and (2) to properly collect and preserve evidence. There is a limited window of time (typically up to 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Gathering such evidence does *not* commit an individual to pursuing legal action against the assailant, but does preserve that option. Although it may be difficult following a sexual assault, individuals who are considering or may consider legal action should try not to shower, rinse mouth, brush teeth or change clothes to allow for the maximum possible collection of evidence by a SANE nurse or other health care provider.

Hospitals are **confidential** resources and are not required to report any non-identifying information to the College or to anyone else. However, hospitals providing care to individuals reporting sexual assault are required to:

- collect and maintain the chain of custody of sexual assault evidence for not less than 30 days *unless* the patient signs a statement directing the hospital not to collect it;
- advise the individual seeking medical treatment related to sexual assault of the availability of the services of a local rape crisis or victim assistance organization to accompany the individual through the sexual offense examination;
- contact a rape crisis or victim assistance organization providing assistance to the geographic area served by that hospital to establish the coordination of non-medical services to individuals reporting sexual assault who request such coordination and services; and
- provide emergency contraception upon the patient’s request.

Even if an individual who has experienced sexual violence does not have injuries requiring emergency attention, the College encourages that individual to seek medical care as soon as possible, whether at the Health Center or another health care provider or hospital. A medical evaluation is still important to check for physical injuries, reduce risk of complications from sexually transmitted diseases as a result of the assault, and/or (if appropriate) reduce risk of pregnancy.

In most instances, any health care provider will encourage an individual reporting Sexual Misconduct to authorize collection of evidence. For individuals who seek initial medical treatment at the Health Center and decide to proceed with evidence collection, the individual may be escorted to Oneida Health by Campus Safety or may choose to travel by taxi (the College will provide a voucher) to any chosen medical provider. A Complainant can receive follow-up health care at the Health Center or the chosen health care provider or hospital.

## **C. Law Enforcement**

The College encourages anyone who is a victim of Sexual Misconduct to pursue criminal action for incidents that may also be crimes under applicable criminal statutes. The **New York State Police Campus Sexual Assault Victim Unit’s 24-hour Hotline** (1-844-845-7269) or the Oneida County Sheriff (315-736-0141) can assist with pressing criminal charges following an incident in New York.

## **D. Reporting Options**

Anyone who wishes to report Sexual Misconduct has the following options:

- report to law enforcement to initiate criminal action;
- report to the College to initiate the College’s complaint process; *or*
- simultaneously report to initiate both criminal action and the College’s complaint process.

An individual also has the right to choose not to report to any or all of the above.

The Title IX Coordinator or Campus Safety will assist any Complainant who wishes to pursue a formal complaint with local law enforcement in making the report. In addition, an individual making a report to local law enforcement may also be able to obtain services through the New York State Office for Victim Services (OVS). The OVS funds local Victim Assistance Programs including YWCA Rape Crisis Services (listed above), which will, among other things, offer a crime victim advocate that can provide direct assistance to victims and their families as they navigate the criminal justice process.

The College will cooperate with law enforcement agencies (to the extent permitted by law) if a Complainant decides to pursue the criminal process.

Except where the Complainant is less than 18 years old, the College will generally respect a Complainant's choice whether or not to report an incident to local law enforcement, unless the College determines that there is an overriding issue with respect to the safety or welfare of the individual and/or the Hamilton College community. Where a report involves suspected abuse of a minor less than 18, certain individuals at the College may be required by state law to notify law enforcement and/or the New York Statewide Central Register of Child Abuse and Maltreatment.

#### **E. Orders of Protection**

Campus Safety, or other College officials, will provide reasonable assistance to a College campus community member, in connection with prohibited Sexual Misconduct under this policy, in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order. This assistance includes providing that person with:

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

#### **F. Amnesty Related to Other Policy Violations**

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

Persons cooperating by furnishing information in good faith in connection with College processes under this Policy (whether as Complainants, Respondents or witnesses), or in connection with law enforcement proceedings arising out of reported incidents of Sexual Misconduct, will not be subject to College code of conduct action for violations of alcohol and/or drug use policies, or other minor conduct offenses (i.e., those that can be expected to result in sanctions no more than probationary status) based on their conduct occurring at or near the time of a reported incident of domestic violence, dating violence, stalking or sexual assault.

Additionally, individuals can report anonymously through **AppArmor** at **315-859-2222** or email at [campo@hamilton.edu](mailto:campo@hamilton.edu) or through their smart phones using the Reach Out App (<https://www.cappivation.com/reach-out/hamilton-college/default.html>)

#### **G. Privacy of Resources**

The resources listed above (also listed in Addendum A) can provide different levels of privacy. An overview of these different levels of privacy follows:

**Confidential resources** operate under special rules which restrict their disclosure of information, including to the College. At Hamilton, these individuals include:

- All staff in the Counseling Center, including the Counselor on Call
- All staff in the Health Center, including student EMTs (in their roles as EMTs)
- All staff in the Chaplaincy

Confidential resources can direct individuals towards other avenues of support as well, including providing information about Hamilton's process for pursuing disciplinary action.

**Non-confidential resources** are all faculty and staff who are not listed above, including student Resident Advisors employed by the Office of Residential Life. These individuals are "Responsible Employees" (defined further below) who must report an act of alleged Sexual Misconduct to the Title IX Coordinator. As explained in more detail in Article VII (Confidentiality), the College will respect the privacy of reports to the greatest extent permissible. Even College offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. General questions about Hamilton's policies and procedures, or conversations where specific individuals or acts are not identified or implied, may remain private.

**Additional protected resources** for individuals impacted by a prohibited act include student-run programs such as Hamilton's Peer Advocates ([advocate@hamilton.edu](mailto:advocate@hamilton.edu)). Volunteers in these programs are not Responsible Employees and are not required to report any information. In addition, information disclosed at public awareness events such as "Take Back the Night" is not considered notice of an act described in this Policy and does not create an obligation on the part of the College to conduct an investigation.

## Article VI.

### Definitions

The following definitions outline the types of Sexual Misconduct prohibited under this Policy and identify the individuals and processes involved in the investigation of and response to allegations of those prohibited acts. To be covered under this Policy, the conduct, or its effects, must have a connection to the College and/or the College community.

#### A. Prohibited Sexual Misconduct

**Sexual harassment** is defined as unwelcome action, language or visual representation of a sexual nature that has the effect of unreasonably interfering with an individual's work or academic performance or that creates a hostile working, educational, or living environment. A form of quid pro quo (this for that) sexual harassment exists when submission to or rejection of unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature results in adverse educational or employment action, or the threat of such adverse action, or limits or denies an individual's educational or employment access, benefits, or opportunities.

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 individual 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 subject of the harassment and/or third parties who witness or observe harassment and are affected by it.

Sexual harassment also includes gender-based harassment, which may include acts of verbal, nonverbal or physical aggression or hostility based on gender, sexuality or sex- or gender- stereotyping, even if those acts do not involve conduct of a sexual nature.

Examples of conduct that may constitute sexual harassment include:

- Physical conduct:
  - unwelcome touching, sexual/physical assault, impeding, restraining or blocking movements
  - unwanted sexual advances
- Verbal conduct:
  - making or using derogatory comments, epithets, slurs or humor, not pedagogically appropriate
  - 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, not pedagogically appropriate
  - objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes, which a reasonable peer would find offensive and which are not pedagogically appropriate
- Visual conduct:
  - leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons or posters in a public space or forum, not pedagogically appropriate
- severe, persistent or pervasive visual displays of suggestive, erotic or degrading sexually oriented images, not pedagogically appropriate
- Written conduct: letters, notes or electronic communications containing comments, words or images described above, not pedagogically appropriate
- 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

The determination of whether an environment is "hostile" is based on a reasonable person standard, considering all the circumstances. These

circumstances could include, but are not limited to:

- the frequency or pervasiveness of the speech or conduct;
- the nature and severity of the speech or conduct;
- whether the conduct was physically threatening;
- whether the speech or conduct was humiliating;
- the effect of the speech or conduct on the recipient's mental and/or emotional state;
- whether the speech or conduct was directed at more than one person;
- whether the speech or conduct arose in the context of other discriminatory conduct;
- whether the speech or conduct unreasonably interfered with the recipient's educational opportunities or performance (including study abroad), college-controlled living environment, work opportunities or performance;
- whether a statement is a mere utterance of an epithet which engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or whether the speech or conduct deserves the protections of academic freedom.

**Sexual Assault** is prohibited under this Policy. Sexual assaults can take a number of forms, including:

- **Non-Consensual Sexual Contact** is defined as any intentional sexual touching, however slight, either directly or through clothing, with any body part or object without affirmative consent.
- **Non-Consensual Sexual Act** is defined as penetration and/or oral contact, however slight, with any body part or object with the genitals or anus of another person, without affirmative consent.

**Sexual Exploitation** occurs when a person takes non-consensual sexual advantage of another, and that behavior does not otherwise constitute another form of Sexual Misconduct. Examples of sexual exploitation include, but are not limited to, non-consensual video or audio-recording of sexual or other private activity, exceeding the boundaries of consent (e.g., permitting others to hide in a closet and observe consensual sexual activity, or making consensual intimate video or audio recordings of another but then distributing the pictures to others without the person's consent or in a way that exceeds the bounds of consent), compelling another person to sexually touch themselves or another person without consent of all parties to the touching, intentional sexual transmission of bodily fluids (including seminal fluid, vaginal fluid, blood, urine or feces) onto a clothed or unclothed individual without affirmative consent, or engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted diseases (STD) and without informing the other person of such infection.

**Retaliation** means any adverse action taken against a person for making a good faith report under this Policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this Policy. Retaliation may be present even where there is a finding of "no responsibility" on the allegations of a violation of this Policy. Retaliation does not include good faith actions pursued in response to a report under this Policy.

**Domestic Violence** is defined as a felony or misdemeanor crime of violence committed by:

- a current or former spouse or intimate partner of the person against whom the violence is committed;
- a person with whom the person against whom the violence is committed shares a child in common;
- a person who is cohabiting with, or has cohabited with, the person against whom the violence is committed as a spouse or intimate partner;
- a person similarly situated to a spouse of the person against whom the violence is committed under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

This definition does not apply to roommates who have not expressed interest in entering into, or who have not entered into, a dating or sexual relationship.

**Dating Violence** is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person against whom the violent act is/acts are committed. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

**Stalking** occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances that would cause a reasonable person to fear for personal safety or the safety of others or suffer substantial emotional distress.

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

Stalking includes the concept of cyber-stalking, 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 to pursue, harass or to make unwelcome contact with another person in an unsolicited fashion.

## **B. Related Terms**

**Affirmative Consent:** 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.

- a) 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.
- b) Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- c) Consent may be initially given but withdrawn at any time.
- d) Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- e) When consent is withdrawn or can no longer be given, sexual activity must stop.
- f) 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.

**Coercion:** Coercion is the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to engage in sexual activity. When a person makes clear a decision not to participate in a particular form of sexual activity, a decision to stop, or a decision not to go beyond a certain sexual activity, continued pressure can be coercive. In evaluating whether coercion was used, the College will consider: (i) the nature of the pressure; (ii) the frequency of the application of the pressure, (iii) the intensity of the pressure, (iv) the degree of isolation of the person being pressured, and (v) the duration of the pressure.

**Capacity to give consent:** Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks the ability to knowingly make that decision. In assessing capacity, the College will consider whether the individual had the ability to understand 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. Incapacitation may result from the use of alcohol and/or drugs, but consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affect an individual's:

- decision-making ability;
- awareness of consequences;
- ability to make informed judgments; and
- capacity to appreciate the nature and the quality of the act.

Persons who have sexual activity with someone who lacks the mental or physical capacity to consent (including being incapacitated by alcohol or other drug use or unconscious) are in violation of this Policy, and any consent perceived to have been obtained is invalid. Possession, use and/or distribution of any of the so-called "date rape" drugs (including Rohypnol, Ketomine, GHB, Burundanga and others) is prohibited, and administering any of these drugs to another is a violation of this Policy.

### **Individuals and Processes**

**Complainant:** This term refers generally to an individual who has allegedly been subjected to Sexual Misconduct in violation of this Policy, whether a formal complaint has been filed or not. However, by their very nature, some aspects of this Policy apply only after the College has been put on notice of a possible violation and references to "Complainant" in that context should be read (and will be applied by the Title IX Coordinator) accordingly. In the case of complaints that are pursued by the College when the impacted individual does not want to participate in the process, Hamilton may pursue a complaint without such individual's participation, in which case Hamilton may stand in the place of the Complainant for procedural purposes.

**Respondent:** This term refers to an individual whose conduct is alleged to have violated this Policy, whether a formal complaint has been filed or not. However, by their very nature, some aspects of this Policy apply only after the College has been put on notice of a possible violation and references to "Respondent" in that context should be read (and will be applied by the Title IX Coordinator) accordingly.

**Responsible Employees:** The U.S. Department of Education's Office for Civil Rights defines Responsible Employees as employees who have the authority to take action to redress sexual violence, who have been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or other appropriate school designee, or whom a student could reasonably believe have this authority or duty. Responsible Employees who receive information or a report about any act that potentially constitutes Sexual Misconduct must further report that information to the Title IX Coordinator. The following employees of the College are Responsible Employees: faculty, staff (except staff in the Counseling Center, the Health Center, and the Chaplaincy), and Resident Advisors. In addition, Responsible Employees are expected to make every effort to explain their duty to report to anyone disclosing, or about to disclose, information to them.

**Harassment and Sexual Misconduct Board:** The Harassment and Sexual Misconduct Board (HSMB or the Board) shall be composed of at least eight members (one of whom shall be designated Chair), appointed by the Title IX Coordinator to staggered terms of four years beginning in the Fall semester. Each year, the current Board will solicit applications and nominations for any open seat(s), and will recommend individuals to serve for the following year. Members of the Hamilton community may also nominate individuals for Board membership, provided the nominees are willing to serve if appointed. The Title IX Coordinator, in consultation with the Chair, will ultimately be responsible for appointing new members and designating a new Chair. Normally, the Chair will be a tenured member of the faculty and serve for two years as Chair. Every effort will be made to maintain a diverse Board, and membership normally will be limited to members of the faculty who have attained the rank of associate or full professor, and full-time staff members. The Title IX Coordinator shall arrange for the Board members to receive annual training. Members of the HSMB are required to maintain the privacy of all information they acquire in this role, unless disclosure is authorized by the Title IX Coordinator. Members of the HSMB can be removed prior to the end of their term by the Title IX Coordinator, with the agreement of the Chair of the HSMB (unless the member to be removed is the Chair), for good reason (e.g., dereliction of duty, failure to abide by the provisions of the Policy, etc.). The Title IX Coordinator may appoint, and train, additional Board Members as necessary.

**Investigator:** Individual(s) assigned by the Title IX Coordinator to conduct investigations following notice of alleged Sexual Misconduct. The Investigator will normally be comprised of members of the HSMB (who are not members of the Harassment and Sexual Misconduct Review Panel, defined below), but the Title IX Coordinator may decide to use one or more appropriately trained College employees who are not members of the HSMB or external investigators in addition to, or instead of, members of the HSMB when the Title IX Coordinator considers it appropriate to do so. However, in cases involving a Non-consensual Sexual Act, so long as at least one qualified HSMB member is available, the Investigator will include an HSMB member, and an external investigator. Normally, in order for a member of the HSMB to be eligible to serve on the Investigator, the HSMB member must have served for at least one year on the Board. Upon receipt of a complaint, the Title IX Coordinator will assign the investigator(s) to begin the investigation. If the Title IX Coordinator determines that a legitimate conflict of interest exists between an Investigator member and a party to a complaint, the Title IX Coordinator, in consultation with the Chair of the HSMB, will appoint a replacement. The Investigator issues a report of its investigation to the Harassment and Sexual Misconduct Review Panel, which can include assessments of credibility, but does not make a recommendation with respect to responsibility for violating the Policy.

**Harassment and Sexual Misconduct Review Panel (Review Panel):** In each investigation, the Title IX Coordinator will appoint a three person Review Panel from the HSMB to review the investigative report, determine whether this Policy was violated, and, if so, recommend a sanction to the Senior Staff Member. The HSMB Chair serves as a non-voting fourth member of the Review Panel and presides over the review process. The term of appointment to the panel shall be for the duration of the investigation. If any vacancy on the Review Panel occurs during the investigation, if the Title IX Coordinator determines that a legitimate conflict of interest exists between a member of the panel and a party to a complaint, or if a member of the panel is unable to participate in the consideration of a complaint due to personal or professional circumstances or commitments, the Title IX Coordinator, in consultation with the Chair of the HSMB, will appoint a replacement from those members of the Board eligible to serve.

**Senior Staff Member:** The Vice President who has supervisory authority over the area of the College with which the Respondent is affiliated, and who will (as outlined in this Policy) make a final decision on sanction following the Review Panel's recommendation. The Vice President and Dean of Students is the Senior Staff Member with respect to complaints brought against a student. In the case of complaints brought against members of the faculty, staff, or administration, the Vice President of the area in which the Respondent is employed is the Senior Staff Member. For example, the Vice President for Academic Affairs and Dean of Faculty is the Senior Staff Member with respect to complaints brought against a faculty member.

**Appeals Board:** This is the group of individuals, defined in [Hamilton's Code of Student Conduct](#), that considers appeals of findings and sanctions in appropriate cases under this Policy. For appeals under this Policy, a subset of the Appeals Board which does not include students will be utilized. This subset of the Appeals Board will receive annual training on relevant state and federal law (including Title IX) and this Policy.

## **Article VII. Confidentiality**

Hamilton encourages the reporting of acts of Sexual Misconduct in order to help the College respond effectively to conduct that negatively impacts the safety of the community. In addition the College recognizes its obligation to address incidents of Sexual Misconduct it learns about even in the absence of a complaint or report. The College also recognizes the importance of privacy and confidentiality. The following section describes how the College will maintain privacy while pursuing a complaint of Misconduct, and how it will respond to requests for confidentiality. (Information about confidential resources available on campus can be found in Article V. A.)

### **A. General**

In all cases of Sexual Misconduct covered by this Policy, Hamilton will treat information as private and will, to the extent permitted by law, limit the disclosure of information to only those non-party individuals who are responsible for handling the school's response. Certain college administrators (e.g., the College President and Director of Campus Safety) may also be provided information on a need to know, private basis. In accordance with the Clery Act and other state and federal mandates, the College must also report information concerning the occurrence on campus of certain crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include any personally identifiable information. The College may issue a timely warning if a report of Sexual Misconduct presents information that there is an ongoing threat to the community. The announcement will include the nature of the violation and the action(s) being taken.

The College will normally not inform students' parents or guardians of their involvement in a complaint of Sexual Misconduct without their consent, but the Title IX Coordinator will speak with each party about their decision to personally inform their parents or guardians. College officials will directly inform a student's parents or guardians when requested to do so by the student, and may do so in emergency circumstances when necessary to prevent imminent harm.

## **B. Requests for Confidentiality**

If the Title IX Coordinator has received notice of an alleged Sexual Misconduct violation under this Policy but the individual impacted requests confidentiality or otherwise asks that an investigation not be pursued, the Title IX Coordinator will make every effort to balance this request with Hamilton's policy of providing a safe and non-discriminatory environment for all members of the community. Honoring such a request may limit Hamilton's ability to conduct a thorough investigation and take appropriate disciplinary action. The Title IX Coordinator will consider many factors when determining whether or not the College can honor the request for confidentiality and/or the request that the College take no investigatory or disciplinary action, including but not limited to whether:

- the Respondent has a history of violent behavior or is a repeat offender;
- the incident represents escalation in unlawful conduct on behalf of the Respondent from previously noted behavior;
- the individual impacted is a minor;
- the information provided suggests an increased risk that the Respondent has committed prior acts or will commit additional acts;
- the alleged misconduct was perpetrated with a weapon or force;
- the alleged misconduct was committed by multiple perpetrators;
- the information provided suggests that the act is part of a larger pattern at a specific location or by a particular group; and/or
- information can be obtained by means other than from the impacted individual (e.g., by personnel or security cameras, witnesses, or through physical evidence).

If confidentiality cannot be maintained, the impacted individual will be informed of the decision prior to the start of an investigation. In appropriate cases, the course of action may include steps to limit the effects of the alleged Misconduct and prevent its recurrence that do not involve formal disciplinary action against a Respondent or revealing the identity of the Complainant.

In the event that the College proceeds with an investigation and is unable to maintain confidentiality, the College will continue to evaluate methods and measures to protect the reporting individual from retaliation or harm. The Title IX Coordinator will work with the Complainant to create a safety plan. Retaliation against the reporting individual, whether by students or College employees, will not be tolerated.

Regardless of a request for confidentiality and the College's decision with respect to that request, the College will also:

- assist the reporting individual in accessing other available advocacy support, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus, as appropriate;
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the Respondent pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the reporting individual of the right to report a crime to local law enforcement and provide assistance if the reporting individual wishes to do so.

## **Article VIII.**

### **Protection for Retaliation**

Hamilton prohibits Retaliation against individuals who pursue complaints or who are otherwise involved in any of the processes outlined in this Policy. The College views Retaliation as a serious violation of this Policy that is subject to the same range of sanctions and responsive action as Sexual Misconduct. Retaliation is defined in Article VI(A).

## **Article IX.**

### **Interim Measures**

Upon receipt of a report pursuant to this Policy, the College will evaluate and if warranted impose reasonable and appropriate interim measures designed to eliminate the reported hostile environment and protect the parties involved. Interim measures may be imposed at any time regardless of whether formal disciplinary action is sought by the Complainant or the College and may be imposed prior to the commencement or conclusion of an investigation. Interim measures will be kept confidential to the extent that maintaining confidentiality will not impair the ability of the College to provide the interim measures.

The parties may request of the Title IX Coordinator some form of interim measure, or the College may choose to impose interim measures at its discretion to enhance the safety of all parties, the broader College community, and/or the integrity of the investigative and/or complaint resolution process.

Possible interim measures include (but may not be applicable depending on the parties' status as students or employees):

- limitations on the Respondent or others regarding contact with the Complainant during the investigation and while the complaint is being reviewed (typical in cases involving students);
- changing class schedules, including the ability to transfer course sections or withdrawal from a course without penalty;

- changing work schedules or job assignments;
- changing a student's College owned housing;
- rescheduling of exams, papers, or other assignments;
- taking an incomplete in a class;
- transferring class sections;
- temporary withdrawal or in the case of an employee temporary suspension or other removal from campus;
- alternative course completion options;
- access to counseling services on- and off-campus and assistance in setting up an initial appointment;
- limiting an individual's or organization's access to certain Colleges facilities or activities pending resolution of the matter;
- voluntary leave of absence;
- providing an escort between classes and activities;
- providing medical services;
- providing academic support services, such as tutoring;
- College-imposed leave (for employees) or separation (for students); and/or
- any other remedy that can be tailored to the involved individuals to achieve the goals of this Policy.

