

# **SEXUAL MISCONDUCT AND SEXUAL HARASSMENT POLICY & PROCEDURE FOR STUDENTS AND EMPLOYEES**

**IMPORTANT: WITH RESPECT TO ANY PROHIBITED ACT SET FORTH IN THIS POLICY, THIS POLICY & PROCEDURE SUPERSEDES ANY OTHER POLICY RELATING TO STUDENT OR EMPLOYEE BEHAVIOR OR DISCIPLINE, INCLUDING WITHOUT LIMITATION THE “STUDENT DISCIPLINARY CODE” AND THE “AFFIRMATIVE ACTION POLICY” IN THE EMPLOYEE HANDBOOK (revised July 2017)**

## **I. STATEMENT OF POLICY**

The Albany College of Pharmacy and Health Sciences (“ACPHS” or the “College”) is committed to creating and maintaining an academic and workplace environment free of illegal sexual misconduct and sexual harassment for all of its students and employees. ACPHS strives to provide a safe environment for students and employees and to ensure that no one is excluded from participation in or denied the benefits of the College’s programs or activities because of the person’s sex.

Accordingly, ACPHS has developed this Sexual Misconduct and Sexual Harassment Policy and Procedure for Students and Employees (the “Policy”). The Policy strictly prohibits “Sexual Misconduct,” which includes Sexual Assault, Non-consensual Sexual Activity, Stalking, Dating Violence, Domestic Violence, and Sexual Exploitation; as well as “Sexual Harassment” (all of which are defined below). Violation of this Policy will result in responsive action from the College, as prescribed under applicable law and this Policy, which, for Students, may include suspension or expulsion from the College, or, for employees, may include termination of employment from the College.

NOTE: Nothing in this Policy affects or restricts ACPHS’s ability to terminate the employment of any "at will" employee in its discretion, whether or not Sexual Misconduct is found to have occurred.

This Policy applies regardless of whether the behavior at issue occurs on campus, off campus, or while studying abroad.

### **Non-discrimination in Application of This Policy:**

ACPHS applies the protections set forth in this Policy 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.

For ACPHS’s general Notice of Non-Discrimination, please see the Albany College of Pharmacy and Health Science’s website at [www.acphs.edu](http://www.acphs.edu).

## II. DEFINITIONS

### Definitions of Individuals:

**Bystander/Witness** – 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, including this Policy.

**Compliance Officer** – Persons designated by ACPHS who are responsible for assisting in the receipt of reports by providing information regarding: options to proceed; where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible; explaining that the criminal justice process utilizes different standards of proof and evidence from the internal ACPHS process; and assisting in the referral of questions about whether a specific incident violated the penal (criminal) to state or local law enforcement or to the district or state’s attorney. The Coordinator or 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. Compliance Officers are identified in **Appendix A** to this Policy. Please note that any report made to the Deputy Coordinator or a Compliance Officer will be reported to the Title IX Coordinator.

**Deputy Title IX Coordinator** – the Deputy Coordinator reports directly to the Title IX Coordinator for Title IX purposes and assists the Title IX Coordinator as needed/requested. The current Deputy Title IX Coordinator is identified in **Appendix A** to this Policy.

**Employee** – a person employed by ACPHS at the time of the report of a potential violation of this Policy.

**Investigator** – Person designated by ACPHS (who may or may not be ACPHS employees) who have received appropriate training to serve as an investigator of Sexual Misconduct and Sexual Harassment complaints. Investigators receive training in conducting investigations of sexual violence, the results of trauma, impartiality, the rights of the Respondent, including the right that the Respondent (defined below) is not considered to be “responsible” until a finding of responsibility is made pursuant to this Policy, as well as other issues, including, but not limited to training on what conduct constitutes sexual harassment, domestic violence, dating violence, stalking, and sexual assault for purposes of this Policy.

**Reporting Individual** – a Student or Employee who has reported a violation of this Policy. In some cases, such as where the victim of the alleged conduct does not wish to participate in the process but ACPHS has decided that it should investigate the conduct nonetheless, ACPHS may serve as the Reporting Individual. In these cases, the College may extend the full rights of the Reporting Individual as defined in this Policy to affected parties as deemed appropriate by the Title IX Coordinator.

**Respondent** – a person accused of a violation of this Policy.

**Student** – a person who has been admitted to ACPHS as a student on or before the date of a report of a potential violation of this Policy.

**Title IX Coordinator** – the employee designated by ACPHS as responsible for coordinating ACPHS’s efforts to comply with its obligations under Title IX of the Education Amendments Act of 1972, as well as Article 129-B of the New York Education Law, including coordinating investigations of complaints received pursuant to this Policy. The current Title IX Coordinator is identified in **Appendix A** to this Policy.

**Title IX Panel** – a panel of three (3) trained ACPHS employees appointed by the Title IX Coordinator or designee.

**Definition of Consent:**

As used in this Policy, the term “Consent” means “Affirmative Consent.” “Affirmative Consent” is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression. The following principles are provided as guidance for the ACPHS community:

- 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.
- Being intoxicated or impaired by drugs or alcohol is never an excuse for violating this Policy and does not diminish one’s responsibility to obtain affirmative consent.

**Definitions of Prohibited Conduct:**

**Sexual Misconduct** - Sexual Misconduct is a broad term encompassing any sexual behavior or gender-based misconduct that is committed without affirmative consent. Sexual misconduct may vary in its severity and consists of a range of behaviors. The following descriptions represent behaviors that violate this Policy:

**Sexual Assault** - As set forth below, Sexual Assault includes, but is not limited to, offenses that meet the definition of rape, fondling, incest, and statutory rape, 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 affirmative consent of the victim, or where the victim is incapable of consent due to mental or physical incapacity.

**Fondling** – the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or without that person’s affirmative

consent; or, 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. This may include non-penetrative acts, touching directly or with an object, and/or touching the private body parts of another over clothing. This may also include forcing or causing another without affirmative consent to touch one's own private body part.

**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 in the jurisdiction where the act takes place. In New York, the statutory age of consent is 17 years old. In Vermont, the statutory age of consent is 16 years old.

