Albany College of Pharmacy and Health Sciences

Albany Campus

Annual Security and Fire Safety Report

October 1, 2016

In November, 1990, the Student Right-to-Know and Campus Security Act was signed into law (Public Law 101-542 as amended by Public Law 102-26 and The Higher Education Amendments of 1992). This law, known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, requires educational institutions to publish and distribute an annual security report containing campus security policies and procedures as well as campus crime statistics. The Higher Education Act of 2008 created additional requirements to disclose policies related to fire safety, missing persons and emergency notification. In 2013, the reauthorization of the Violence Against Women Act further expanded the requirements for policies and crime data collection. This document is published and distributed to the students and employees of the Albany College of Pharmacy and Health Sciences in compliance with this act.

Office of Public Safety

Security services for the Albany College of Pharmacy and Health Sciences are provided by the University Heights Association's Office of Public Safety. The University Heights Association is a consortium of three colleges - The Albany Law School, The Albany College of Pharmacy and Health Sciences and The Sage Colleges - which share contiguous campuses, academic collaborations and a variety of services.

The Office of Public Safety is located In Suite 114 of The Armory at Sage, 130 New Scotland Avenue. **In an emergency, Public Safety may be reached at 244-3177.** Non-emergency calls can be made to 244-3167 or 244-4741.

The Director of Public Safety reports directly to the Vice President of Administrative Operations.

The Office of Public Safety provides uniformed, radio-dispatched patrols on a 24 hour a day, seven day a week basis. Among the services provided by the Office of Public Safety are:

- preventive patrol, by vehicle, foot and bicycle
- emergency response
- crisis management
- law enforcement
- incident reporting and Clery Act reporting
- investigations
- medical emergency response
- traffic control and parking enforcement
- crime prevention awareness and training
- liaison with public sector public safety agencies

The staff of the Office of Public Safety is assisted by several technologies that are intended to enhance the safety and security of students, faculty and staff across all of the campuses. Those technologies include:

- "Blue light" emergency telephones that connect directly to the Public Safety dispatch center. They are placed at strategic locations around campus.

- A closed-circuit television systems that places cameras at a number of locations, both inside and outside, around campus. The cameras are monitored in the dispatch center and they are recorded for investigatory and evidentiary purposes.

- A proximity card access to exterior doors of buildings that notifies Public Safety when doors are opened outside of normal business hours or when they are propped open.

- *Send Word Now*, an emergency text messaging system that the College uses to communicate vital information to the ACPHS community in the event of an emergency. *Send Word Now* allows students, staff and faculty to register multiple cellular phone numbers and email addresses to which emergency messages and instructions will be sent.

Authority of Campus Public Safety Officers

Public Safety Officers are security guards licensed by the State of New York. They are trained to the standards and requirements set by the New York State Division for Criminal Justice Services and the Department of State.

As security guards, their authority to arrest is the same as a citizen; they may make warrantless arrests for a felony "in fact committed" or any offense "in fact committed" in their presence. They may not make warrant arrests or arrests based on reasonable cause.

Selected Public Safety Officers attend a regional Campus Public Safety Officer Academy at the Zone 5 Regional Law Enforcement Academy, which is certified by NYS DCJS. Graduates of that Academy are eligible for appointment, upon request of the Board of Trustees, as a private college security officer. Such appointment grants authority, restricted to the geographical area of authority, to make a warrantless arrest for an offense committed in his presence, or a crime when he has reasonable cause to believe that such person has committed such crime.

Public Safety Officers have the authority to request identification from all persons on campus, and to determine the reason for their presence on campus.

Public Safety Officers have the authority to issue UHA tickets for parking violations and moving offenses on any of the UHA campuses.

Reporting Criminal Activity, Emergencies and Suspicious Behavior

All students, staff and faculty of the Albany College of Pharmacy and Health Sciences are encouraged to immediately report to Public Safety any criminal activity, emergency or hazardous situation or suspicious person or behavior as follows:

- Emergencies may be reported by dialing 244-3177 or by using any of the emergency phones located directly beneath blue lights. For your safety and protection, all calls made to 244-3177 are recorded and are available for instant replay. Although the Public Safety Dispatch Center has direct communication with the Public Safety Answering Points (PSAPs) in both Albany and Rensselaer

counties, emergencies may also be reported directly to the Albany Police or Fire Departments by dialing 911 from any campus telephone.

- Non-emergencies may be reported by calling 244-3167 or 244-4741.
- Under certain circumstances, confidential reporting of incidents may be available to victims.

ACPHS and the UHA Office of Public Safety encourage that all criminal activity also be reported to the Albany Police Department. Public Safety Officers will assist victims or witnesses in that effort.

In the event that the victim of a crime is unable to report it, anyone with knowledge of the crime is encouraged to report it to Public Safety or any Campus Security Authority.

Campus Security Authorities

Recognizing that crime victims may be inclined to report their victimization to someone other than a Public Safety Officer or the police, the Clery Act requires all institutions to collect crime reports from a variety of individuals that Clery considers to be "campus security authorities". Under Clery, a crime is "reported" when it is brought to the attention of a CSA by a victim, witness, offender or third party. If a CSA receives crime information and believes it was provided in good faith, he or she must document the incident in a report.

At the Albany College of Pharmacy and Health sciences, Campus Security Authorities include all University Heights Association Public Safety Officers, Resident Directors and Assistants and the following:

Vice President for Administrative Operations	Packy McGraw	694-7257
Dean of Students	Wendy Neifield-Wheeler	694-7319
Director of Student Engagement and Leadership	Liz McGarry	694-7366
Executive Director of Human Resources	Susan Karavolas	694-7278
Director of Residence Life	Alison Buckley	694-7155

Voluntary Confidential Reporting

If you are the victim of a crime and do not want to pursue action within the ACPHS judicial process or within the criminal justice process, you may want to consider making a confidential report. With your permission, the Director of Public Safety will cause a report to be filed recording the details of the incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the incident confidential, while taking steps to ensure the future safety of yourself and others. With such information, the College can keep accurate records of the number of incidents involving students and staff, determine if and where there is a pattern of crime, and alert the ACPHS community to a potential danger. Reports filed in this manner are counted and disclosed in the annual crime statistics for the institution.

Response to Reports

Victims, witnesses and any other persons affected by criminal activity are encouraged to report that activity to the Office of Public Safety immediately. Accurate and timely information is essential to the investigation of any incident.

It is the policy of the Public Safety Office to investigate all crimes, complaints and incidents reported. It may also proactively investigate any activity or situation of potential hazard or criminality.

When a complaint or report of criminal activity is reported, it is investigated immediately. Depending on the needs of the Colleges, the wishes of the complainant and the severity of the crime, it may also be referred to the appropriate local, state or federal law enforcement agencies.

Public Safety and other appropriate Campus offices will also investigate reports of non-criminal activity that violates College policy. The Office of Public Safety cooperates closely with the judicial process at the Albany College of Pharmacy and Health Sciences.

Disclosing information to the Community

Information related to reported crime and emergencies is essential to a safe campus. The Office of Public Safety has several means of sharing this important in formation with the community.

In the event of a serious incident that poses an immediate threat to members of the community, a message will be disseminated through the *Send Word Now* emergency system advising people of the incident and providing instructions that should be followed. This system will be used for "all hazards", regardless of the nature of the incident. It may be used for crimes, weather emergencies, hazardous material incidents, terrorist incidents or natural disasters. *Send Word Now* will also be used to update the community and provide an "all clear" message when the incident has been resolved.

The Office of Public Safety will also provide "timely warnings" when crimes occur that pose a continuing threat to members of the community. A continuing threat occurs when a suspect in a crime is not yet identified or is identified but remains at large. These warnings are generally shared by email, voicemail, Blackboard announcement or by posted flyers. In the event that a threat is both immediate and continuing, *Send Word Now* may also be used.

All crimes reported to the Office of Public Safety will be recorded in the crime log, which is available to the public at the Armory at Sage, 130 New Scotland Avenue. This chronological log of crime on campus is updated each business day and shows crimes occurring over the most recent 60 days. It contains information such as the nature of the crime, its location, date and time, and the disposition of the case.

A fire safety log is also available at the Office of Public Safety. It includes information about all fires occurring at the Albany College of Pharmacy and Health Sciences, including the nature of the fire, its location, date and time. It is updated each business day and shows any fires occurring over the most recent 60 days.

Other sources of information about crimes and fires include the following tables in this document: Crime Statistics, Hate Crimes and Fires. Incident reports may be available to the community in the Office of Public Safety, contingent upon confidentiality requirements and the need for investigative integrity. The US Department of Education also offers this information for all colleges and universities in the country. It is available at Security Survey

Emergency Notification and Evacuation of the ACPHS community

In the event of an emergency requiring immediate action, ACPHS will notify the community and provide instructions as soon as a timely assessment of the situation allows. A *Send Word Now* message will be crafted and sent, information and instruction will be posted in the Emergency Announcement section of Blackboard, and a global voicemail will be delivered. Depending on circumstances, a room by room verbal notification may be made. Each of those information delivery systems is practiced and tested once each semester.

Administrators authorized to issue these emergency notifications are:

Vice President for Administrative Operations	Packy McGraw
Director of Residence Life	Alison Buckley
Director of Public Safety	Robert Grebert

Evacuation is practiced three times a year. Every classroom and office has evacuation routes prominently displayed.

Building Access

The O'Brien Building at 106 New Scotland Avenue and the ACPHS Library Building at 51 Union Drive are accessible to faculty, staff and students on a schedule that is communicated to the college community at the beginning of each semester. The schedule may be modified during vacation periods, holidays and summer session. Faculty, administration and staff members are provided an access fob allowing access beyond regular building hours. However, access to buildings in not unlimited. Stanley Security, Inc. monitors access to the buildings during the hours of 12:30AM to 6:00AM. In order for anyone to access the buildings during those hours, special arrangements have to be made with the Associate Vice President of Administrative Operations.

Residence Halls are staffed by Resident Assistants and Resident Directors. Desk attendants monitor the entrance to Residence Halls during evening hours. Residence Halls are entered with an access fob and each resident has a key to their own suite and bedroom. The buildings utilize emergency telephones, panic buttons and closed circuit television.

The Student Center opens at 7AM and closes at 11PM.

Lockers are available for student use on a "first come, first serve" basis. It is the student's responsibility to provide a lock and to have the locker vacated at the end of the year for the annual cleaning and maintenance. All persons are encouraged to secure valuables and not leave them unattended.

Safety and Crime Prevention Programming

Safety and crime prevention Programming begins at Orientation and continues with a mandatory session for new resident students. Programming is available to student and employee groups on a wide variety of topics such as street safety, fire safety, sexual assault, identity theft, etc. The College's Public Safety Advisory Committee, comprised of students, staff and faculty, meets three times a semester to discuss issues including safety and crime prevention. The Behavioral Intervention Team meets bi-weekly to discuss troublesome

behavior. The Office of Public Safety monitors several Albany Police Department resources, including their crime mapping program and their booking information program. The Director of Public Safety, as well as counterparts at other local colleges, meets with the Albany Police Department command staff on a monthly basis.