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

When as a result of a Sexual Misconduct complaint a no contact order is issued and the person against whom the no contact order is issued and the person protected by the no contact order observe each other in a public place, unless it is otherwise provided in the no contact order, it is the responsibility of that individual subject to the no contact order to leave the area immediately and without directly contacting the person protected. This restriction requires removal to the extent necessary to prevent interaction of the sort prohibited by the no contact order. It does not require a party to refrain from attending an event (e.g., an athletic contest, a campus speaker presentation) in circumstances where simultaneous attendance can occur without prohibited interaction.

When a no contact order is issued, both the person against whom it is issued and the person seeking the no contact order, will, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and/or terms of the no contact order, including potential modification. This request may be made by submitting a written request the Title IX Coordinator, providing the basis for the request and submitting any evidence in support of the request.

Continued intentional contact in violation of a no contact order is grounds for additional misconduct charges.

Upon request, an individual may also seek a prompt review of the need for and/or terms of any interim measure and accommodation that directly affects said individual, by submitting a written request for review to the Title IX Coordinator, providing the basis for that request and any evidence in support.

When a student accused of Sexual Misconduct is determined to present a continuing threat to the health and safety of the campus community, the accused student is subject to interim suspension pending the outcome of any proceedings under this Policy. Both that student as well as the subject of any such misconduct will, upon written request, be afforded an opportunity for a review of the need for and/or terms of an interim suspension, including potential modification, by submitting a written request to the Title IX Coordinator, providing the basis for that request and any evidence in support.

When the accused is not a student but is a member of the College community, the accused is subject to interim suspension in accordance with the College's employment policies and practices (including applicable collective bargaining agreements).

## **Article X Complaint Response Procedures**

The following steps outline Hamilton's process for addressing notice of Sexual Misconduct:

### **A. Notice of Complaint**

Complaints of Sexual Misconduct may be made orally or in writing, and may come from the report of a Responsible Employee, directly from a Complainant, or from a third party. This will be considered "notice" that an act of Sexual Misconduct is alleged to have occurred. This notice must ultimately be recorded in written form by the Complainant, Responsible Employee, or Title IX Coordinator, and must include, at a minimum (to the extent known), the time, place, and nature of the alleged offense and the name of the Respondent. In addition, the College may also receive notice of a possible incident of Sexual Misconduct without any actual complaint or report and it recognizes that it may have an obligation to act in those instances as well.

### **B. Evaluation of Response Options**

After receiving notice, the Title IX Coordinator will determine if the conduct alleged by the Complainant falls within this Policy.

In cases where action against an alleged Respondent cannot otherwise be taken because that individual is not a member of the College community,



the Title IX Coordinator will assess the information given and provide appropriate recommendations and resources to the Complainant, including the procedure available under Article XIII.

In cases where it is determined that the act, if proven, does not fall within this Policy, no further action will be pursued under this Policy and the Complainant will be advised by the Title IX Coordinator of other avenues of recourse and support as appropriate.

**C. Informal Resolution: Mediation**

In cases where the Title IX Coordinator and HSMB Chair determine that mediation may be appropriate, the Title IX Coordinator will first speak with the Complainant about the option to pursue mediation. If the Complainant is agreeable, then the Title IX Coordinator will meet with the Respondent to discuss the mediation process. If both parties are agreeable to mediation, mediation will be coordinated by the Title IX Coordinator. Either party or the College may discontinue mediation at any time. The mediator will report to the Title IX Coordinator and the HSMB Chair the results of the mediation, which is subject to the acceptance of the Title IX Coordinator. Mediation, even if voluntary, may not be used in cases involving sexual assault.

**D. Formal Resolution**

In cases of alleged Sexual Misconduct under this Policy, where informal resolution is not used or if used is not successful, the following process will apply. This process may involve the Chair of the HSMB, the appropriate Senior Staff Member, the Title IX Coordinator, an Investigator, and the Review Panel. In the event the Complainant, Respondent, Chair of the HSMB, or Title IX Coordinator identifies a conflict of interest involving the Chair or the Title IX Coordinator, the appropriate Senior Staff Member will appoint another member of the HSMB to oversee the process.

The Title IX Coordinator will meet with the Complainant and explain the investigation procedures that will be followed. The Title IX Coordinator will meet separately with the Respondent to provide written notification that Hamilton is investigating the possibility that the Respondent may have violated this Policy. Both parties will be provided written notification of formal complaint and a copy of this Policy.

**E. Respondent Acceptance of Responsibility**

The Respondent, with the Senior Staff Member's agreement, may accept responsibility for alleged conduct. A Respondent choosing this path must provide the Senior Staff Member and the Chair a written statement accepting responsibility for the alleged conduct and waiving any further process under this Policy. In such cases, the appropriate Senior Staff Member – in consultation with the Chair and Title IX Coordinator – will determine a sanction, which may range from a warning to permanent separation from the College. By accepting responsibility, the Respondent accepts the Senior Staff Member's decision as final. If the Respondent does not agree to accept responsibility and disputes the description of alleged conduct, the process below will proceed.

**F. Investigation of Complaint**

**General**

Hamilton College uses an investigation model to resolve complaints of Sexual Misconduct that are not appropriate for voluntary mediation, or that either party does not wish to mediate even if mediation could be pursued.

A trained Investigator will interview all parties and witnesses and collect relevant information. The Investigator is authorized to contact any relevant people and to access any relevant and available records not otherwise prohibited by legal protections of privilege or confidentiality. It is the responsibility of the Investigator to take custody of, and arrange safekeeping for, any physical or electronic records, documents, or other tangible items to be used in making a finding.

The Investigator will make every effort to conclude a thorough investigation, including submission of its written report, within sixty (60) days (absent circumstances such as school breaks and examination periods) of delivery of the notice of investigation. Should a Respondent choose not to participate in the investigative process, the investigation may proceed, a decision will be made, and, if appropriate, a sanction may be imposed based on available information.

The Complainant and Respondent may have an advisor of choice present at any interview or other meeting related to the investigation and resolution process if the matter involves sexual assault, dating or domestic violence, or stalking, or when otherwise required by law. In all other cases, an advisor may be used but the advisor must be an active member of the campus community, who is not a lawyer. In all cases, advisors can only advise the Complainant or Respondent privately and cannot act as speaking advocates. If an advisor does not adhere to these or other applicable ground rules, the advisor will be dismissed from the interview or other meeting, which will continue without opportunity for the advisee to secure a new advisor. If an advisor is going to accompany a party, that party must advise the Title IX Coordinator of the identity of the advisor upon making that decision. Neither members of the HSMB nor the Appeals Board may serve as advisors. The College will determine its own schedule for interviews and other meetings, and it is incumbent upon each party to ensure that the party's advisor is available. The schedule will not be determined by advisor availability.

In matters involving students, the College will typically issue "no contact" orders for the duration of the investigation and resolution process. In all other matters, the College will evaluate and implement measures intended to reduce the burden on the Complainant; the College's evaluation of the appropriateness of such measures will be ongoing.

## **G. Rights of the Respondent and Complainant**

### **Common Rights**

Each party has the right to:

- be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
  - In the case of students, medical and emotional support from the Student Health Service, the Counseling Center, and/or trained advocates;
  - In the case of employees, medical and emotional support through the College's Employee Assistance Program (1-800-834-3947);
- have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- make a report to local law enforcement and/or state police;
- 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 institution;
- describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- preservation of privacy, to the extent possible and allowed by law;
- receive appropriate, reasonably available measures to reduce the burden on either the Complainant and/or Respondent, which may include (but may not be applicable to all depending on their status as a student or an employee):
  - placement of limitations on one party regarding contact with the other during the investigation and while the complaint is being reviewed;
  - separation or modification of the working, living, and/or academic arrangements of the Complainant and/or the Respondent and the College's assistance in effecting such change;
  - rescheduling of exams, papers, or other assignments;
  - taking an incomplete in a class, changing class sections; temporary withdrawal; or alternative course completion options;
- be protected from Retaliation by the institution, any student, the accused and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
- participate in a process that is fair, timely, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution;
- be informed of campus judicial rules and procedures as well as the nature and extent of all alleged violations contained within the complaint;
- be informed in advance of any meeting they are required or eligible to attend, the purpose of the meeting and the rules allegedly violated and potential sanctions (if not previously advised);
- receive the counsel and support of an advisor (as more fully described above) throughout the investigation and resolution processes. The advisor may consult with the advisee but may not speak on behalf of the advisee unless directed to answer questions raised by the Investigator or Review Panel, or to assist the advisee with questioning;
- provide information at any step of the procedures outlined in this Policy outside the presence of the other party;
- have their own past sexual history with persons other than the other party precluded from consideration by the Review Panel for purposes of determining responsibility;
- have their own mental health diagnosis and/or treatment excluded from consideration by the Review Panel for purposes of determining responsibility;
- have other irrelevant information concerning character, or incidents not directly related to the complaint, excluded from the investigation and resolution proceedings (the HSMB Chair, Title IX Coordinator or other appropriate person may determine that information about unrelated incidents demonstrating a pattern of behavior directly related to the alleged violation is admissible information);
- be informed of the names of any additional individuals who have provided information to be considered in determining responsibility and/or sanctioning (as applicable);
- have the College request the presence of individuals at investigative and resolution proceedings (as appropriate);
- petition the Chair of the HSMB for removal of any member of the Investigator or Review Panel (where applicable) on the basis of demonstrated bias or conflict of interest;
- have complaints investigated and reviewed in a timely, impartial and thorough manner, by individuals who have received annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the Respondent (including the right to a presumption that the Respondent is "not responsible" until a responsibility determination has been made), and other issues relating to sexual assault, domestic/dating violence and stalking;
- review all relevant documentary information available regarding the complaint and investigation, subject to the confidentiality limitations imposed by state and federal law and College policy, and the ability of the Title IX Coordinator and the HSMB Chair to exercise discretion to redact or remove information deemed to be irrelevant, more prejudicial to a party or witness than probative, an unwarranted invasion of an individual's privacy or immaterial;
- submit a personal impact statement prior to the consideration of any sanction;

- have College policies and procedures followed without material deviation;
- an outcome based solely on information obtained by the Investigator and during the Review Panel or other applicable proceeding;
- be notified of the Review Panel’s finding and recommended sanction (where applicable) , as well as the Senior Staff Member’s decision as to sanction; and
- appeal the Review Panel’s determination and/or the Senior Staff Member’s decision as to sanction, in accordance with the standards for appeal established by this Policy.

**H. Additional Rights of the Complainant**

A Complainant has the right to:

- be informed by College officials of options to notify appropriate law enforcement authorities and the option to be assisted by campus officials in notifying such authorities whether or not the individual intends to pursue on-campus complaint resolution procedures;
- be free from any suggestion that the Complainant is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- file a report of sexual assault, domestic violence, dating violence, and/or stalking and consult the Title IX Coordinator and other appropriate College personnel for information and assistance;
- disclose, if the accused is a College employee, the incident to Human Resources or request that another employee of their choosing assist in reporting to Human Resources;
- receive assistance from appropriate College representatives if interested in initiating legal proceedings in family court or civil court (e.g. orders of protection), such assistance to consist of facilitation in contacting appropriate local agencies (e.g., YWCA), who can provide direct assistance with court proceedings; and
- withdraw a complaint or involvement from the College processes at any time, with the understanding that in appropriate cases, the College may nonetheless be required to proceed even if the reporting individual does not wish to do so (see Article VII section B, Requests for Confidentiality).

**I. Additional Rights of the Respondent**

A Respondent has the right to:

- receive written or electronic notice, prior to any meeting the Respondent is required to or eligible to attend, of the date, time, location and factual allegations made, the specific provisions of the Policy allegedly violated and the possible sanctions;
- a presumption that the Respondent is “not responsible” until a finding of responsibility has been made;
- review the complaint made (subject to the confidentiality and privacy provisions of this Policy);
- waive Review Panel or other proceedings by admitting responsibility (in which case, the Senior Staff Member, in consultation with the Title IX Coordinator and Chair of the HSMB, will determine a sanction, with no right of appeal); and
- withdraw from the College, subject to Article XI. A. 2 of this Policy.

**J. Procedures for Submitting and Accessing Information Collected During College’s Investigation**

The Complainant and Respondent will be invited to offer and/or identify all information they would like the Investigator to review, and both may recommend witnesses and submit information for consideration, including proposed questions to be posed by the Investigator to witnesses. Decisions about interviews and collection and evaluation of relevant information, physical or electronic documents, and other tangible items, however, are ultimately at the sole discretion of the Investigator in the context of impartial treatment of both parties. In the course of conducting interviews, the Investigator will ask any participant in the investigation to sign a statement attesting to, or otherwise verifying, the veracity of the information provided. The Investigator will also encourage participants to keep the substance of an interview confidential.

At the conclusion of the investigation, the Complainant and Respondent will have the opportunity to review the initial investigation report (which will include the other party’s statement, relevant witness statements and other relevant materials gathered during the course of the investigation). Prior to this review, however, the Title IX Coordinator and HSMB Chair will review those materials to determine whether the information contained therein is relevant and material to the determination of the charged violation(s) and otherwise consistent with the terms of this Policy given the nature of the allegation(s). In general, the Title IX Coordinator and the HSMB Chair may redact information that is irrelevant, more prejudicial to a party or witness than probative, an unwarranted invasion of an individual’s privacy, otherwise violative of this policy, or immaterial.

After such review and redaction, the Title IX Coordinator will facilitate the opportunity for each party to access the information separately in a private setting. Both parties will have an opportunity to respond to this information, in writing, within seven (7) days. If at any stage following the submission of these responses new and relevant information is gathered, it will be shared with the Complainant and Respondent, who will again have the opportunity to submit a written response within a time frame determined by the Title IX Coordinator. The Complainant and Respondent may request to see the other party’s written responses.

Following the initial seven (7) day review period by the Complainant and Respondent and any subsequent responses and gathering of new information, the Investigator will complete their final written report and, within seven (7) days, meet with the Chair and Title IX Coordinator to deliver that final written report, which will include relevant facts, all relevant investigation materials, Complainant and Respondent statements and responses to the other’s statement, and any additional information gathered. The Title IX Coordinator will notify the Complainant and Respondent of the completion of the final Investigator report and make arrangements for each to review.

## **K. Simultaneous College and Law Enforcement Investigations**

When a Complainant reports to both local law enforcement and the College, there will usually be some coordination of the investigations.

At the request of law enforcement, the College may agree to defer its fact-gathering until after the initial stages of a criminal investigation. The College will delay no more than 10 days unless law enforcement authorities specifically request and justify a longer delay. During that time, the College will continue to offer support to the Complainant, including discussing Title IX rights, procedural options, and needed interim measures to ensure safety and well-being. The College will promptly resume its fact-gathering as soon as appropriate.

The College will timely share information in simultaneous investigations except when local law enforcement determines that the sharing of information will impede its ongoing investigation. In addition, the College's ability to share information related to its own investigation and/or adjudication of certain offenses involving a student or students will be governed by the Family Educational Rights and Privacy Act, which prohibits disclosure of student education records containing personally identifiable information except under certain circumstances.

The College's Policy, definitions, and standard of review differ from New York criminal law. Neither law enforcement's determination whether to prosecute a Respondent nor the outcome of any criminal prosecution is determinative of whether Sexual Misconduct has occurred under this Policy. Proceedings under this Policy may be carried out prior to, simultaneously with or following civil or criminal proceedings off campus.

## **Article XI.**

### **Resolution Procedures**

#### **A. When the Respondent Is a Student**

##### **1. Review Panel Procedures and Guidelines**

Unless the Title IX Coordinator and the HSMB Chair determine that mediation is appropriate and the parties agree to proceed with mediation as described above, the Title IX Coordinator will convene the Review Panel upon receipt of the final report from the Investigator. The Review Panel will review the final Investigator report and may request any additional relevant information from the investigators and/or to meet individually with any person(s). The Complainant or Respondent also has the right to meet separately with the Review Panel and to address the Review Panel regarding any matter relevant to the complaint, the Investigator's final report, and possible sanctions. Utilizing this information, the Review Panel is responsible for arriving at a determination of whether this Policy was violated and, if so, which specific portion(s). The Review Panel will apply a preponderance of evidence standard when arriving at a determination of whether this Policy was violated.

If the Review Panel determines that this Policy has been violated, the Complainant and Respondent will be invited by the Title IX Coordinator to submit a personal impact statement that will be provided to the Review Panel and the Senior Staff Member for consideration in recommending and determining (respectively) a sanction. The Title IX Coordinator will set the time frame for the submission of personal impact statements which normally will be seven (7) days. The Review Panel will then recommend a sanction to the Senior Staff Member for the Respondent based on the nature of the violation and available precedent. Possible sanctions include any one or more of the following:

- **Warning:** Notice, orally or in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
- Mandatory educational workshop or service.
- **Loss of status in housing lottery.**
- **Status of probation:** To be assigned for a specified period of time. Terms of the probation shall be specified, and may include denial of specified social privileges, exclusion from extracurricular activities, exclusion from study abroad or other off campus programs, and other measures deemed appropriate. Violation of this Policy or the College's Code of Conduct during the period of probation may result in suspension or expulsion from the College.
- **Suspension:** Separation from the College, and exclusion from College premises, and from other privileges and activities. Readmission to the College after the term of suspension is not automatic, but requires application to the Dean of Students.
- **Expulsion:** Permanent termination of student status, and exclusion from College premises, privileges, and activities. An application for readmission shall not be considered. Students who have been expelled are expected to leave the campus within 48 hours unless the Dean of Students grants a special extension.
- **Other Actions:** In addition to or in place of the above actions, the Review Panel may recommend, and/or the Senior Staff Member may assign, such other penalties as deemed appropriate.

Individuals found responsible for a Non-consensual Sexual Act (penetration and/or oral contact) should normally expect suspension or expulsion from the College.

**Transcript Notation:** In the event any student is found responsible for conduct which constitutes a crime of violence that must be reported under the Clery Act (including but not limited to aggravated assault and sexual assault) and is suspended or expelled as a result, the notation "Suspended/Expelled after a finding of responsibility for a code of conduct violation" will appear on the transcript. A student who has been suspended may request to have the notation removed no sooner than one year after the conclusion of the suspension and prior to graduation. Requests should be submitted in writing to the Dean of Students. Notations for expulsions shall not be removed. In pending cases that could result in suspension or expulsion, the Dean of Students will normally place a temporary encumbrance on a student's transcript. If a student withdraws with

such charges pending and does not participate through completion in any College process, the notation "Withdrawn with code of conduct charges pending" will appear on the student's transcript.

If the Review Panel determines that College Policy was not violated, no sanction will be recommended.

The Review Panel will prepare a brief written summary of its determination, including findings of fact and a rationale for its determination and recommended sanction (if applicable), and submit it to the Senior Staff Member. The Review Panel will make every effort to conclude this process within fourteen (14) days of the receipt of the Investigator's final report.

The Senior Staff Member will make the final decision as to sanction after considering the Review Panel's determination and sanction recommendation and the final Investigator report, subject to the Senior Staff Member's right to meet individually with any person. The Senior Staff Member and Chair will meet separately with the Complainant and Respondent to inform them of the Review Panel's determination and recommendation and the Senior Staff Member's decision as to sanction (if applicable). Each party will also be informed in writing of the Review Panel's determination and the Senior Staff Member's decision as to sanction (if applicable), and procedures to appeal.

## **2. Respondent Withdrawal**

In the event any student is found responsible for conduct which constitutes a crime of violence that must be reported under the Clery Act (including but not limited to aggravated assault and sexual assault) and is suspended or expelled as a result, the notation "Suspended/Expelled after a finding of responsibility for a code of conduct violation" will appear on the transcript. Should a Respondent choose to withdraw from the College with knowledge that a formal complaint against the Respondent has been made under this Policy and prior to the Senior Staff member's final decision, the Respondent's transcript will note that a complaint had been made at the time of withdrawal as described above. The College reserves the right, notwithstanding a withdrawal, to proceed with consideration of any complaint to completion and, if appropriate, impose a sanction.

### **B. When the Respondent is a Faculty Member**

When the Respondent is a Faculty Member, the Investigator's final report will be presented to the Dean of the Faculty and the Chair of the HSMB. The Dean may meet individually with any person. If the Dean, after consultation with the Chair, believes that a violation of this Policy has occurred and a major change in the terms of employment or dismissal is appropriate, as provided in X.D. 1 (b) of the Faculty Handbook, the Dean will use the Investigator's final report (or any relevant portions thereof) as the basis for a petition under X.E of the Faculty Handbook and those procedures will be followed, subject to the following modifications:

- tribunal members can only be drawn from those otherwise qualified individuals who have undergone or who in advance of the hearing undergo appropriate (as determined by the Title IX Coordinator) Title IX training;
- either the original Complainant or the Faculty Member Respondent may request to be separated from the other during the course of any proceeding, in which case the Tribunal will determine whether and how best to accomplish that separation (such as through use of a screen or partition, close circuit tv, or otherwise, to allow either party to provide information outside the presence of the other);
- both the Complainant and the Faculty Member Respondent may request to have all questions from the other (or questions to the other from them, as applicable) asked through, and in a substance and form determined by, the Tribunal, rather than through direct examination/cross examination;
- any determination will be based on a preponderance of evidence standard;
- the time periods provided for notice of hearings and/or decisions may be shortened as determined necessary by the Title IX Coordinator to permit completion of the process in a timely fashion, as provided in this Policy; and
- any other modifications that may be required to comply with Title IX or other law.

In cases where the Dean of the Faculty believes a major change or dismissal is not appropriate, and finds a violation of College Policy, the Dean may impose a penalty as provided for in X.D. 1

(b) of the Faculty Handbook. The Dean's determination will include findings of fact and a rationale for the responsibility determination and sanction, if any.

### **C. When the Respondent is a Staff Member**

When the Respondent is a Staff member (i.e., for purposes of this Policy, any non-faculty employee), the Investigator's final report will be provided to the Director of Human Resources and the Senior Staff Member (who must both be appropriately trained, as determined by the Title IX Coordinator), who together are responsible for arriving at a determination of whether this Policy was violated and, if so, which specific portion(s). The Director of Human Resources and/or the Senior Staff Member may meet individually with any person. If it is determined that a violation of this Policy has occurred, or if it is determined that no violation of this Policy has occurred but a violation of some other College policy, rule, or requirement has occurred, the Director of Human Resources and Senior Staff Member, after consultation with the Chair or other member of the HSMB, may impose an appropriate sanction, up to and including termination of employment.