**Non-consensual Sexual Activity** - As defined in the Clery Act: Any intentional sexual touching without affirmative consent. This includes any contact with the breasts, buttocks, groin, genitals, mouth or other bodily orifice of a person upon another person; the touching of another with any of these body parts, without affirmative consent; sexual intercourse or penetration (anal, oral, or vaginal) however slight, with any object or body part, by a person upon another person without affirmative consent ; or other intentional contact of a sexual nature without consent or as a result of force, whether by physical force or by threats, intimidation, or coercion.

**Sexual Activity** - As defined in the Clery Act:

- 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, either directly or 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.

**Stalking** - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. Stalking normally includes 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. Stalking may include 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 or arises out of an actual or perceived social relationship of a romantic or sexual nature, the behavior is a form of Sexual Misconduct.

**Dating Violence** – As defined in the Clery Act: Violence or threats of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with

the victim. The existence of such a relationship 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.

**Domestic Violence-** As defined in the Clery Act: Felony or misdemeanor crimes of violence (whether federal or state) committed by, between, or among current or former spouses or an 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 family laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Sexual Exploitation -** Taking non-consensual, unfair, or abusive sexual advantage of another for his/her own advantage or benefit. Examples include, but are not limited to: non-consensual video or audio taping of sexual activity and/or voyeurism.

### **III. PROHIBITION ON SEXUAL HARASSMENT AND RETALIATION**

Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. submission to that conduct is made either explicitly or implicitly a term or condition of employment or education;
2. submission to or rejection of such conduct by an individual is used as a component of the basis for employment or education-related decisions affecting that individual; or
3. the conduct has the effect of substantially interfering with an individual's work performance, academic or education-related experience, or of creating an intimidating, hostile, or offensive working or educational environment.

Examples of sexual harassment include, but are not limited to, the following:

- either explicitly or implicitly conditioning any term of employment (e.g., continued employment, wages, evaluation, advancement, assigned duties or shifts) or educational benefit on the provision of sexual favors;
- physical conduct, such as touching, pinching, patting, or grabbing a part of a student or employee's body, or impeding or blocking movements;
- sexual advances or continuing to ask a student or employee to socialize when that person has indicated s/he is not interested;
- displaying or transmitting sexually suggestive pictures, objects, cartoons, or posters;
- written conduct, such as authoring threatening, sexually suggestive, or obscene letters or correspondence (including e-mails, text messages ("sexting") and social media posts), or sharing or sending suggestive or explicit photos;

- referring to or calling a person a sexualized name;
- telling sexual jokes or using sexually vulgar or explicit language, making or using derogatory comments, epithets, slurs, offensive or lewd remarks, inappropriate personal questions, or comments about someone's body or the way he/she dresses;
- retaliation of any kind because the person at whom the behavior is directed has filed or supported a complaint of sexual harassment, or participated as a witness in an investigation or proceeding (e.g., ostracizing the person, pressuring the person to drop or not support the complaint, adversely altering that person's duties or work or educational environment, etc.);
- derogatory or provoking remarks about or relating to a student's or employee's sex;
- harassing acts or behavior directed against a person on the basis of his or her sex;

It is both unlawful and a violation of this policy for males to harass females or other males, or for females to sexually harass males or other females.

**Retaliation.** It is also unlawful and a violation of this Policy to retaliate against an Employee or Student for filing a good faith complaint of sexual harassment or for participating/cooperating in an investigation of sexual harassment.

**Complaints.** Complaints of Sexual Harassment by Students or Employees shall be made pursuant to the provisions of this Policy. If Sexual Harassment is found to have occurred, ACPHS will take appropriate action, ranging from a verbal warning up to and including dismissal.

**Consensual Relationships:**

Consenting romantic or sexual relationships between a faculty member and a student, or between a supervisor and a subordinate employee who reports to that supervisor ("subordinate employee"), are strongly discouraged.

In the event a romantic or sexual relationship develops in such a situation, the supervisory, or the instructional, advising, or other professional responsibilities, must be transferred promptly to another individual if practicable under the circumstances. In addition, the faculty member should be aware that any such relationship with a student, and the supervisor should be aware that any such relationship with a subordinate employee, will subject the faculty member or supervisor to formal disciplinary action should a charge of sexual harassment be filed by the student or subordinate employee, whether or not the faculty member/supervisor viewed the relationship as "consensual." Further, a romantic or sexual relationship between a faculty member and a student occurring during a period of instructional, advising, or other professional responsibilities, or between a supervisor and a subordinate employee, carries a presumption that it was **not consensual**, should a charge of sexual harassment be filed by the student or subordinate employee.

**IV. COLLEGE POLICY REGARDING CONFIDENTIALITY/PRIVACY**

**Confidentiality/Privacy:**

Different persons to whom you may report an incident have different reporting/disclosure responsibilities and different abilities to maintain confidentiality and/or privacy, depending on their roles and applicable law.

- **Confidentiality** - Only certain professionals (generally, a mental health counselor, pastoral counselor, social worker, psychologist, physician, nurse-practitioner, or other person with a professional license or who is supervised by such a person) are considered confidential resources and can offer you confidentiality (which means that this person is prevented by professional ethics and/or law to tell anyone what you have told them, except with your permission, or in certain extreme circumstances involving a serious and imminent threat to others).

**Unless a College employee is one of these professionals, ALL College employees (including but not limited to Resident Assistants and faculty) to whom you report a potential violation of this Policy are required by law to take further action by sharing your report with the Title IX Coordinator or Deputy Coordinator.**

**Resources for Discussing the Incident Confidentially.** If you wish to discuss a potential violation of this Policy **confidentially or anonymously**, available confidential resources are listed on **Appendix B**. Before you share information you wish to keep confidential, you should make sure you understand clearly whether the person with whom you are sharing can keep the information completely confidential (that is, not tell anyone), or if the person must report the incident to someone else.

- **Privacy** - Even ACPHS offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. Your identity will remain private at all times if you wish to maintain privacy; however, this may affect ACPHS’s ability to respond to/investigate your report.