Sexual Assault, Sexual Harassment, Relationship Violence, Stalking and Misconduct Policies & Procedures for Students and Employees

Prohibited Acts

The Albany College of Pharmacy and Health Sciences (ACPHS) is committed to creating and maintaining a safe environment for all of its students and employees. All forms of sexual misconduct offenses and other non-consensual sexual contact by members of the ACPHS community is strictly prohibited. This includes any acts of sexual assault, domestic violence, dating violence, and stalking. In the event that a sexual assault, act of stalking, dating violence, or domestic violence does occur, ACPHS considers it both a violation of College policy and a violation of law. Violation of these policies will result in a responsive action, as prescribed under Title IX including an investigation of what occurred; action to stop the prohibited conduct; support for the victim of the conduct and, as necessary, for the broader community; and action to reasonably prevent the re-occurrence of the behavior. This may result in possible suspension, dismissal or termination from the College. ACPHS will apply the provisions of this policy regardless of whether the sexual assault, act of stalking, dating violence, or domestic violence occurs on campus or off campus. ACPHS will also apply the provisions of this policy when the sexual harassment, sexual assault, act of stalking, dating violence, or domestic violence occurs while a student or employee is participating in a study abroad program.

Non-discrimination

ACPHS applies the protections set forth in these policies and procedures regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

Students may exercise civil rights and practice religion without interference by ACPHS's investigative, criminal justice, or judicial or conduct process.

Definitions of Individuals:

Accused – a person accused of a violation who has not yet entered ACPHS's judicial or conduct process.

Bystander – a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of ACPHS.

Reporting Individual – a victim, survivor, complainant, claimant, or witness with victim status.

Respondent – a person accused of a violation who has entered ACPHS's judicial or conduct process.

Title IX Officials - Individuals who by law (Title IX), have remedial authority to address sexual misconduct complaints on behalf of the institution. For the purpose of this policy, the following administrative officials are designated to receive sexual misconduct complaints and, if appropriate, to investigate those complaints.

Wendy Neifeld Wheeler, PhD, Dean of Students/Title IX Coordinator
Dean Neifeld Wheeler will ensure that complaints are investigated per Title IX policy, should they meet the criteria of a Title IX infraction.
Office: Library Building, Room 310

Susan Karavolas, Executive Director of Human Resources/Deputy Title IX Coordinator
Office: O'Brien Building, Room 001

Trained Investigators - ACPHS has identified members of the Administration who have received appropriate training to serve as investigators of Sexual Misconduct complaints. The investigators will receive annual training on issues related to:

- The four types of cases: domestic violence, dating violence, sexual assault, and stalking, as well as other forms of sexual misconduct as outlined in this policy.
- How to conduct an investigation "that protects the safety of victims and promotes accountability."
- How to conduct a hearing "that protects the safety of the victim and promotes accountability."

Definitions of Behavior

Crime of Violence – murder, sexual assault, domestic violence, dating violence, stalking, robbery, aggravated assault, burglary, motor vehicle theft, manslaughter, and arson.

Incapacitated Sex
To have sex with someone whom you know to be, or reasonably should know to be, incapable of making a rational, reasonable decision about a sexual situation is a violation of ACPHS policy, New York State Law, and Vermont State Law. Incapacity to make rational decisions about a sexual decision might result from the taking of a date rape drug, other drugs, alcohol, or as a result of illness. Intoxication on the part of the initiator is not an excuse for the violation of this policy or the law.

Relationship Violence
Relationship Violence is a pattern of coercive behaviors that serve to exercise control and power in an intimate relationship. The coercive and abusive behaviors can be physical, sexual, psychological, verbal and/or emotional in nature. Intimate partner abuse can occur in relationships of the same or different genders; between current or former intimate partners who have dated, lived together, or been married. Relationship Violence includes both domestic violence and dating violence.

Under the Clery Act regulations:

- domestic violence is defined as felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or New York and Vermont family violence laws, or by any other person

against an adult or youth victim who is protected from that person's acts under New York or Vermont domestic or family violence laws.

- 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 victim. The existence of such a relationship is 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. For the purposes of this definition, 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. Under Vermont law, it is unlawful to attempt to cause or to willfully or recklessly cause bodily injury to a person one is dating or has dated, or to willfully cause such person to fear imminent serious bodily injury.

Under New York law, domestic violence is generally defined as:

> A pattern of coercive tactics, which can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim. There is no specific crime of "domestic violence" under New York State law. Domestic violence is handled through the criminal courts and the Family Court as a "family offense." A family offense is defined as certain acts/crimes delineated in the Penal Law (such as harassment, menacing, assault, and stalking) committed by a family member (individuals who are married, related by blood, or who have a child in common). Victims who meet this definition may go to criminal court to seek an order of protection and have the abuser prosecuted, or they may go to Family Court for an order of protection, services, and assistance with custody and child support. Individuals victimized by an intimate partner who does not meet the definition of family member, such as a boyfriend or same-sex partner, can only go to criminal court for legal assistance. In addition, mandatory arrest, which applies when an abuser violates an order of protection or commits certain other offenses, is only applicable when a case involves individuals who meet the family definition. According to the NYS Office for the Prevention of Domestic, however, many police departments in New York State use an expanded definition of family when making mandatory arrest determinations. This provides greater protection to victims who fall outside of the family definition, although these victims still do not have access to Family Court.

Under Vermont law, domestic violence:

includes violence committed (1) by a current or former spouse of the complainant, (2) by a person with whom the complainant shares a child in common, (3) by a person who is cohabitating with or has cohabitated with the complainant as a spouse, (4) by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Vermont, or (5) by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of Vermont. Per Vermont law, it is unlawful to attempt to cause or to willfully or recklessly cause bodily injury to a family or household member, or to willfully cause a family or household member to fear imminent serious bodily injury. "Household members" are defined as those persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, and are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or have dated.

Sexual Activity:

- Contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
- Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
- Penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
- Intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Sexual Assault

Under the Clery Act regulations, the term "sexual assault" means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program and as set forth in Appendix A to the Clery Act regulations (34 CFR § 668.46). These terms are defined as follows:

- Rape – 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 – the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
- Incest – sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape – sexual intercourse with a person who is under the statutory age of consent.

Under New York law, "sexual assault" includes any and all "sexual offenses" defined in New York State Penal Code Article 130. These sexual offenses include sexual misconduct, rape, sexual abuse, forcible touching, and aggravated sexual contact, and involve conduct that would generally fall within the above-listed definitions. However, these offenses also cover certain actions, such as sexual assault with an object, which may not be included within the above-listed definitions. Students and employees are encouraged to review the full definitions and elements of these offenses, which can be found in New York State Penal Law §§ 130.00 to 130.96. Under New York State law, a sexual offense occurs when certain sexual acts are perpetrated against a victim without his or her affirmative consent.

Under Vermont law, sexual assault is defined as engaging in a sexual act with another person by any of the following means:

- Without his or her consent; or
- By physically forcing, threatening, intimidating or coercing the other person; or
- By placing the other person in fear that any person will suffer imminent bodily injury; or
- When the person knows, or reasonably should know based on an objective standard, that the other person's ability to give or withhold consent is impaired: 1) by the consumption of drugs, alcohol or other intoxicants; or 2) because the other person is subject to a physical or mental incapacity such as sleep or unconsciousness.

Students and employees are encouraged to review the full definitions and elements of these offenses, which can be found in Vermont Penal Law §§ 3252.

Sexual Misconduct:

- Non-Consensual Sexual Contact: Any intentional sexual touching without effective consent. This includes any contact with the breasts, buttocks, groin, genitals, mouth or other bodily orifice of a person upon another person, as well as the touching of another with any of these body parts, without effective consent; or other intentional contact of a sexual nature without consent.
- Non-Consensual Sexual Intercourse: Any sexual intercourse or penetration (anal, oral, or vaginal) however slight, with any object or body part, by a person upon another person without effective consent.
- Forced Sexual Intercourse: Any sexual intercourse (anal, oral or vaginal), by any object or body part, by a person upon another person, that occurs as a result of force. The prohibited force may be physical in nature, or represented by threats, intimidation or coercion. Intercourse obtained by any form of force impacts the free will of the victim and thus removes the opportunity for effective consent
- Sexual Exploitation: Sexual exploitation occurs when an individual takes non-consensual, unfair, or abusive advantage of another for his/her own advantage or benefit, even though that behavior does not constitute one of the other sexual misconduct offenses. Examples include, but are not limited to:
    - Non-consensual video or audio taping of sexual activity.
    - Stalking with a sexual component. Stalking may take many forms, including persistent calling, texting, or posting on a social networking site as well as physical stalking. When the content of the messages or the nature of the physical stalking is of a sexual nature sexual misconduct has occurred.
    - Voyeurism is a form of sexual exploitation in which one individual engages in secretive observation of another for personal sexual pleasure or engages in non-consensual video or audio taping of sexual acts. Although the source for the secretive viewing or taping may be unaware of the observation, this behavior is a form of sexual misconduct and violates the integrity of the unaware student.
    - The disrobing or exposure of another person without their consent.

Sexual Harassment:
Sexual harassment is defined under this policy as severe or persistent or pervasive and objectively offensive unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct or communication of a sexual nature that limits or denies a student's ability to participate in or benefit from the college's educational programs or activities, or creates a hostile working environment for employees when:

- Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's academic or other advancement (quid pro quo harassment);
- Submission to, or rejection of, the conduct is used as the basis for academic decisions affecting the individual (quid pro quo harassment); or
- Has the effect of unreasonably interfering with a person's work, professional or educational performance, productivity, physical security, participation in living arrangements; or extracurricular activities, academic or career opportunities, services or benefits—or of creating an intimidating, hostile, or offensive learning environment.

Stalking
Generally, stalking is a pattern of behavior that can include:

- Repeatedly leaving or sending victim unwanted items, presents, flowers
- Harassing the victim through the internet, including social networking websites
- Repeated, unwanted and intrusive phone calls, e-mails or text messages; especially after being clearly informed to stop

- Damaging or threatening to damage the victim's property
- Following, monitoring, surveillance of victim and/or victim's family, friends, co-workers
- Abusing or killing a pet or other animal
- Crossing jurisdictions/borders to stalk/commit offenses

Under the Clery Act regulations, stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person's safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of this definition:

- "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;
- "reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim; and
- "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Under New York law, a person engages in stalking 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 (including unauthorized tracking of someone's movements or location through a GPS or other device), 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.

More detailed definitions can be found in New York State Penal Law §§ 120.45 to 120.60.

Under Vermont Law, stalking is defined as intentionally following, lying in wait for, or harassing a person that serves no legitimate purpose and would cause a reasonable person to fear for his or her physical safety or suffer substantial emotional distress.

More detailed definitions can be found in Vermont Penal Law §§ 1061, 1062, 1063

Definition of Consent

Affirmative Consent – 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.

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

Consent can be established if the following four conditions are present (Berkowitz, 2002):

- Both participants are fully conscious;
- Both participants are equally free to act;
- Both parties have clearly communicated their willingness/permission; and
- Both parties are positive and sincere in their desires.