The Director of Human Resources and the Senior Staff Member determination will include findings of fact and a rationale for the responsibility determination and sanction, if any. A preponderance of the evidence standard will apply to this determination. In the event the Director of Human Resources and the Senior Staff Member are unable to agree, they shall advise the President, who will appoint a third person to act as a tie-breaker.

## Article XII.

### Overall Time Frame for Investigation and Complaint Resolution

The College has established time frames with the goal of addressing and reaching a determination about all complaints in a timely and efficient manner. In general, parties can expect that the College will conclude all reports of Sexual Misconduct within ninety (90) days (exclusive of any appeal) and, in general, parties can expect that the process will proceed according to the time frames provided in this Policy. However, because circumstances may arise that require the extension of time frames—possibly beyond the overall ninety (90) day timeline— all time frames expressed in this Policy are meant to be guidelines rather than rigid requirements. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation or other unforeseen circumstances. The College will provide written notice to all parties of the reason for any delay and the expected adjustment in time frames. The College will make its best efforts to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

### Appeals

#### When the Respondent is a Student

Either party may request an appeal of the findings as to responsibility and/or the sanction (if applicable) within seven (7) days of being informed in writing. Acceptable grounds for an appeal are limited to:

- A sanction inconsistent with the severity of the violation or with stated community standards and precedents;
- procedural error(s) that had a material impact on the fairness of the process (the Appeals Board is not to substitute its judgments on the merits for that of the Review Panel or Senior Staff Member); and/or
- the discovery of previously unavailable relevant information that could significantly impact the result of the Review Panel's or Senior Staff member's determination.

### Appeal Procedures

Either party may submit a written request for an appeal to the Chair of the Appeals Board. In the request, the party must identify the specific grounds upon which the appeal is based and must provide all of the detail the given party wants considered in support of the appeal. (The Appeals Board will not consider submissions from anyone other than the parties themselves.) The Chair of the Appeals Board will inform the Senior Staff Member and Chair of the HSMB that an appeal request has been made and will invite them to review the appeal request and respond in writing within seven (7) days of that invitation.

Where an appeal is requested by the Respondent, the Complainant will be provided with a copy of the Respondent's appeal and invited to respond. Where an appeal is requested by the Complainant, the Respondent will be provided a copy of the Complainant's appeal and invited to respond. However, in either case, the Title IX Coordinator and HSMB Chair will review the appeal statement to determine whether the information contained therein is relevant and material to the determination of the appeal and, in general, the Title IX Coordinator and the HSMB Chair may redact information that is irrelevant, more prejudicial to a party or witness than probative, an unwarranted invasion of an individual's privacy, otherwise violative of this Policy, or immaterial. The Title IX Coordinator 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.

Within seven days of an appeal being filed, the Chair of the Appeals Board will schedule a meeting for consideration and disposition of the appeal. The Title IX Coordinator will provide the Appeals Panel access to the Investigation Report and any other written materials that were made available to the Review Panel. In considering the appeal, the Appeals Panel may request additional information from the Title IX Coordinator, the Senior Staff Member, or the Chair of the HSMB. Normally, the parties, Senior Staff Member, and Chair of the HSMB will not appear before the Appeals Panel, though they may be summoned at the discretion of the Chair of the Appeals Board.

The Appeals Panel may:

- uphold the original decision;
- remand the matter to the Review Panel. The Appeals Panel may (but is not required to) take this action when there is a procedural irregularity that could be corrected in a review or the presentation of previously unavailable relevant information that could significantly impact the result of the Review Panel's determination;
- remand the matter to the appropriate Senior Staff Member with a recommendation that the sanction be modified, together with an explanation of why the original sanction is deemed inappropriate; or
- remand the matter to an ad hoc review panel composed of members of the HSMB not previously involved in the matter. This will be done only in extraordinary cases when, in the considered opinion of the Appeals Panel, the matter would be best addressed by a newly-constituted panel.

Any determination made following a remand of a matter is subject to appeal to the Appeals Board utilizing this same process.

In cases where the two members of the Appeals Panel do not agree, a third Appeals Board member will review the appeal and make a determination. If there is a conflict of interest, or a third member of the Appeals Board is unavailable, a member of the Faculty Appeals Board will be appointed by the Chair of the Faculty Appeals Board. The Appeals Panel will provide the parties, the Senior Staff Member, and the Chair of the Harassment and Sexual Misconduct Board written notice of its decision, including grounds for the decision, normally within seven days of its meeting. The record of the appeal will consist of the letter of appeal; any written statements from the parties, Senior Staff Member and/or Chair of the HSMB; and the written decision that acceptable grounds for an appeal were not asserted (if that is the case), and the outcome of the appeal. This record will be appended to the written record of the original decision and will be kept with it as part of the case file maintained by the Title IX Coordinator.

Decisions of the Appeals Panel are final.

#### **B. When the Respondent is a Faculty Member**

If the matter was processed under X.E of the Faculty Handbook, the faculty member shall have the rights provided therein and no others. For other matters, either party (but only parties themselves) shall have the right to appeal, in writing, to the Title IX Coordinator, within seven days of receipt of the Dean's determination. Grounds for appeal are limited to:

- a sanction inconsistent with the severity of the violation;
- procedural error(s) that had a material impact on the fairness of the determination (the President's and Vice President's judgment on the merits should not be substituted for that of Dean ); or
- the discovery of previously unavailable relevant information that could significantly impact the result of the Dean's determination.

The appeal will be heard by the President and a Vice President not otherwise involved in the matter, as selected by the Title IX Coordinator. On appeal, the President and Vice President may uphold the original determination, remand the matter for either further consideration by the Dean of Faculty and/or Investigator, or modify or reject the determination. The President and Vice President's decision is final, subject to the rights of the parties to appeal any proceedings ordered on remand. In the event the President and Vice President do not agree, the Title IX Coordinator will appoint to the panel another Vice President not involved in the matter.

#### **C. When the Respondent is a Staff Member**

Either party (but only the parties themselves) may appeal the determination of the Director of Human Resources and the Senior Staff Member by submitting a request for an appeal in writing within seven (7) days of receiving notice of the determination to the Title IX Coordinator. Acceptable grounds for an appeal are limited to:

- a sanction inconsistent with the severity of the violation;
- procedural error(s) that had a material impact on the fairness of the determination (the President's and Vice President's judgment on the merits should not be substituted for that of the Director of Human Resources and Senior Staff Member); or
- the discovery of previously unavailable relevant information that could significantly impact the result of the Director of Human Resources/Senior Staff Member's determination.

The appeal will be heard by the President and a Vice President not otherwise involved in the matter, as selected by the Title IX Coordinator. On appeal, the President and Vice President may uphold the original determination, remand the matter for either further consideration by the Director of Human Resources and Senior Staff Member and/or Investigator, or modify or reject the determination. The President and Vice President's decision is final, subject to the rights of the parties to appeal any proceedings ordered on remand. In the event the President and Vice President do not agree, the Title IX Coordinator will appoint to the panel another Vice President not involved in the matter.

#### **Article XIII.**

##### **Guests and Non-College Community Members**

The College expects all guests to be able to participate in its programs and offerings (to the extent otherwise appropriate) without experiencing Sexual Misconduct related to those programs and offerings. The College also expects guests and other non-community members to not engage in such conduct towards others in the context of those programs and offerings.

If guests or other non-community members believe they have been subjected to Sexual Misconduct by a member of the College community in connection with a College program or offering, they may request that the conduct be addressed pursuant to the applicable process under this Policy.

If College community members believe they have been subjected to Sexual Misconduct by a guest or other non-community member in connection with a College program or offering, they should make a report to Campus Safety, which will conduct an appropriate investigation and report its findings to the Title IX Coordinator for action. The parties are permitted to use an advisor, on the same terms as set out in Article X, F, above. The decision of the Title IX Coordinator in such matters will be final.

#### **Article XIV.**

##### **Education and Prevention Programs**

The College is committed to educating and promoting community awareness about the prevention of sex discrimination and harassment, sexual harassment, sexual violence, stalking, domestic violence, dating violence, and sex- and gender-based harassment that does not involve conduct of a sexual nature. The College offers programs to promote awareness and prevention of such issues throughout the year, including an overview of the College's policies and procedures, relevant definitions (including prohibited conduct, discussion of the impact of alcohol and illegal drug use, and effective consent), the severity of sanctions for violations (including suspension and expulsion) and information about bystander intervention and risk reduction.

The Title IX Coordinator and others designated by the Title IX Coordinator oversee the development and implementation of the College's education and prevention programs, which are based on campus needs and climate. Incoming first-year students and new employees receive primary prevention and awareness programming as part of their orientation. Returning students and employees receive ongoing training on a periodic basis. All educational programs include a review of resources and reporting options.

**Article XV.  
Annual report**

At the end of each academic year, the Title IX Coordinator shall prepare a report that will include the number of notices of alleged misconduct, the kinds of behaviors that gave rise to complaints during that academic year, and the final resolution of those complaints. The Title IX Coordinator will make the annual report public at the beginning of the next academic year. The report shall not mention the name of any individual or contain identifying details of any case.

**Article XVI.  
Records**

The Title IX Coordinator shall keep on file in the Title IX office for seven years from the date of the filing of the formal complaint the following written documentation: notice of complaint and related no contact orders, the investigation report and supporting materials, summary and recommendation, the Senior Staff member's written finding and sanction notification (if applicable), and the appeals record.

**Article XVII.  
Conflicts**

Whenever any official with a role under this Policy (e.g., is a Senior Staff Member, Director of Human Resources, etc.), has a conflict of interest and the process for resolving the conflict is not otherwise provided in this Policy, the President may designate someone else to fill that person's role under this Policy (except in cases processed under the Tribunal provisions of the Faculty Handbook, in which case those provisions on the selection of Tribunal members will govern).

If a complaint is made against the President, or a member of the Board of Trustees, it will go to the Chair of the Board (or the Vice Chair of the Board if the charge is against the Chair), who may appoint different individuals to any role under this Policy as the Chair (or Vice Chair) deems appropriate to ensure a fair and appropriate process.

**Article XVIII.  
Multiple Charges/Parties**

When multiple charges and/or parties are involved, including charges by and against individuals with different statuses (e.g. faculty and student), the Title IX Coordinator, in consultation with the HSMB Chair, will determine the appropriate procedures to be used, including varying from these procedures as may be necessary. Normally, multiple contemporaneous charges against the same Respondent, even when brought by multiple complainants, will be investigated by a single Investigator. Absent the consent of the Respondent, the Title IX Coordinator will convene separate Review Panels to hear complaints by different Complainants against the same Respondent whenever separate Review Panels are necessary to ensure the exclusion of the Respondent's prior sexual history with persons other than the Complainant.

**Article XIX.  
Coordination with Other Policies**

A particular situation may potentially invoke one or more College policies or processes. The Title IX Coordinator, in consultation with other college officials, reserves the right to determine the most applicable policy or process and to utilize that policy or process.

**Article XX.  
Counsel**

Any College administrator or official when involved in the implementation of this policy (e.g., HSMB member, Senior Staff member, Director of Human Resources, Tribunal member, etc.) may seek the advice of, and share information with, the College's legal counsel through the Title IX Coordinator.

**Article XXI.  
Policy Amendment**

Members of the community may suggest changes to members of the HSMB or the Title IX Coordinator, who shall bring them to the HSMB for



discussion. Final policy changes, other than updates to contact information included in this policy, are to be approved by the President of the College. Unless otherwise provided in the amendment, amendments to this Policy will become effective upon approval.

**Article XXII.**

**Inquiries Related to This Policy and Title IX**

The College encourages members of the Hamilton community to bring any and all questions or concerns about this Policy and/or Title IX to the Title IX Coordinator: Catherine Berryman, at 315-859-4020 or cberryma@hamilton.edu, Elihu Root.

**Members of the Hamilton community may submit inquiries or complaints concerning Title IX to the U.S. Department of Education’s Office for Civil Rights:**

<p>U. S. Department of Education, Office for Civil Rights New York Office          32 Old Slip, 26th Floor          New York, New York 10005-2500          Phone: 646-428-3800          Fax: 646-428-3843          Email: <a href="mailto:OCR.NewYork@ed.gov">OCR.NewYork@ed.gov</a></p>	<p>OCR National Headquarters          U. S. Department of Education          Office of Civil Rights, Customer Service Team          Mary E. Switzer Building          330 C. Street, S.W.          Washington, D. C. 20202          Phone: 800-421-3481          Fax: 202-205-9862</p>
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**Inquiries involving employees may also be referred to:**

<p>New York State Division of Human Rights          Office of Sexual Harassment          55 Hanson Place, Suite 347          Brooklyn, New York 11217          Phone: 718.722.2060 or 1.800.427.2773          Fax: 718.722.4525</p>	<p>U.S. Equal Employment Opportunity Commission National Headquarters          131 Main Street NE Fourth Floor Suite 4NW02F          Washington, D.C. 20507          Phone: 202.663.4900          Fax: 202.663.4912</p>
<p>U.S. Equal Employment Opportunity Commission          New York District Office          33 Whitehall Street, 5th Floor</p>	<p>New York, New York 10004          Phone: 1-800-669-4000          Fax: 212-336-3790          TTY: 1-800-669-6820</p>

ADDENDUM A

RESOURCES

**On Campus Support Resources**

The **Counseling Center** (315-859-4340) is a **confidential** resource, available 24-hours a day/7 days a week, whose staff can provide students emotional support and information about reporting options.

The **Health Center** (315-859-4111) is a **confidential** resource for students whose staff provides medical assistance, and can share information about reporting options. After hours, **Emergency Medical Technicians** (EMTs) are available (reached through Campus Safety at 315-859-4000).

The **Chaplaincy** (315-859-4130) is a **confidential** resource for students and employees whose staff can provide pastoral counsel, emotional support, and information about reporting options. Visit the [Chaplaincy site \(http://www.hamilton.edu/chaplain/office-hours\)](http://www.hamilton.edu/chaplain/office-hours) to learn how to contact individual staff in the Chaplaincy.

**Employee Assistance Program (EAP)** (1-800-834-3947) through BRiDGES is a **confidential** resource for employees regarding issues ranging from alcohol and drug abuse to financial and legal concerns. Appointments with a BRiDGES EAP professional are available 8:00 am until 5:00 pm Monday through Friday with evening hours on Tuesday. Call 315-697-3949 or 1-800-834-3947 during working hours and a staff member will assist in booking an appointment and/or answering any of your questions. A 24-hour answering machine is also available after hours to provide callers with the numbers for crisis services or to take messages. An employee or a family member may attend up to five sessions unless a referral to a community provider is recommended.

**Campus Safety** (315-859-4000) is available to students and employees 24 hours a day, 7 days a week to respond to any community concern. Campus Safety will notify the Title IX Coordinator after responding to a call related to alleged Sexual Misconduct. Campus Safety is not a confidential resource; however, every effort will be made to maintain privacy.

The College's **Title IX Coordinator**, Catherine Berryman, is also available to students and employees as a resource. **Talking with the Title IX Coordinator about a specific incident of Sexual Misconduct constitutes a report under this Policy to which the College must respond, although this does not necessarily mean that the College will take action if the Complainant does not wish for action to be taken (see Section VII Confidentiality).** However, general conversations or questions about Hamilton's processes can remain private [see "Privacy of Resources"]. The Title IX Coordinator can provide information about all resources available to individuals who have experienced Sexual Misconduct, including where to obtain emergency mental health services and health care. The Title IX Coordinator can review and determine the immediate academic and administrative accommodations that can be made to protect a Hamilton community member who has experienced Sexual Misconduct. The Title IX Coordinator can also advise about options for reporting, including the option to report to local law enforcement, to initiate the on-campus resolution procedures, to do both, or to do neither. The Title IX Coordinator will provide guidance and assistance through the process of reporting on- and/or off-campus. She can be reached at 315-859-4020 or after hours for emergencies through Campus Safety at 315-859-4000.

### **Off Campus Support Resources**

**YWCA Rape Crisis Services** (315-797-7740) is an anonymous hotline available to provide counsel as well as in-person assistance getting to a hospital or the police. If requested, YWCA Rape Crisis Service may also provide victim advocacy services.

**Help Restore Hope Center** coordinates **Sexual Assault Nurse Examiner (SANE)** services for medical attention (injuries from a sexual assault are not always immediately apparent) and collecting physical evidence (a "rape kit") at a regional hospital. The College strongly encourages any individual who has experienced sexual violence to obtain a rape kit, which is critical: (1) to diagnose and treat the full extent of any injury or physical effect and (2) to properly collect and preserve evidence. There is a limited window of time (typically up to 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Gathering such evidence does **not** commit an individual to pursuing legal action against the assailant, but does preserve that option. Although it may be difficult following a sexual assault, individuals who are considering or may consider legal action should try not to shower, rinse mouth, brush teeth or change clothes to allow for the maximum possible collection of evidence by a SANE nurse or other health care provider.

Hospitals are **confidential** resources and are not required to report any non-identifying information to the College or to anyone else. However, hospitals providing care to individuals reporting sexual assault are required to:

- collect and maintain the chain of custody of sexual assault evidence for not less than 30 days **unless** the patient signs a statement directing the hospital not to collect it;
- advise the individual seeking medical treatment related to sexual assault of the availability of the services of a local rape crisis or victim assistance organization to accompany the individual through the sexual offense examination;
- contact a rape crisis or victim assistance organization providing assistance to the geographic area served by that hospital to establish the coordination of non-medical services to individuals reporting sexual assault who request such coordination and services; and
- provide emergency contraception upon the patient's request.

Even if an individual who has experienced sexual violence does not have injuries requiring emergency attention, the College encourages that individual to seek medical care as soon as possible, whether at the Health Center or another health care provider or hospital. A medical evaluation is still important to check for physical injuries, reduce risk of complications from sexually transmitted diseases as a result of the assault, and/or (if appropriate) reduce risk of pregnancy.

In most instances, any health care provider will encourage an individual reporting Sexual Misconduct to authorize collection of evidence. For individuals who seek initial medical treatment at the Health Center and decide to proceed with evidence collection, the individual may be escorted to Oneida Health by Campus Safety or may choose to travel by taxi (the College will provide a voucher) to any chosen medical provider. A Complainant can receive follow-up health care at the Health Center or the chosen health care provider or hospital.

### **Law Enforcement**

The College encourages anyone who is a victim of Sexual Misconduct to pursue criminal action for incidents that may also be crimes under applicable criminal statutes. The **New York State Police Campus Sexual Assault Victim Unit's 24-hour Hotline** (1-844-845-7269) or the Oneida County Sheriff (315-736-0141) can assist with pressing criminal charges following an incident in New York.

### **Bias Crimes Compliance Statement**

Hamilton College seeks to prepare all students to thrive as fully engaged citizens of a diverse and increasingly complex world. In keeping with this goal, Hamilton is duly committed to distinguishing itself as a living and learning community that values and exemplifies the inclusion of diverse persons and perspectives. However, no college or community is immune to problems that arise as a result of various forms of bias. As part of the College's commitment to an inclusive campus community, a Bias Incident Response Team and protocol has been developed to address incidents that occur on-campus or at any Hamilton-sponsored off-campus event. We urge all community members to familiarize themselves with the reporting protocol found in this document and to report promptly any incidents that violate the standards that we as a community seek to uphold.

### **What is a bias incident?**

A bias incident is an action that violates college policy and is motivated, in whole or in part, by the perpetrator's bias or attitude against an individual or group based on perceived or actual personal characteristics, such as their race, religion, ethnicity, gender, sexual orientation, or disability.

Examples of bias incidents include harassment, intimidating or threatening comments or messages, vandalism of personal or college property, and defacing posters or signs. Bias incidents affect not only the individual victim or target of a specific action, but often make an entire group or community feel vulnerable and unwelcome. This is unacceptable at Hamilton College and will be treated as a serious offense that could include separation from the College.

### **What is a hate crime?**

A hate crime, also called a bias crime or bias-related crime, is criminal activity motivated, in whole or in part, by the perpetrator's bias or attitude against an individual victim or group based on perceived or actual personal characteristics, such as their race, religion, ethnicity, gender, sexual orientation, or disability. In addition to the victim, members of the victim's group and the community as a whole can feel victimized by a hate crime.

Hate/bias crimes have received renewed attention in recent years, particularly since the passage of the federal Hate/Bias Crime Reporting Act of 1990 and the New York Penal Law 485.05 ([Penal Law Article 485](#)).

*A person commits a hate crime when he or she commits a specified offense and either:*

- *intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or*
- *intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.*

Examples of specific crimes identifiable as hate crimes include murder, manslaughter, robbery, aggravated assault, burglary, motor vehicle theft, arson, forcible and non-forcible sex offenses, intimidation, destruction, damage or vandalism of property in which the victim is intentionally selected because of the actual or perceived protected category.

### **What are the penalties for committing hate crimes?**

For most crimes, when a person is convicted of a hate crime, the crime is deemed to be one category higher than the specified offense the defendant committed, and the person is sentenced accordingly.

Penalties for hate crimes are very serious and range from fines to imprisonment for lengthy periods, depending on the nature of the underlying criminal offense, the use of violence or previous convictions of the offender. For specific information on sentencing, refer to [Penal Law Article 485](#).

Hate crimes are prohibited, in separate ways, by New York State law and Hamilton College policy. Thus, offenders may be prosecuted under New York State criminal statutes and subject to disciplinary action by the Hamilton College. The College may pursue disciplinary action while criminal action is pending, or even if criminal justice authorities choose not to prosecute. In addition to any criminal penalties, students found responsible for a hate crime are subject to disciplinary action and penalties, which may include, among other penalties, separation from the College.

### **Reporting a Bias Incident or Hate Crime**

All members of the Hamilton community are urged to report promptly any bias incident directed against a Hamilton community member or group that occurs on-campus or at any Hamilton-sponsored off-campus event.

***To report an incident or crimes in progress call the Campus Safety emergency line at 315-859-4000 immediately.***

To report a bias incident or hate crime, please complete the Bias Incident Report Form. A Bias Incident Report may be filed via an [on-line form](#) which, upon submission, is automatically directed to the Office of Campus Safety. Alternatively, the report form may be printed and submitted to the Office of Campus Safety, the Dean of Students, or any member of the Bias Incident Response Team.

Upon receipt of a report, the Director of Campus Safety (or designee) will contact the Dean of Students or appropriate college officer, depending upon the whether the complainant is a student or college employee, and the Bias Incident Response Team will be convened.

