



**Potsdam**  
THE STATE UNIVERSITY OF NEW YORK

# **SEXUAL VIOLENCE RESPONSE POLICY**

Effective July 28, 2016

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## **I. Introduction**

SUNY Potsdam strives to maintain a respectful, safe, and non-threatening environment for its students, faculty, staff, and visitors. The College does not tolerate sexual violence of any kind, which includes sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This policy establishes procedures for responding to incidents of sexual violence and sets forth available resources for individuals reporting sexual violence and for individuals accused of or responding to allegations of sexual violence. All complaints will be addressed in accordance with the SUNY Discrimination Complaint Procedure, which can be found at: [http://www.suny.edu/sunypp/documents.cfm?doc\\_id=451](http://www.suny.edu/sunypp/documents.cfm?doc_id=451).

## **II. Student's Bill of Rights**

SUNY Potsdam is committed to providing options, support, and assistance to members of the campus community that are affected by sexual assault, sexual harassment, domestic violence, dating violence, and stalking regardless of whether the crime or violation occurred on campus, off campus, or while studying abroad. The rights listed below are afforded to all students reporting sexual violence, as well as all students accused of sexual violence, 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, status as a domestic violence victim, or criminal conviction. All students have the right to:

- Make a report to local law enforcement or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in an institutional administrative or conduct process or the criminal justice process free from pressure by the institution;
- Participate in a process that is fair, impartial and that provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
- 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;
- Describe the incident to as few institutional representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- Be protected from retaliation by the institution, any student, the accused/respondent, and their friends, family and acquaintances that are within the jurisdiction of the institution;
- At least one level of appeal of a determination;
- Be accompanied by an advisor of their choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process, including during all meetings and hearings related to the process; and

- The exercise of civil rights and practice of religion without interference by the investigative, criminal justice, or administrative or conduct process of the institution.

### **III. Procedures for Responding to a Victim of Sexual Violence**

- A. **Ensuring the Reporting Individual's Safety**<sup>1</sup>: If you or the reporting individual believe that there is an immediate threat or danger, call University Police at (315) 267-2222, or extension 2222, or if off-campus dial 911. Below are the non-emergency numbers for many of the local police agencies:

University Police	(315) 267-2222	Van Housen Hall, Room 181
Potsdam Village Police	(315) 265-2121	38 Main Street, Potsdam, New York
St. Lawrence County Sheriff's Department	(315) 379-2222	48 Court Street, Canton, New York
New York State Police	(315) 379-0012	Public Safety Building, 49 ½ Court Street, Canton, New York
New York State Police Campus Sexual Assault 24 Hour Hotline	(844) 845-7269	

- B. **Offering Medical Treatment**: Individuals who have experienced a recent sexual assault or act of physical violence are encouraged to visit a hospital, clinic, or Student Health Services<sup>2</sup> to assess and address their medical needs. A medical exam can assess a victim's injuries and provide necessary medical advice and medication. Reporting individuals should be advised that information provided during a medical exam is confidential and will not be released or shared without the reporting individual's consent.

**Individuals reporting sexual assault** should also be advised of their option to undergo a Sexual Assault Forensic Exam. These exams are performed by skilled clinicians at local hospitals. The exam includes assessment for and treatment of injury, addressing concerns of pregnancy and sexually transmitted infections (STI's), and collection of evidence. Individuals reporting sexual assault should be advised as follows:

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<sup>1</sup> The term 'Reporting Individual' encompasses the term victim, survivor, complainant, claimant, or witness with victim status. A reporting individual may also include a person who has witnessed the sexual violence and has reported it.

<sup>2</sup> Student Health Services is for students only and does not perform emergency medical care of Sexual Assault Forensic Examinations. However, Student Health Services will provide non-emergent care and medical follow up, including attention to injuries and evaluation for STI's and pregnancy.

- That choosing to undergo a Sexual Assault Forensic Exam **does not** require that the victim report the violence to police or College administration. However, the exam is strongly recommended as it will greatly enhance the likelihood of a successful prosecution of the assailant in criminal cases should the victim choose to report the incident now or in the future.
- That it is important not to bathe, wash, change clothes, or brush one's teeth prior to seeking medical attention. If possible, it is also best that the victim not take fluids or use the bathroom prior to the exam.
- That for the purposes of evidence collection, the Sexual Assault Forensic Exam should be conducted within 96 hours of the assault. However, even if 96 hours have elapsed, the exam is still recommended. That the Sexual Assault Forensic Exam is free, and does not have to be charged to the victim's insurance.
- That information provided during the Sexual Assault Forensic Exam is confidential, and will not be released or shared with anyone, including Police and the College without the victim's consent.
- The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found here: [www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf) or by calling 1-800-247-8035. Options are explained here: [www.ovs.ny.gov/helpforcrimevictims.html](http://www.ovs.ny.gov/helpforcrimevictims.html)