Definitions of Confidentiality and Privacy

Confidentiality

Different people on campus have different reporting responsibilities and different abilities to maintain confidentiality, depending on their roles at the college and upon college policy. All parties should be aware of confidentiality, privacy and mandatory reporting, when consulting campus resources, in order to make informed choices. On campus, some people can offer you confidentiality, sharing options and advice without any obligation to tell anyone unless you want them to. Other people are expressly there for you to report crimes and policy violations and they will take action when you report your victimization to them. A victim may seek assistance from these campus community members without starting a formal process that is beyond the victim's control, or violates her/his privacy. The following explains each of these types of reporting.

- **Privileged Reporting**
  Privileged reporting resources are those individuals who, by law and/or professional ethics, maintain privileged based confidentiality of the disclosure of sexual misconduct. These individuals are not required to re-disclose information shared with them other than in very extreme and unusual circumstances involving evidence of a serious and imminent threat to identifiable individuals, or by subpoena. Privileged reporting resources include:

- Counseling and Wellness, Student Center, (518) 694-7262 or (518) 694-7143
  - http://www.acphs.edu/albany-campus/health-safety/counseling-services
- Student Health Center, 25 Hackett Blvd., Albany, NY 12208, 518-264-0900
- Equinox, 95 Central Ave., Albany, (518) 432-7865 [Domestic Violence Hotline], http://www.equinoxinc.org
- Albany County Crime Victims and Sexual Violence Center, 112 State St., Albany, (518) 447-7716 (hotline), www.albanycounty.com/cvsvc/
- Vermont Statewide Sexual Violence Hotline: 800-489-7273
- Urgent Care, 790 College Parkway, Fanny Allen Campus, Colchester, VT 05446, 802-847-7559; SANE nurses can be reached at 802-847-2434. https://www.uvmhealth.org/medcenter/Pages/OHAM/OrgUnitDetails.aspx?OrganizationalUnitId=712

- **Administrative (Mandatory) Reporting By Responsible Employees**
  At ACPHS Responsible Employees are considered Mandatory Reporters and include all employees including Resident Assistants. Mandatory reporters are required to report all details of an incident of sexual misconduct, including the identity of the victim and the perpetrator, the date and location of the incident and details regarding the incident if known, to the appropriate office for purposes of initiation of an investigation and appropriate action. Responsible Employees are trained to provide information and support and appropriate referral to confidential or private reporting resources. Responsible Employees are also required to provide Clery Act statistical information and/or information for a timely warning if the circumstances warrant.

Privacy

Employees of ACPHS must offer privacy to reporting individuals if they are unable to offer confidentiality to those individuals under the law. Information learned from a reporting individual or bystander to a crime or incident will not be disclosed more than necessary to comply with state and federal laws, including informing appropriate officials of ACPHS. A reporting individual's identity will remain private at all times if the reporting individual wishes to maintain privacy.

Privacy of Records

The investigation and resolution conducted by ACPHS are maintained confidentially. Information is shared only between ACPHS administrators who need to know. Where information must be shared to permit the investigation to move forward, the person bringing the accusation will be informed. Privacy of the records specific to the investigation is maintained in accordance with New York and Vermont State laws and, with respect to student records, the federal Family Educational Rights and Privacy Act of 1974 (FERPA) statute. Any public release of information to comply with the timely warning provisions of the Jeanne Clery Act (Clery Act) will not release the names of victims or information that could easily lead to a victim's identification.

What Do I Do If I Am A Victim of Sexual Misconduct/Violence?

If you believe you are the victim of any of the offenses described above, you should follow the following procedures:

A. **Get yourself to a safe place**. UHA Public Safety and the Albany or Colchester Police Department can help you do this. Officers of those agencies are trained to respond to the needs of a victim of sexual assault, relationship violence, and stalking. They can also make you aware of support and advocacy services and advise you about reporting procedures and requirements.

B. **Obtain medical attention**. For your safety and well-being, immediate medical attention is encouraged. Further, being examined as soon as possible is important in the case of sexual assault. The hospital will arrange for a specific medical examination at no charge. We encourage you to do so at a facility that uses SANE, or Sexual Assault Nurse Examiners. Albany Medical Center, Memorial Hospital, Samaritan Hospital, and University of Vermont Medical Center are SANE facilities. Remember that this medical treatment may also provide the opportunity for the collection and documentation of evidence, should you decide to pursue the incident and offender through the legal system. Public Safety and the Albany or Colchester Police Department may assist you in this effort as well.

C. **Preserve evidence**. We encourage you to take steps to preserve any and all evidence when a domestic violence, dating violence, or sexual assault incident occurs, as this evidence may be necessary to prove that the offense took place and/or to obtain a protective order. Be aware that the location of the offense, your clothing, and your person may be considered a "crime scene," and as such, a source of evidence. The location of the incident should be safe guarded and the victim should avoid washing, douching, using the toilet or changing clothes prior to a medical/legal exam.

D. **Report the incident**. ACPHS encourages, but does not require, victims, survivors, complainants, claimants, and witnesses with victim status of sexual assault, relationship violence, or stalking (reporting individuals) to report the incident to one or more of the following resources:

1. You may (but are not required to) report it to local law enforcement and/or state police for the sole purpose of documentation. You may also (but are not required to) report it to local law enforcement and/or state police so that they may investigate the matter and identify an offender. You have the further option (but are not required to) to pursue the case through the criminal justice system, where you will be assisted by the District Attorney's office, the local or state Police Department and the support and advocacy services of your choice. If you want or need assistance in notifying the local or state Police Department, you should contact the Office of Public Safety who will assist you in doing so.

2. You may (but are not required to) report it to UHA Public Safety, Hunter North Associates or Colchester Police. This may trigger the judicial process of ACPHS, which may result in the removal of the offender from the campus. It also assists ACPHS in complying with Federal requirements for reporting offenses occurring on campus. You may (but are not required to) report incidents of sexual assault, relationship violence, or stalking anonymously to UHA Public Safety, Hunter North Associates or Colchester Police, preserving your privacy and only reporting the particulars of the incident.

3. You may also (but are not required to) report the incident to a Compliance Officer (identified below) or any senior officer of ACPHS.

- When you first disclose an incident to a representative of ACPHS, you will be presented with (1) a copy of this policy, (2) a written explanation of your rights and options, whether the incident occurred on or off-campus, and (3) the following information: "You have the right to make a report to university police or campus security, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution."

- You will have the right to emergency access to the Title IX Coordinator or a Compliance Officer, who will be available upon the first instance of disclosure by a reporting individual to provide immediate information and assistance regarding (1) options to proceed, including other reporting options; (2) where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible; and (3) the criminal justice process, including that it utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. The Compliance Officer will also explain whether he or she is authorized to offer you confidentiality or privacy, and will inform you about other reporting options.

- Be aware that certain ACPHS officials with significant responsibility for student and employee activities may be required by law to disclose the occurrence of the event. If you make a report to an official who is required by law to disclose the occurrence of the event, but you request confidentiality, the Title IX coordinator will evaluate the confidentiality request, by weighing the request against ACPHS's obligation to provide a safe, non-discriminatory environment for all members of its community. If it is determined that the incident must be disclosed, your name will be kept confidential, and you will be offered privacy to the greatest extent possible. If it is determined that the incident must kept confidential, ACPHS will still assist with academic, housing, transportation, employment, and other reasonable and available accommodations.

- Even ACPHS officers 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. Your identity will remain private at all times if you wish to maintain privacy.

- ACPHS will make every effort to ensure that you are asked to describe the incident to as few representatives of ACPHS as possible, and are not required to unnecessarily repeat a description of the incident.

4. In addition to, or in lieu of, reporting an incident to one or more of the above, you may (but are not required to) make a <u>confidential</u> report to any mental health counselor, pastoral counselor, social worker, psychologist, nurse-practitioner, or other person with a professional license or who is supervised by such a person. This includes, but is not limited to, professional employees and support staff at the Counseling and Wellness Center. These employees are exempt from any requirement to further disclose your report to them, unless you want and ask them to do so. These employees can assist in obtaining services for reporting individuals.

5. In addition, you may confidentially disclose the incident and obtain services from the state or local government.

6. You can also make an anonymous report to a confidential hotline provided by New York and Vermont state agencies and not-for-profit entities. These hotlines include:

   - New York State Domestic and Sexual Violence Hotline: 1-800-942-6906.
   - Equinox Hotline: 518-432-7865.
   - Unity House Hotline: 518-272-2370.
   - The National Domestic Violence Hotline: 1-800-799-7233.
   - The National Sexual Assault Hotline: 1-800-656-4673.
   - Vermont Statewide Sexual Violence Hotline: 800-489-7273.
   - Safe Horizon Hotlines: 800-621-4673 (domestic violence), 866-689-4357 (victims of other crimes, 1-212-227-3000 (rape & sexual assault victims).

7. Lastly, if the accused is an employee of ACPHS, you can report the incident to ACPHS's Human Resources Department, or request that another employee assist in reporting to the Human Resources Department.

ACPHS encourages the victims of sexual assault, relationship violence, and/or stalking to report the incident, in any of the manners described above. However, again, victims are not required to report the offense to, or to seek assistance from ACPHS, law enforcement, or campus authorities. ACPHS will not pressure any student or employee to disclose a crime or violation, or to participate in the judicial, conduct, or criminal justice processes.

Reporting an incident does not:

- obligate the victim to prosecute;
- subject the victim to inappropriate scrutiny or judgment by the person receiving the report; or
- suggest in any way that the victim is at fault for the crime or violation, or should have acted in a different manner to avoid the crime or violation.

Reporting the incident does:

- ensure that a victim of sexual assault, relationship violence, or stalking receives necessary medical testing and treatment;
- provide the opportunity for collection of evidence critical to a prosecution, which cannot be obtained later;
- ensure that the victim has knowledge of and access to professional, confidential counseling from a counselor specifically trained in the areas of sexual assault, relationship violence, or stalking.

Students' Bill of Rights

All students have the right to:
1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;

3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. 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;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

Ways to Protect Yourself

There are some practical steps you can take that may decrease the risk of sexual assault.

- Express your expectations and limits clearly before you are involved in a sexual encounter.
- Limit alcohol and drug use. They make it more difficult for you to be in control. Never ride with someone who has used alcohol or drugs.
- Avoid meeting in secluded places and walking alone. If you are concerned, ask campus security to escort you.
- Try to be aware of attitudes that your date expresses concerning women or men: hostility, unrealistic views of women or men and/or viewing people as "sex objects."
- Use assertive language such as, "I feel uncomfortable when you don't listen to me or when you touch me like that."
- Scream "fire" (rather than "rape" or "help"), if you need assistance.
- Be alert to what is happening around you.

These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.

- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

Additional Options of Available Action

Potentially File Student Conduct Charges. If the accused or respondent is a student, you may file student conduct charges against the accused or respondent. Charges should be prepared in writing and directed to the Dean of Students. Additional details regarding the Student Disciplinary Code can be found on the ACPHS Intranet.

Potentially Seek a Court Order. Victims of relationship violence, sexual assault, and/or stalking may have a right to obtain a court order to protect themselves from the perpetrators. ACPHS will enforce all applicable no contact orders, restraining orders, and similar lawful orders issued by a criminal, civil, or tribunal court, to the extent required by law.