Prior to and during the process of filing a bias complaint, the complainant may receive the counsel and support of an advisor of his or her choice. The advisor may be any member of the Hamilton community (faculty, staff, coach or peer) and will provide support and guidance throughout the process. Neither Bias Incident Response Team members nor attorneys may serve as advisors.

The Bias Incident Response Team (BIRT) is a group of administrators from across the institution who are committed to creating a proactive response to instances of hate and bias. When a student reports a bias and/or hate incident, the BIRT will support the student, connect them with the appropriate resources, and follow-up with them until the situation has been resolved.

**The BIRT is:**

Committed and organized to assist students who report instances of hate and/or bias

Dedicated to fostering a welcoming and inclusive campus community for all students

Action oriented initiatives that will provide early intervention and education on acts of bias and hate for the campus community

**The BIRT is not:**

An investigative unit or punitive body (BIRT will connect students with the Student Conduct Office or Community Standards, as appropriate)

Crisis or emergency services. Any student in need of campus safety, police intervention or immediate assistance should call Campus Safety at (315) 859-4000 or, if the student is not on campus, local police at 911.

**The Bias Response Team will respond in the following ways:**

- review the report and ensure that an investigation is initiated in a timely manner
- a member of the team will be designated to ensure that the complainant is provided with appropriate support and referrals to resources on and off-campus and relevant updates concerning the investigation and resolution.
- work with college administrators, to determine how best to mitigate campus tensions arising from a complaint, whether or not that incident rises to the level of a policy violation
- collect and disseminate to the campus community information about reported bias incidents

**Resources**

**Hamilton College**

- Counseling and Psychological Services – 315-859-4340
- Dean of Students Office – 315-859-4020
- Student Health Services – 315-859-4111
- Residential Life Office – 315-859-4023
- Harassment and Sexual Misconduct Board – 315-859-4334
- Campus Safety – 315-859-4141 or 315-859-4000 if an emergency

**Off-Campus**

- Kirkland Police – 911 or 315-853-2924 for general information
- State Police – 315-366-6000
- Oneida County Sherriff 315-768-7804
- Hospitals and Urgent Care facilities
  - St. Luke's emergency department – 315-624-6112
  - St. Elizabeth's emergency department – 315-798-8111

*Please note: the reporting system does not create a new category of prohibited behavior or a new process for members of the Hamilton community to be disciplined or sanctioned. The BIR Team has no authority to discipline any student or member of the faculty or staff. Reported conduct that may be a violation of college policy will be referred for action through existing disciplinary or judicial procedures. Reported conduct that may be a violation of law may also be referred to local law enforcement agencies.*

*Portions of this policy were adapted from policies of NCHERM, SUNY University at Buffalo and Skidmore College.*

**Crime Statistics policy and procedures**

Policy and Procedures for preparing the annual disclosure of crime statistics can be found as Appendix 1 of this document.

### General Definitions for Reported Statistics

The following definitions are used to report crimes listed in accordance with the Federal Bureau of Investigation Uniform Crime Reporting Guidelines.

- *Murder and Non-Negligent Manslaughter*: The willful (non-negligent) killing of one human being by another.
- *Negligent Manslaughter*: The killing of another person through gross negligence.
- *Robbery*: The taking or attempting to take anything of value from the care, custody or control of another person or persons by force or threat of force or violence and/or putting the victim in fear.
- *Aggravated Assault*: An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. Some examples of severe or aggravated bodily injury are wounds requiring stitches, broken bones and internal injuries.
- *Burglary*: The unlawful entry of a structure to commit a felony or a theft.
- *Motor Vehicle Theft*: The theft or attempted theft of a motor vehicle.
- *Arson*: Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.
- *Reportable Hate Crimes*: Any of the above crimes and any other crime involving bodily injury if the crime is motivated by hate. Hate crimes are defined as being those crimes that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity or disability.
- *Illegal Weapons Possession Violations*: The violations of laws and ordinances dealing with weapons offenses.
- *Drug Abuse Violations*: Violations of Federal, State and local laws relating to the unlawful possession, sale, use, growing, manufacturing and making of narcotic drugs or marijuana.

*Liquor Law Violations*: The violations of State laws or local ordinances prohibiting the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor, maintaining unlawful drinking places, furnishing liquor to a minor; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned.

**Sexual Assault**: "Sexual assault" means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system. A sex offense is any act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

Rape is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Fondling is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Incest is defined as non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape is defined a non-forcible sexual intercourse with a person who is under the statutory age of consent.

### Hate Crime Statistics

The College reports hate crimes precipitated against individuals or groups when the motivating reason, in whole or part, can be attributed to race, gender, religion, sexual orientation, national origin/ethnicity, gender identity or disability bias. In addition to murder, manslaughter, sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson, the College also reports hate crimes attributed to larceny, simple assault, intimidation, and criminal mischief.

A **hate crime** is a criminal offense committed against a person or property which is motivated, in whole or in part, by the offender's bias. **Bias** is a preformed negative opinion or attitude toward a group of persons based on their race, gender, religion, disability, sexual orientation or national origin/ ethnicity, or gender identity.

Although there are many possible categories of bias, under Clery, only the following six categories are reported:

- **Race**. A preformed negative attitude toward a group of persons who possess common physical characteristics, e.g., color of skin, eyes, and/or hair; facial features, etc., genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind, e.g., Asians, blacks or African Americans, whites.

• **Religion.** A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being, e.g., Catholics, Jews, Protestants, atheists.

• **Sexual Orientation.** A preformed negative opinion or attitude toward a group of persons based on their actual or perceived sexual orientation. Sexual Orientation is the term for a person’s physical, romantic, and/or emotional attraction to members of the same and/or opposite sex, including lesbian, gay, bisexual, and heterosexual (straight) individuals.

• **Gender.** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.

• **Gender Identity.** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals. Gender non-conforming describes a person who does not conform to the gender-based expectations of society, e.g., a woman dressed in traditionally male clothing or a man wearing makeup. A gender non-conforming person may or may not be a lesbian, gay, bisexual, or transgender person but may be perceived as such.

• **Ethnicity.** A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry. The concept of ethnicity differs from the closely related term “race” in that “race” refers to a grouping based mostly upon biological criteria, while “ethnicity” also encompasses additional cultural factors.

• **National Origin.** A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth. This bias may be against people that have a name or accent associated with a national origin group, participate in

*For Clery purposes, hate crimes include any offense in the following two groups that is motivated by bias.*

*Categories of hate crime offenses*

- Murder and Non-negligent manslaughter
- Sex offenses (Rape, Fondling, Incest, Statutory Rape)
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson
- Larceny-theft
- Simple assault
- Intimidation
- Destruction/damage/vandalism of property

This information was taken directly from the U.S. Department of Education, Office of Postsecondary Education, *The Handbook for Campus Safety and Security Reporting*, Washington D.C., 2011.

## *Hamilton Campus Hate Crime Statistics*

**2022:**

- *There were no hate crimes reported that met Clery standards*

**2021:**

- *There were no hate crimes reported that met Clery standards*

**2020:**

- *There were no hate crimes reported that met Clery standards*

*Hamilton Campus Crime Statistics Clinton, NY*

OFFENSE (REPORTED BY HIERARCHY)	YEAR	ON-CAMPUS PROPERTY	NON- CAMPUS PROPERTY	PUBLIC PROPERTY	ON-CAMPUS RESIDENTIAL FACILITIES	Unfounded Crimes
MURDER/NON-NEGLIGENT MANSLAUGHTER	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
NEGLIGENT MANSLAUGHTER	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
RAPE	2020	5*	0	0	4	0
	2021	3**	0	0	3**	0
	2022	5***	0	0	0	0
FONDLING	2020	7**	0	0	5	0
	2021	4***	0	0	3	0
	2022	0	0	0	0	0
INCEST	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
STATUTORY RAPE	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
ROBBERY	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
AGGRAVATED ASSAULT	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
BURGLARY	2020	2	0	0	0	0
	2021	1	0	0	1	0
	2022	1	0	0	1	0
MOTOR VEHICLE THEFT	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
ARRESTS: WEAPONS: CARRYING, POSSESSING, ETC.	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
DISCIPLINARY REFERRALS: WEAPONS: CARRYING, POSSESSING, ETC.	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
ARRESTS: DRUG LAW VIOLATIONS	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
DISCIPLINARY REFERRALS: DRUG LAW VIOLATIONS	2020	36	0	0	29	0
	2021	25	0	0	23	0
	2022	61	0	0	52	0
ARRESTS: LIQUOR LAW VIOLATIONS	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
DISCIPLINARY REFERRALS: LIQUOR LAW VIOLATIONS	2020	75	0	0	42	0
	2021	35	0	0	35	0
	2022	1	0	0	0	0

**Crimes reported in the residential facilities are also included in the on-campus category.**

*\*In 2020, the Title IX Coordinator received 2 reports of sex offense-rape that occurred in previous years*

*\*In 2020, the Title IX Coordinator received 2 reports of sex offense-fondling that occurred in 2019, one in an on-campus, and one in a non-campus property*

*\*\* In 2021, the Title IX Coordinator received 1 report of a sex offense-rape that occurred in a previous year*

*\*\* In 2021, the Title IX Coordinator received 1 report of a sex offense-fondling that occurred in a previous year*

*\*\*\*In 2022, the Title IX Coordinator received 4 reports of sex offense-rape that occurred in a previous year*

*Hamilton Campus Crime Statistics Clinton, NY*

OFFENSE (NOT REPORTED BY HIERARCHY)	YEAR	ON-CAMPUS PROPERTY	NON- CAMPUS PROPERTY	PUBLIC PROPERTY	ON-CAMPUS RESIDENTIAL FACILITIES	Unfounded Crimes
ARSON	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
DOMESTIC VIOLENCE	2020	0	0	0	0	0
	2021	0	0	0	0	0
	2022	0	0	0	0	0
DATING VIOLENCE	2020	0	0	0	0	0
	2021	2	0	0	0	0
	2022	1	0	0	0	0
STALKING	2020	1***	0	0	0	0
	2021	1	0	0	1	0
	2022	0	0	0	0	0

Crimes reported in the residential facilities are also included in the on-campus category.

\*\*\*In 2020, the Title IX Coordinator received a report of stalking that occurred in both the fall of 2019 and spring of 2020

***Personal Safety Tips***

*Traveling Off-Campus*

- Park in well-lit heavily populated areas
- Trust your instincts when something doesn't feel right
- Be aware of your surroundings
- If you have a cellular phone have it turned on and easily accessible
- Do not leave valuable items visible in your vehicle
- Walk with others whenever possible
- Check the back seat of your vehicle before entering
- Report all suspicious behavior to local law enforcement authorities

*In the Event of Fire*

- Remain calm
- Dress warmly, get your keys, and evacuate the building promptly
- Activate the building fire alarm or notify Campus Safety immediately
- If a door is warm, do not open it
- If you are trapped in a room, seal the door and signal from a window.

***PREVENT System***

- ***Prevention*** is the most effective means of fighting crime
- ***Record*** the description of suspicious persons, do not confront them yourself
- ***Escape*** is the primary objective if you are in a dangerous situation
- ***Value*** your safety and the safety of others
- ***Employ*** common sense and awareness in your day-to-day activities
- ***Notify*** Campus Safety if you are the victim of a crime or witness one
- ***Telephone*** x4000 for any on-campus emergency



# *Annual Fire Safety Report*



Fire safety is one of the most important "safety" considerations on any college/university campus, in part because it is not just some minor program managed by a single administrative department. Rather, it is a complex system that concerns itself with both the design/maintenance of the many structures that make up the Hamilton College campus proper, as well as the behaviors of every student, employee and visitor. While the January 2000 Seton Hall dormitory fire was a momentous tragedy, the tangible result of this incident in New York State was new legislation and inspection/enforcement activities to hold all NYS colleges/universities accountable to full conformance with the fire code on an annual basis.

The New York State Division of Homeland Security and Emergency Services, Office of Fire Prevention & Control (OFPC) conducts annual "wall-to-wall" inspections of the entire Hamilton College campus each September, and assists the College with a number of student and employee training programs. While an effective fire safety program is not necessarily measured by the College successfully getting through an annual inspection without having to pay monetary penalties, it is nonetheless important for the Hamilton College community to understand what the OFPC is looking for. The following document is provided as an education tool to communicate the most frequent issues found during these annual inspections, and it also lays out some of the most noteworthy policy obligations that apply in our residences and work stations.

## **Fire Drills**

Conducting fire drills is one of the College's many fire safety obligations. By NYS law, Hamilton must conduct at least 4 fire drills in each residence hall and 3 fire drills in all other non-residential facilities on an annual basis. Additional fire drills are required during the summer months for student and camp housing. Cumulatively, that's more than 200 fire drills Hamilton College must perform on an annual basis. Please be sure to evacuate your space promptly for **every** fire alarm signal you detect, and know the location of your initial gathering points. Employees should contact their respective Building Coordinators and students should contact their respective RA's for initial gathering point information. See the Emergency Planning & Preparedness link for additional information.

## Fire Safety Systems in Student Housing

X=equipped

Hamilton College Residence Hall	Proprietary Fire Alarm Systems	Full Sprinkler Systems	Smoke Detection	Fire Extinguishers	Evacuation Plans posted	Number of evacuation (Fire) drills each academic year
Dunham *	X	X	X	X	X	4
South *	X	X	X	X	X	4
Kirkland *	X	X	X	X	X	4
North *	X	X	X	X	X	4
Carnegie *	X	X	X	X	X	4
Eells *	X	X	X	X	X	4
Ferguson *	X	X	X	X	X	4
Woolcott *	X	X	X	X	X	4
Rogers *	X	X	X	X	X	4
Skenandoa *	X	X	X	X	X	4
Wertimer *	X	X	X	X	X	4
Wallace Johnson *	X	X	X	X	X	4
Bundy East *	X	X	X	X	X	4
Bundy West *	X	X	X	X	X	4
Milbank *	X	X	X	X	X	4
Babbitt *	X	X	X	X	X	4
Major *	X	X	X	X	X	4
McIntosh *	X	X	X	X	X	4
Minor *	X	X	X	X	X	4
Root *	X	X	X	X	X	4
Keehn *	X	X	X	X	X	4
Saunders *	X	X	X	X	X	4
Griffin Rd Apt 1000	X	X	X	X	X	4
Griffin Rd Apt 2000	X	X	X	X	X	4
Griffin Rd Apt 3000	X	X	X	X	X	4
Morris House	X	X	X	X	X	4
95 College Hill Rd	X	X	X	X	X	4
100 College Hill Rd	X	X	X	X	X	4
4002 Campus Rd	X	X	X	X	X	4
Glenview A	X	X	X	X	X	4
Glenview B	X	X	X	X	X	4

\*= have an address of 198 College Hill Road

### FIRE SAFETY AT HAMILTON COLLEGE “A LAYMAN’S GUIDE”

**FIRE SAFETY** is not just some service provided by an on-campus office or the local Fire Department, nor is it something that is purely tied to a building’s design (i.e. smoke/heat detectors, sprinklers, fire extinguishers, etc.). Rather, it is a combination of these **AND** each employee’s and student’s behaviors with regard to controlling/minimizing fire hazards in the first place. In other words, policies can be written, appropriate engineering and design practices can be implemented, and drills can be performed, but this is all irrelevant if the Hamilton College community fails to act in a responsible manner with regard to fire safety issues. This “layman’s guide” is not designed to be a formal policy document that outlines all of the fire safety compliance obligations on behalf of the College and its many constituents. Rather, it is a communication tool that hopes to bridge the gap between those compliance obligations and our collective behaviors as an institution, so as to 1—both minimize our susceptibility to fire safety hazards, and 2—improve our performance during the state mandated campus-wide fire safety inspections held each September.

## **Procedures for Student Housing Evacuation in Case of Fire**

In the event of a fire alarm in any campus building College policy is that all occupants of the building must evacuate, closing doors as they leave. In the event of a fire the College expects all campus community members will evacuate the building via the nearest exit, closing all doors and if not already activated, activate the building fire alarm. At no time will closing doors or activating the fire alarm system delay an individual from exiting the building. Once safely outside the building students and staff are expected to gather at their designated primary muster point and wait for further instructions from a member of the Campus Safety Department. No training is provided to students related to suppression activity as firefighting is inherently dangerous and there is no expectation by the College any member of the community will engage in such activity.

**1. Building Detection/Suppression/Protection Equipment** Individual buildings on campus, and their occupants, are protected from fires through 2 general strategies. The 1st is the equipment designed to detect and suppress fires, including smoke, heat, and carbon monoxide detectors, as well as sprinkler systems and fire extinguishers. Beyond the incredible amount of effort that goes into maintaining the thousands of detectors and hundreds of sprinkler/extinguisher systems on campus, there is much that the community can also do to keep these systems maximally operable:

### **Smoke/Heat Detectors**

These devices must be free to monitor ambient air conditions without obstruction. They should never be touched or tampered with, in a fashion that impairs their monitoring capabilities. Be careful when generating dusts (like vacuuming) or mists (like using hairspray or taking long showers) since detectors may interpret fine aerosols as smoke.

### **Sprinkler Systems/Heads**

These devices—heads and associated piping—must not be obstructed in any fashion (like by hanging objects); Further, nothing should be stored (like boxes/papers on shelving) within 18” of a sprinkler head.

### **Fire Extinguishers**

These devices must not be obstructed in any fashion (like by staged objects in front of cases, or on the extinguisher itself).

Further, these devices should only be used by properly trained personnel, and are only intended to respond to “incipient” fires, not full scale firefighting.

The 2nd type of fire protection equipment maintained by college buildings includes those devices which serve to 1—notify occupants that a potential fire/fire condition exists, 2—direct occupants to their evacuation routes, and 3—control the spread of the fire/fire conditions. These include fire alarm pull stations, audible/visual alarms, exit/egress signage, and fire/smoke doors.

### **Audible/Visual Fire Alarms**

These devices must not be obstructed in any fashion (like by staged/hanging objects). Evacuate whenever the alarm system is initiated.

### **Fire Alarm Pull Stations/Panels**

These devices must not be obstructed in any fashion (like by staged/hanging objects). Use the pull station if you see or suspect that there is a fire or fire condition, or in any other circumstance where emergency responders (Campus Safety) is needed, and other means of communication are unavailable.

### **Exit/Egress Signage**

It is critically important (especially to those not familiar with a building) for exit/egress signage to be visible, unobstructed, and not tampered with, as they direct evacuating personnel to a means of egress.

### **Fire Doors**

Fire doors are normally on self-closing devices, and they may or may not have magnetic hold opening devices that keep the doors open during non-emergency conditions. You can also tell if your door is a fire door by a small metal template on the inside door jamb. Never prop or obstruct a fire door, thereby impairing its ability to close during a fire.

### **Smoke Doors**

Unlike fire doors, smoke doors exist merely to minimize the spread of smoke during a fire. Smoke doors are usually signified by the presence of a self-closing device, and sometimes a magnetic hold open as well. Similar to fire doors, smoke doors may not be propped or otherwise obstructed from closing.

**2. Combustible/Other Storage Practices** Anything that can burn, from clothing to books to boxes on a shelf, is considered a combustible. While no one expects every dorm room, office space and storage area to be neat and completely devoid of “clutter” at all times, a number of practices routinely result in fire safety violations, as follows:

### **Office Practices**

Offices which store combustible material (like paper work, books, boxes, etc.) beyond the capacity of existing shelving space, are citable fire safety violations if such practices either: constitute an excessive fire load to the space, or would impede an occupant’s ability to evacuate in the event of a fire/alarm signal. Minimize combustible storage on office floors, or find more suitable storage locations outside of your office.

### **Dorm Room Practices**

Decorative wall or ceiling hangings (like tapestries, tie-dye fabrics, flags, cloth articles, beer banners, etc.) that are combustible in nature, are forbidden from being staged in a student’s living quarters or common spaces.

The only acceptable decorative wall/ceiling hangings include simple paper posters, or any of the articles from above which are either non-combustible by design (with a stamp/label to prove it) or those that are made non-combustible by shielding within a glass picture case.

### **Other Storage Practices**

Miscellaneous materials, whether they are combustible or not, may never be stored in such a way as they obstruct or block an emergency exit/egress. Further, combustible materials may never be stored in mechanical spaces, such as boiler rooms, electrical panel closets, and attics with air handling equipment/ductwork.

### **3. Electrical Equipment/Devices/Appliances**

While saying that all electrical equipment/devices/appliances must be UL listed and otherwise in good working condition is generally sufficient in many commercial/industrial settings, the unique nature of the academic world (especially in NYS) obligates the college to restrict a number of items for either code compliance or policy reasons. Although the examples/lists that follow are not exhaustive, they do address the most routine fire safety considerations relative to equipment/devices/appliances that arise at Hamilton.

#### **Electrical Power/Connection Equipment—Extension Cords**

To the greatest extent possible, electrical power should be drawn directly from existing AC power outlets. Where this is not possible or is otherwise not feasible, consider the following:

#### **Light Duty Extension Cords**

Light duty extension cords (typically yellow, white or brown) that are either single plug varieties or multi-plug adapters are forbidden on campus in any venue or location. It does not matter how long they are in use, or whether they are personally owned or owned by the college. If they run a radio in an office or student residence, they are a fire safety violation.

#### **Heavy Duty Extension Cords**

Heavy duty extension cords (typically orange or yellow) are permissible **ONLY** if they are for temporary purposes. Examples of approved uses of this type of cord are to run power tools or a fan to clean up a spill. It is not appropriate to use this type of cord for a computer workstation, desk lamp, TV or stereo equipment. These items are intended to be stationary, and the use of heavy duty cords in this manner will result in a fire violation.

#### **Protected Outlet Strips**

Protected outlet strips (with “trip” breakers) are the only approved device to provide electrical connection power on a less than temporary basis. These devices should never be “piggy-backed” one to another, and care should be taken to ensure they are not overloaded. Only 1 outlet strip is permitted per duplex outlet. Outlet strips with 15-20 foot cords are available as needed.

#### **Electrical Devices/Appliances**

##### **Electrical Devices**

The following devices are restricted from use in living and working spaces, as specified: Small air conditioning units (unless specifically approved/installed by the Physical Plant); Space heaters (again, unless specifically approved by the Physical Plant for a heat related problem associated with the facility/building). Electric blankets; Multi-plug adapters/gang boxes; and Specialty lighting, including halogen lights, lava lamps, and sun/heat lamps;

**\*Special note on multi-colored lamps—see pictures/box below:**

##### **Multi-Colored Lamps**

These lamps types may only be used with bulbs at approved/UL listed wattages.