## **V. REPORTING SEXUAL MISCONDUCT**

### **What Do I Do If I Have Experienced Sexual Misconduct?**

- 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 and other sex offenses.
- 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. Hospitals 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. Campus Public Safety or the Albany or Colchester Police Department may assist you in this effort as well.
- Preserve evidence.** We encourage you to take steps to preserve any and all evidence when an 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 safeguarded and you 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, you to report a violation of this Policy. The procedure for reporting a violation of this Policy is discussed in more detail below.

**\*\*\*YOU HAVE THE RIGHT TO MAKE A REPORT TO CAMPUS SECURITY, LOCAL LAW ENFORCEMENT AND/OR STATE POLICE, OR TO CHOOSE NOT TO REPORT; TO REPORT THE INCIDENT TO ACPHS; TO BE PROTECTED BY ACPHS FROM RETALIATION FOR REPORTING AN INCIDENT; AND TO RECEIVE ASSISTANCE AND RESOURCES FROM ACPHS.\*\*\***

**How to Make a Report:**

***[Note: You Do Not Have to Follow the Order Listed Below]:***

1. **Reporting to State or Local Law Enforcement.** You may (but are not required to) report a complaint to local law enforcement and/or state police for the purpose of documentation. Contact information for local and state law enforcement on each campus is shown on **Appendix C**. 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 or State's 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 campus public safety, who will assist you in doing so. Contact information for campus public safety on each campus is on **Appendix C** attached.
2. You may pursue simultaneously a report with the College under this Policy and with state or local law enforcement; in that circumstance: (i) the College may need to briefly suspend its investigation at the request of law enforcement while the law enforcement agency is in the process of gathering evidence; (ii) the College will promptly resume its investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process; and (iii) the College will not delay its investigation until the ultimate outcome of the criminal complaint.
3. **Reporting to ACPHS Campus Public Safety.** You may (but are not required to) report a violation of this Policy to ACPHS campus public safety officials (UHA Public Safety at Albany Campus or Hunter North Associates at Colchester Campus). Campus public safety officers are required to report the incident to the Title IX Coordinator but will otherwise maintain confidentiality. This may trigger the ACPHS investigative and disciplinary process, which may provide interim protective measures (see below). It also assists ACPHS in complying with federal requirements under the Clery Act for reporting offenses occurring on campus, even if you do not wish to consent to an investigation of your report.
4. **Reporting to ACPHS Title IX Coordinator or Compliance Officers.** You may also (but are not required to) report the incident to the ACPHS Title IX Coordinator, Deputy Coordinator, or a Compliance Officer, all of whom are identified on **Appendix A** attached. You have the right to emergency access to the Title IX Coordinator or Deputy Coordinator or a Compliance Officer, who can provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible; and can explain that the criminal justice process



utilizes different standards of proof and evidence from the internal ACPHS process and that any questions about whether a specific incident violated the penal (criminal) law should be addressed to state or local law enforcement or to the district or state's attorney. The Coordinator or 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. Please note that any report made to the Deputy Coordinator or a Compliance Officer will be reported to the Title IX Coordinator.

**Assistance to Reporting Individuals.** ACPHS will assist with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of your reporting choices.

**Reminder of Confidential Alternatives.** In addition to, or in lieu of, reporting an incident to one or more of the above, you are reminded that you may make a confidential report to certain professionals as described above. (See **Resources for Discussing the Incident Confidentially**, and **Appendix B.**) These employees can assist in obtaining services for you, even if you have decided not to report the incident to law enforcement or ACPHS.

### **Determination That Report Requires an Institutional Investigation:**

Once a Reporting Individual has reported a possible violation of this Policy, the Title IX Coordinator will make a determination as to whether an investigation is necessary. If the Title IX Coordinator determines that an investigation is required, the Title IX Coordinator will notify you and take immediate action as necessary to protect and assist you, including, but not limited to, the implementation of interim measures as discussed below.

**Consent to Investigate.** If the Title IX Coordinator determines that an investigation is required, ACPHS will seek consent from you prior to conducting an investigation. If you do 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 you 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:

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

Honoring a request to decline consent to an investigation may limit ACPHS's ability to meaningfully investigate and pursue conduct or other action against a Respondent. In the event that the College determines that it cannot honor the Reporting Individual's request not to investigate, the College will step into the role of the Reporting Individual and conduct an investigation. The College will not require a Reporting Individual to participate in an investigation or disciplinary proceeding.

All college proceedings are conducted in compliance with the requirements of the Family Educational Rights and Privacy Act (FERPA), the Clery Act, Title IX, Violence Against Women Act (VAWA), Article 129-B of the New York Education Law, and other applicable state and local laws and College policies.

### **On and Off-Campus Support Services Following a Report:**

ACPHS recommends that Reporting Individuals seek the assistance of trained professionals after an incident of Sexual Misconduct and will assist reporting individuals to receive this assistance, including information on sexually transmitted infections and sexual assault forensic examinations. Please see **Appendix D** for sources of such assistance.

### **Other Protections and Accommodations:**

#### **Interim Measures Following a Report**

- A. No Contact Order - When the Respondent is a Student, ACPHS will issue a "no contact order" consistent with ACPHS policies and procedures whereby: (1) continued intentional contact with the Reporting Individual would be a violation of this Policy subject to additional conduct charges; and (2) if the Respondent and the Reporting Individual observe each other in a public place, it is the responsibility of the Respondent to leave the area immediately and without directly contacting the Reporting Individual. The no contact order may include an appropriate schedule for the Respondent's access applicable buildings and property of ACPHS at a time when such buildings and property are not being accessed by the Reporting Individual; additional arrangements enabling both parties to access necessary academic and other resources; or such other arrangements as are necessary to protect the rights of both the Reporting Individual and the Respondent.

Upon request, the 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 the request.

- B. Court Order of Protection or Equivalent Order - Victims of Sexual Misconduct may have a right to obtain a court order to protect themselves from the perpetrators. Upon request, you will be assisted by ACPHS's security force, if applicable, or by local or state law enforcement, in obtaining an order of protection or equivalent protective or restraining order. ACPHS will provide the Respondent and the Reporting Individual a copy of any order of protection or equivalent that ACPHS receives. ACPHS will also provide the 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 Respondent's responsibility to stay away from the protected person or persons. ACPHS will provide the Respondent and the Reporting Individual an explanation of the consequences of violating

these orders, including but not limited to arrest, additional conduct charges if the Respondent is a Student, 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, subject to law enforcement jurisdiction and procedures.