If an individual reporting sexual violence chooses to obtain medical care, assistance will be provided in arranging for transportation to the hospital or clinic chosen by the reporting individual or to the Student Health Services (students only). This assistance can be provided by University Police, Residential Life Staff, or the Title IX Coordinator. Reporting individuals can request that an advocate accompany them to the hospital. Off-campus advocates are available to the entire campus community through St. Lawrence Valley Renewal House.

Canton-Potsdam Hospital	(315) 265-3300	50 Leroy Street, Potsdam, New York
Potsdam Volunteer Rescue Squad	(315) 265-2550	
Student Health Services (students only) <a href="mailto:shs@potsdam.edu">shs@potsdam.edu</a>	(315) 267-2377	Van Housen Hall, Room 119
St. Lawrence Valley Renewal House	(315) 379-9845	3 Chapel Street, Canton, New York

- C. **Provide Information:** At this first instance of disclosure by a reporting individual to ANY college employee, the following information shall be presented to the reporting individual: (1) “You have the right to make a report to University Police, local law enforcement, and/or State Police or choose not to report; (2) You have the right to report the incident to SUNY Potsdam; (3) You have the right to be protected by the College from retaliation for reporting an incident; and (4) You have the right to receive assistance and resources from the College.”

Reporting individuals should then be directed to the Title IX Coordinator or Deputy Title IX Coordinator **and** this policy for further guidance and information.

#### **IV. Resources for Victim/Survivors of Sexual Violence**

Persons who experience unwelcome sexual behavior may respond to the experience in many different ways, including feeling confused, overwhelmed, and vulnerable, out of control, embarrassed, angry, distrustful, or depressed. SUNY Potsdam provides a variety of resources for support and advocacy to assist individuals who have experienced sexual violence. The College will also provide reporting individuals with information about how to report the violence, should they choose to do so. Reporting individuals have the right to emergency access to one of the following university representatives:

- Title IX Coordinator at (315) 267-2516
- Deputy Title IX Coordinator - VACANT
- University Police (available 24 hours) at (315) 267-2222

The above representatives are trained in interviewing victims of sexual assault and will be available upon the first instance of disclosure by a reporting individual to provide written information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic exam or other medical examination as soon as possible. These representatives can also provide information about an administrative investigation by the College and the criminal justice process and will inform the individual about the different standards of proof utilized by each process. The above representatives will refer a reporting individual to law enforcement if there are questions about whether a specific incident violated the law. Each representative will inform the reporting individual whether he or she is authorized to offer the reporting individual confidentiality or privacy.

The above representatives will provide services to all victims of sexual assault, domestic violence, dating violence, and stalking. They will take the time to listen, explain, and explore service options with them. They will discuss options for medical care, reporting, counseling, academic and housing accommodations, and student conduct complaints. They will also provide ongoing support and advocacy throughout a reporting individual's involvement with these various processes.

Victims are strongly encouraged to visit a representative above for advocacy, support, information, counseling, and accommodations, thereby eliminating the need for reporting individuals to navigate services and referrals on their own. This important function assists in ensuring that reporting individuals do not experience re-victimization by having to repeat their personal account each time.

### **Employee Assistance Program (Employees Only)**

The Employee Assistance Program provides faculty and staff with free, confidential assistance from a qualified professional who can listen, be supportive, and who can recommend additional services. An Employee Assistance Coordinator can be reached at (315) 267-3434 or (315) 267-2229.

**Additional Effective Intervention Services** can be accessed at Canton-Potsdam Hospital, Counseling Center (students only), and St. Lawrence Valley Renewal House.

## **V. Protection and Accommodations**

Individuals reporting sexual violence and individuals accused of or responding to allegations of sexual violence are afforded the following protections and accommodations:

- The College can issue a “No Contact Order,” consistent with college policy and procedure, meaning that continuing to contact the protected individual is a violation of college policy and subject to additional conduct charges; if accused and a protected individual observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person. The campus will promptly review existing “No Contact Orders” at a party’s request, including requests to modify the terms of or discontinue the order. The parties can submit evidence to support their requests. If the campus finds it appropriate, it can even make a schedule for parties who seek to use the same facilities without running afoul of the “No Contact Order.”
- To have assistance from University Police or other college officials in initiating legal proceedings in family court or civil court, including but not limited to obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.
- To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a College official who can explain the order and answer questions about it,<sup>3</sup> including information from the order about the accused’s responsibility to stay away from the protected person(s); that burden does not rest of the protected person(s).
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.