##### **Electrical Appliances (Related to Food Cooking/Cooling/Preparation)**

All students and employees are encouraged to eat and/or prepare food in established dining halls or other building/dormitory kitchenettes specifically designed for food preparation. The types of approved/unapproved devices in this category are dependent upon location, as follows:

Student Suites and Administrative Buildings with Kitchenettes:

- Since these locations are “designed” for food cooking activities, the only additional electrical appliances that are approved for use (beyond those that are provided for and maintained by the college) include blenders, coffeemakers, griddles, popcorn poppers, toaster ovens, and toasters. These approved devices **MUST** be used and staged in the kitchenettes themselves **AT ALL TIMES**. Student Living Quarters and All Other

Building/Facility Locations:

- The only other approved electrical appliances for locations without kitchenettes include small combination micro-fridges/microwaves (as in the picture below), and coffeemakers/coffee pots with automatic shutoffs. These devices are approved since they are food “warming/cooling” appliances, as opposed to food cooking appliances.

Other Generally Approved Electrical Appliances (If UL Listed):

- The following appliances/devices are generally approved is UL listed and used safely:
  - Radios, stereos, electric razors, small portable televisions with self-contained antennas, personal computer with a rating of less than 200 watts, clocks, portable hair dryers, VCR/DVD players, fax machines, small fans and desk lamps. Electric hair curlers and hot combs should be used with caution (only one should be plugged in at a time).

Restricted Electrical Appliances Regardless of Location

- The following appliances are restricted from use in any college dormitory, or academic/administrative facility whatsoever:

- Broilers, crock pots, electric frying pans, griddles, heating coils, hot plates, large microwave ovens (over 1000 watts), large refrigerators, deep fryers and George Foreman grills.

#### **4. Other Hazardous Articles/Materials**

##### **Restricted Hazardous Articles**

The following hazardous articles are restricted from use/storage in all living and working spaces on campus:

- Candles or incense (whether lit or for decorative purposes only);
- Real Christmas trees;
- Holiday lights (the kinds that can be plugged in); and
- Excessive combustible material (as per the above).

##### **Restricted Hazardous Materials**

Restricted hazardous materials generally include those materials which are flammable and/or explosive by their very nature, or are otherwise regulated by the NYS fire code. The specific types of hazardous materials which are restricted from use/storage in all living and working spaces on campus include the following:

Fireworks;

Firearm ammunition;

Flammable/combustible liquids associated with cooking/painting/fuels, such as gasoline, kerosene, propane, aerosol paint cans, paint thinner, varnish, sterno, and camping fuels:

- Any of these chemicals must be used/stored in designated areas, such as academic labs/studios or cooking areas;
  - Exception—Personal care products with flammable propellants (hair spray) are permissible.

Propane/charcoal grills:

- Regarding propane powered grills with attached propane tanks:
    - Such devices are forbidden from being used or stored within any living/working space, or upon covered porches/balconies/patios;
    - They should be both used and stored at least 10 feet away from any building structure, or upon uncovered decks external to a building.
  - Regarding charcoal fired grills:
    - Small, portable charcoal grills (with legs less than 12 inches in length and a cooking surface no larger than 250 square inches) may be used external to buildings upon covered porches/balconies/patios so long as there is a non-combustible surface underneath (like a brick or stone catchment).
    - For charcoal grills larger than the above, they are forbidden from use upon covered porches/balconies/patios, and should observe the same 10 foot building clearance that applies to propane powered grills during use.
    - The use and possession of lighter fluid is prohibited. Only EZ-light type charcoal is permitted with a maximum of one bag allow to be stored by residents. Charcoal must always be kept dry to prevent spontaneous combustion, and should only be stored indoors or in a dry, enclosed area.
    - All spent coals/embers must be thoroughly extinguished prior to disposal.
    - Charcoal grills that are free of charcoal, coals, and ashes, may be stored indoors, upon covered porches/balconies/patios, or uncovered decks.
- Smoking is prohibited inside all campus buildings/facilities by NYS law.

#### **5. Responses to Fire Alarms (In General)**

Although the college spends considerable time and resources to maintain and upgrade its fire detection and suppression equipment on campus, errant alarms will occur. They may be false alarms (where a detector or pull station is accidentally or purposefully activated), or they may be true alarms for errant reasons (where a smoke detector activates following exposure to steam). Further, the college is required to perform up to 4 fire drills every year, depending upon the building design and its occupancy type.

While the departments of Campus Safety and Physical Plant work very hard to minimize the number of false and errant alarms, it is very important for all students and employees to react to each and every fire alarm as if it's the "real thing". For fire alarms where the cause is not known, adhere to the guidance contained in this section. If the fire alarm is for a true fire or smoke condition, follow the guidance in the next section.

##### **RA's and Students**

RA's must communicate to the students they are advising as to where their respective "initial gathering points" are (building specific) so that a common muster point is identified for accountability purposes.

##### **Building Coordinators and Employees**

Similarly, Building Coordinators must communicate to the employees they represent as to where their respective "initial gathering points" are (building specific) so that a common muster point is identified for accountability purposes.

##### **Students/Employees Occupying Spaces Other Than Where They Principally Live/Work**

Faculty teaching classes of students, and faculty/administrators/staff supervising students or other employees, frequently perform such activities in buildings/facilities other than where all involved parties are principally accounted for as per the above. It is incumbent upon the employees in charge of the academic or administrative function to determine the building's "initial gathering point" and communicate the location accordingly to those students/employees in their care/supervision.

## 6. Responses to True Fires or Smoke Conditions Indicative of a Fire

Immediately report the fire to Campus Safety—x4000 by on-campus phone, 859-4000 by cell phone—or activate a nearby fire alarm pull station if one is accessible.

Remain calm, turn lights on, and dress appropriately.

If your door is cool to the touch:

- First close any open windows in your room, then open door slowly.
- Evacuate the building via designated emergency egress routes. Do not use elevators!
- If there is smoke or heat, crawl on your hands and knees.
- Proceed to the INITIAL MUSTERING POINT to await further instructions.
- If door is warm, DO NOT OPEN IT!
- Seal the space under the door with a towel.
- Open window, hang a sheet or towel out of the window, and close it.
- Open window at regular intervals to announce your location, and then close it.

## 7. Responsibility for Fire Safety, and Conclusions

As alluded to above, fire safety at Hamilton College is the responsibility of every student and employee. Adherence to no one single fire safety strategy is capable of eliminating every fire hazard. Only by a combination of design/engineering controls, safe working/learning/living practices, and appropriate student/employee behaviors, may the greater Hamilton College community minimize its collective risks to fire hazards in the first place.

Failure to follow the guidance contained in this document puts your lives and the lives of your fellow students and co-workers at risk. Additionally, non-conformance with the NYS Fire Code may result in formal violations/citations against the college. While the purpose of this document, again as noted, is to be educational and informative regarding fire safety considerations, every employee and student should realize that the college is legally and morally obligated to promote and manage fire safety accordingly. While “engineering and education” is the preferred methodology for achieving this goal, the college must take appropriate action against those who purposefully or willfully disregard fire safety, including but not limited to the following:

Disciplinary action up to and including expulsion for students and termination for employees who tamper with or otherwise disregard the fire safety equipment, policies and training they are afforded;

Departmental, professional, and personal financial responsibility for fire safety citations and penalties in certain situations where the violations in their living/working areas were easily correctable and communicated, but were not corrected within the time frames granted by NYS.

### Reporting Fires

Federal law requires the College to disclose statistical data on all fires that occur in on-campus student housing annually. Therefore, if you encounter evidence of a fire that has been extinguished and you are uncertain if Campus Safety is aware of the incident you should immediately notify Campus Safety at 315-859-4141 to investigate and document the incident for disclosure in the College’s annual fire statistics.

### Improvement Plans for Fire Safety

At this time the College has no planned improvements regarding fire safety.

### Smoking Policy

Smoking, defined as the burning of a lighted cigar, cigarette or pipe, is not permitted in any campus facility or entranceway. This policy applies to all student residences, including all rooms, lounges, and public spaces. By the NYS Indoor Air Quality Act, smoking is **prohibited** in all College buildings and facilities. As a further courtesy, smokers should stay at least 20 feet from any building entrance or air intake manifold.

### Open Flame

Sources of open flame such as incense and candles are not permitted in residence hall rooms at any time.

**Statistics and Related Information Regarding Fires in Residential Facilities for 2020**

<b>Residential Facilities</b>	<b>Total Fires in Each Building</b>	<b>Fire Number</b>	<b>Cause of Fire</b>	<b>Number of Injuries That Required Treatment at a Medical Facility</b>	<b>Number of Deaths Related to Fire</b>	<b>Value of Property Damage Caused by Fire</b>
Dunham *	0	0	NA	NA	NA	NA
South *	0	0	NA	NA	NA	NA
Kirkland *	0	0	NA	NA	NA	NA
North *	0	0	NA	NA	NA	NA
Carnegie *	0	0	NA	NA	NA	NA
Eells *	0	0	NA	NA	NA	NA
Ferguson *	0	0	NA	NA	NA	NA
Woolcott *	0	0	NA	NA	NA	NA
Rogers *	0	0	NA	NA	NA	NA
Skenandoa *	0	0	NA	NA	NA	NA
Wertimer *	0	0	NA	NA	NA	NA
Wallace Johnson *	0	0	NA	NA	NA	NA
Bundy East *	0	0	NA	NA	NA	NA
Bundy West *	0	0	NA	NA	NA	NA
Milbank *	0	0	NA	NA	NA	NA
Babbitt *	0	0	NA	NA	NA	NA
Major *	0	0	NA	NA	NA	NA
McIntosh *	0	0	NA	NA	NA	NA
Minor *	0	0	NA	NA	NA	NA
Root *	0	0	NA	NA	NA	NA
Keehn *	0	0	NA	NA	NA	NA
Saunders *	0	0	NA	NA	NA	NA
Griffin Rd Apt 1000	0	0	NA	NA	NA	NA
Griffin Rd Apt 2000	0	0	NA	NA	NA	NA
Griffin Rd Apt 3000	0	0	NA	NA	NA	NA
Morris House*	0	0	NA	NA	NA	NA

\* have an address of 198 College Hill Road

1

Values are in dollars

**Statistics and Related Information Regarding Fires in Residential facilities for 2021**

<b>Residential Facilities</b>	<b>Total Fires in Each Building</b>	<b>Fire Number</b>	<b>Cause of Fire</b>	<b>Number of Injuries That Required Treatment at a Medical Facility</b>	<b>Number of Deaths Related to Fire</b>	<b>Value of Property Damage Caused by Fire</b>
Dunham *	0	0	NA	NA	NA	NA
South *	0	0	NA	NA	NA	NA
Kirkland *	0	0	NA	NA	NA	NA
North *	0	0	NA	NA	NA	NA
Carnegie *	0	0	NA	NA	NA	NA
Eells *	0	0	NA	NA	NA	NA
Ferguson *	0	0	NA	NA	NA	NA
Woolcott *	0	0	NA	NA	NA	NA
Rogers *	0	0	NA	NA	NA	NA
Skenandoa *	0	0	NA	NA	NA	NA
Wertimer *	0	0	NA	NA	NA	NA
Wallace Johnson *	0	0	NA	NA	NA	NA
Bundy East *	0	0	NA	NA	NA	NA
Bundy West *	0	0	NA	NA	NA	NA
Milbank *	0	0	NA	NA	NA	NA
Babbitt *	1	1	Unattended oil left in pan on burner	0	0	\$1,000-\$9,999
Major *	0	0	NA	NA	NA	NA
McIntosh *	0	0	NA	NA	NA	NA
Minor *	0	0	NA	NA	NA	NA
Root *	0	0	NA	NA	NA	NA
Keehn *	0	0	NA	NA	NA	NA
Saunders *	0	0	NA	NA	NA	NA
Griffin Rd Apt 1000	0	0	NA	NA	NA	NA
Griffin Rd Apt 2000	0	0	NA	NA	NA	NA
Griffin Rd Apt 3000	0	0	NA	NA	NA	NA
Morris House*	0	0	NA	NA	NA	NA
95 College Hill Rd	0	0	NA	NA	NA	NA

\* have an address of 198 College Hill Road

1

Values are in dollars



**Statistics and Related Information Regarding Fires in Residential facilities for 2022**

<b>Residential Facilities</b>	<b>Total Fires in Each Building</b>	<b>Fire Number</b>	<b>Cause of Fire</b>	<b>Number of Injuries That Required Treatment at a Medical Facility</b>	<b>Number of Deaths Related to Fire</b>	<b>Value of Property Damage Caused by Fire</b>
Dunham *	0	0	NA	NA	NA	NA
South *	0	0	NA	NA	NA	NA
Kirkland *	0	0	NA	NA	NA	NA
North *	0	0	NA	NA	NA	NA
Carnegie *	0	0	NA	NA	NA	NA
Eells *	0	0	NA	NA	NA	NA
Ferguson *	0	0	NA	NA	NA	NA
Woolcott *	0	0	NA	NA	NA	NA
Rogers *	0	0	NA	NA	NA	NA
Skenandoa *	0	0	NA	NA	NA	NA
Wertimer *	0	0	NA	NA	NA	NA
Wallace Johnson *	0	0	NA	NA	NA	NA
Bundy East *	0	0	NA	NA	NA	NA
Bundy West *	0	0	NA	NA	NA	NA
Milbank *	0	0	NA	NA	NA	NA
Babbitt *	0	0	NA	NA	NA	NA
Major *	0	0	NA	NA	NA	NA
McIntosh *	0	0	NA	NA	NA	NA
Minor *	0	0	NA	NA	NA	NA
Root *	0	0	NA	NA	NA	NA
Keehn *	0	0	NA	NA	NA	NA
Saunders *	0	0	NA	NA	NA	NA
Griffin Rd Apt 1000	0	0	NA	NA	NA	NA
Griffin Rd Apt 2000	0	0	NA	NA	NA	NA
Griffin Rd Apt 3000	0	0	NA	NA	NA	NA
Morris House*	0	0	NA	NA	NA	NA
95 College Hill Rd	0	0	NA	NA	NA	NA
100 College Hill Rd	0	0	NA	NA	NA	NA
4002 Campus Rd	0	0	NA	NA	NA	NA
Glenview A	0	0	NA	NA	NA	NA
Glenview B	0	0	NA	NA	NA	NA

\* have an address of 198 College Hill Road

\*\*2020 additional housing was added due to COVID

1

Values are in dollars

## **Violence Against Women Act (VAWA)**

Hamilton College does not discriminate on the basis of sex in its educational programs and sexual harassment and sexual violence are types of sex discrimination. Other acts can also be forms of sex-based discrimination and are also prohibited whether sexually based or not and include dating violence, domestic violence, and stalking. As a result, Hamilton College issues this statement of policy to inform the community of our comprehensive plan addressing sexual misconduct, educational programs, and procedures that address sexual assault, domestic violence, dating violence, and stalking, whether the incident occurs on or off campus and when it is reported to a College official. In this context, Hamilton College prohibits the offenses of domestic violence, dating violence, sexual assault and stalking and reaffirms its commitment to maintain a campus environment emphasizing the dignity and worth of all members of the College community.

For a complete copy of Hamilton College's policy governing sexual misconduct, visit <https://www.hamilton.edu/hsmb/harassment-and-sexual-misconduct-policy>

### **A. Definitions**

There are numerous terms used by Hamilton College in our policy and procedures.

**Affirmative Consent** is defined in New York State as:

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, do not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

**Lack of Consent** is defined in New York as:

1. Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.

2. Lack of consent results from:

- Forcible compulsion; or
- Incapacity to consent; or
- Where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct; or

3. Where the offense charged is rape in the third degree as defined in the New York State Penal Law, subdivision three of section 130.25, or criminal sexual act in the third degree as defined in subdivision three of section 130.40, in addition to forcible compulsion, circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances.

4. A person is deemed incapable of consent when he or she is:

- less than seventeen years old;
- or mentally disabled; or
- mentally incapacitated; or
- physically helpless; or
- committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee who knows or reasonably should know that such person is committed to the care and custody or supervision of such department or hospital. For purposes of this paragraph, "employee" means (i) an employee of the state department of corrections and community supervision who, as part of his or her employment, performs duties: (A) in a state correctional facility in which the victim is confined at the time of the offense consisting of providing custody, medical or mental health services, counseling services, educational programs, vocational training, institutional parole services or direct supervision to inmates; or (B) of supervising persons released on community supervision and supervises the victim at the time of the offense or has supervised the victim and the victim is still under community supervision at the time of the offense; or (ii) an employee of the office of mental health who, as part of his or her employment, performs duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law in which the inmate is confined at the time of the offense, consisting of providing custody, medical or mental health services, or direct supervision to such inmates; or (iii) a person, including a volunteer, providing direct services to inmates in a state correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the state department of corrections and community supervision or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or
- committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is

committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state department of corrections and community supervision or a local health, education or probation agency, providing direct services to inmates in the local correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the local correctional department or, in the case of such a volunteer or government employee, a written agreement with such department, provided that such person received written notice concerning the provisions of this paragraph; or

- committed to or placed with the office of children and family services and in residential care, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to or placed with such office of children and family services and in residential care. For purposes of this paragraph, "employee" means an employee of the office of children and family services or of a residential facility in which such person is committed to or placed at the time of the offense who, as part of his or her employment, performs duties consisting of providing custody, medical or mental health services, counseling services, educational services, vocational training, or direct supervision to persons committed to or placed in a residential facility operated by the office of children and family services; or
- a client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree as defined in the New York State Penal Law, section 130.25, criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in the New York State Penal Law, section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination; or a resident or inpatient of a residential facility operated, licensed or certified by (i) the office of mental health; (ii) the office for people with developmental disabilities; or (iii) the office of alcoholism and substance abuse services, and the actor is an employee of the facility not married to such resident or inpatient. For purposes of this paragraph, "employee" means either: an employee of the agency operating the residential facility, who knows or reasonably should know that such person is a resident or inpatient of such facility and who provides direct care services, case management services, medical or other clinical services, rehabilitative services or direct supervision of the residents in the facility in which the resident resides; or an officer or other employee, consultant, contractor or volunteer of the residential facility, who knows or reasonably should know that the person is a resident of such facility and who is in direct contact with residents or inpatients; provided, however, that the provisions of this paragraph shall only apply to a consultant, contractor or volunteer providing services pursuant to a contractual arrangement with the agency operating the residential facility or, in the case of a volunteer, a written agreement with such facility, provided that the person received written notice concerning the provisions of this paragraph; provided further, however, "employee" shall not include a person with a developmental disability who is or was receiving services and is also an employee of a service provider and who has sexual contact with another service recipient who is a consenting adult who has consented to such contact.

**Affirmative Consent** is defined in the Hamilton College Sexual Misconduct Policy as:

**Affirmative Consent:** 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.

- A. 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.
- B. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- C. Consent may be initially given but withdrawn at any time.
- D. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- E. When consent is withdrawn or can no longer be given, sexual activity must stop.
- F. 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.

**Coercion:** For purposes of this Policy, coercion is the use of pressure to compel another individual to initiate or continue sexual activity against an individual's 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 impair another individual's 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. Coercing an individual into engaging in sexual activity violates this Policy in the same way as physically forcing someone into engaging in sexual activity.

**Capacity to give consent:** Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks the ability to knowingly make that decision. In assessing capacity, the college will consider whether the individual had the ability to understand 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. Incapacitation may result from the use of alcohol and/or drug, but consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and 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; and
- capacity to appreciate the nature and the quality of the act.

Persons who have sexual activity with someone who lacks the mental or physical capacity to consent (including being substantially impaired by alcohol or other drug use or unconscious) are in violation of this Policy, and any consent perceived to have been obtained is presumptively invalid. Possession, use and/or distribution of any of the so-called "date rape" drugs (including Rohypnol, Ketamine, GHB, Burundanga and others) is prohibited, and administering any of these drugs to another is a violation of this Policy.

### **Individuals and Processes**

**Complainant:** This term refers generally to an individual who has allegedly been subjected to Sexual Misconduct in violation of this Policy, whether a formal complaint has been filed or not. However, by their very nature, some aspects of this Policy only apply once the College has been put on notice of a possible violation and references to "Complainant" in that context should be read (and will be applied by the Title IX Coordinator) accordingly. In the case of complaints that are pursued by the College when the impacted individual does not want to participate in the process, Hamilton may pursue a complaint without such individual's participation, in which case Hamilton may stand in the place of the Complainant for procedural purposes.

**Respondent:** This term refers to an individual whose conduct is alleged to have violated this Policy, whether a formal complaint has been filed or not. However, by their very nature, some aspects of this Policy only apply once the College has been put on notice of a possible violation and references to "Respondent" in that context should be read (and will be applied by the Title IX Coordinator) accordingly.

**Responsible Employees:** The U.S. Department of Education's Office for Civil Rights defines Responsible Employees as employees who have the authority to take action to redress sexual violence, who have been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or other appropriate school designee, or whom a student could reasonably believe have this authority or duty. Responsible Employees who receive information or a report about any act that potentially constitutes Sexual Misconduct must further report that information to the Title IX Coordinator. The following employees of the College are Responsible Employees: faculty, staff (except staff in the Counseling Center, the Health Center, and the Chaplaincy), and Resident Advisors. In addition, Responsible Employees are expected to make every effort to explain their duty to report to anyone disclosing, or about to disclose, information to them.

**Title IX Coordinator:** The individual who oversees the College's centralized review, investigation, and resolution of reports of Sexual Misconduct pursuant to this Policy. The Title IX Coordinator also coordinates the College's compliance with Title IX, including equitable, timely, and effective processing of complaints regarding violations of rights protected by Title IX. The Title IX Coordinator is:

- responsible for oversight of the investigation and resolution of all reports of Sexual Misconduct;
- knowledgeable and trained in relevant state and federal laws and College's Policy and procedure;
- available to advise any individual, including a Complainant, a Respondent, or a third party, about the courses of action available at the College, both informally and formally, and the courses of action available externally, including reports to law enforcement;
- available to provide assistance to any Hamilton community member regarding how to respond appropriately to reports of Sexual Misconduct;
- responsible for monitoring full compliance with all requirements and timelines specified in the complaint procedures; and
- responsible for compiling required reports.