ACPHS will provide reporting individuals assistance from UHA Public Safety or other ACPHS officials in obtaining an order of protection. ACPHS will provide the accused or respondent and the reporting individual a copy of any order of protection or equivalent that ACPHS receives. ACPHS will also provide the accused or respondent and the reporting individual an opportunity to meet or speak with a representative of ACPHS, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused person's responsibility to stay away from the protected person or persons. ACPHS will provide the accused or respondent and the reporting individual an explanation of the consequences of violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension. ACPHS will also call on and assist local law enforcement in effecting an arrest when an individual violates an order of protection.

Potentially Initiate Legal Proceedings. ACPHS will provide assistance to reporting individuals in initiating legal proceedings in family court or civil court related to any incident of relationship violence, sexual assault, and/or stalking. ACPHS will enter into a Memorandum of Understanding ("MOU") with a provider to deliver these services.

Right to Withdraw. You have the right to withdraw your report and/or to withdraw from involvement in ACPHS's investigation of the complaint at any time.

Immediate Consequences Following a Report of an Incident of Sexual Assault, Relationship Violence, and/or Stalking

A. **Mandatory No Contact Order**
When the accused or respondent is a student, ACPHS will issue a "no contact order," whereby: (1) continued intentional contact with the reporting individual is a violation of ACPHS's policy that is subject to additional conduct charges; and (2) if the accused or respondent and a reporting individual

observe each other in a public place, it is the responsibility of the accused or respondent to leave the area immediately and without directly contacting the reporting individual. This may include establishing an appropriate schedule for the accused and respondent's to access applicable buildings and property of ACPHS at a time when such buildings and property are not being accessed by the reporting individual.

Upon request, both the accused (or respondent) and the reporting individual are entitled to a prompt review, reasonable under the circumstances, of the need for and terms of the no contact order, including potential modification, in which they are allowed to submit evidence in support of their requests.

B. **Mandatory Interim Suspension**

When the accused or respondent is a student who is determined by a College official to present a continuing threat to the health and safety of the community, the accused or respondent will be subject to an interim suspension pending the outcome of a judicial or conduct process.

Upon request, ACPHS will provide both the accused or respondent and the reporting individual a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, in which they are allowed to submit evidence in support of their request.

C. **Additional Interim Measures.**

ACPHS will offer reasonable and available interim measures to all reporting individuals in order to help ensure safety, prevent retaliation, and avoid an ongoing hostile environment. These interim measures may include:

- support services (victim advocacy, housing assistance, academic support, counseling, health and mental health services, legal assistance);
- changing work assignments and situations (for employees);
- changing living arrangements, course schedules, assignments, or test schedules (for students);
- no contact orders, campus escorts, transportation assistance, or targeted interventions;
- providing increased monitoring, supervision, or security; and/or providing an escort.
- When the accused is not a student, but is a member of ACPHS's community and presents a continuing threat to the health and safety of the community, ACPHS will subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and rules and policies of ACPHS.
- ACPHS will provide reasonable and available interim measures to all reporting individuals.
- ACPHS will protect the confidentiality of accommodations or protective measures provided to a complainant or accuser, to the extent that doing so will not impair ACPHS's ability to provide the accommodations or protective measures.
- Upon request, ACPHS will provide both the accused or respondent and the reporting individual a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects him or her, in which he or she is allowed to submit evidence in support of his or her request.

On and Off-Campus Support Services Following an Incident of Sexual Assault, Relationship Violence, and/or Stalking

ACPHS recommends that reporting individuals seek the assistance of trained professionals in the aftermath of an incident of sexual assault, relationship violence, and/or stalking, and will assist reporting individuals to receive this assistance. ACPHS will provide reporting individuals with information on sexually transmitted infections and sexual assault forensic examinations.

ACPHS's Counseling and Wellness Center in Albany, and UVM Medical Center in Colchester are providers of helpful services for reporting individuals, including exit counseling, health, mental health, and other related services. These services are provided at no cost to the reporting individual. These resources can be located and/or contacted as follows:

Albany Campus	Vermont Campus
Gozzo Student Center, SC 209 106 New Scotland Avenue Albany, New York 12208 Phone: (518) 518-694-7262	UVM Medical Center Urgent Care 790 College Parkway Fanny Allen Campus, Colchester, VT 05446 Phone:(802) 847-1170

A number of resources are also available through the New York State Office of Victim Services (OVS). OVS can be contacted by phone at 1-800-247-8035. OVS resources can also be accessed at the following website: https://ovs.ny.gov.

ACPHS has also entered into collaborative partnerships with community-based organizations (including rape-crisis centers, domestic violence shelters, and assistance organizations), to refer students for assistance or make services available to students. These helpful service providers in the Albany and Vermont communities, which provide helpful services (such as counseling, legal assistance, victim advocacy, and visa/immigration assistance), including the following:

Program/Entity	**Contact Information**	**Cost**
New York State Office for the Prevention of Domestic Violence	P: 1-800-942-6906 E: http://www.opdv.ny.gov/contact.html	No cost

New York State Coalition Against Sexual Assault	P: 1-800-942-6906 E: http://nyscasa.org/information	For a fee
The Albany County Crime Victim and Sexual Violence Center	P: (518) 447-7716 E: http://www.albanycounty.com/Government/Departments/CrimeVictimandSexualViolenceCenter.aspx	No cost
Equinox, Albany, NY	P: (518) 434-6135 E: http://www.equinoxinc.org/contact/ index.php	No cost
Legal Aid Society of Northeastern New York	P: 1-800-462-2922 E: http://www.lasnny.org	For a fee
Safe Horizon Hotlines	P: (800) 621-4673; (866)-689-4357	No cost
Vermont Statewide Sexual Violence Hotline	P: (800) 489-7273	No cost

Medical services are also available to reporting individuals from the following providers:

Program/Entity	**Location**	**Contact Information**	**Cost**
Albany Medical Center	43 New Scotland Ave. Albany, NY 12208	P: 518-262-3125	Fees charged
St. Peter's Hospital	315 S. Manning Blvd. Albany, NY 12208	P: 518-262-3125	Fees charged
Albany Memorial Hospital	600 Northern Blvd. Albany, NY 12204	P: 518-471-3221	Fees charged
University of Vermont Medical Center	Fanny Allen Campus 790 College Parkway Colchester, VT 05446	Phone:(802) 847-1170	Fees charged

Amnesty from Campus Conduct Process

ACPHS strongly encourages the reporting of incidents of sexual misconduct. The health and safety of every student at the College is of utmost importance. ACPHS 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. The College strongly encourages students to report 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 the College's student disciplinary code 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. As an institution that reports to a licensing board, ACPHS reserves the right to take steps necessary to ensure the safety of patients and the public and to report truthfully to licensing bodies.

New York State Law

Article 130 of the New York State Penal Code defines sexual offenses. It lists the sections and degrees of sex crimes. Sexual assault is a criminal act carrying a penalty of varying degrees.

Sexual Misconduct--Sexual misconduct is defined as engaging in sexual intercourse with another person without such person's consent or engaging in deviate sexual intercourse (sodomy) with another person without that person's consent. **Penalties**--The maximum penalty is a $1,000 fine and/or one year in jail.

Rape and Sodomy--Rape is defined as engaging in sexual intercourse or deviate sexual intercourse (sodomy) by forcible compulsion or by engaging in such action with a person who is incapable of consent due to age, physical helplessness or mental handicap. **Penalties**--Rape and sodomy are classified as felonies with penalties of up to 25 years imprisonment and/or a fine of up to $5,000.

Sexual Abuse and Aggravated Sexual Abuse--Sexual abuse and aggravated sexual abuse are defined as subjecting another person to sexual contact by forcible compulsion or subjecting another person who is incapable of consent due to age, physical helplessness or mental handicap to sexual contact.

Penalties--The penalty for a sexual abuse offense may range from three months imprisonment and/or a $500 fine to 25 years imprisonment and/or a $5,000 fine. Some types of sexual abuse may be classified as felonies. For more detailed information on this article of the New York State Penal Code, contact Campus Security at 518-244-3177.

Investigation and Disciplinary Procedures in Cases of Sexual Assault, Relationship Violence, and Stalking

When ACPHS becomes aware of an incident of sexual assault, relationship violence, or stalking by or against an employee or student or that has a reasonable connection to ACPHS, it will take prompt and appropriate action.

Where the respondent is found not responsible for the alleged violation(s), the investigation should be closed. When facts obtained in the investigation do not support the allegation, the investigation will be closed. If subsequently there is additional information discovered related to the allegation the investigation will be re-

opened. No record of a complaint is kept in the complainant's file unless the investigation concludes that the complaint was reckless or frivolous.

The Investigation Process

The Director of Human Resources (for employees) or the Dean of Students (for students) will make an initial assessment regarding the validity of any information received about the incident.

The following provisions apply:

- If ACPHS determines that an investigation is required, it must seek consent from reporting individuals prior to conducting an investigation. If a reporting individual does not consent to ACPHS's request to initiate an investigation, the Title IX Coordinator will weigh the request against ACPHS's obligation to provide a safe, nondiscriminatory environment for all members of its community.
- ACPHS will honor a request to decline to consent to an investigation, unless ACPHS determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual or other members of the community, based on the Title IX Coordinator's consideration of factors that include, but are not limited to, the following:
  1. Whether the accused has a history of violent behavior or is a repeat offender;
  2. Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior;
  3. The increased risk that the accused will commit additional acts of violence;
  4. Whether the accused used a weapon or force;
  5. Whether the reporting individual is a minor; and
  6. Whether the institution possesses other means to obtain evidence such as security footage, and
  7. Whether available information reveals a pattern of perpetration at a given location or by a particular group.

- If the Title IX Coordinator determines that the request to decline to consent to an investigation can be honored, ACPHS will still assist with academic, housing, transportation, employment, and other reasonable and available accommodations.

- If the Title IX Coordinator determines that a request to decline to consent to an investigation cannot be honored, and an investigation is necessary, ACPHS must notify the reporting individuals and take immediate action as necessary to protect and assist them.

- When an investigation is commenced the reporting individual must be informed, as promptly as possible, of (1) the specific rule, rules, laws, and/or code of conduct provisions alleged to have been violated; (2) the date, time, location and factual allegations concerning the violation; (3) in what manner the specific rule, rules or laws are alleged to have been violated, and (4) the sanction or sanctions that may be imposed on the respondent based upon the outcome of any judicial or conduct process.

Who Will Facilitate the Investigation?

The Director of Human Resources (for employees) or the Dean of Students (for students) will designate a trained investigator, who does not have a conflict of interest, to promptly conduct a fair, complete, thorough, and impartial investigation, that provides a meaningful opportunity to be heard. Each of the designated investigators receives annual training on issues related to sexual assault, relationship violence, and stalking, and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The designated investigators, will also receive annual training on 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 finding of responsibility is made, ACPHS's policies and procedures, and other issues.

If the Director of Human Resources or Dean of Students is implicated in the report, the President will be responsible for designating an investigator to conduct the investigation. If it would be inappropriate for the Director of Human Resources, Dean of Students, or President to designate a trained investigator to conduct the investigation, then the Chair of the Board of Trustees will make this designation.

Standard of Evidence

The standard of evidence used to evaluate a report of sexual assault, relationship violence, or stalking by or against an employee or student is a "preponderance of the evidence." Under this standard, a determination must be made on the basis of whether it is more likely than not that the accused student or employee violated the policy.