C. Mandatory Interim Suspension

- a. When the Respondent is a student who is determined by a College official in her or his discretion to present a continuing threat to the health and safety of the ACPHS community, the Respondent will be subject to an interim suspension pending the outcome of the disciplinary process under this Policy.

Upon request, and consistent with ACPHS policies and procedures, ACPHS will provide the 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 the requesting student requesting review is allowed to submit evidence in support of the request.

- b. When the Respondent is an Employee who has been determined by a College official in her or his sole discretion to present a continuing threat to the health and safety of the ACPHS community, the Respondent will be subject to such interim measures, if any, as are determined by College in its sole discretion.

- D. Additional Interim Measures - ACPHS reserves the right to implement and/or offer such reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements, as it deems appropriate under the circumstances in order to help ensure safety, prevent retaliation, and avoid an ongoing hostile environment. The Respondent and the Reporting Individual shall, upon request and consistent with ACPHS's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure or accommodation that directly affects the Student requesting review, in which the Student requesting review is allowed to submit evidence in support of the request.

**Rights of All Reporting Individuals:**

1. You have the right to make a report to campus security, local law enforcement and/or state police, or to choose not to report; to report the incident to ACPHS; to be protected by ACPHS from retaliation for reporting an incident; and to receive assistance and resources from ACPHS.
2. You have the right to make a report of Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking and the right to consult the Title IX Coordinator, Deputy Title IX Coordinator, or a Compliance Officer for information and assistance. Such a report shall be investigated in accordance with this Policy and your identity shall remain private at all times if you wish to maintain privacy.
3. You have the right to emergency access to the Title IX Coordinator, Deputy Title IX Coordinator, or a Compliance Officer, who will be available upon the first instance of disclosure to provide information regarding options to proceed and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible; and explaining that the criminal justice process utilizes different standards

of proof and evidence from the internal ACPHS process under this Policy and that any questions about whether a specific incident violated the penal (criminal) law should be addressed to law enforcement or to the district attorney. The Coordinator, Deputy Coordinator, or 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.

4. You have the right to disclose confidentially the incident and obtain services from the state or local government.
5. You have the right to disclose confidentially the incident to the Title IX Coordinator, Deputy Coordinator, or a Compliance Officer, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for you.
6. You have the right to disclose the incident to the Title IX Coordinator, Deputy Coordinator, or a Compliance Officer, who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for you.
7. You have the right to receive assistance from appropriate ACPHS representatives and/or employees in initiating legal proceedings in family court or civil court.
8. If the Respondent is an employee of ACPHS, you have the right to report the incident to ACPHS's Human Resources Department, or to request that a person who is able to maintain confidentiality and/or privacy assist in reporting to the Human Resources Department.
9. You have the right to withdraw your report and/or to withdraw from involvement in the ACPHS process under this Policy at any time.
10. If you report the incident to the Title IX Coordinator, Deputy Coordinator, a Compliance Officer, or an ACPHS Campus Safety Officer, you will be provided with a copy of this Policy.

### **Additional Rights of Reporting Individuals and/or Respondents Who Are Students:**

**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 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 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.

**All students engaged in the process outlined in this Policy also have the following rights:**

1. If the Respondent is a Student, the Reporting Individual has a right to request that student disciplinary charges be filed against the Respondent in proceedings under this Policy and/or the College's disciplinary procedures.
2. The right to a process in all student disciplinary proceedings where a student is accused of Sexual Misconduct, as defined in this Policy, that may otherwise violate the student disciplinary code, that includes, at a minimum: (i) notice to a Respondent describing the date, time, location and factual allegations concerning the violation, a reference to the specific code of conduct provisions or provisions of this Policy alleged to have been violated, and possible sanctions; (ii) an opportunity to offer evidence during an investigation, and to present evidence and testimony at a hearing, where appropriate, and have access to a full and fair record of any such hearing, which shall be preserved and maintained for at least five years from such a hearing and may include a transcript, recording or other appropriate record; and (iii) access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest. In order to effectuate an appeal, a Respondent and Reporting Individual in such cases shall receive written notice of the findings of fact, the decision and the sanction, if any, as well as the rationale for the decision and sanction. In such cases, any rights provided to a Reporting Individual must be similarly provided to a Respondent and any rights provided to a Respondent must be similarly provided to a Reporting Individual.
3. Throughout proceedings involving such an accusation of Sexual Assault, Domestic Violence, Dating Violence, Stalking, or Sexual Activity that may otherwise violate the institution's code of conduct, the right: (i) For the Respondent and the Reporting Individual to be accompanied by an advisor of choice, who may assist and advise the Reporting Individual or Respondent throughout the disciplinary process including during all meetings and hearings related to such process. Rules for participation of such advisor are described below.
4. To a prompt response to any complaint and to have the complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the Respondent, including the right to a presumption that the Respondent is "not responsible" until a finding of responsibility is made pursuant to the provisions of this

article and the institution's policies and procedures, and other issues including, but not limited to domestic violence, dating violence, stalking or sexual assault.