**Harassment and Sexual Misconduct Board:** The Harassment and Sexual Misconduct Board (HSMB or the Board) shall be composed of eight members (one of whom shall be designated Chair), appointed by the Title IX Coordinator to staggered terms of four years beginning in the Fall semester. Each year, the current Board will solicit applications and nominations for any open seat(s), and will recommend individuals to serve for the following year. Members of the Hamilton community may also nominate individuals for Board membership, provided the nominees are willing to serve if appointed. The Title IX Coordinator, in consultation with the Chair, will ultimately be responsible for appointing new members and designating a new Chair. Normally, the Chair will be a tenured member of the faculty and serve for two years as Chair. Every effort will be made to maintain a diverse Board, and membership normally will be limited to members of the faculty who have attained the rank of associate or full professor, and full-time staff members. The Title IX Coordinator shall arrange for the Board members to receive annual training. Members of the

HSMB are required to maintain the privacy of all information they acquire in this role, unless disclosure is authorized by the Title IX Coordinator. A member of the HSMB can be removed prior to the end of his/her term by the Title IX Coordinator, with the agreement of the Chair of the HSMB, for good reason (e.g., dereliction of duty, failure to abide by the provisions of the Policy, etc.).

**Investigator(s):** Individual(s) assigned by the Title IX Coordinator to conduct investigations following notice of alleged Sexual Misconduct. The Investigator(s) may be an appropriately trained College employee or an external investigator(s) as deemed appropriate by the Title IX Coordinator. Upon receipt of a formal complaint, the Title IX Coordinator will assign the investigator(s) to begin the investigation. If the Title IX Coordinator determines that a legitimate conflict of interest exists between an Investigator(s) and a party to a complaint, the Title IX Coordinator, in consultation with the Chair of the HSMB, will appoint a replacement. The Investigator(s) issues a report of the investigation to Title IX Coordinator, but does not make a recommendation with respect to responsibility for violating the Policy.

**Harassment and Sexual Misconduct Review Panel (HSMRP):** The Title IX Coordinator will annually appoint a three person review panel (HSMRP) from the HSMB to review (as provided in this Policy) investigative reports, determine whether this Policy was violated, and, if so, recommend a sanction to the Senior Staff Member. The HSMB Chair serves as a non-voting fourth member of the HSMRP and presides over the review process. The term of appointment to the panel shall be one year. If any vacancy on the HSMRP occurs during the academic year, or if the Title IX Coordinator determines that a legitimate conflict of interest exists between a member of the panel and a party to a complaint, the Title IX Coordinator, in consultation with the Chair of the HSMB, will appoint a replacement from those members of the Board eligible to serve.

**Senior Staff Member:** The Vice President who has supervisory authority over the area of the College with which the Respondent is affiliated, and who will (as outlined in this Policy) make a final decision following the HSMRP's recommendation. The Vice President and Dean of Students is the Senior Staff Member with respect to complaints brought against a student. In the case of complaints brought against members of the faculty, staff, or administration, the Vice President of the area in which the Respondent is employed is the Senior Staff Member. For example, the Vice President for Academic Affairs and Dean of Faculty is the Senior Staff Member with respect to complaints brought against a faculty member.

**Appeals Board:** This is the group of individuals, defined in [Hamilton's Code of Student Conduct](#), that considers appeals of findings and sanctions in appropriate cases under this Policy. For appeals under this Policy, a subset of the Appeals Board which does not include students will be utilized. This subset of the Appeals Board will receive annual training on relevant state and federal law (including Title IX) and this Policy.

**Sexual Assault:** "Sexual assault" means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system. A sex offense is any act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

Rape is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Fondling is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Incest is defined as non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape is defined a non-forcible sexual intercourse with a person who is under the statutory age of consent.

**Sexual Assault** is defined in New York as:

An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. New York State Penal Law Article 130 denotes the following as sexual offenses:

- Sexual misconduct
- Rape in the third degree.
- Rape in the second degree.
- Rape in the first degree.
- Criminal sexual act in the third degree.
- Criminal sexual act in the second degree.
- Criminal sexual act in the first degree.
- Forcible touching.
- Persistent sexual abuse.
- Sexual abuse in the third degree.

- Sexual abuse in the second degree.
- Sexual abuse in the first degree.
- Aggravated sexual abuse in the fourth degree.
- Aggravated sexual abuse in the third degree.
- Aggravated sexual abuse in the second degree.
- Aggravated sexual abuse in the first degree.
- Course of sexual conduct against a child in the first degree.
- Course of sexual conduct against a child in the second degree.
- Female genital mutilation.
- Facilitating a sex offense with a controlled substance.
- Sexually motivated felony.
- Predatory sexual assault.
- Predatory sexual assault against a child.

The Hamilton College Harassment and Sexual Misconduct policy prohibit the following behaviors:

**Sexual harassment** is defined as unwelcome action, language or visual representation of a sexual nature that has the effect of unreasonably interfering with an individual's work or academic performance or that creates a hostile working, educational, or living environment. A form of quid pro quo (this for that) sexual harassment exists when submission to or rejection of unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature results in adverse educational or employment action, or the threat of such adverse action, or limits or denies an individual's educational or employment access, benefits, or opportunities.

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 individual 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 subject of the harassment and/or third parties who witness or observe harassment and are affected by it.

Sexual harassment also includes gender-based harassment, which may include acts of verbal, nonverbal or physical aggression or hostility based on gender, sexuality or sex- or gender stereotyping, even if those acts do not involve conduct of a sexual nature.

Examples of conduct that may constitute sexual harassment include:

- Physical conduct:
  - unwelcome touching, sexual/physical assault, impeding, restraining or blocking movements
  - unwanted sexual advances
- Verbal conduct:
  - making or using derogatory comments, epithets, slurs or humor, not pedagogically appropriate
  - 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, not pedagogically appropriate
  - objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes, which a reasonable peer would find offensive and which are not pedagogically appropriate
- Visual conduct:
  - leering, making sexual gestures, displaying of suggestive objects or pictures, cartoon or posters in a public space or forum, not pedagogically appropriate
  - severe, persistent or pervasive visual displays of suggestive, erotic or degrading sexually oriented images, not pedagogically appropriate
- Written conduct:
  - letters, notes or electronic communications containing comments, words or images described above, not pedagogically appropriate
- 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

The determination of whether an environment is “hostile” is based on a reasonable person standard, considering all the circumstances. These circumstances could include, but are not limited to:

- the frequency or pervasiveness of the speech or conduct;
- the nature and severity of the speech or conduct;
- whether the conduct was physically threatening;
- whether the speech or conduct was humiliating;
- the effect of the speech or conduct on the recipient’s mental and/or emotional state;
- whether the speech or conduct was directed at more than one person;
- whether the speech or conduct arose in the context of other discriminatory conduct;
- whether the speech or conduct unreasonably interfered with the recipient’s educational opportunities or performance (including study abroad), college-controlled living environment, work opportunities or performance;
- whether a statement is a mere utterance of an epithet which engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or
- whether the speech or conduct deserves the protections of academic freedom.

**Sexual Assault** is prohibited under Hamilton College Policy. Sexual Assaults can take a number of forms:

**Non-Consensual Sexual Contact** is defined as any intentional sexual touching, however slight, with any body part or object, by a man or a woman upon a man or a woman, without effective consent.

**Non-Consensual Sexual Penetration** is defined as any sexual penetration (anal, oral, or vaginal), however slight, with any body part or object by a man or woman upon a man or woman, without effective consent.

**Sexual Exploitation** occurs when a person takes non-consensual or abusive sexual advantage of another, and that behavior does not otherwise constitute another form of sexual misconduct. Examples of sexual exploitation include, but are not limited to, prostitution, non-consensual video or audio-taping of sexual or other private activity, exceeding the boundaries of consent (e.g., permitting others to hide in a closet and observe consensual sexual activity, videotaping of a person using a bathroom), engaging in voyeurism, or engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted diseases (STD) and without informing the other person of such infection.

**Domestic Violence:** The term “domestic violence” means

1) Felony or misdemeanor crimes of violence committed:

- (i) By a current or former spouse or intimate partner of the victim;
- (ii) By a person with whom the victim shares a child in common;
- (iii) By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- (iv) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- (v) By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

2) For the purposes of complying with the requirements of this section and section 668.41 of the CFR, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

**Domestic Violence** is defined in New York as:

1. "Victim of domestic violence" means any person over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, or strangulation; and (i) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and (ii) such act or acts are or are alleged to have been committed by a family or household member.

2. "Family or household members" mean the following individuals:

- persons related by consanguinity or affinity;
- persons legally married to one another;
- persons formerly married to one another regardless of whether they still reside in the same household;
- persons who have a child in common regardless of whether such persons are married or have lived together at any time;
- unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household;

- persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; or
- any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation.

3. "Parent" means a natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.

**Dating Violence:** The term "dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

1) The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

2) For the purposes of this definition-

(i) Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(ii) Dating violence does not include acts covered under the definition of domestic violence and section 668.41 of the CFR, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

New York State Law includes incidents of dating violence within its domestic violence laws. They are not categorized separately under New York State Law.

**Stalking:** The term "stalking" means

1) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(i) Fear for the person's safety or the safety of others; or

(ii) Suffer substantial emotional distress.

2) For the purposes of this definition—

(i) Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

(ii) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(iii) Reasonable persons means a reasonable person under similar circumstances and with similar identities to the victim.

3) For the purposes of complying with the requirements of this section and section 668.41 of the CFR, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

**Stalking** is defined in New York as:

**Stalking in the fourth degree.**

A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

- is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
- causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or
- is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct. Stalking in the fourth degree is a class B misdemeanor.

**Stalking in the third degree.**

A person is guilty of stalking in the third degree when he or she:



- commits the crime of stalking in the fourth degree in violation of the New York State Penal Law, section 120.45 of this article against three or more persons, in three or more separate transactions, for which the actor has not been previously convicted; or
- commits the crime of stalking in the fourth degree in violation of the New York State Penal Law, section 120.45 of this article against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime, as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or
- with intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or
- commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree. Stalking in the third degree is a class A misdemeanor.

### **Stalking in the second degree.**

A person is guilty of stalking in the second degree when he or she:

- commits the crime of stalking in the third degree as defined in the New York State Penal Law, subdivision three of section 120.50 of this article and in the course of and in furtherance of the commission of such offense: (i) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, shotgun, machine gun, electronic dart gun, electronic stun gun, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slungshot, shirken, "Kung Fu Star", dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapon; or (ii) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or
- commits the crime of stalking in the third degree in the New York State Penal Law, violation of subdivision three of section 120.50 of this article against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or
- commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree as defined in the New York State Penal Law, subdivision four of section 120.50 of this article against any person; or
- being twenty-one years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or
- commits the crime of stalking in the third degree, as defined in the New York State Penal Law, subdivision three of section 120.50 of this article, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted. Stalking in the second degree is a class E felony.

### **Stalking in the first degree.**

A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree as defined in the New York State Penal Law, subdivision three of section 120.50 or stalking in the second degree as defined in section 120.55 of this article and, in the course and furtherance thereof, he or she

- intentionally or recklessly causes physical injury to the victim of such crime; or
- commits a class A misdemeanor defined in the New York State Penal Law, article one hundred thirty or a class E felony defined in the New York State Penal Law, section 130.25, 130.40 or 130.85, or a class D felony defined in section 130.30 or 130.45 of the New York State Penal Law,. Stalking in the first degree is a class D felony.

### **Education and Prevention Programs**

The College engages in comprehensive, intentional, integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault and stalking that:

- A. are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assesses for values, effectiveness, or outcome; and
- B. consider environmental risks and protective factors as they occur on the individual, relationship, institutional, and societal levels.

Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and preventions campaigns for students and that:

- A. a statement that the institution prohibits the crimes of domestic violence, dating violence, sexual assault and stalking (as defined by the Clery Act);
- B. the definitions of domestic violence, dating violence, sexual assault and stalking according to jurisdictional definitions of these terms;
- C. what behavior and actions constitute consent, in reference to sexual activity, in the State of New York;
- D. a description of safe and positive options for bystander intervention. Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;
- E. information on risk reduction. Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.
- F. information regarding:
  - 1. procedures victims should follow if a crime of domestic violence, dating violence, sexual assault and stalking occurs.
  - 2. how the institution will protect the confidentiality of victims and other necessary parties.
  - 3. existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and the community.
  - 4. options for, available assistance in, and how to request changes to academic, living, and/or working conditions or protective measures.
  - 5. procedures for institutional disciplinary action in cases of alleged domestic violence, dating violence, sexual assault or stalking.

The College is committed to educating and promoting community awareness about the prevention of sex discrimination and harassment, sexual harassment, sexual violence, stalking, domestic violence, dating violence, and sex- and gender-based harassment that does not involve conduct of a sexual nature.

The Title IX Coordinator and others designated by the Title IX Coordinator oversee the development and implementation of the College's education and prevention programs, which are based on campus needs and climate. Incoming first-year students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will receive ongoing training on a periodic basis. All educational programs include a review of resources and reporting options.

The College offered the following **primary prevention and awareness programs** in 2022:

Name of Program	Date(s) Assigned or Held	Due Date	Time Held	Mandatory or Optional	Live or pre-recorded? In-person or On-line?	Location Held	Prohibited behaviors covered:	Notes/C oncerns?	Lead
Title IX Fundamentals for Student Employees (RA Winter Training)	1/15/2022	N/A	10:20 a.m. - 11:55 a.m.	Mandatory for Residential Advisors	Live	Zoom	<b>DoV, DaV, SA, S</b>		Catherine Berryman
TIIX Fundamentals (for Student Leaders)	2/1/2022	N/A	N/A	Mandatory for Leaders of Student Organizations	pre-recorded, on-line	Zoom (Q&A follow-up sessions)	<b>DoV, DaV, SA, S</b>		
TIIX Fundamentals (for Student Leaders)	2/2/2022	N/A	N/A	Mandatory for Leaders of Student Organizations	pre-recorded, on-line	Zoom (Q&A follow-up sessions)	<b>DoV, DaV, SA, S</b>		
EVERFI Sexual Assault Prevention for Undergraduates	8/10/2022	9/5/2022	N/A	Mandatory for First Year Students	On-line (EVERFI)	N/A	DoV, DAV, SA, S		Catherine Assign
TIIX Fundamentals for Student Employees (RA Fall Training)	8/15/2022	N/A	1:00 p.m. - 2:45 p.m.	Mandatory for Residential Advisors	Live	In-Person, KJ Auditorium	<b>DoV, DaV, SA, S</b>		Catherine Berryman
TIIX Overview and Scenario Practice	8/15/2023	N/A	3:00 pm - 3:30 pm	Mandatory for Orientation Leaders	Live	In-Person, Events Barn	<b>DoV, DaV, SA, S</b>		
Title IX Fundamentals for Employees	8/18/2022	N/A	10:45 am - 11:15 am	Mandatory for new faculty	In-person	Taylor Science Center	DoV, DAV, SA, S		
TIIX Fundamentals for New Students	8/23/2022	N/A	2:30 p.m. - 4:30 p.m.	Mandatory for New Students during Orientation	Live	In-Person, KJ Auditorium	<b>DoV, DaV, SA, S</b>		Catherine Berryman
TIIX Overview and Scenario Practice	8/24/2022	N/A	1:45 pm - 2:25 pm	Mandatory for FYC Mentors	Live	In-Person, Sadove	<b>DoV, DaV, SA, S</b>		
NCAA Compliance Training	8/26/2022	N/A	7:00 p.m. - 8:30 p.m.	Mandatory for Student Athletes	Live	Taylor Science Center	<b>DoV, DaV, SA, S</b>		

NCAA Compliance Training	8/28/2022	N/A	7:00 p.m. - 8:30 p.m.	Mandatory for Student Athletes	Live	Wellin Hall	<b>DoV, DaV, SA, S</b>		
NCAA Compliance Training	9/4/2022	N/A	7:00 p.m. - 8:30 p.m.	Mandatory for Student Athletes	Live	Wellin Hall	<b>DoV, DaV, SA, S</b>		
NCAA Compliance Training	9/11/2022	N/A	7:00 p.m. - 8:30 p.m.	Mandatory for Student Athletes	Live	Taylor Science Center	<b>DoV, DaV, SA, S</b>		
TIx Fundamentals for Area Director	10/13/2022	N/A	11:00 am - 12:00 pm	Mandatory	Live	Zoom	<b>DoV, DaV, SA, S</b>		
TIx Fundamentals (for Student Leaders)	10/17/2022	N/A	4:30 pm - 5:00 pm	Mandatory for Leaders of Student Organizations	Live	In-Person, KJ Auditorium	<b>DoV, DaV, SA, S</b>		
NCAA Compliance Training	10/17/2022	N/A	6:30 p.m. - 8:00 p.m.	Mandatory for Student Athletes	Live	Taylor Science Center	<b>DoV, DaV, SA, S</b>		
TIx Fundamentals (for Student Leaders)	10/18/2022	N/A	6:30 pm - 7:00 pm	Mandatory for Leaders of Student Organizations	Live	In-Person, KJ Auditorium	<b>DoV, DaV, SA, S</b>		
TIx Fundamentals (for Student Leaders)	10/20/2022	N/A	12:00 pm - 12:30 pm	Mandatory for Leaders of Student Organizations	Live	In-Person, KJ Auditorium	<b>DoV, DaV, SA, S</b>		
Sex Discussed Here	11/14/2022	N/A	1:00 pm - 2:30 pm	Mandatory for First Year Students	Live	In-Person	<b>DoV, DaV, SA, S</b>		
Discrimination and Harassment Prevention Training	12/6/2022	12/27/2022	N/A	Mandatory for All Employees	On-line (EVERFI)	N/A	<b>DoV, DaV, SA, S</b>		
NCAA Compliance Training	12/20/2022	N/A	6:30 p.m. - 8:00 p.m.	Mandatory for Student Athletes	Live	Zoom	<b>DoV, DaV, SA, S</b>		

DoV means Domestic Violence, DaV means Dating Violence, SA means Sexual Assault and S means Stalking

## **Complaint Response Procedures**

### **Adjudication of Violations**

The College's disciplinary process includes a prompt, fair, and impartial investigation and resolution process. In all instances the process will be conducted in a manner consistent with the institution's policy and is transparent to the accuser and the accused. The resolution of domestic violence, dating violence, sexual assault, and stalking complaints are usually completed within 60 days of the report. However, each proceeding allows for extensions of this timeframe for good cause with written notice provided to the accuser and the accused of the delay and the reason for such delay. Officials involved in the investigation or adjudication of domestic violence, dating violence, sexual assault, and stalking complaints are trained annually on issues related to domestic violence, dating violence, sexual assault, and stalking, as well as how to conduct an investigation and hearing process that protects the safety of the victim and promotes accountability.

*The following steps outline Hamilton's process for addressing notice of Sexual Misconduct:*

#### **Notice of Complaint**

Complaints of Sexual Misconduct may be made orally or in writing, and may come from the report of a Responsible Employee or directly from a Complainant. This will be considered "notice" that an act of Sexual Misconduct is alleged to have occurred. This notice must ultimately be recorded in written form by the Complainant, Responsible Employee, or Title IX Coordinator, and must include, at a minimum, the time, place, and nature of the alleged offense and the name of the Respondent. In addition, the College may also receive notice of a possible incident of Sexual Misconduct without any actual complaint or report and it recognizes that it may have an obligation to act in those instances as well. After receiving notice, the Title IX Coordinator will determine if the conduct alleged by the Complainant falls within this Policy.

#### **Evaluation of Response Options**

After receiving notice, the Title IX Coordinator will determine if the conduct alleged by the Complainant falls within this Policy.

In cases where action against an alleged Respondent cannot be taken because that individual is not a member of the College community, the Title IX Coordinator will assess the information given and provide appropriate recommendations and resources to the Complainant, including the procedure available under Article XIV.

In cases where it is determined that the act, if proven, does not fall within this Policy, no further action will be pursued and the Complainant will be advised by the Title IX Coordinator of other avenues of recourse and support as appropriate.

#### **Informal Resolution: Mediation**

In cases where the Title IX Coordinator and HSMB Chair determine that mediation may be appropriate, the Title IX Coordinator will first speak with the Complainant about the option to pursue mediation. If the Complainant is agreeable, then the Title IX Coordinator will meet with the Respondent to discuss the mediation process. If both parties are agreeable to mediation, mediation will be coordinated by the Title IX Coordinator. Either party may discontinue mediation at any time. The mediator will report to the Title IX Coordinator and the HSMB Chair the results of the mediation, and is subject to the acceptance of the Title IX Coordinator.

Mediation, even if voluntary, may not be used in cases involving sexual assault. The College will not compel a Complainant to engage in mediation, to directly confront the Respondent or to participate in any particular form of a response, and a Complainant who initially requests mediation can later request, at any time, to terminate mediation in favor of review by the HSMRP.

#### **Formal Resolution**

In cases of alleged Sexual Misconduct under this Policy, where informal resolution is not used or if used is not successful, the following process will apply. This process may involve the Chair of the HSMB, the appropriate Senior Staff Member, the Title IX Coordinator, an Investigator, and the HSMRP. In the event the Complainant, Respondent, Chair of the HSMB, or Title IX Coordinator identifies a conflict of interest involving the Chair or the Title IX Coordinator, the appropriate Senior Staff Member will appoint another member of the HSMB to oversee the process. If there is a conflict of interest involving the Senior Staff Member, the President of the College will take the place of the Senior Staff Member.

The Title IX Coordinator will meet with the Complainant and explain the investigation procedures that will be followed. The Title IX Coordinator will meet separately with the Respondent to provide written notification that Hamilton is investigating the possibility that the Respondent may have violated this Policy. Both parties will be provided a copy of this Policy.

#### **Respondent Acceptance of Responsibility**

The Respondent, with the Senior Staff Member's agreement, may accept responsibility for alleged conduct. A Respondent choosing this path must provide the Senior Staff Member and the Chair a written statement accepting responsibility for the alleged conduct and waiving any further process

under this Policy. In such cases, the appropriate Senior Staff Member – in consultation with the Chair and Title IX Coordinator – will determine a sanction, which may range from a warning to permanent separation from the College. By accepting responsibility, the Respondent accepts the Senior Staff Member’s decision as final. If the Respondent does not agree to accept responsibility and disputes the description of alleged conduct, the process below will proceed.

## **Investigation of Complaint**

### **General**

Hamilton College uses an investigation model to resolve complaints of Sexual Misconduct that are not appropriate for voluntary mediation, or that a Complainant does not wish to mediate even if mediation could be pursued.

A trained Investigator will interview all parties and witnesses and collect relevant information. The Investigator is authorized to contact any relevant people and to access any relevant records not otherwise prohibited by legal protections of privilege or confidentiality. It is the responsibility of the Investigator to take custody of, and arrange safekeeping for, any physical or electronic records, documents, or other tangible items to be used in making a finding.