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<sup>3</sup> The Title IX Coordinator, Deputy Title IX Coordinator, and University Police are available to explain and answer questions about Orders of Protections to reporting individuals and accused/responding individuals.

- To have assistance from University Police in effecting an arrest when an individual violates an Order of Protection or, if outside of New York State, an equivalent protective or restraining order within the jurisdiction of University Police or, if outside of the jurisdiction to call on and assist local law enforcement in effecting an arrest for violating such an order.
- When the accused is a student and presents a continuing threat to the health and safety of the community, the accused may be placed on interim suspension pending the outcome of a conduct process. The campus will promptly review existing interim suspensions at a party's request, including requests to modify the terms or discontinue it. Parties can submit evidence to support their request.
- When the accused is not a student but is a member of the College community and presents a continuing threat to the health and safety of the community, the accused may be subject to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and SUNY Potsdam policies and rules. The campus will promptly review existing interim measures at the request of the party who is affected by that interim measure. The parties can submit evidence to support their request.
- When the accused is not a member of the College community, to have assistance from University Police or other college officials in obtaining a persona non grata letter, subject to legal requirements and college policy.
- To receive assistance from appropriate College representative's/community partners in initiating legal proceedings in family court or civil court.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. The campus will promptly review existing interim measures and accommodations at the request of the party who is affected by that interim measure or accommodation. The parties can submit evidence to support their request. While reporting individuals may request accommodations through any of the offices referenced in this policy, the following can serve as a point to assist with these measures:
  - Title IX Coordinator & Affirmative Action Officer Stacey Basford, Van Housen 392, [basforsl@potsdam.edu](mailto:basforsl@potsdam.edu), (315) 267-2516

All victims of sexual violence, as well as those accused of or responding to allegations of sexual violence, may request reasonable accommodations through the offices referenced in this section of the policy.

## **VI. Options for Confidentially Disclosing Sexual Violence**

SUNY Potsdam wants individuals who have experienced sexual violence to get the information and support that they need regardless of whether they would like to move forward with a report of sexual violence to campus officials or to police. A person may want to talk with someone about something they have observed or experienced, even if



they are not sure that the behavior constitutes sexual violence. A conversation where questions can be answered is far superior to keeping something to one's self. Confidentiality varies, and this section of the policy is aimed at helping our community understand how confidentiality applies to the different resources that may be available.

**Privileged and Confidential Resources on Campus:**

Reporting individuals have the right to confidentially disclosure an incident to College officials who are designated as confidential resources. These individuals can assist in obtaining services for reporting individuals. Individuals who are *confidential* resources will **not** report crimes to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency. Additionally, federal law and guidance<sup>4</sup> requires that they report only the nature, date, time and general location of an incident to the Title IX Coordinator, but will consult with you to ensure no personally identifying details are shared without your consent. ***It is important to understand that confidential resources will not share a victim/survivors name, or any other identifiable information without the victim/survivors consent.***

**Confidential Resources for Students:**

Renewal House Campus Advocate	<a href="mailto:renewalhouse_campus@verizon.net">renewalhouse_campus@verizon.net</a>	VanHousen Hall, Room 387
Counseling Center	(315) 267-2330	VanHousen Hall, Room 131
Student Health Services	(315) 267-2377	VanHousen Hall, Room 119
Campus Ministry	(315) 267-2680	Barrington Student Union, Room 221B

**Confidential Resources for Employees:**

Employee Assistance Program	(315) 267-3434 or (315) 267-2229	Crumb Library, Room 107
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<sup>4</sup> On April 29, 2014 the United States Department of Education's Office for Civil Rights issued "significant guidance" on the implementation of Title IX of the Education Amendments of 1972 in a document entitled, "Questions and Answers on Title IX and Sexual Violence." Section E of that document sets forth the limited and anonymous reporting requirements.

**Off-Campus Options to Disclose Sexual Violence Confidentially:**

Reporting individuals may also ***confidentially*** disclose the incident and obtain services from the following resources and hotline. Please note that the hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the campus.