5. To an investigation and process that is fair, impartial and provides a meaningful opportunity to be heard, and that is not conducted by individuals with a conflict of interest.
6. To have the institutions disciplinary process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten days except when law enforcement specifically requests and justifies a longer delay.
7. To review and present available evidence in the case file, or otherwise in the possession or control of the institution, and relevant to the disciplinary case, consistent with institution policies and procedures.
8. To exclude their own prior sexual history with persons other than the other party in the disciplinary conduct process and their own mental health diagnosis and/or treatment from admittance in the institution disciplinary stage that determines responsibility. Past findings of Domestic Violence, Dating Violence, Stalking, or Sexual Assault may be admissible in the disciplinary stage that determines sanction.
9. To receive written or electronic notice, provided in advance pursuant to college policy and reasonable under the circumstances, of any meeting they are required to or are eligible to attend, of the specific rule, rules or laws alleged to have been violated and in what manner, and the sanction or sanctions that may be imposed on the Respondent based upon the outcome of the disciplinary process, at which time the designated hearing or investigatory officer or panel shall provide a written statement detailing the factual findings supporting the determination and the rationale for the sanction imposed.
10. To make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
11. To simultaneous (among the parties) written or electronic notification of the outcome of the disciplinary process, including the sanction or sanctions.
12. To be informed of the sanction or sanctions that may be imposed on the Respondent based upon the outcome of the disciplinary process and the rationale for the actual sanction imposed.
13. To choose whether to disclose or discuss the outcome of the disciplinary process.
14. To have all information obtained during the course of the disciplinary process be protected from public release by ACPHS until a final determination is made of any appeal, unless otherwise required by law.

**Amnesty from College Disciplinary Process for Violations of ACPHS Student Policies on Alcohol and/or Drug Use:**

ACPHS strongly encourages the reporting of incidents of Sexual Misconduct and Sexual Harassment. 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 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. ACPHS reserves the right to provide students with amnesty under additional circumstances in its sole discretion.

### **Investigation and Disciplinary Procedures:**

#### **When the Respondent Is an Employee:**

1. The Title IX Coordinator will make an initial assessment regarding whether the information received from the Reporting Individual is sufficient to institute an investigation under this Policy and will notify the Reporting Individual of the Coordinator's decision.
2. If the Title IX Coordinator determines that the information received from the Reporting Individual is sufficient to institute an investigation under this Policy, the Title IX Coordinator will notify the Executive Director of Human Resources. The Executive Director of Human Resources will give the Respondent notice of the investigation and will carry out the investigation or will designate another trained investigator to do so. If the Executive Director or other designated investigator has a conflict of interest, an alternate investigator shall be designated by the Title IX Coordinator. If the investigator is not the Executive Director, the investigator shall carry out the investigation and report the results of the investigation to the Executive Director in such manner as the Executive Director shall determine.
3. If the Reporting Individual is a Student, the Reporting Individual will be entitled to the rights of a Reporting Individual as set forth in the following section titled "When the Respondent is a Student."
4. The investigator may attempt, where the investigator deems appropriate and the Reporting Individual and the Respondent agree, to resolve the report by exploring and suggesting possible informal solutions to the problem with all involved parties. In addition, either the Reporting Individual or the Respondent may end at any time the informal process and proceed to the process set forth below, by notifying the investigator.
  - a. In a case in which the Respondent is an employee without either faculty tenure or a written employment contract for a specific term and the Reporting Individual is not a student: After the Executive Director or designee has completed the investigation or received the report from the investigator, the Executive Director shall recommend to the President the disciplinary and/or other remedial action, if any, to be taken. The President or designee shall determine the disciplinary and/or other remedial action, if any, to be taken. The decision of the President or the President's designee is final, and there is no appeal.
  - b. In a case in which the Respondent is a faculty employee with tenure or an employee with an employment contract for a specific term and/or in which the Reporting Individual is a student: After the Executive Director or designee has completed the investigation or received the report from the investigator, the Executive Director or designee shall determine, by a preponderance of the evidence, whether a violation

has occurred; if so, shall determine the sanction(s), if any, and any other remedial action to be taken; shall notify the Reporting Individual and Respondent of the determinations and the rationale for such determinations; and shall notify the parties of their right to appeal as set forth below.

**Appeals Process-** For those individuals who are entitled to an appeal as described above, an appeal may be filed in writing with the Title IX Coordinator by either the Reporting Individual or the Respondent within five (5) business days of the date of the decision of the Executive Director or designee. The only grounds for appeal are as follows:

- 1) A procedural error occurred that significantly impacted the outcome of the investigation; or
- 2) New evidence that was not known during the original investigation may substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the appeal; or
- 3) The sanctions imposed are substantially disproportionate to the severity of the violation.

The appeal will be decided by a Title IX Panel of three persons appointed by the Title IX Coordinator or a designee and will be decided on written submissions only, unless otherwise determined by the Panel. The Panel's decision on appeal is final, except in the case of suspension or expulsion of an employee, in which case the employee may appeal **the sanction only** to the President in writing within five (5) business days of the date of the decision of the Title IX Panel. Both the Reporting Individual and the Respondent shall be permitted to make a written submission to the President on appeal. The President or designee shall decide the appeal in such manner as the President or designee shall determine. The decision of the President or the President's designee is final.

NOTE: Nothing in this Policy affects or restricts ACPHS's ability, in its sole discretion, to terminate the employment of any "at will" employee, or to not renew an employee's written contract, whether or not a violation of this Policy is found.

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

1. The Title IX Coordinator will make an initial assessment regarding whether the information received from the Reporting Individual is sufficient to institute an investigation under this Policy and will notify the Reporting Individual of the Coordinator's decision.
2. If the Title IX Coordinator determines that the information received from the Reporting Individual is sufficient to institute an investigation under this Policy, the Coordinator will notify the Respondent and the Reporting Individual and will designate a trained investigator to carry out a fair, impartial, timely, and thorough investigation. If the Coordinator or other designated investigator has a conflict of interest, an alternate investigator shall be designated by the Title IX Coordinator.
3. The notice to Respondent by the Title IX Coordinator shall describe (i) the date, time, location and factual allegations concerning the alleged violation; (ii) the specific provision(s) of this Policy alleged to have been violated; (iii) the possible sanctions for the violation; (iv) the right to participate in the investigation; (v) the deadline for responding in writing; and (vi) notice that the investigation may proceed without the participation of either party. The notice also shall also notify the Respondent of the Respondent's right to be accompanied by a support person or advisor of Respondent's choice to be present throughout the process, including any meeting, conference, hearing or other procedural action; provided, however, that such person shall not be entitled to advocate, or be entitled to ask questions, raise



objections, make statements, or otherwise communicate to the investigator or other persons involved in the investigation or decision-making other than counseling and communicating with the party who has chosen them as support person or advisor.