The Investigator will make every effort to conclude a thorough investigation, including submission of its written report, within 30 business days of the receipt of a complaint. Should a Respondent choose not to participate in the investigative process, the investigation may proceed, a decision will be made, and, if appropriate, a sanction may be imposed based on available information.

The Complainant and Respondent may have an advisor of choice present at any meeting related to the investigation and resolution process if the matter involves sexual assault or violence, dating or domestic violence, or stalking, or when otherwise required by law. In all other cases, an advisor may be used but the advisor must be an active member of the campus community, who is not a lawyer. In all cases, advisors can only advise the Complainant or Respondent privately and cannot act as speaking advocates. If an advisor is going to accompany a party, that party must advise the Title IX Coordinator of the identity of his/her advisor upon making that decision. Neither members of the HSMB nor the Appeals Board may serve as advisors.

In matters involving students, the College will typically issue “no contact” orders for the duration of the investigation and resolution process. In all other matters, the College will evaluate and implement measures intended to reduce the burden on the Complainant; the College’s evaluation of the appropriateness of such measures will be ongoing.

## **Rights of the Respondent and Complainant**

### **Common Rights**

Each party has the right to:

- the Complainant and the Respondent will have timely notice for meetings at which the Complainant or Respondent may be present but never at the same time;
- the Complainant and Respondent and appropriate officials will have timely and equal access to any information that will be used during formal and informal disciplinary meetings and hearings;
- the institutional disciplinary procedures will not be conducted by officials who have a conflict of interest or bias for or against the Complainant or the Respondent;
- the Complainant and the Respondent will have the same opportunities to have others present during any institutional disciplinary proceeding. The Complainant and Respondent may have an advisor of choice present at any meeting related to the investigation and resolution process if the matter involves sexual assault or violence, dating or domestic violence, or stalking, or when otherwise required by law. In all other cases, an advisor may be used but the advisor must be an active member of the campus community, who is not a lawyer. In all cases, advisors can only advise the Complainant or Respondent privately and cannot act as speaking advocates. If an advisor is going to accompany a party, that party must advise the Title IX Coordinator of the identity of his/her advisor upon making that decision. Neither members of the HSMB nor the Appeals Board may serve as advisors.
- The Complainant and Respondent will be notified simultaneously, in writing, of any initial, interim, and final decision of any disciplinary proceeding;
- In matters involving appeals the Complainant and the Respondent will be notified simultaneously, in writing, of the procedures for the Complainant and the Respondent to appeal the results of the institutional disciplinary proceeding. The Complainant and the Respondent will be notified simultaneously, in writing, of any change to the result prior to the time it becomes final, as well as, of the final result once the appeal is resolved;
- preservation of privacy, to the extent possible and allowed by law;
- a timely investigation and appropriate resolution of all complaints of sexual misconduct through the processes described in this Policy;
- be informed of campus judicial rules and procedures as well as the nature and extent of all alleged violations contained within the complaint;
- be informed in advance of any meeting they are required or eligible to attend, the purpose of the meeting and the rules allegedly violated and potential sanctions (if not previously advised);
- (in the case of students) medical and emotional support from the Student Health Service, the Counseling Center, and/or trained advocates;
- (in the case of employees) medical and emotional support through the College’s Employee Assistance Program (1-888-293-6948);

- receive the counsel and support of an advisor (as more fully described above) throughout the investigation and resolution processes. The advisor may consult with the advisee but may not speak on behalf of the advisee unless directed to answer questions raised by the Investigator or HSMRP, or to assist the advisee with questioning;
- provide information at any step of the procedures outlined in this Policy outside the presence of the other party.
- have their own past sexual history with persons other than the other party precluded at the responsibility stage and to have any other irrelevant information concerning sexual history, character, or incidents not directly related to the complaint excluded from the investigation and resolution proceedings (the HSMB Chair, Title IX Coordinator or other appropriate person may determine that information demonstrating a pattern of behavior directly related to the alleged violation is admissible information);
  - any party seeking to introduce information about prior sexual history or pattern evidence should bring this information to the attention of the Title IX Coordinator at the earliest opportunity. A party who provides this information and wishes to seek its consideration must submit a written request to the Title IX Coordinator no later than seven (7) days after the notice of complaint has been provided:
    - a written statement and/or description of the proposed information, if not already provided and
    - a summary of the relevance of this information to making a decision of responsibility Where sufficient foundation exists, the Title IX Coordinator, in consultation with the HSMB Chair or other appropriate person, will assess the relevance, form, and reliability of the information and determine if it is appropriate for consideration by the Investigator. If the information is approved, the Respondent and Complainant will be provided with a brief description of the approved information before the close of the investigation;
- have their own mental health diagnosis and/or treatment excluded in the responsibility stage of any proceeding;
- be informed of the names of any additional individuals who may be called to provide information;
- have the College request the presence of individuals at investigative and resolution proceedings (as appropriate);
- review all relevant documentary information available regarding the complaint and investigation, subject to the confidentiality limitations imposed by state and federal law and College policy, and the ability of the Title IX Coordinator and the HSMB Chair to exercise discretion to redact or remove information deemed to be irrelevant, more prejudicial to a party or witness than probative, an unwarranted invasion of an individual's privacy or immaterial;
- submit a personal impact statement prior to the consideration of any sanction;
- be notified of the HSMRP's finding and recommended sanction (as it relates to Complainant) following the HSMRP review (where applicable), as well as the Senior Staff Member's decision;
- petition the Chair of the HSMB for removal of any member of the Investigator or HSMRP (where applicable) on the basis of demonstrated bias or conflict of interest;
- appeal the Senior Staff Member's decision and sanction, in accordance with the standards for appeal established by this Policy;
- have complaints investigated and reviewed in a timely, impartial and thorough manner, by individuals who have received annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of respondent (including the right to a presumption that the respondent is "not responsible" until a responsibility determination has been made), and other issues relating to sexual assault, domestic/dating violence and stalking;
- to an outcome based solely on information obtained by the Investigator and during the HSMRP or other applicable proceeding;
- have College policies and procedures followed without material deviation; and/or
- be informed in advance of any public release of information regarding the complaint;
- receive appropriate, reasonably available measures to reduce the burden on either the Complainant and/or Respondent, which may include (but may not be applicable to all depending on their status as a student or an employee):
  - placement of limitations on one party regarding contact with the other during the investigation and while the complaint is being reviewed;
  - separation or modification of the working, living, and/or academic arrangements of the Complainant and the Respondent and the College's assistance in effecting such change;
  - rescheduling of exams, papers, or other assignments;
  - taking an incomplete in a class;
  - changing class sections;
  - temporary withdrawal; or
  - alternative course completion options;

#### **Additional Rights of the Complainant**

- To be informed by College officials of options to notify appropriate law enforcement authorities and the option to be assisted by campus officials in notifying such authorities whether or not the individual intends to pursue on-campus complaint resolution procedures.

#### **Additional Rights of the Respondent**

- To be advised on the date, time, location and factual allegations made against him or her, the specific provisions of the Policy allegedly violated, the possible sanctions, to review the complaint made against him or her (subject to the confidentiality and privacy provisions of this Policy), and timely notice of any HSMRP proceedings in which the Respondent could participate;
- To waive HSMRP or other proceedings by admitting responsibility (in which case, the Senior Staff Member, in consultation with the Title IX Coordinator and Chair of the HSMB, will determine a sanction, with no right of appeal); and  To withdraw from the College, subject to Article XI. A. 2 of this Policy.

## **Procedures for Submitting and Accessing Information Collected During College's Investigation**

The Complainant and Respondent will be asked to identify all information they would like the Investigator to review, and as such both may recommend witnesses and submit information for consideration. Decisions about interviews and collection and evaluation of relevant information, physical or electronic documents, and other tangible items, however, are ultimately at the sole discretion of the Investigator in the context of impartial treatment of both parties. In the course of conducting interviews, the Investigator will ask any participant in the investigation to sign a statement attesting to the veracity of the information provided. The Investigator will also encourage participants to keep the substance of an interview confidential.

At the conclusion of the investigation, the Complainant and Respondent will have the opportunity to review the other party's statement, relevant witness statements and other relevant materials gathered during the course of the investigation. Prior to this review, however, the Title IX Coordinator and HSMB Chair will review those materials to determine whether the information contained therein is relevant and material to the determination of the charged violation(s) of this Policy given the nature of the allegation(s). In general, the Title IX Coordinator and the HSMB Chair may redact information that is irrelevant, more prejudicial to a party or witness than probative, an unwarranted invasion of an individual's privacy, or immaterial.

After such review and redaction, the Title IX Coordinator will facilitate the opportunity for each party to access the information separately in a private setting. Both parties will have an opportunity to respond to this information, in writing, within 7 days. If at any stage following the submission of these responses new and relevant information is gathered, it will be shared with the Complainant and Respondent, who will again have the opportunity to submit a written response within a time frame determined by the Title IX Coordinator. The Complainant and Respondent may request to see the other party's written responses.

Following the initial 7 day review period by the Complainant and Respondent and any subsequent responses and gathering of new information, the Investigator will complete their final written report and, within 7 days, meet with the Chair and Title IX Coordinator to deliver that final written report, which will include relevant facts, all relevant investigation materials, Complainant and Respondent statements and responses to the other's statement, and any additional information gathered. The Title IX Coordinator will notify the Complainant and Respondent of the completion of the final Investigator report and make arrangements for each to review.

### **Simultaneous College and Law Enforcement Investigations**

When a Complainant reports to both local law enforcement and the College, there will be some coordination of the simultaneous investigations.

At the request of law enforcement, the College may agree to defer its fact-gathering until after the initial stages of a criminal investigation. During that time, the College will continue to offer support to the Complainant, including discussing Title IX rights, procedural options, and needed interim measures to ensure safety and well-being. The College will promptly resume its fact-gathering as soon as law enforcement has completed its evidence gathering.

The College will timely share information in simultaneous investigations except that local law enforcement may manage sharing of information so as not to impede its ongoing investigation. In addition, the College's ability to share information related to its own investigation and/or adjudication of certain offenses involving a student or students will be governed by the Family Educational Rights and Privacy Act, which prohibits disclosure of student education records containing personally identifiable information except under certain circumstances.

The College's Policy, definitions, and standard of review differ from New York criminal law. Neither law enforcement's determination whether to prosecute a Respondent nor the outcome of any criminal prosecution is determinative of whether Sexual Misconduct has occurred under this Policy. Proceedings under this Policy may be carried out prior to, simultaneously with or following civil or criminal proceedings off campus.

### **Resolution Procedures**

#### **When the Respondent Is a Student**

##### **HSMRP Procedures and Guidelines**

Unless the Title IX Coordinator and the HSMB Chair determine that mediation is appropriate and the parties agree to proceed with mediation as described above, the Title IX Coordinator will convene the HSMRP upon receipt of the final report from the Investigator. The HSMRP will review the final Investigator report and may request any additional relevant information from the investigators and/or to meet individually with any person(s). The Complainant or Respondent also has the right to meet separately with the HSMRP. The focus of any such meeting will only be to clarify information presented in the Investigator's final report. Utilizing this information, the HSMRP is responsible for arriving at a determination of whether this Policy was violated and, if so, which specific portion(s). The HSMRP will apply a preponderance of evidence standard when arriving at a determination of whether this Policy was violated.

If the HSMRP determines that this College Policy has been violated, the HSMRP will additionally recommend a sanction to the Senior Staff Member for the Respondent based on the nature of the violation and available precedent. Possible sanctions include:



- **Warning:** Notice, orally or in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
- **Restitution:** Charges for damages, including replacement of goods, payment of services, and/or assignment of unpaid service to the College community.
- **Mandatory educational workshop** for alcohol or drug-related misconduct.
- **Loss of status in housing lottery.**
- **Status of Probation:** To be assigned for a specified period of time. Terms of the probation shall be specified, and may include denial of specified social privileges, exclusion from extracurricular activities and other measures deemed appropriate. Violation of this Policy or the College's Code of Conduct during the period of probation will normally result in suspension or expulsion from the College.
- **Suspension:** Separation from the College, and exclusion from College premises, and from other privileges and activities. Readmission to the College after the term of suspension is not automatic, but requires application to the Dean of Students. "Suspended after a finding of responsibility" will be recorded on the official College transcript, as noted below.
- **Expulsion:** Permanent termination of student status, and exclusion from College premises, privileges, and activities. An application for readmission shall not be considered. Students who have been expelled are expected to leave the campus within 48 hours unless the Dean of Students grants a special extension. "Expelled after a finding of responsibility" will be recorded on the official College transcript, as noted below.
- **Other Actions:** In addition to or in place of the above actions, the Senior Staff Member may assign such other penalties, as it deems appropriate.

Individuals found responsible for Non-consensual Sexual Penetration should expect suspension or expulsion from the College.

**Transcript Notation:** In the event any student is found responsible for conduct which constitutes a crime of violence that must be reported under the Clery Act (including but not limited to aggravated assault and sexual assault) and is suspended or expelled as a result, the notation "Suspended/Expelled after a finding of responsibility for a code of conduct violation" will appear on the transcript. A student who has been suspended may request to have the notation removed no sooner than one year after the conclusion of the suspension and prior to graduation. Requests should be submitted in writing to the Dean of Students. Notations for expulsions shall not be removed. In pending cases that could result in suspension or expulsion, the Dean of Students will normally place a temporary encumbrance on a student's transcript. If a student withdraws with such charges pending and does not participate through completion in any College process, the notation "Withdrew with code of conduct violation pending" will appear on his/her transcript.

If the HSMRP determines that College Policy was not violated, no sanction will be recommended. The HSMRP will prepare a brief written summary of its determination, including findings of fact and a rationale for its determination and recommended sanction (if applicable) and submit it to the Senior Staff Member. The HSMRP will make every effort to conclude this process within fourteen (14) days of the receipt of the Investigator's final report.

The Senior Staff Member will make the final decision based on the HSMRP's determination and recommendation and the final Investigator report, subject to the Senior Staff Member's right to meet individually with any person. The Senior Staff Member and Chair will meet separately with the Complainant and Respondent to inform them of the HSMRP's determination and recommendation and the Senior Staff Member's decision, which will be based on a preponderance of evidence standard. Specifically, each party will be informed in writing of the HSMRP's and the Senior Staff Member's determination (including any policy violation(s) and any sanction(s) issued), and procedures to appeal the decision.

### **Respondent Withdrawal**

Should a Respondent choose to withdraw from the College with knowledge that a formal or informal complaint against him or her has been made under this Policy and prior to the Senior Staff member's final decision, the Respondent's transcript will note that a complaint had been made at the time of withdrawal. The College reserves the right, notwithstanding a withdrawal, to proceed with consideration of any complaint to completion and, if appropriate, impose a sanction.

### **When the Respondent is a Faculty Member**

When the Respondent is a Faculty Member, the Investigator's final report will be presented to the Dean of the Faculty and the Chair of the HSMB. The Dean may meet individually with any person. If the Dean, after consultation with the Chair, believes that a violation of this Policy has occurred and a major change in the terms of employment or dismissal is appropriate, as provided in X.D. 1 (b) of the Faculty Handbook, the Dean will use the Investigator's final report (or any relevant portions thereof) as the basis for a petition under X.E of the Faculty Handbook and those procedures will be followed, subject to the following modifications:

- tribunal members can only be drawn from those otherwise qualified individuals who have undergone or who in advance of the hearing undergo appropriate (as determined by the Title IX Coordinator) Title IX training;
- either the original Complainant or the Faculty Member Respondent may request to be separated from the other during the course of any proceeding, in which case the Tribunal will determine whether and how best to accomplish that separation (such as through use of a screen or partition, close circuit tv, or otherwise, to allow either party to provide information outside the presence of the other);
- both the Complainant and the Faculty Member Respondent may request to have all questions from the other (or questions to the other from them, as applicable) asked through, and in a substance and form determined by, the Tribunal, rather than through direct examination/cross examination;
- any determination will be based on a preponderance of evidence standard;
- the time periods provided for notice of hearings and/or decisions may be shortened as determined necessary by the Title IX Coordinator to permit completion of the process in a timely fashion, as provided in this Policy; and

- any other modifications that may be required to comply with Title IX or other law.

In cases where the Dean of the Faculty believes a major change or dismissal is not appropriate, and he/she finds a violation of College Policy, the Dean may impose a penalty as provided for in X.D. 1 (b) of the Faculty Handbook. The Dean's determination will include findings of fact and a rationale for the responsibility determination and sanction, if any.

### **When the Respondent is a Staff Member**

When the Respondent is a Staff member (i.e., for purposes of this Policy, any non-faculty employee), the Investigator's final report will be provided to the Director of Human Resources and the Senior Staff Member (who must both be appropriately trained, as determined by the Title IX Coordinator), who together are responsible for arriving at a determination of whether this Policy was violated and, if so, which specific portion(s). The Director of Human Resources and/or the Senior Staff Member may meet individually with any person. If it is determined that a violation of this Policy has occurred, or if it is determined that no violation of this Policy has occurred but a violation of some other College policy, rule, or requirement has occurred, the Director of Human Resources and Senior Staff Member, after consultation with the Chair or other member of the HSMB, may impose an appropriate sanction, up to and including termination of employment.

The Director of Human Resources and the Senior Staff Member determination will include findings of fact and a rationale for the responsibility determination and sanction, if any. A preponderance of the evidence standard will apply to this determination. In the event the Director of Human Resources and the Senior Staff Member are unable to agree, they shall advise the President, who will appoint a third person to act as a tie-breaker.

### **Overall Time Frame for Investigation and Complaint Resolution**

The College has established time frames with the goal of addressing and reaching a determination about all complaints in a timely and efficient manner. In general, parties can expect that the College will conclude all reports of Sexual Misconduct within sixty (60) days (exclusive of any appeal) and, in general, parties can expect that the process will proceed according to the time frames provided in this Policy. However, because circumstances may arise that require the extension of time frames—possibly beyond the overall sixty (60) day timeline— all time frames expressed in this Policy are meant to be guidelines rather than rigid requirements. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation or other unforeseen circumstances. The College will provide written notice to all parties of the reason for any delay and the expected adjustment in time frames. The College will make its best efforts to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

### **If you are the Victim of Sexual or Domestic Abuse**

After an incident of sexual assault and domestic violence, the victim should consider seeking medical attention as soon as possible at Oneida Healthcare Center, 321 Genesee St. Oneida, NY 13421. In the State of New York, evidence may be collected even if you chose not to make a report to law enforcement. Minors (persons under the age of 18) will be treated, but the hospital must alert law enforcement due to state law requirements involving the protection of children.

It is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen/area where they were assaulted if the offense occurred within the past 96 hours so that evidence may be preserved that may assist in proving that the alleged criminal offense occurred/or is occurring or may be helpful in obtaining a protection order. In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease. Victims of sexual assault, domestic violence, stalking, and dating violence are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful to College hearing boards/investigators or police.

Although the College strongly encourages all members of its community to report violations of this policy to law enforcement, it is the victim's choice whether or not to make such a report and victims have the right to decline involvement with the police. The Director of Campus Safety and the College's title IX Coordinator will assist any victim with notifying local police if they so desire. The Kirkland Police Department may also be reached directly by visiting in person at 2 New Street, Clark Mills, NY 13321 or by calling 315-853-2924. The complainant may also choose to contact the New York State Police's Bureau of Criminal Investigation, who routinely are the law enforcement agency that would investigate sexual and domestic abuse cases. Both agencies work closely with the College to support the victim. The New York State Police may be reached by dialing 315-366-6000. More information regarding contacting New York State Police can be found here:

[https://www.troopers.ny.gov/Contact\\_Us/Troop\\_Information/Troop\\_D/](https://www.troopers.ny.gov/Contact_Us/Troop_Information/Troop_D/)

If you have been the victim of domestic violence, dating violence, sexual assault, or stalking, you should report the incident promptly to the Title IX Coordinator, **Catherine Berryman, the Title IX Coordinator via telephone at 315-859-4020 or email at [cberryvma@hamilton.edu](mailto:cberryvma@hamilton.edu)** by calling, writing or coming into the office to report in person to the Dean of Students Office, which is located in the [Elihu Root House, #25 on map](#) and Campus Safety (if the victim so desires.) The College will provide resources, on campus off campus or both, to include medical, health, to persons who have been victims of sexual assault, domestic violence, dating violence, or stalking, and will apply appropriate disciplinary procedures to those who violate this policy. The procedures set forth below are intended to afford a prompt response to charges of sexual assault, domestic or dating violence, and stalking, to maintain confidentiality and fairness consistent with applicable legal requirements, and to impose appropriate sanctions on violators of this policy.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If a victim chooses not to make a complaint regarding an incident, he

or she nevertheless should consider speaking with Campus Safety or law enforcement to preserve evidence in the event that the victim changes her/his mind at a later date.

If a report of domestic violence, dating violence, sexual assault or stalking is reported to the College, the below are the procedures that the College will follow as well as a statement of the standard of evidence that will be used during any judicial hearing on campus arising from such a report:

Incident Being Reported:	Hamilton College’s Institutional Response Procedures	Evidentiary Standard TO MEET YOUR STANDARDS
<b>Sexual Assault</b>	<ol style="list-style-type: none"> <li>1. Depending on when reported (immediate vs delayed report), institution will provide complainant with access to medical care</li> <li>2. Institution will assess immediate safety needs of complainant</li> <li>3. Institution will assist complainant with contacting local police if complainant requests AND complainant provided with contact information for local police department</li> <li>4. Institution will provide complainant with referrals to on and off campus mental health providers</li> <li>5. Institution will assess need to implement interim or long-term protective measures, such as housing changes, change in class schedule, “No Contact” directive between both parties</li> <li>6. Institution will provide a “No trespass” (PNG) directive to accused party if deemed appropriate</li> <li>7. Institution will provide written instructions on how to apply for Protective Order</li> <li>8. Institution will provide a copy of the Sexual Misconduct Policy to complainant and inform the complainant regarding timeframes for inquiry, investigation and resolution</li> <li>9. Institution will inform the complainant of the outcome of the investigation, whether or not the accused will be administratively charged and what the outcome of the hearing is</li> <li>10. Institution will enforce the anti-retaliation policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination or for assisting in the investigation</li> </ol>	Preponderance of the evidence
<b>Stalking</b>	<ol style="list-style-type: none"> <li>1. Institution will assess immediate safety needs of complainant</li> <li>2. Institution will assist complainant with contacting local police if complainant requests AND complainant provided with contact information for local police department</li> <li>3. Institution will provide written instructions on how to apply for Protective Order</li> <li>4. Institution will provide written information to complainant on how to preserve evidence</li> <li>5. Institution will assess need to implement interim or long-term protective measures to protect the complainant, if appropriate</li> <li>6. Institution will provide a “No trespass” (PNG) directive to accused party if deemed appropriate</li> </ol>	Preponderance of the evidence
<b>Dating Violence</b>	<ol style="list-style-type: none"> <li>1. Depending on when reported (immediate vs delayed report), institution will provide complainant with access to medical care</li> <li>2. Institution will assess immediate safety needs of complainant</li> <li>3. Institution will assist complainant with contacting local police if complainant requests AND complainant provided with contact information for local police department</li> <li>4. Institution will provide complainant with referrals to on and off campus mental health providers</li> </ol>	Preponderance of the evidence.