St. Lawrence Valley Renewal House	3 Chapel Street, Canton, New York, (315) 379-9845
Reachout of St. Lawrence County	70 Market Street, Potsdam, New York, (315) 265-2420 or 24 Hour Hotline (315) 265-2422
New York State Office for the Prevention of Domestic Violence	<a href="http://www.opdv.ny.gov/help/dvhotlines.html">www.opdv.ny.gov/help/dvhotlines.html</a> (800) 942-6906

**Off-Campus Healthcare Providers:**

Reporting individuals may also confidentially disclose the incident and obtain services from off-campus medical providers. Some of the area providers are listed below. It is important for Reporting Individuals to be aware that:

- Medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered;
- The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. More information may be found here: [http://www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf) or by calling 1-800-247-8035. Options are explained here: <http://www.ovs.ny.gov/helpforcrimevictims.html>
- Note that even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.

Canton-Potsdam Hospital	(315) 265-3300	50 Leroy Street, Potsdam, New York
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**Requesting Confidentiality: How SUNY Potsdam Will Weigh the Request and Respond:**

If a reporting individual discloses an incident to a SUNY Potsdam employee who is responsible for responding to or reporting sexual violence or sexual harassment, but the reporting individual wishes to maintain confidentiality or does not consent to the institution's request to initiate an investigation, the Title IX Coordinator must weigh their request against the College's obligation to provide a safe, non-discriminatory environment for all members of our community, including the reporting individual.

The College will assist the reporting individual with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of their reporting choices. While reporting individuals may request accommodations through several college offices, the following College officials can serve as a primary point of contact to assist with these measures:

Title IX Coordinator <a href="http://www.potsdam.edu/offices/hr/titleix/">www.potsdam.edu/offices/hr/titleix/</a>	(315) 267-2516	Van Housen Hall, Room 392
Deputy Title IX Coordinator	VACANT	

The College may also take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify the reporting individual or the situation they disclosed.

The College may seek consent from a reporting individual prior to conducting an investigation. He or she may decline to consent to an investigation, and that determination will be honored unless the College's failure to act does not adequately mitigate the risk of harm to the reporting individual or other members of the College community. Honoring the reporting individual's request may limit the College's ability to meaningfully investigate and pursue conduct action against an accused individual. If the College determines that an investigation is required, the reporting individual will be notified and immediate action will be taken as necessary to protect and assist the reporting individual.

When an individual discloses an incident to someone who is responsible for responding to or reporting sexual violence or sexual harassment, but wishes to maintain confidentiality, the College will consider many factors to determine whether to proceed despite that request. These factors will include, but are not limited to:

- Whether the accused has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation, such as a situation that previously involved sustained stalking.
- The increased risk that the accused will commit additional acts of violence;
- Whether the accused used a weapon or force;
- Whether the reporting individual is a minor; or
- Whether we possess other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location or by a particular group.

If the College determines that it must move forward with an investigation, the reporting individual will be notified and the College will take immediate action as necessary to protect and assist them. Please note that honoring a reporting individual's request that the College refrain from conducting an investigation may limit the College's ability to meaningfully investigate and pursue conduct action against an accused individual.

**Privacy Versus Confidentiality:**

Even College offices and employees who cannot guarantee *confidentiality* will maintain your *privacy* to the greatest extent possible. The information provided by a reporting individual to a non-confidential resources will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee who is responsible under the law<sup>5</sup> for tracking patterns and spotting systemic issues. The College will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

**Public Awareness/Advocacy Events:**

If a situation is disclosed through a public awareness/advocacy event such as “Take Back the Night,” candlelight vigils, protests, or other public event, the College is not obligated to begin an investigation but may use the information to initiate additional education and prevention efforts.

**VII. How To Report Sexual Violence**

In accordance with the Student’s Bill of Rights, reporting individuals shall have the right to pursue more than one of the options below at the same time, or to choose not to participate in any of the options below.

**Reporting to the College**

Reporting individuals have the right to report an incident of sexual violence to one of the following College officials who can offer *privacy* and can provide information about remedies, accommodations, evidence preservation, and how to obtain resources. Please note that an official who can offer privacy may still be required by law<sup>6</sup> and College policy to inform one or more College officials about the incident, including but not limited to the Title IX Coordinator. These officials will:

- Provide the Reporting Individual with a copy of the Students’ Bill of Rights
- Disclose that they are private and not confidential resources, and that they may be required by law and SUNY Potsdam’s policy to inform one or more College officials about the incident, including but not limited to the Title IX Coordinator.
- Notify reporting individuals that the criminal justice process uses different standards of proof and evidence than institutional administrative procedures, and questions about the penal law or the criminal process should be directed to law enforcement or the District Attorney.