Investigating a Complaint

In investigating the complaint, the designated trained investigator shall:

1. Meet with the appropriate individuals and review all appropriate records that bear on the case.
2. Provide the accuser and the accused with copies of the policy.
3. Discuss the allegations in the complaint with the accuser and accused at separate meetings, and provide the accuser and accused with equal opportunities to identify witnesses and present evidence supporting their respective positions at these meetings.
4. Provide the accuser and the accused with the same opportunities for a support person or advisor of their choice throughout the process, including any meeting, conference, hearing or other procedural action. An attorney for either the accuser or the accused, however, may be present but may not have a speaking role during such meeting, conference, hearing, or other procedural action.
5. The reporting individual or accused will be provided with:
    a. reasonable advance written or electronic notice of any meeting they are required to or are eligible to attend,
    b. an opportunity to submit evidence during an investigation concerning a report of sexual assault, relationship violence, or stalking, and
    c. the opportunity to exclude (1) their own prior sexual history with persons other than the other party in the conduct process and (2) their own mental health diagnosis and/or treatment from the investigator's consideration when determining responsibility. (However, the investigator may consider past findings of domestic violence, dating violence, stalking, or sexual assault when determining the sanction to be imposed).
6. Attempt, where appropriate, to resolve the complaint by exploring and suggesting possible solutions to the problem with all involved parties, provided, however, that the complainant or accuser will not be required to participate in mediation with the accused.
7. If the preceding step does not resolve the problem, make and transmit a preponderance of the evidence determination in the matter of the allegation of sexual assault, relationship violence, or

stalking to the accused, accuser, and, if the accused is an employee, the senior officer for the unit in which the accused is employed (or the President if the accused is a senior officer; or the Board of Trustees if the accused is the President), or, if the accused is a student, the Dean of Students.

The time necessary to complete an investigation will vary depending upon the facts of a particular case. In most cases, every effort will be made to have investigations completed within 20 business days of receipt of a report, but not to exceed 60 days.

The trained investigator who conducted the investigation shall prepare written findings of fact and present these findings to a Conduct Hearing Board. The Hearing Board may invite witnesses, the respondent, complainant, or any other individual they feel could provide evidence, clarification or information regarding the incident to be part of the process. It is common for the proceedings to provide students with the opportunity to present evidence and testimony at a hearing. The proceedings are completed within a reasonably prompt, designated timeframe. However, the timeframe may be extended for good cause upon written notice to the accuser and accused.
The hearing board will review all information and make a decision, with respect to whether it is more likely than not that the incident of sexual assault, relationship violence, or stalking occurred, determine appropriate disciplinary actions, if any, and/or other appropriate remedial measures.

Once the investigation is complete, the parties will be informed, in writing, of the outcome. When the victim or accused is a student, this written notice will include the result of the investigation, any recommended sanctions, the rationale for the result and any recommended sanctions, the findings of fact, and a notification if conduct charges will be pursued and/or continued. Delivery of this outcome will not be delayed to either party, and should occur as nearly simultaneously as possible, without unnecessarily bringing those in conflict into close proximity to each other. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.

If the Conduct Hearing Board concludes that the accused student or employee did not violate the policy, ACPHS will not pursue discipline against the student or employee. The parties will be informed of their potential rights to exercise a request for an appeal of the determination, if applicable. If the College Hearing Board determines that a student did not violate ACPHS's policy, the reporting individual has the right to appeal the finding of no violation to an Appellate Board within two (2) business days of the decision. If the College Hearing Board determines that an employee did not violate ACPHS's policy, the reporting individual has the right to appeal the finding of no violation to the Director of Human Resources within two (2) business days of the decision.

Detailed information regarding internal disciplinary proceedings for students can be found in the Student Disciplinary Code, available on the ACPHS intranet. Information regarding internal disciplinary proceedings for employees can be found in the Employee Handbook.

Appeals Process
All parties will also be informed of their potential rights to exercise a request for an appeal of the disciplinary determination under the Student Disciplinary Code or Employee Handbook. Pursuant to the Student Disciplinary Code, all students have a right to an appeal any final disciplinary determination to an Appellate Board within two (2) business days of the decision. Any party who files an appeal must do so in writing to the

designated appeal board chair. The chair will share the appeal with the other party (e.g., if the accused student appeals, the appeal is shared with the complainant, who may also wish to file a response), and then the chair will draft a response memorandum (also shared with all parties). All appeals and responses are then forwarded to the Appeals Hearing Board for initial review to determine if the appeal meets the limited grounds and is timely. The original finding and sanction will stand if the appeal is not timely or substantively eligible, and the decision is final. If the appeal has standing, the documentation is forwarded for consideration. The ONLY grounds for appeal are as follows:

1. A procedural error occurred that significantly impacted the outcome of the hearing;
2. To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
3. The sanctions imposed are substantially disproportionate to the severity of the violation.

Sanctions determined as an outcome of the investigation will be in effect during the appeal. A request may be made to the Dean of Students for special consideration in exigent circumstances, but the presumptive stance of the institution is that the sanctions will stand. Graduation, study abroad, internships/externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal. In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the student to their prior status, recognizing that some opportunities lost may be irretrievable in the short term.

All appellate decisions are final.

Unless otherwise required by law, ACPHS will protect all information obtained about students and employees during the course of the disciplinary process from public release.

Sanctions

Discipline for incidents of sexual assault, relationship violence, and stalking may take a variety of forms, depending upon the circumstances of a particular case. Among the disciplinary sanctions which may be imposed on students are the following: verbal warning, written reprimand, probation, restrictions, suspension, and expulsion. Among the disciplinary sanctions which may be imposed on employees are: verbal warning, written reprimand, suspension without pay, and termination. The full range of student disciplinary penalties is set forth in the Student Disciplinary Code. Employee disciplinary penalties are set forth in the Employee Handbook.

If the investigation reveals that sexual assault, relationship violence, or stalking did occur, ACPHS will take also take appropriate remedial measures necessary to end such conduct, prevent any such future conduct, and correct any personnel or academic decisions made which are related to the prohibited conduct. Remedies may include, but are not limited to, continuing or commencing any of the above-listed "interim measures." These remedies are separate from, and in addition to, any interim measures that may have been provided prior to the conclusion of the investigation. Such measures can be requested by a reporting individual or accuser, by contacting the Executive Director of Human Resources (for employees) or the Dean of Students (for students).

Engaging in sexual assault, relationship violence, or stalking may also lead to civil and/or criminal action under both Vermont and the New York State Penal Law. Any employee who, in violation of the College's policy, engages in domestic violence, dating violence, and/or stalking, is acting outside the scope of his or her

employment and may be personally liable for such actions and their consequences. In the event legal proceedings are commenced against such an employee, the College may decline to provide legal, financial, or other assistance.

In any proceeding brought against ACPHS which seeks to vacate or modify a finding that a student engaged in sexual assault, relationship violence, or stalking, ACPHS (1) will treat the name and identifying biographical information of any student as presumptively confidential, and (2) will not include this information in the pleadings and other papers in such proceeding absent a waiver or cause shown as determined by the court; and (3) will identify student witnesses only as numbered witnesses.

Notation on Student Transcripts (Effective October 5, 2015)
If a student is found responsible for a crime of violence, ACPHS must make a notation on the student's transcript that they were "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." If a student withdraws from ACPHS while such conduct charges related to crimes of violence are pending against the student, and declines to complete the disciplinary process, ACPHS must make a notation on the student's transcript that he or she "withdrew with conduct charges pending."

These transcript notations can be appealed by contacting the Dean of Students. Transcript notations for violence-related suspensions shall not be removed prior to one year after conclusion of the suspension. Transcript notations for violence-related expulsions shall never be removed from a student's transcript. If a finding of responsibility is vacated for any reason, however, the transcript notation must be removed.

Prohibition of Retaliation
It is a violation of federal and state law and this policy for any employee or student to retaliate against any student or employee for exercising any rights or responsibilities under the Violence Against Women Act, the Clery Act, and/or Title IX. This includes retaliating against a student or employee who reports an incident of sexual assault, relationship violence, or stalking in good faith, or furnishes information or participates in any manner in an investigation of such a report. Retaliation includes any conduct directed at someone because he or she engaged in such protected activity, which might deter a reasonable student or employee from making or supporting such a report. Any individual found to have engaged in retaliation will be subject to disciplinary action, up to and including, termination of employment and/or dismissal from ACPHS.

Any employee or student who feels as though someone has subjected him or her to retaliation as a result of a report or participation into the investigation of a report should contact the Dean of Students or Directory of Human Resources or other senior officer immediately.

Compliance Officers
ACPHS has appointed certain individuals as Compliance Officers. The Compliance Officers are responsible for assisting in the resolution of reports of sexual assault, relationship violence, and stalking. In addition, Compliance Officers are responsible for being proactive in creating an atmosphere which will inhibit sexual assault, relationship violence, and stalking. A list of these individuals is set forth below:

Dean of Students/Title IX Coordinator Currently: **Wendy Neifeld Wheeler** Library Building, 310 Ext. 319 (518-694-7319)	Executive Director of Human Resources Currently: **Susan Karavolas** O'Brien Building. 001 Ext. 278 (518-694-7278)

Email: Wendy.NeifeldWheeler@acphs.edu	**Email: Susan.karavolas@acphs.edu**
Vice President for Operations Currently: **Packy McGraw** O'Brien Building, 104C Ext. 257 (518-694-7257) **Email: Packy.McGraw@acphs.edu**	Academic Advisor Currently: **Kim Keyes** Library Building, 309C Ext. 893 (518-694-7893) Email: Kimberly.Keyes@acphs.edu
Director of Residence Life Currently: **Alison Buckley** Gozzo Student Center, 207E Ext. 155 (518-694-7155) Email: Alison.Buckley@acphs.edu	Academic Support Coordinator Currently: **Alyssa Abitabile** Library Building, 303B Ext. 147 (518-694-7147) Email: Alyssa.Abitabile@acphs.edu
Director of Athletics and Recreation Currently: **Christine Kanawada** Gymnasium 101 Ext. 357 (518-694-7357) Email: Christine.kanawada@acphs.edu	Coordinator of Student Affairs, Vermont Currently: **Carolyn Claxton** Vermont 102C 802-735-2620 Email: Carolyn.Claxton@acphs.edu
Assistant Director of Residence Life Currently: **Rebecca Beach** Gozzo Student Center, 207C Ext. 371 (518-694-7371) Email: Rebecca.beach@acphs.edu	Coordinator of Academic Learning Services Currently: **Jarrett Lykins** Library Building 303A Ext. 284 (518-694-7284) Email: Jarrett.Lykins@acphs.edu
Resident Director: Currently: **Megan Trigg** Gozzo Student Center, 207F Ext. 122 (518-694-7122) Email: Megan.trigg@acphs.edu	Associate Director of Student Affairs Currently: **Jennifer Payne** Vermont: 102B Ext. 802 735-2628 Email:Jennifer.Payne@acphs.edu

Education and Training for Students and Employees

It is the policy of ACPHS to offer multiple methods of educational programming to all students and employees each year to prevent relationship violence, sexual assault (including stranger and known offender assaults), and stalking. ACPHS has adopted a comprehensive student onboarding and ongoing education campaign to educate members of ACPHS's community about domestic violence, dating violence, stalking, and sexual assault, in compliance with applicable federal laws.