4. The Reporting Individual shall receive a copy of the Notice to Respondent and will also be advised of the Reporting Individual's right to: (i) participate in the investigation; and (ii) be accompanied by a support person or advisor of the Reporting Individual's choice to be present throughout the process, including any meeting, conference, hearing or other procedural action; provided, however, that such person shall not be entitled to advocate, or be entitled to ask questions, raise objections, make statements, or otherwise communicate to the investigator or other persons involved in the investigation or decision-making other than counseling and communicating with the party who has chosen them as support person or advisor. The notice also shall state that the investigation may proceed without the participation of either party.
5. The time necessary to complete an investigation will vary depending upon the facts of a particular case. In most cases, best efforts will be made to have investigations completed within 60 calendar days of receipt of a report (not to include appeals, if any), except in unusual circumstances for legitimate reasons and with written notice to the parties.
6. The investigator shall:
  - a. Provide the Reporting Individual and the Respondent with copies of this Policy.
  - b. Provide the Reporting Individual and the Respondent with an opportunity to meet with the investigator on reasonably advance written or electronic notice.
  - c. Provide the Reporting Individual and Respondent with equal opportunities to identify witnesses and present evidence supporting their respective positions at these meetings.
  - d. Provide the Reporting Individual and Respondent with the same opportunities for a support person or advisor of their choice to be present throughout the process, including any meeting, conference, hearing or other procedural action; provided, however, that such person shall not be entitled to advocate, or be entitled to ask questions, raise objections, make statements, or otherwise communicate to the investigator or other persons involved in the investigation other than counseling and communicating with the party who has chosen them as support person or advisor.
  - e. Provide the Reporting Individual and Respondent with the opportunity to exclude from the investigator's consideration, when determining responsibility for a violation: (1) their own prior sexual history with persons other than the other party in the disciplinary process and (2) their own mental health diagnosis and/or treatment.
7. The investigator may attempt, where the investigator deems appropriate and the Reporting Individual and the Respondent agree, to resolve the report by exploring and suggesting possible informal solutions to the problem with all involved parties. In addition, either the Reporting Individual or the Respondent may end at any time the informal process and proceed to the process set forth below, by notifying the investigator.
8. If informal resolution is not reached the investigator shall make written findings of fact and a determination, by a preponderance of the evidence (more likely than not), whether a

violation of this Policy has occurred and forward such written findings and a recommended determination and sanction to the Dean of Students who will then schedule a mandatory hearing.

9. The Dean of Students or designee (who has received Title IX Training) shall provide the investigator's written findings and recommended determination and sanctions to the Reporting Individual and the Respondent and give both parties notice of the required hearing.
10. The Dean or designee shall give the parties notice of the time of place of such hearing, at which each party is permitted, but not required, to appear in person and make an oral statement; present evidence in writing; and present a statement or argument in writing. If a party appears in person, the party shall be subject to questioning by the Dean or designee. The parties shall not be required to be present in the same room at the same time. The Dean or designee may also review such other evidence or hear such testimony, including without limitation interviewing the investigator, as the Dean or designee may deem appropriate. Neither the Reporting Individual nor the Respondent may cross-examine each other or any witnesses produced or questioned by the Dean or designee during the hearing. The Dean or designee will permit either party to exclude from the Dean or designee's consideration, when determining responsibility for a violation: (1) their own prior sexual history with persons other than the other party in the disciplinary process and (2) their own mental health diagnosis and/or treatment.
11. The Dean or designee shall determine, by a preponderance of the evidence, whether a violation has occurred and shall notify the Reporting Individual and Respondent of the determination. If it is determined that no violation has occurred, the Dean or designee shall issue simultaneously to the Reporting Individual and the Respondent, written notice of the Dean's decision and the rationale for such decision and also shall notify the Reporting Individual of the Reporting Individual's right to appeal the determination, as set forth below.
12. If it is determined that a violation has occurred, the Dean or designee shall issue simultaneously to the Reporting Individual and the Respondent, written notice of the Dean's decision and the rationale for such decision and also shall notify the parties of each party's right to make an "impact statement" with regard to any sanction(s) or other remedial action to be imposed. Such "impact statement" may be provided orally or in writing, or waived, at the party's option. The Dean or designee may consider past findings of Domestic Violence, Dating Violence, Stalking, or Sexual Assault when determining sanction(s). The Dean or designee shall then determine what sanction(s), if any, are appropriate and any other remedial action to be taken, and shall notify the parties in writing of such determination and the rationale for the determination. The Dean or designee shall also notify the parties in writing of their right to appeal the determination and/or the sanction(s) or other remedial action to the Title IX Panel, as set forth below.

**Appeals Process-** An appeal may be filed in writing with the Title IX Coordinator by either the Reporting Individual or the Respondent within five (5) business days of the date of the decision of the Dean or designee. The only grounds for appeal are as follows:

1. A procedural error occurred that significantly impacted the outcome of the investigation; or

2. New evidence unavailable during the original investigation may substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the appeal; or
3. The sanctions imposed are substantially disproportionate to the severity of the violation.

The appeal will be decided by a Title IX Panel of three persons appointed by a designee assigned by the Title IX Coordinator and will be decided on written submissions only, unless otherwise determined by the Panel. The Panel's decision on appeal is final, except in the case of suspension or expulsion of a student, in which case the student may appeal **the sanction only** to the President in writing within five (5) business days of the date of the decision of the Dean or designee. Both the Reporting Individual and the Respondent shall be permitted to make a written submission to the President on appeal. The President or designee shall decide the appeal in such manner as the President or designee shall determine. The decision of the President or the President's designee is final.

### **Sanctions and Remedial Measures:**

Sanctions shall be imposed pursuant to the decision of the investigator or other decision-maker in the individual case, as provided above. Sanctions for students may include, but are not limited, to the disciplinary penalties set forth in the Student Disciplinary Process and attached to this Policy as **Appendix E**. Sanctions for employees shall be as determined in the individual case and may include dismissal from employment.