	<ol style="list-style-type: none"> <li>5. Institution will assess need to implement interim or long-term protective measures, such as housing changes, change in class schedule, “No Contact” directive between both parties</li> <li>6. Institution will provide a “No trespass” (PNG) directive to accused party if deemed appropriate</li> <li>7. Institution will provide written instructions on how to apply for Protective Order</li> <li>8. Institution will provide a copy of the Sexual Misconduct Policy to complainant and inform the complainant regarding timeframes for inquiry, investigation and resolution</li> <li>9. Institution will inform the complainant of the outcome of the investigation, whether or not the accused will be administratively charged and what the outcome of the hearing is</li> <li>10. Institution will enforce the anti-retaliation policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination or for assisting in the investigation</li> </ol>	
<b>Domestic Violence</b>	<ol style="list-style-type: none"> <li>1. Depending on when reported (immediate vs delayed report), institution will provide complainant with access to medical care</li> <li>2. Institution will assess immediate safety needs of complainant</li> <li>3. Institution will assist complainant with contacting local police if complainant requests AND complainant provided with contact information for local police department</li> <li>4. Institution will provide complainant with referrals to on and off campus mental health providers</li> <li>5. Institution will assess need to implement interim or long-term protective measures, such as housing changes, change in class schedule, “No Contact” directive between both parties</li> <li>6. Institution will provide a “No trespass” (PNG) directive to accused party if deemed appropriate</li> <li>7. Institution will provide written instructions on how to apply for Protective Order</li> <li>8. Institution will provide a copy of the Sexual Misconduct Policy to complainant and inform the complainant regarding timeframes for inquiry, investigation and resolution</li> <li>9. Institution will inform the complainant of the outcome of the investigation, whether or not the accused will be administratively charged and what the outcome of the hearing is</li> <li>10. Institution will enforce the anti-retaliation policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination or for assisting in the investigation</li> </ol>	Preponderance of the evidence.

**Assistance for Victims: Rights & Options**

Regardless of whether a victim elects to pursue a criminal complaint or whether the offense is alleged to have occurred on or off campus, the College will assist victims of sexual assault, domestic violence, dating violence, and stalking and will provide each victim with a written explanation of their rights and options. Such written information will include:

- The procedure victims should follow if a crime of dating violence, domestic violence, sexual assault or stalking has occurred;
- A statement that the institution will provide written notification to students and employees about victim services within the institution and the community;
- a statement regarding the institution’s provisions about options for, available assistance in, and how to request accommodations and protective measures;
- an explanation of the procedures for institutional disciplinary action.

The College complies with New York law in recognizing orders of protection from Family Court, Criminal Court or the NY Supreme Court. Any person who obtains an order of protection should provide a copy to Campus Safety and the Office of the Title IX Coordinator. A complainant may then meet with Campus Safety to develop a Safety Action Plan, which is a plan for campus safety and the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, providing a temporary cellphone, changing classroom location or allowing a student to complete assignments from home, etc.) The College cannot apply for a legal order of protection, no contact order, or restraining order for a victim from the appropriate jurisdiction. The victim is required to apply directly for these services. More information on how to obtain an order of protection, which order is appropriate, and which court to obtain the order from can be found here: <http://www.nycourts.gov/faq/orderofprotection.shtml> The College may issue an institutional “No Contact” order if deemed appropriate or at the request of the victim or accused party.

### **Accommodations and Protective Measures Available for Victims**

Upon receipt of a report of dating violence, domestic violence, sexual assault or stalking, Hamilton College will provide written notification to students and employees about accommodations available to them including academic, living, transportation and working situations. The written notification will include information regarding the accommodation options, available assistance in requesting accommodations, and how to request accommodations and protective measures.

At the victim’s request and to the extent of the victim’s cooperation and consent, college offices will work cooperatively to ensure that the complainant’s health, physical safety, work and academic status are protected, pending the outcome of a formal college investigation of the complaint. For example, if reasonably available, a complainant may be offered changes to academic, living, transportation and working situations or protective measures in addition to counseling, health services, visa and immigration assistance and assistance in notifying appropriate local law enforcement. These options for available assistance will be provided regardless of whether the victim chooses to report the crime to Campus Safety or law enforcement. Examples of options for a potential change to the academic situation may be to transfer to section of class or withdraw and take the class at another time. Potential changes to living situations may include moving to a different room or different residence hall. Possible changes to work situations may include changing work hours. Possible changes in transportation may include having the student or employee park in a different location, assisting the student or employee with safety escorts, etc. A victim should see the Title IX Coordinator to request changes to academic, living, transportation, and/or working situations or protective measure.

Victims may request directory information on file with the College be withheld by contacting the Office of the Registrar. Regardless of whether a victim has opted-out of allowing the College to share “directory information” personally identifiable information about the victim and other necessary parties will be treated as confidential and only shared with persons who have a specific need-to-know, i.e. those investigating/adjudicating the report or those involved in providing support services to the victim including accommodations and protective measures.

Additionally, personal identifiable information about the victim will be treated as confidential and only shared with persons with a specific need to know who are investigating/adjudicating the complaint or delivering resources or support services to the complainant (for example, publicly available record-keeping for purposes of Clery Act reporting and disclosures will be made without inclusion of identifying information about the victim, as defined in 42 USC 1395 (a) (20).) Further, the institution will maintain as confidential, any accommodations or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

The College does not publish the name of crime victims nor house identifiable information regarding victims in the campus safety departments Daily Crime Log or the annual crime statistics disclosed in compliance with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*. Furthermore, if a Timely Warning Notice is issued on the basis of a report of domestic violence, dating violence, sexual assault or stalking, the name of the victim and other personally identifiable information about the victim will be withheld. Victims may request that directory information on file be removed from public sources by request by visiting your personal profile page on the College’s intranet and blocking identifying information. Requests may also be made to Campus Safety, Human Resources or the Dean of Students Office.

### **On and Off Campus Services Available for Victims**

Upon receipt of a report of domestic violence, dating violence, sexual assault, or stalking, Hamilton College will provide written notification to students and employees about existing assistance with and/or information about obtaining resources and services including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and assistance in notifying appropriate local law enforcement. Resources include the following:

### **Resources for victims of Domestic Violence, Dating Violence, Sexual Assault & Stalking**

#### **On Campus Support Resources**

The **Counseling Center** (315-859-4340) is a **confidential** resource for students whose staff can provide emotional support as well as information about reporting options. The Counseling Center also has a **Counselor on Call** available 24/7 (reached through Campus Safety at 315-859-4000).

The **Health Center** (315-859-4111) is a **confidential** resource for students whose staff provides medical assistance, and can share information about reporting options. After hours, **Emergency Medical Technicians** (EMTs) are available (reached through Campus Safety at 315-859-4000).

The **Chaplaincy** (315-859-4130) is a **confidential** resource for students and employees whose staff can provide pastoral counsel, emotional support, and information about reporting options. Visit the Chaplaincy site to learn how to contact individual staff in the Chaplaincy.

**Campus Safety** (315-859-4000) is available to students and employees 24 hours a day, 7 days a week to respond to any community concern. Students who call Campus Safety after normal business hours may request to speak with the Dean on Call, who is a member of the Division of

Student Affairs. Campus Safety and/or the Dean on Call will notify the Title IX Coordinator after responding to a call related to alleged Sexual Misconduct.

**Employee Assistance Program (EAP)** (1-888-293-6948) through Besinger, DuPont & Associates is a **confidential** resource for employees regarding issues ranging from alcohol and drug abuse to financial and legal concerns. The EAP also provides access to WorkLife services, which researches and provides referrals for a range of personal issues. For additional information visit [https://www.advantageengagement.com/1120/login\\_company.php](https://www.advantageengagement.com/1120/login_company.php) using username: standard, password: eap4u

The College's **Title IX Coordinator**, Catherine Berryman, is also available to students and employees as an immediate resource. **Talking with the Title IX Coordinator about a specific incident of sexual misconduct constitutes a report under this Policy to which the College must respond.** However, general conversations or questions about Hamilton's processes can remain private [see "Privacy of Resources"]. The Title IX Coordinator can provide information about all resources available to individuals who have experienced Sexual Misconduct, including where to obtain emergency mental health services and health care. The Title IX Coordinator can review and determine the immediate academic and administrative accommodations that can be made to protect a Hamilton community member who has experienced Sexual Misconduct. The Title IX Coordinator can also advise about options for reporting, including the option to report to local law enforcement, to initiate the on-campus resolution procedures, to do both, or to do neither. The Title IX Coordinator will provide guidance and assistance through the process of reporting on- and/or off-campus. She can be reached at 315-859-4020 or after hours through the Dean on Call (reached through Campus Safety at 315-859-4000). In addition to the protective measures previously described, the Title IX Coordinator or their designee will determine whether interim interventions and protective measures should be implemented and, if so, take steps to implement the protective measures as soon as possible. Examples of interim protective measures include, but are not limited to: a College order of no contact, residence hall relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. These remedies may be applied to one, both, or multiple parties involved. Violations of the Title IX Coordinator's directives and/or protective measures will constitute related violations that may lead to additional disciplinary action. Protective measures imposed may be temporary pending the results of an investigation or may be permanent as determined by the Title IX Coordinator.

### **Off Campus Support Resources**

**YWCA Rape Crisis Services** (315-797-7740) is an anonymous hotline available to provide counsel as well as in-person assistance getting to a hospital or the police. If requested, YWCA Rape Crisis Service may also provide victim advocacy services.

**Oneida Health Care** (315-363-6000) is a hospital that provides a **Sexual Assault Nurse Examiner (SANE)** for medical attention (injuries from a sexual assault are not always immediately apparent) and collecting physical evidence (a "rape kit"). The College strongly encourages any individual who has experienced sexual violence to obtain a rape kit, which is critical: (1) to diagnose and treat the full extent of any injury or physical effect and (2) to properly collect and preserve evidence. There is a limited window of time (typically 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Gathering such evidence does **not** commit an individual to pursuing legal action against the assailant, but does preserve that option. Although it may be difficult following a sexual assault, individuals who are considering or may consider legal action should try not to shower, rinse mouth, brush teeth or change clothes to allow for the maximum possible collection of evidence by a SANE nurse or other health care provider.

Hospitals are **confidential** resources and are not required to report any non-identifying information to the College or to anyone else. However, hospitals providing care to individuals reporting sexual assault are required to:

- collect and maintain the chain of custody of sexual assault evidence for not less than 30 days **unless** the patient signs a statement directing the hospital not to collect it;
- advise the individual seeking medical treatment related to sexual assault of the availability of the services of a local rape crisis or victim assistance organization to accompany the individual through the sexual offense examination;
- contact a rape crisis or victim assistance organization providing assistance to the geographic area served by that hospital to establish the coordination of non-medical services to individuals reporting sexual assault who request such coordination and services; and
- provide emergency contraception upon the patient's request.

Even if an individual who has experienced sexual violence does not have injuries requiring emergency attention, the College encourages that individual to seek medical care as soon as possible, whether at the Health Center or another health care provider or hospital. A medical evaluation is still important to check for physical injuries, reduce risk of complications from sexually transmitted diseases as a result of the assault, and/or (if appropriate) reduce risk of pregnancy.

In most instances, any health care provider will encourage an individual reporting Sexual Misconduct to authorize collection of evidence. For individuals who seek initial medical treatment at the Health Center and decide to proceed with evidence collection, the individual may be escorted to Oneida Health by Campus Safety or may choose to travel by taxi (the College will provide a voucher) to any chosen medical provider. A Complainant can receive follow-up health care at the Health Center or the chosen health care provider or hospital.

### **Law Enforcement**

The College encourages anyone who is a victim of Sexual Misconduct to pursue criminal action for incidents that may also be crimes under applicable criminal statutes. The **New York State Police** (315-366-6000) or the Oneida County Sheriff (315-736-0141) can assist with pressing criminal charges following an incident in New York. The New York State Police also maintain a specific sexual assault crime reporting hotline (1-844-845-7269) which can be used.

## Where can I get more help?

*A person in a dangerous emergency situation requiring immediate intervention should call 911 for assistance.*

For additional court information, consult [CourtHelp](#) or the [Court/HelpCenters](#).

You can call any of these numbers – day or night. The hotline operators can answer your specific questions and direct you to further resources.

### NYC Gay and Lesbian Anti-Violence Project

212-714-1141 (24-hour English and Spanish Hotline)

NYS Domestic and Sexual Violence Hotline Numbers:

English: 1-800-942-6906

TTY: 1-800-818-0656

Spanish: 1-800-942-6908

TTY: 1-800-780-7660

In NYC: 1-800-621-HOPE (4673) or dial 311

TTY: 1-866-604-5350

For further help and information regarding what to do in a situation of domestic violence:

- go to the [Help](#) page of the [NYS Office for the Prevention of Domestic Violence](#)
- [NYS Coalition Against Domestic Violence \(CADV\)](#) (maintains list of available resources by county)
- [National Office on Violence Against Women](#)

Other resources available to persons who report being the victim of sexual assault, domestic violence, dating violence, or stalking include:

<http://www.rainn.org> – Rape, Abuse and Incest National Network

<http://www.ovw.usdoj.gov/sexassault.htm> - Department of Justice

<http://www2.ed.gov/about/offices/list/ocr/index.html> Department of Education, Office of Civil Rights

### How to be an Active Bystander

Bystanders play a critical role in the prevention of sexual and relationship violence. They are “individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it.”<sup>1</sup> We want to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help. Below is a list<sup>2</sup> of some ways to be an active bystander. Further information regarding bystander intervention may be found. If you or someone else is in immediate danger, dial 911. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
2. Confront people who seclude, hit on, try to make out with, or have sex with people who are incapacitated.
3. Speak up when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on or off campus resources listed in this document for support in health, counseling, or with legal assistance.

### **Risk Reduction**

The following are some strategies to reduce one’s risk of sexual assault or harassment (taken from Rape, Abuse, & Incest National Network, [www.rainn.org](http://www.rainn.org))

1. **Be aware** of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
2. Try to **avoid isolated areas**. It is more difficult to get help if no one is around.
3. **Walk with purpose**. Even if you don’t know where you are going, act like you do.
4. **Trust your instincts**. If a situation or location feels unsafe or uncomfortable, it probably isn’t the best place to be.
5. **Try not to load yourself down** with packages or bags as this can make you appear more vulnerable.
6. **Make sure your cell phone is with you** and charged and that you have cash money.

<sup>1</sup> Burn, S.M. (2009). A situational model of sexual assault prevention through bystander intervention. *Sex Roles*, 60, 779-792.

<sup>2</sup> Bystander intervention strategies adapted from Stanford College’s Office of Sexual Assault & Relationship Abuse

7. **Don't allow yourself to be isolated** with someone you don't trust or someone you don't know.
8. **Avoid putting music headphones in both ears** so that you can be more aware of your surroundings, especially if you are walking alone.
9. **When you go to a social gathering, go with a group of friends.** Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
10. **Trust your instincts.** If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).
11. **Don't leave your drink unattended** while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
12. **Don't accept drinks from people you don't know or trust.** If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
13. **Watch out for your friends, and vice versa.** If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
14. **If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).** Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
15. If you need to get out of an uncomfortable or scary situation here are some things that you can try:
  - a. **Remember that being in this situation is not your fault.** You did not do anything wrong, it is the person who is making you uncomfortable that is to blame.
  - b. **Be true to yourself.** Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.
  - c. **Have a code word with your friends or family** so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
  - d. **Lie.** If you don't want to hurt the person's feelings it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.
16. **Try to think of an escape route.** How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?
17. **If you and/or the other person have been drinking,** you can say that you would rather wait until you both have your full judgment before doing anything you may regret later.

## Appeals

Either party may request an appeal of the Senior Staff Member's final decision within five business days of being informed in writing of that decision. Acceptable grounds for an appeal are limited to:

- A sanction inconsistent with the severity of the violation or with stated community standards and precedents; and/or
- procedural error(s) that had a material impact on the fairness of the process (the Appeals Board is not to substitute its judgement on the merits for that of the Senior Staff member); and/or
- the discovery of previously unavailable relevant information that could significantly impact the result of the HSMRP's determination

### Appeals Process: When the Respondent is a Student

Either party may request an appeal of the Senior Staff Member's final decision within five business days of being informed in writing of that decision. Acceptable grounds for an appeal are limited to:

- A sanction inconsistent with the severity of the violation or with stated community standards and precedents;
- procedural error(s) that had a material impact on the fairness of the process (the Appeals Board is not to substitute its judgment on the merits for that of the Senior Staff Member); and/or
- the discovery of previously unavailable relevant information that could significantly impact the result of the HSMRP's determination.

## Appeal Procedures

Either party may submit a written request for an appeal to the Chair of the Appeals Board. In the request, the party must identify the specific grounds upon which the appeal is based and must provide all of the detail he or she wants considered in support of the appeal. (The Appeals Board will not consider submissions from anyone other than the parties themselves.) The Chair of the Appeals Board will inform the Senior Staff Member and Chair of the HSMB that an appeal request has been made and will invite them to review the appeal request and respond in writing within five days of that invitation.



Where an appeal is requested by the Respondent, the Complainant will be provided with a copy of the Respondent's appeal and invited to respond. Where an appeal is requested by the Complainant, the Respondent will be provided a copy of the Complainant's appeal and invited to respond. However, in either case, the Title IX Coordinator and HSMB Chair will review the appeal statement to determine whether the information contained therein is relevant and material to the determination of the appeal and, in general, the Title IX Coordinator and the HSMB Chair may redact information that is irrelevant, more prejudicial to a party or witness than probative, an unwarranted invasion of an individual's privacy, or immaterial. The Title IX Coordinator 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.

Within seven days of an appeal being filed, the Chair of the Appeals Board will schedule a meeting for consideration and disposition of the appeal. The Title IX Coordinator will provide the Appeals Panel access to the Investigation Report and any other written materials that were made available to the HSMRP. In considering the appeal, the Appeals Panel may request additional information from the Title IX Coordinator, the Senior Staff Member, or the Chair of the HSMB. Normally, the parties, Senior Staff Member, and Chair of the HSMB will not appear before the Appeals Panel, though they may be summoned at the discretion of the Chair of the Appeals Board.

The Appeals Panel may:

- uphold the original decision;
- remand the matter to the HSMRP. The Appeals Panel may (but is not required to) take this action when there is a procedural irregularity that could be corrected in a review or the presentation of previously unavailable relevant information that could significantly impact the result of the HSMRP's determination;
- remand the matter to the appropriate Senior Staff Member with a recommendation that the penalty be modified, together with an explanation of why the original penalty is deemed inappropriate; or
- remand the matter to an ad hoc review panel composed of members of the HSMB not previously involved in the matter. This will be done only in extraordinary cases when, in the considered opinion of the Appeals Panel, the matter would be best addressed by a newly-constituted panel.

Any determination made following a remand of a matter is subject to appeal to the Appeals Board utilizing this same process. In that case, the Appeals Board may then issue a final determination on the matter.

In cases where the two members of the Appeals Panel do not agree, a third Appeals Board member will review the appeal and make a determination. If there is a conflict of interest, or a third member of the Appeals Board is unavailable, a member of the Faculty Appeals Board will be appointed by the Chair of the Faculty Appeals Board. The Appeals Panel will provide the parties, the Senior Staff Member, and the Chair of the Harassment and Sexual Misconduct Board written notice of its decision, including grounds for the decision, within 48 hours of its meeting. The record of the appeal will consist of the letter of appeal; any written statements from the parties, Senior Staff Member and/or Chair of the HSMB; and the written decision that acceptable grounds for an appeal were not asserted (if that is the case), and the outcome of the appeal. This record will be appended to the written record of the original decision and will be kept with it as part of the case file maintained by the Title IX Coordinator.

Decisions of the Appeals Panel are final.

#### **When the Respondent is a Faculty Member**

If the matter was processed under X.E of the Faculty Handbook, the faculty member shall have the rights provided therein and no others. For other matters, either party (but only parties themselves) shall have the right to appeal, in writing, to the President, within five days of receipt of the Dean's determination. Grounds for appeal are limited to:

- a sanction inconsistent with the severity of the violation;
- procedural effort(s) that had a material impact on the fairness of the determination (the President is not to substitute his/her judgment on the merits for that of the Dean); or
- the discovery of previously unavailable relevant information that could significantly impact the Dean's determination.

On appeal, the President may uphold the original determination, remand the matter for either further consideration by the Dean of Faculty and/or investigation, or modify or reject the determination. The President's decision is final.

### **When the Respondent is a Staff Member**

In those cases, either party (but only the parties themselves) may appeal the determination of the Director of Human Resources and the Senior Staff Member by submitting a request for an appeal in writing within five days of receiving notice of the determination to the President. Acceptable grounds for an appeal are limited to:

- a sanction inconsistent with the severity of the violation;
- procedural effort(s) that had a material impact on the fairness of the determination (the President is not to substitute his/her judgment on the merits for that of the Director of Human Resources and Senior Staff Members); or
- the discovery of previously unavailable relevant information that could significantly impact the result of the Director of Human Resources/Senior Staff Member's determination.

On appeal, the President may uphold the original determination, remand the matter for either further consideration by the Director of Human Resources and Senior Staff Member and/or investigation, or modify or reject the determination. The President's decision is final.

### **Sex Offender Registration**

The federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders already required to register in a State to provide notice, as required under State law, of each institution of higher education in that State at which the person is employed, carries on a vocation, volunteers services or is a student.

Informational questions about local laws or reports of civil crimes can be directed to the Town of Kirkland Police Department by telephone. KPD will not respond to a campus call without informing the Department of Campus Safety. Campus Safety officers may request additional support from KPD. As the local police authority, KPD is the contact agency for questions relating to our local sex offender registry. Community members may also access the New York State Sexual Offender Registry at the following web address:

[http://criminaljustice.state.ny.us/SomsSUBDirectory/search\\_index.jsp](http://criminaljustice.state.ny.us/SomsSUBDirectory/search_index.jsp)