As part of this campaign, ACPHS requires all new first-year and transfer students who enroll in ACPHS, whether first-year or transfer, undergraduate, graduate, or professional, to receive training, during the course of their onboarding, on the following topics, using a method and manner determined by ACPHS:

1. Sexual and interpersonal violence including resources to any victims and survivors of such violence and administrative/conduct action regarding any accused individual within the jurisdiction of the institution;
2. Relevant definitions including, but not limited to, the definitions of sexual assault, domestic violence, dating violence, stalking, confidentiality, privacy, and consent;
3. The equal application of policies regarding of sexual orientation, gender identity, or gender expression;

4. The role of the Title IX Coordinator, campus security, and other relevant offices that address domestic violence, dating violence, stalking, and sexual assault prevention and response;
5. Awareness of violence, its impact on victims and survivors and their friends and family, and its long-term impact;
6. Bystander intervention and the importance of taking action to prevent violence when one can safely do so;
7. Risk assessment and reduction including, not limited to, steps that potential victims, perpetrators, and bystanders can take to lower the incidence of violations, which may contain information about the dangers of drug and alcohol use, including underage drinking and binge drinking, involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol, the importance of communication with trusted friends and family whether on campus or off campus, and the availability of institution officials who can answer general or specific questions about risk reduction; and
8. Consequences and sanctions for individuals who commit these crimes and code of conduct violations.

ACPHS will require student leaders and officers of student organizations recognized by or registered with ACPHS, as well as those seeking recognition by ACPHS, to complete training on domestic violence, dating violence, stalking, or sexual assault prevention prior to receiving recognition or registration. ACPHS will also require each student-athlete to complete training on domestic violence, dating violence, stalking, or sexual assault prevention prior to participating in intercollegiate athletic competition.

ACPHS will also provide specific training to international students, students that are also employees, leaders and officers of registered or recognized student organizations, and online and distance education students, and members of any high-risk populations, as determined by ACPHS.

ACPHS offers general and specific training on each of the following topics to all students and employees:

1. ACPHS's policy prohibiting relationship violence, sexual assault, and stalking;
2. the definitions of "dating violence," "domestic violence," "sexual assault," and "stalking" under federal law, New York law, Vermont law and ACPHS's policies;
3. the definition of "consent," in reference to sexual activity, under federal law, New York law, Vermont law and The ACPHS Colleges' policies;
4. a description of ACPHS's educational programs and campaigns to promote the awareness of relationship violence, sexual assault, and stalking;
5. procedures victims should follow if a crime of relationship violence, sexual assault, or stalking has occurred, including information about:
   a. the importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;
   b. how and to whom the alleged offense should be reported;
   c. options about the involvement of law enforcement and campus authorities, including notification of the victim's option to: (i) notify proper law enforcement authorities, including on-campus and local police; (ii) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and (iii) decline to notify such authorities;
6. the rights of victims and ACPHS's responsibilities for orders of protection, "no-contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by ACPHS;

7. information about how ACPHS will protect the confidentiality of victims and other necessary parties, including how it will:
   a. complete publicly available recordkeeping without including personally identifying information about the victim; and
   b. 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 ACPHS to provide the accommodations or protective measures;
8. ACPHS's policy of providing written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within ACPHS and in the community; and
9. ACPHS's policy of providing written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures;
10. ACPHS's policy that, when a student or employee reports to ACPHS that the student or employee has been a victim of relationship violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options;
11. a description of ACPHS's disciplinary proceedings regarding alleged incidents of relationship violence, sexual assault, or stalking, which:
    a. include a prompt, fair, and impartial process from the initial investigation to the final result;
    b. are conducted by officials who, at a minimum, receive annual training on the issues related to relationship violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
    c. provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
    d. do not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; and
    e. require simultaneous notification, in writing, to both the accuser and the accused, of (i) the result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking; (ii) the institution's procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding, if such procedures are available; (iii) any change to the result; and (iv) when such results become final.
12. information on how to prevent and identify sexual violence;
13. the potential for re-victimization by responders and its effect on students and employees;
14. the impact of trauma on victims;
15. the role alcohol and drugs can play in sexual violence incidents;
16. appropriate methods for responding to a student or employee who may have experienced sexual violence, including the use of nonjudgmental language;
17. reporting obligations, including what should be included in a report, any consequences for failing to report, and how requests for confidentiality should be treated;
18. protections against retaliation; and
19. other information to prevent violence, promote safety and reduce perpetration.

ACPHS will also offer training on 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 relationship 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.

Additionally, all employees and students are offered information regarding 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.

ACPHS regularly assesses programs and policies established pursuant to federal and state law to determine effectiveness and relevance for students and employees.

Public Awareness and Advocacy Events

As part of ACPHS's public awareness campaign, ACPHS may from time to time schedule primary prevention, public awareness, and advocacy programs for students and employees, which include the following:

- RAD (Rape Aggression Defense) Training for Women
- Title IX training - including training on roles as mandated reporters
- Training on how to appropriately respond to victims of sexual assault
- In Her Shoes- domestic violence empathy exercise
- Active Bystander training
- Healthy Relationship trainings
- Sex Signals

Information regarding educational programs can be found on ACPHS's website, at http://www.acphs.edu/titleix/.

If an individual discloses information through a public awareness event such as candlelight vigils, protests, or other public event, ACPHS is not obligated to begin an investigation based on such information. However, ACPHS may use the information provided at such an event to inform its efforts for additional education and prevention efforts.

Sexual Offender Registry

The federal Campus Sex Crimes Prevention Act enacted in 2000 went into effect October 28, 2002. The law 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 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, or is a student. The New York State sex offender registry may be accessed at www.criminaljustice.state.ny.us/nsor/index.htm. The Vermont sex offender registry may be accessed at http://vcic.vermont.gov/sex_offender.

In addition, the City of Albany maintains a sex offender registry that may be accessed by "Entities of Vulnerable Population." The University Heights Association's Office of Public Safety (which provides Public

Safety services for ACPHS) has been declared such an entity and the registry may be accessed through the Director of Public Safety.

Memoranda of Understanding

The Albany College of Pharmacy and Health Sciences has Memoranda of Understanding in place with a number of agencies intended to facilitate the investigation of violent crimes and missing persons, to provide advocacy for victims of sexual assault and interpersonal violence and to safeguard the legal rights of students. Those agencies include the Albany Police Department, Albany Medical Center, St. Peter's Health Partners, Equinox, Inc., Albany County Crime Victim and Sexual Violence Center and The Legal Project.

Climate Surveys

Commencing during the 2016 - 2017 school year, ACPHS will conduct a biannual anonymous survey of students and employees to examine (1) the prevalence and incidence of sexual assault, relationship violence, and stalking, (2) the perceptions of the campus climate, (3) the general awareness and knowledge of students and employees about the provisions of the New York Enough is Enough law, and (4) student experience with and knowledge of reporting and college adjudicatory processes. Participation in such climate survey shall be voluntary but is encouraged.

The climate survey will be developed using standard and commonly recognized research methods, and includes questions covering the following topics:

1. the Title IX Coordinator's role;
2. campus policies and procedures addressing sexual assault;
3. how and where to report domestic violence, dating violence, stalking or sexual assault as a victim, survivor or witness;
4. the availability of resources on and off campus, such as counseling, health and academic assistance;
5. the prevalence of victimization and perpetration of domestic violence, dating violence, stalking, or sexual assault on and off campus during a set time period;
6. bystander attitudes and behavior;
7. whether reporting individuals disclosed to the institution and/or law enforcement, experiences with reporting and institution processes, and reasons why they did or did not report;
8. the general awareness of the difference, if any, between the institution's policies and the penal law; and
9. general awareness of the definition of affirmative consent.

ACPHS will take steps to ensure that answers to climate assessments remain anonymous and that no individual is identified. ACPHS will publish an executive summary of the climate assessment survey results on ACPHS website, provided that no personally identifiable information or information which can reasonably lead a reader to identify an individual is shared.

Annual Reporting

Reports of certain crimes occurring in specific geographic locations are included in ACPHS' annual security report (ASFSR), in an anonymous manner that identifies neither the specifics of the crime nor the identity of the reporting individual.

ACPHS is obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. A reporting individual shall not be identified in a timely warning.

FERPA allows ACPHS to share information with parents when (i.) there is a health or safety emergency, or (ii.) when the student is a dependent on either parent's prior year federal income tax return. Generally, however, ACPHS will not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the reporting individual.

Effective July 7, 2016, ACPHS will annually report the following information about reports of domestic violence, dating violence, stalking and sexual assault to the New York State Education Department:

1. The number of such incidents that were reported to the Title IX Coordinator.
2. The number of reporting individuals who sought ACPHS's judicial or conduct process.
3. The number of cases processed through ACPHS's judicial or conduct process.
4. The number of respondents who were found responsible through ACPHS's judicial or conduct process.
5. The number of respondents who were found not responsible through ACPHS's judicial or conduct process.
6. A description of the final sanctions imposed by ACPHS for each incident for which a respondent was found responsible through ACPHS's judicial or conduct process.
7. The number of cases in ACPHS's judicial or conduct process that were closed prior to a final determination after the respondent withdrew from ACPHS and declined to complete the disciplinary process.
8. The number of cases in ACPHS's judicial or conduct process that were closed because the complaint was withdrawn by the reporting individual prior to a final determination.

New York State Laws Preventing Sexual Assault

Article 130 of the New York State Penal defines and prohibits sexual assault in New York State. It is included here.

S 130.00 Sex offenses; definitions of terms.

The following definitions are applicable to this article:

1. "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight.

2. (a) "Oral sexual conduct" means conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina.

(b) "Anal sexual conduct" means conduct between persons consisting of contact between the penis and anus.

3. "Sexual contact" means any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed.

4. For the purposes of this article "married" means the existence of the relationship between the actor and the victim as spouses which is recognized by law at the time the actor commits an offense proscribed by this article against the victim.

5. "Mentally disabled" means that a person suffers from a mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct.

6. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent.

7. "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

8. "Forcible compulsion" means to compel by either:

a. use of physical force; or

b. a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped.

9. "Foreign object" means any instrument or article which, when inserted in the vagina, urethra, penis, rectum or anus, is capable of causing physical injury.

10. "Sexual conduct" means sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact.

11. "Aggravated sexual contact" means inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis, rectum or anus of a child, thereby causing physical injury to such child.

12. "Health care provider" means any person who is, or is required to be, licensed or registered or holds himself or herself out to be licensed or registered, or provides services as if he or she were licensed or registered in the profession of medicine, chiropractic, dentistry or podiatry under any of the following: article one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, or one hundred forty-one of the education law.

13. "Mental health care provider" shall mean a licensed physician, licensed psychologist, registered professional nurse, licensed clinical social worker or a licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker.

S 130.05 Sex offenses; lack of consent.

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:

(a) Forcible compulsion; or

(b) Incapacity to consent; or

(c) 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

(d) Where the offense charged is rape in the third degree as defined in 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.

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

(a) less than seventeen years old; or

(b) mentally disabled; or

(c) mentally incapacitated; or

(d) physically helpless; or

(e) 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

(f) 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

(g) 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

(h) 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 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 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

(i) 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.