In addition to any sanctions upon the Respondent, ACPHS will also take such other remedial measures as it may deem necessary or appropriate, including without limitation measures to prevent such future conduct or to correct personnel or academic decisions related to the prohibited conduct. Other measures may include, but are not limited to, continuing or commencing any of the above-listed Interim Measures, in addition to any Interim Measures that may have been provided prior to the conclusion of the investigation. Such measures may be requested by the Reporting Individual.

Sanctions will be in effect during any appeal; however, a request may be made to the Title IX Coordinator for special consideration in exigent circumstances. 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 an appeal.

### **Prohibition of Retaliation:**

It is a violation of federal and state law and this Policy to retaliate against any student or employee for exercising any rights under the Violence against Women Act, the Clery Act, Title IX, Title VII or state anti-discrimination laws, and/or this Policy. This includes retaliating against a student or employee who reports in good faith an incident of Sexual Misconduct or Sexual Harassment or who furnishes information or participates in any manner in an investigation of such a report. Retaliation includes conduct directed at someone because he or she engaged in such protected activity that might deter a reasonable student or employee from making or supporting such a report.

Any employee or student who believes the employee or student has been subjected to retaliation as a result of a report or participation in the investigation of a report should report this to the Title IX Coordinator or Deputy Coordinator immediately.

### **Confidential Information in Related Proceedings:**

In any proceeding brought against ACPHS which seeks to vacate or modify a finding that a student engaged in Sexual Misconduct, 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:**

If a student is found responsible for a crime of violence, including but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act, ACPHS is required by law to make a notation on the student's transcript that the student was "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 as described above are pending against the student, and declines to complete the disciplinary process, ACPHS is required by law to make a notation on the student's transcript that the student "withdrew with conduct charges pending."

These transcript notations may be appealed in writing to the Dean of Students or designee within five (5) business days of receipt of Title IX decision letter. 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 shall be removed.

### **Violation of Law; Employee Personal Liability:**

Engaging in Sexual Misconduct or Sexual Harassment may also lead to civil and/or criminal action under Vermont, New York, or federal law. In addition, any employee who engages in Sexual Misconduct or Sexual Harassment in violation of this Policy 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.

### **Memoranda of Understanding:**

If on-campus resources are not available, ACPHS will, to the extent practicable, enter into memoranda of understanding or collaborative partnerships with existing community-based organizations, to refer students for assistance or make services available to students, including counseling, health, mental health, victim advocacy, and legal assistance, which may also include resources and services for a Respondent. ACPHS will, to the extent practicable, also facilitate access to a sexual assault forensic examination either at a campus health center or with an outside provider on such terms and at such cost, if any, that such providers may impose. ACPHS may also, to the extent practicable, refer statements to resources for legal assistance, at such cost as such resources may impose.

ACPHS will also propose and endeavor to execute memoranda of understanding in partnership with:

1. a local rape crisis center, to provide victim advocacy and support services to victims of sexual violence; and
2. local law enforcement authorities, regarding the protocols and procedures for referring allegations of sexual violence, relationship violence, and stalking, sharing information and conducting contemporaneous investigations regarding such allegations.

**Sexual Offender Registry:**

See **Appendix F** for Sexual Offender Registry Information.

**Education and Training for Students and Employee:**

Please see **Appendix G** for education and training information.

**Public Awareness Programs:**

See **Appendix H** for public awareness programs.

Note: If an individual discloses information through a public awareness event such as candlelight vigil, protest, 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.

**Climate Surveys:**

See **Appendix I** for Climate Survey information.

**Annual Reporting:**

See **Appendix J** for Annual Reporting information.

## APPENDIX A

<b>TITLE IX COORDINATOR</b>	<b>DEPUTY TITLE IX COORDINATOR</b>
Dean of Students Currently: <b>Wendy Neifeld Wheeler</b> Library Building, 310 Ext. 319 (518-694-7319) Email: Wendy.NeifeldWheeler@acphs.edu	Executive Director of Human Resources Currently: <b>Susan Karavolas</b> O'Brien Building, 001 Ext. 728 (518-694-7728) Email: Susan.Karavolas@acphs.edu
<b>COMPLIANCE OFFICERS</b>	
Vice President for Operations Currently: <b>Packy McGraw</b> O'Brien Building, 104C Ext. 257 (518-694-7257) Email: Packy.McGraw@acphs.edu	Associate Director of Student Affairs, Vermont Currently: <b>Jennifer Payne</b> Vermont 102B 802-735-2628 Email: Jennifer.Payne@acphs.edu
Director of Residence Life Currently: <b>Alison Buckley</b> Gozzo Student Center, 207C Ext. 155 (518-694-7155) Email: Alison.Buckley@acphs.edu	Director of Athletics and Recreation Currently: <b>Christine Kanawada</b> Gymnasium 102 Ext. 357 (518-694-7355) Email: Christine.Kanawada@acphs.edu
Academic Support Coordinator Currently: <b>Alyssa Abitabile</b> Library Building, 303B Ext. 147 (518-694-7147) Email: Alyssa.Abitabile@acphs.edu	Coordinator of Academic Learning Services Currently: <b>Jarrett Lykins</b> Library Building 303A Ext. 284 (518-694-7284) Email: Jarrett.Lykins@acphs.edu
Assistant Director of Residence Life Currently: <b>Rebecca Beach</b> Gozzo Student Center, 207B Ext. 371 (518-694-7371) Email: Rebecca.Beach@acphs.edu	Admin. Assistant, Dept. of Pharm. Sci. Currently: <b>Jill Buckpitt</b> Vermont 302C 802-735-2645 Jill.Buckpitt@acphs.edu
Academic Advisor Currently: <b>Kim Keyes</b> Library Building, 309C Ext. 893 (518-694-7893) Email: Kimberly.Keyes@acphs.edu	Coordinator of Student Affairs, Vermont Currently: <b>Carolyn Claxton</b> Vermont 102C 802-735-2620 Email: Carolyn.Claxton@acphs.edu

## APPENDIX B

### **Resources for Confidential or Anonymous Reporting**

#### At ACPHS (Albany):

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

#### Outside ACPHS (Albany):

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/](http://www.albanycounty.com/cvsvc/)

#### Outside ACPHS (Vermont):

Vermont Statewide Sexual Violence Hotline: [800-489-7273](tel: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>

### **Anonymous reporting to Confidential Hotlines provided by New York and Vermont state agencies and not-for-profit entities:**

- New York State Domestic and Sexual Violence Hotline: 1-800-942-6906.
- Equinox Hotline: 518-432-7865.
- Unity House Hotline: 518-272-2370.
- Vermont Network Against Domestic & Sexual Violence: 1-800-228-7395 (domestic violence), 1-800-489-7273 (sexual violence)
- HOPE Works: 802-863-1236
- Women Helping Battered Women (VT): 1-802-654-1996
- 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).