S 130.10 Sex offenses; limitation; defenses.

1. In any prosecution under this article in which the victim's lack of consent is based solely upon his or her incapacity to consent because he or she was mentally disabled, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he or she engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.

2. Conduct performed for a valid medical or mental health care purpose shall not constitute a violation of any section of this article in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article.

3. In any prosecution for the crime of rape in the third degree as defined in 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 section 130.65-a, or sexual abuse in the third degree as defined in section 130.55 in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article it shall be an affirmative defense that the client or patient consented to such conduct charged after having been expressly advised by the health care or mental health care provider that such conduct was not performed for a valid medical purpose.

4. In any prosecution under this article in which the victim's lack of consent is based solely on his or her incapacity to consent because he or she was less than seventeen years old, mentally disabled, a client or patient and the actor is a health care provider, or committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital and the actor is an employee, it shall be a defense that the defendant was married to the victim as defined in subdivision four of section 130.00 of this article.

S 130.16 Sex offenses; corroboration.

A person shall not be convicted of any offense defined in this article of which lack of consent is an element but results solely from incapacity to consent because of the victim's mental defect, or mental incapacity, or an attempt to commit the same, solely on the testimony of the victim, unsupported by other evidence tending to:

(a) Establish that an attempt was made to engage the victim in sexual intercourse, oral sexual conduct, anal sexual conduct, or sexual

contact, as the case may be, at the time of the occurrence; and

(b) Connect the defendant with the commission of the offense or attempted offense.

S 130.20 Sexual misconduct.

A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person without such person`s consent; or

2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or

3. He or she engages in sexual conduct with an animal or a dead human body.

Sexual misconduct is a class A misdemeanor.

S 130.25 Rape in the third degree.

A person is guilty of rape in the third degree when:

1. He or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;

2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old; or

3. He or she engages in sexual intercourse with another person without such person`s consent where such lack of consent is by reason of some factor other than incapacity to consent.

Rape in the third degree is a class E felony.

S 130.30 Rape in the second degree.

A person is guilty of rape in the second degree when:

1. being eighteen years old or more, he or she engages in sexual intercourse with another person less than fifteen years old; or

2. he or she engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of rape in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Rape in the second degree is a class D felony.

S 130.35 Rape in the first degree.

A person is guilty of rape in the first degree when he or she engages in sexual intercourse with another person:

1. By forcible compulsion; or

2. Who is incapable of consent by reason of being physically helpless; or

3. Who is less than eleven years old; or

4. Who is less than thirteen years old and the actor is eighteen years old or more.

Rape in the first degree is a class B felony.

S 130.40 Criminal sexual act in the third degree.

A person is guilty of criminal sexual act in the third degree when:

1. He or she engages in oral sexual conduct or anal sexual conduct with a person who is incapable of consent by reason of some factor other than being less than seventeen years old;

2. Being twenty-one years old or more, he or she engages in oral sexual conduct or anal sexual conduct with a person less than seventeen years old; or

3. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

Criminal sexual act in the third degree is a class E felony.

S 130.45 Criminal sexual act in the second degree.

A person is guilty of criminal sexual act in the second degree when:

1. being eighteen years old or more, he or she engages in oral sexual conduct or anal sexual conduct with another person less than fifteen years old; or

2. he or she engages in oral sexual conduct or anal sexual conduct with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of criminal sexual act in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Criminal sexual act in the second degree is a class D felony.

S 130.50 Criminal sexual act in the first degree.

A person is guilty of criminal sexual act in the first degree when he or she engages in oral sexual conduct or anal sexual conduct with another person:

1. By forcible compulsion; or

2. Who is incapable of consent by reason of being physically helpless; or

3. Who is less than eleven years old; or

4. Who is less than thirteen years old and the actor is eighteen years old or more.

Criminal sexual act in the first degree is a class B felony.

S 130.52 Forcible touching.

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire.

For the purposes of this section, forcible touching includes squeezing, grabbing or pinching.

Forcible touching is a class A misdemeanor.

S 130.53 Persistent sexual abuse.

A person is guilty of persistent sexual abuse when he or she commits the crime of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree, as defined in section 130.55 of this article, or sexual abuse in the second degree, as defined in section 130.60 of this article, and, within the previous ten year period, excluding any time during which such person was incarcerated for any reason, has been convicted two or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree as defined in section 130.55 of this article, sexual abuse in the second degree, as defined in section 130.60 of this article, or any offense defined in this article, of which the commission or attempted commission thereof is a felony.

Persistent sexual abuse is a class E felony.

S 130.55 Sexual abuse in the third degree.

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter`s consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person`s lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person.

Sexual abuse in the third degree is a class B misdemeanor.

S 130.60 Sexual abuse in the second degree.

A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Less than fourteen years old.

Sexual abuse in the second degree is a class A misdemeanor.

S 130.65 Sexual abuse in the first degree.

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old; or
4. When the other person is less than thirteen years old and the actor is twenty-one years old or older.

Sexual abuse in the first degree is a class D felony.

S 130.65-a Aggravated sexual abuse in the fourth degree.

1. A person is guilty of aggravated sexual abuse in the fourth degree when:

(a) He or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person and the other person is incapable of consent by reason of some factor other than being less than seventeen years old; or

(b) He or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than seventeen years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the fourth degree is a class E felony.

S 130.66 Aggravated sexual abuse in the third degree.

1. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person:

(a) By forcible compulsion; or

(b) When the other person is incapable of consent by reason of being physically helpless; or

(c) When the other person is less than eleven years old.

2. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.

3. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the third degree is a class D felony.

S 130.67 Aggravated sexual abuse in the second degree.

1. A person is guilty of aggravated sexual abuse in the second degree when he or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:

(a) By forcible compulsion; or

(b) When the other person is incapable of consent by reason of being physically helpless; or

(c) When the other person is less than eleven years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the second degree is a class C felony.

S 130.70 Aggravated sexual abuse in the first degree.

1. A person is guilty of aggravated sexual abuse in the first degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:

(a) By forcible compulsion; or

(b) When the other person is incapable of consent by reason of being physically helpless; or

(c) When the other person is less than eleven years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the first degree is a class B felony.

S 130.75 Course of sexual conduct against a child in the first degree.

1. A person is guilty of course of sexual conduct against a child in the first degree when, over a period of time not less than three months in duration:

(a) he or she engages in two or more acts of sexual conduct, which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than eleven years old; or

(b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct, which include at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than thirteen years old.

2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.

Course of sexual conduct against a child in the first degree is a class B felony.

S 130.80 Course of sexual conduct against a child in the second degree.

1. A person is guilty of course of sexual conduct against a child in the second degree when, over a period of time not less than three months in duration:

(a) he or she engages in two or more acts of sexual conduct with a child less than eleven years old; or

(b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct with a child less than thirteen years old.

2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.

Course of sexual conduct against a child in the second degree is a class D felony.

S 130.85 Female genital mutilation.

1. A person is guilty of female genital mutilation when:

(a) a person knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not reached eighteen years of age; or

(b) being a parent, guardian or other person legally responsible and charged with the care or custody of a child less than eighteen years old, he or she knowingly consents to the circumcision, excision or infibulation of whole or part of such child`s labia majora or labia minora or clitoris.

2. Such circumcision, excision, or infibulation is not a violation of this section if such act is:

(a) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

(b) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

3. For the purposes of paragraph (a) of subdivision two of this section, no account shall be taken of the effect on the person on whom such procedure is to be performed of any belief on the part of that or any other person that such procedure is required as a matter of custom or ritual.

Female genital mutilation is a class E felony.

S 130.90 Facilitating a sex offense with a controlled substance.

A person is guilty of facilitating a sex offense with a controlled substance when he or she:

1. knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and

2. commits or attempts to commit such conduct constituting a felony defined in this article.

Facilitating a sex offense with a controlled substance is a class D felony.

S 130.91 Sexually motivated felony.

1. A person commits a sexually motivated felony when he or she commits a specified offense for the purpose, in whole or substantial part, of his or her own direct sexual gratification.

2. A "specified offense" is a felony offense defined by any of the following provisions of this chapter: assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10, gang assault in the second degree as defined in section 120.06, gang assault in the first degree as defined in section 120.07, stalking in the first degree as defined in section 120.60, strangulation in the second degree as defined in section 121.12, strangulation in the first degree as defined in section 121.13, manslaughter in the second degree as defined in subdivision one of section 125.15, manslaughter in

the first degree as defined in section 125.20, murder in the second degree as defined in section 125.25, aggravated murder as defined in section 125.26, murder in the first degree as defined in section 125.27, kidnapping in the second degree as defined in section 135.20, kidnapping in the first degree as defined in section 135.25, burglary in the third degree as defined in section 140.20, burglary in the second degree as defined in section 140.25, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, arson in the first degree as defined in section 150.20, robbery in the third degree as defined in section 160.05, robbery in the second degree as defined in section 160.10, robbery in the first degree as defined in section 160.15, promoting prostitution in the second degree as defined in section 230.30, promoting prostitution in the first degree as defined in section 230.32, compelling prostitution as defined in section 230.33, disseminating indecent material to minors in the first degree as defined in section 235.22, use of a child in a sexual performance as defined in section 263.05, promoting an obscene sexual performance by a child as defined in section 263.10, promoting a sexual performance by a child as defined in section 263.15, or any felony attempt or conspiracy to commit any of the foregoing offenses.

S 130.92 Sentencing.

1. When a person is convicted of a sexually motivated felony pursuant to this article, and the specified felony is a violent felony offense, as defined in section 70.02 of this chapter, the sexually motivated felony shall be deemed a violent felony offense.

2. When a person is convicted of a sexually motivated felony pursuant to this article, the sexually motivated felony shall be deemed to be the same offense level as the specified offense the defendant committed.

3. Persons convicted of a sexually motivated felony as defined in section 130.91 of this article, must be sentenced in accordance with the provisions of section 70.80 of this chapter.

S 130.95 Predatory sexual assault.

A person is guilty of predatory sexual assault when he or she commits the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and when:

1. In the course of the commission of the crime or the immediate flight therefrom, he or she:

(a) Causes serious physical injury to the victim of such crime; or

(b) Uses or threatens the immediate use of a dangerous instrument; or

2. He or she has engaged in conduct constituting the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, against one or

more additional persons; or

3. He or she has previously been subjected to a conviction for a felony defined in this article, incest as defined in section 255.25 of this chapter or use of a child in a sexual performance as defined in section 263.05 of this chapter.

Predatory sexual assault is a class A-II felony.

S 130.96 Predatory sexual assault against a child.

A person is guilty of predatory sexual assault against a child when, being eighteen years old or more, he or she commits the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and the victim is less than thirteen years old.

Predatory sexual assault against a child is a class A-II felony.

Sex Offender Registry and Access to Related Information

The federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, went into effect October 28, 2002. The law 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 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, or is a student. The New York State sex offender registry may be accessed at New York State Sex Offender Registry. In addition, the City of Albany maintains a sex offender registry that may be accessed by "Entities of Vulnerable Population". The UHA Office of Public Safety has been so declared and the registry may be accessed through the Director of Public Safety.