## APPENDIX C

### **Reporting to State or Local Law Enforcement:**

#### At ACPHS (Albany):

Albany Police Department, 165 Henry Johnson Blvd., Albany, 518-438-4000  
NY State Police Sexual Assault Victims Unit, 1-844-845-7269

#### At ACPHS (Vermont):

Colchester Police Department, 835 Blakely Rd., Colchester, 802-264-5555  
Vermont State Police Department, 2011 VT-107, Bethel, 802-234-9933

### **Reporting to ACPHS Campus Public Safety:**

#### At ACPHS (Albany):

University Heights Association (UHA) Public Safety, 130 New Scotland Ave.,  
Albany, NY, 518-244-3177 (Emergency), 518-244-4741 (Non-Emergency)

#### At ACPHS (Vermont):

Hunter North Associates (HNA) Public Safety, 802-349-4909

#### Hours of Operation:

Mon.-Thurs.: 2pm-6pm

Fri.: 2pm-6pm

Sat.: Noon-6pm

Sun.: Noon-10pm

***For emergency services outside of these hours please contact 9-1-1***



## APPENDIX D

ACPHS's Counseling and Wellness Center in Albany, and UVM Medical Center in Colchester, are providers of 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:

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

<b>Program/Entity</b>	<b>Contact Information</b>	<b>Cost</b>
New York State Office for the Prevention of Domestic Violence	P: 1-800-942-6906 E: <a href="http://www.opdv.ny.gov/contact.html">http://www.opdv.ny.gov/contact.html</a>	No cost
New York State Coalition Against Sexual Assault	P: 1-800-942-6906 E: <a href="http://nyscasa.org/information">http://nyscasa.org/information</a>	For a fee
The Albany County Crime Victim and Sexual Violence Center	P: (518) 447-7716 E: <a href="http://www.albanycounty.com/Government/Departments/CrimeVictimandSexualViolenceCenter.aspx">http://www.albanycounty.com/Government/Departments/CrimeVictimandSexualViolenceCenter.aspx</a>	No cost
New York State Office of Victim Services	518-457-8727 E: <a href="http://ovs.ny.gov">http://ovs.ny.gov</a>	No cost
Equinox, Albany, NY	P: (518) 434-6135 E: <a href="http://www.equinoxinc.org/contact/index.php">http://www.equinoxinc.org/contact/index.php</a>	No cost
Legal Aid Society of Northeastern New York	P: 1-800-462-2922 E: <a href="http://www.lasnny.org">http://www.lasnny.org</a>	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
RU12 Pride Center of VT	P: (802) 860-7812 E: <a href="http://www.pridecentervt.org/">http://www.pridecentervt.org/</a>	No cost
Women Helping Battered Women – VT	P: (802) 658-1996 (24hr hotline)	No cost

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

<b>Program/Entity</b>	<b>Location</b>	<b>Contact Information</b>	<b>Cost</b>
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: 518-262-1550	Fees charged
Albany Memorial Hospital	600 Northern Blvd. Albany, NY 12204	P: 518-471-3221	Fees charged
University of Vermont Medical Center	790 College Parkway Fanny Allen Campus, Colchester, VT 05446	Phone:(802) 847-1170	Fees charged

## APPENDIX E

### **Respondent Sanctions:**

- a. Warning - A notice in writing to the Respondent that the Respondent is violating or has violated institutional regulations.
- b. Probation - A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the Respondent is found to be violating any institutional regulation(s) during the probationary period.
- c. Loss of privileges - Denial of specified privileges for a designated period of time.
- d. Fines - Previously established and published fines may be imposed.
- e. Restitution - Compensation for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement.
- f. Discretionary sanctions -Work assignments, service to the College or other related discretionary assignments.
- g. Residence hall suspension - Separation of the Respondent from the residence halls for a definite period of time, after which the Respondent is eligible to return. Conditions for readmission may be specified.
- h. Residence hall expulsion - Permanent separation of the Respondent from the residence halls.
- i. College suspension - Separation of the Respondent from the College for a definite period of time, after which the Respondent is eligible to return. Conditions for readmission may be specified in the sanction.
- j. College expulsion - Permanent separation of the Respondent from the College.
- k. Counseling - Counseling or a counseling program can be recommended and/or required by the Student Conduct Officer or the Student Conduct Committee. The Director of Counseling and Wellness, or a designee, will determine the length and type of counseling.
- l. Withholding Degree - The College may withhold awarding a degree otherwise earned until the completion of the process set forth in this Policy, including the completion of all sanctions imposed, if any.

## APPENDIX F

### **Sex 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](http://www.criminaljustice.state.ny.us/nsor/index.htm). The Vermont sex offender registry may be accessed at [http://vcic.vermont.gov/sex\\_offender](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.

## APPENDIX G

### **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 Reporting Individual and the Respondent 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 Reporting Individual or the Respondent in any meeting or institutional disciplinary proceeding; and
  - e. require simultaneous notification, in writing, to both the Reporting Individual and the Respondent, 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 Respondent 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.

## APPENDIX H

### **Public Awareness and Advocacy Events:**

ACPHS may from time to time schedule primary prevention, public awareness, and advocacy programs for students or employees, which may 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/>.

Note: If an individual discloses information through a public awareness event such as candlelight vigil, protest, 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.



## APPENDIX I

### 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.

## APPENDIX J

### Annual Reporting:

Reports of certain crimes occurring in specific geographic locations are included in ACPHS' annual security report (ASR), 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.