Alcohol and Drug Policy

The Drug Free Schools and Communities Act of 1989 requires that institutions of higher education receiving certain funding adopt and implement a drug and alcohol abuse prevention program to prevent the unlawful possession, use or distribution of illicit drugs and alcohol by all students and employees on school premises or as part of any of its activities. It is distributed annually to all students and employees and is subject to biannual review in December of even numbered years.

The Albany College of Pharmacy and Health Sciences strongly encourages self reporting of nicotine, alcohol and other drug abuse. Resources exist to assist and support individuals that have recognized this issue and have come forward seeking help. The College provides clinical services through the Counseling Center to address the mental health issues that typically underlie substance use and abuse, as well as recommending and coordinating services with licensed substance abuse treatment centers throughout the Capital District. Additionally, the College supports the Initiative on Substance Abuse Prevention (ISAP) Committee, which is comprised of

students, faculty, and staff and has the mission of providing educational and preventive outreach throughout the ACPHS Community. Initiatives include the annual Substance Abuse Awareness Week as well as providing workshops and having information available for groups and individuals in a variety of formats. The College provides the broadest level of confidentiality allowed. Individuals seeking voluntary assistance prior to allegations of policy violation may be subject to alternative steps and sanctions than those in place for persons who are alleged to be in violation of the policy.

If an ACPHS student is alleged to be in violation of these policies, in accordance with the Student Disciplinary Code they may be required to meet with the Director of Counseling Services (or other licensed professional) for an assessment. Based upon that assessment, the Director of Counseling Services (or designee) can recommend additional interventions/evaluations to be completed by an approved licensed agency at the individual's expense. Additional action may be required when allegations involve illegal or controlled substances. All ACPHS students are informed that if allegations are made against them indicating that they are using illegal substances, then pursuant to the Student Disciplinary Code they may be required to meet with the Director of Counseling Services and may be required to complete a substance abuse assessment with appropriate follow-up administered by an approved licensed agency at the student's expense. Note: These steps represent those taken following an allegation of illegal substance use and do not necessarily apply to individuals who are voluntarily seeking services prior to an allegation or policy violation.

Missing Persons

ACPHS, in partnership with the University Heights Association's Office of Public Safety, has a comprehensive policy in place for the investigation of missing persons. Although primarily intended as a safety net for resident students, it may also be used to investigate the disappearance of any student, staff member or faculty member who disappears from campus. It can also be used to assist local law enforcement agencies who are investigating the disappearance of a community member from some off-campus location.

Key elements of the plan include:

- Resident students may identify a confidential emergency contact person who would be notified in the event of a disappearance.
- The confidential emergency contact person and the Albany Police Department must be notified no longer than twenty-four hours after a person is thought to be missing.
- Circumstances such as the possibility of foul play or mental health concerns require the immediate notification of the emergency contact person and the Albany Police Department.

A Memorandum of Understanding is in place between the University Heights Association's Office of Public Safety and the Albany Police Department that clearly sets responsibilities in such an investigation and requires a complete and timely exchange of information between the agencies.

In addition to Public Safety, those who suspect a member of the community to be missing may report that information to:

Vice President for Administrative Operations Packy McGraw
Dean of Students Wendy Niefield-Wheeler

Director of Residence Life Alison O'Brien

Fire Safety at Albany College of Pharmacy and Health Sciences

In partnership with the New York State Office of Fire Prevention and Control and the University Heights Association's Office of Public Safety, the Albany College of Pharmacy and Health Sciences has a comprehensive fire safety program. UHA employs a Fire Safety Officer who is responsible for training, fire safety system maintenance, and liaison with public sector agencies. Annual inspections conducted by the OFPC are thorough and intensive, and result in the certification of our facilities as completely compliant with state and local fire codes. Training programs for students, faculty and staff are available through UHA Public Safety. Resident Assistants and Directors attend mandatory fire safety training at the beginning of academic each year. Policies are in place, in student and employee handbooks, that prevent sources of fire. Evacuation policies are practiced regularly through fire drills.

Fire safety systems for ACPHS residence halls are as follows:

- South Hall has extensive emergency lighting and exit signage throughout the building. It has heat detectors and smoke detectors in each room, as well as in common areas, that trigger audible alarms and strobe lighting when activated. The alarms are monitored by a private sector alarm monitoring company who reports the activation of a fire alarm to the Albany Fire Department and UHA Public Safety. South Hall does not have a sprinkler system.

- Notre Dame Residence Hall has extensive emergency lighting and exit signage throughout the building. It has heat detectors and smoke detectors in each room, as well as in common areas, that trigger audible alarms and strobe lighting when activated. The alarms are monitored by a private sector alarm monitoring company who reports the activation of a fire alarm to the Albany Fire Department and UHA Public Safety. The building also has a sprinkler system with heads in each room as well as throughout common areas.

- Holland Suites has extensive emergency lighting and exit signage throughout the building. It has heat detectors and smoke detectors in each room, as well as in common areas, that trigger audible alarms and strobe lighting when activated. The alarms are monitored by a private sector alarm monitoring company who reports the activation of a fire alarm to the Albany Fire Department and UHA Public Safety. The building also has a sprinkler system with heads in each room as well as throughout common areas.

- Princeton Suites has extensive emergency lighting and exit signage throughout the building. It has heat detectors and smoke detectors in each room, as well as in common areas, that trigger audible alarms and strobe lighting when activated. The alarms are monitored by a private sector alarm monitoring company who reports the activation of

a fire alarm to the Albany Fire Department and UHA Public Safety. The building also has a sprinkler system with heads in each room as well as throughout common areas.

Fire safety related incidents for ACPHS residence halls for the years 2013, 2014 and 2015 are as follows:

Residence	Year	Fires	Injuries	Deaths	Value of property damaged	Fire Drills	Fire Alarms	Malicious False Alarms
Notre Dame	2013	0	0	0	0	4	2	0
	2014	0	0	0	0	4	1	0
	2015	0	0	0	0	4	4	0
South Hall	2013	0	0	0	0	4	15	0
	2014	0	0	0	0	4	3	0
	2015	0	0	0	0	4	14	0
Holland Suites	2013	1	0	0	$50	4	5	0
	2014	0	0	0	0	4	1	0
	2015	0	0	0	0	4	1	1
Princeton Suites	2013	0	0	0	0	4	7	0
	2014	0	0	0	0	4	1	0
	2015	0	0	0	0	4	4	1
UHCS[1]	2013	0	0	0	0	1	101	0
	2014	0	0	0	0	1	134	0
	2015	0	0	0	0	0	111	0

[1]Privately owned residence hall shared by 3 institutions

Campus Crime Statistics

The Clery Act requires that the institution collect and distribute statistical data concerning certain specified crimes on campus. It also requires that those crimes be further reported according to where the incidents occur. There are four categories for location of criminal activity, defined as follows:

- "campus" means any building or property controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls and, property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).

- "non-campus building or property" means any building or property controlled by a student organization recognized by the institution, and any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation

to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

- "public property" means all public property, all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.

- "residence hall" means residential facilities for students on campus.

Crime statistics for the years 2013, 2014 and 2015 are as follows:

Albany College of Pharmacy and Health Sciences
Crime Statistics
2013 - 2015

Offense	Year	On Campus Property	Non Campus Property	Public Property	Total		Residential Facilities	Unfounded
Murder/Non-Negligent Manslaughter	2013	0	0	0	0		0	0
	2014	0	0	0	0		0	0
	2015	0	0	0	0		0	0
Negligent Manslaughter	2013	0	0	0	0		0	0
	2014	0	0	0	0		0	0
	2015	0	0	0	0		0	0
Rape	2013	0	0	0	0		0	0
	2014	0	0	0	0		0	0
	2015	1	0	0	1		1	0
Fondling	2013	0	0	0	0		0	0
	2014	0	0	0	0		0	0
	2015	0	0	0	0		0	0
Incest	2013	0	0	0	0		0	0
	2014	0	0	0	0		0	0
	2015	0	0	0	0		0	0
Statutory Rape	2013	0	0	0	0		0	0
	2014	0	0	0	0		0	0
	2015	0	0	0	0		0	0
Robbery	2013	0	0	0	0		0	0
	2014	1	0	0	1		0	0
	2015	0	0	0	0		0	0
Aggravated Assault	2013	0	0	1	1		0	0
	2014	0	0	0	0		0	0
	2015	0	0	0	0		0	0
Burglary	2013	2	0	0	2		0	0
	2014	0	0	0	0		0	0
	2015	0	0	0	0		0	0
Motor Vehicle Theft	2013	0	0	0	0		0	0
	2014	1	0	0	1		0	0
	2015	0	0	0	0		0	0
Arson	2013	0	0	0	0		0	0
	2014	0	0	0	0		0	0
	2015	0	0	0	0		0	0

Albany College of Pharmacy and Health Sciences
Interpersonal Violence
2013 – 2015

Offense	Year	On Campus	Non Campus	Public Property	Total	[redacted]	Residentia Facility
	2013	0	0	0	0		0
Domestic Violence	2014	0	0	0	0		0
	2015	0	0	0	0		0
	2013	0	0	0	0		0
Dating Violence	2014	0	0	0	0		0
	2015	0	0	0	0		0
	2013	1	0	0	1		0
Stalking	2014	0	0	0	0		0
	2015	0	0	0	0		0

Albany College of Pharmacy and Health Sciences
Arrests and Referrals
2013 – 2015

Offense	Year	On Campus	Non Campus	Public Property	Total		Residential Facility *
Liquor Law Arrests	2013	0	0	0	0		0
	2014	0	0	0	0		0
	2015	0	0	0	0		0
Liquor Law Violations referred for disciplinary action	2013	91	0	0	91		91
	2014	73	0	0	73		73
	2015	51	0	0	51		51
Drug Law Arrests	2013	1	0	0	1		1
	2014	0	0	0	0		0
	2015	0	0	0	0		0
Drug Law Violations referred for disciplinary action	2013	8	0	0	8		8
	2014	21	0	0	21		21
	2015	18	0	0	18		18
Illegal Weapons Possession Arrests	2013	0	0	0	0		0
	2014	0	0	0	0		0
	2015	0	0	0	0		0
Illegal Weapons Possession referred for disciplinary action	2013	0	0	0	0		0
	2014	0	0	0	0		0
	2015	4	0	0	4		4

*Crimes reported in the Residence Halls are also included in the On Campus category

Hate Crime

Certain crimes that single out an individual because of actual or perceived race, gender, gender identity, religion, sexual orientation, ethnicity, nationality, or disability are to be reported according to the category of prejudice. Those crimes include all of the crimes enumerated above in the "Crime Statistics" section of this report, as well as the crimes of larceny-theft, simple assault, intimidation, destruction/damage/vandalism to property and any other crime involving bodily injury.

The Albany College of Pharmacy and Health Sciences reported no incidents of hate crime in 2013.
The Albany College of Pharmacy and Health Sciences reported no incidents of hate crime in 2014.
The Albany College of Pharmacy and Health Sciences reported no incidents of hate crime in 2015.

Preparation of this report

This report is presented on an annual basis and is available by October 1. It is prepared by the Director of Public Safety utilizing incident reports generated during the year, as well as information provided by Campus Security Authorities and the Albany Police Department. It is available in hard copy as well as on the Web at Annual Security and Fire Safety Report. The statistical portion of the report is also available at the U.S. Department of Education's Campus Crime Survey on their website.