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<sup>5</sup> A number of significant guidance documents issued by the Department of Education’s Office of Civil Rights have indicated that Title IX of the Education Law Amendments of 1972 requires an institutions’ Title IX Coordinator to keep records necessary to track patterns or identify areas of concern.

<sup>6</sup> The United States Department of Education Office of Civil Rights guidance states that Title IX of the Education Amendments of 1972 requires an institutions “responsible employees” to report all known incidents of sexual violence to the institution’s Title IX Coordinator. This guidance defines “responsible employee” as an employee who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty.

**Title IX Coordinator:**

The Title IX Coordinator is available to receive reports and to provide information and assistance regarding an incident of sexual assault, domestic violence, dating violence, and/or stalking. Reports will be investigated in accordance with SUNY Potsdam's policy and a reporting individual's identity shall remain private at all times if they wish to maintain privacy. If a reporting individual wishes to keep his/her identity anonymous, he or she may call the Title IX Coordinator anonymously to discuss the situation and available options.

Title IX Coordinator <a href="http://www.potsdam.edu/offices/hr/titleix/">www.potsdam.edu/offices/hr/titleix/</a>	(315) 267-2516	Van Housen Hall, Room 392
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**Human Resources:**

When the accused is an employee, a reporting individual may also report the incident to the Office of Human Resources or may request that one of the above-referenced confidential or private employees assist in reporting to Human Resources. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the College, College officials will, at the request of the reporting party, assist in reporting to the appropriate office of the vendor or affiliated entity, and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and college policy.

Human Resources <a href="http://www.potsdam.edu/offices/hr/index.cfm">www.potsdam.edu/offices/hr/index.cfm</a>	(315) 267-4816	Raymond Hall, Room 219
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**Reporting to the Police:**

Reporting individuals have the right to file a criminal complaint with SUNY Potsdam University Police or with local law enforcement:

University Police (available 24 hours a day)	(315) 267-2222	VanHousen Hall, Room 181
Potsdam Village Police	(315) 265-2121	38 Main Street, Potsdam, New York
St. Lawrence County Sheriff's Department	(315) 379-2222	48 Court Street, Canton, New York
New York State Police	(315) 379-0012	Public Safety Building, 49 ½ Court Street, Canton, New York
New York State Police Campus Sexual Assault 24 Hour Hotline	(844) 845-7269	

**Anonymous Reporting:**

Incidents of sexual violence can be reported anonymously to College officials here:

<http://www.potsdam.edu/studentlife/safety/incidentreporting/witnessform.cfm>

**Withdrawal of Complaints/Involvement:**

A reporting individual has the right to withdraw their complaint from the College process at any time.

**VIII. Resources and Support for Students Who Are Accused of Sexual Violence**

The following student support resources are available to students who have been accused of sexual violence:

- Students who are accused of sexual violence may discuss their situations privately with licensed clinicians at the Counseling Center. An accused student's conversations with College counselors and staff will not be reported to anyone else in the College except in cases of a threat of imminent physical harm. However, statements made to certain employees in these offices may not be legally confidential. When seeking private advice and support from these offices or from any College employee, students should always confirm whether legal confidentiality applies to their communications with the person to whom they are speaking.
- Students who are accused of sexual violence may request reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to prevent retaliation and avoid an ongoing hostile environment. Accused students may request accommodations through the Title IX Coordinator or Deputy Title IX Coordinator who can serve as a point to assist with these measures.
- Students who are accused of sexual violence have the right to due process. The College will treat accused students with fairness and respect and will ensure that its investigations and disciplinary proceedings are conducted in accordance with principles of due process.
- A student who is accused of sexual violence may be assisted during the disciplinary hearings and related meetings by an advisor of their choice. An advisor is any individual who provides the accused support, guidance, or advice. Advisors may not address the student conduct hearing board panelists during a disciplinary hearing but may speak privately with the advisee during the proceedings.

## **IX. Investigation Procedures**

SUNY Potsdam is committed to conducting adequate, reliable, and impartial investigations of reports and complaints of sexual violence, and to doing so in a timely manner. The Title IX Coordinator is responsible for overseeing and coordinating many aspects of this response. **All SUNY Potsdam employees, other than the confidential resources discussed above, are required to promptly and fully report all information about alleged or suspected sexual violence to the Title IX Coordinator.** When the Title IX Coordinator receives a report alleging actual or suspected sexual violence, he or she will do the following:

1. Review all available information to determine whether or not immediate remedial action can and should be taken.
2. In conjunction with University Police, determine whether a timely warning should be issued to the entire campus community in accordance with Clery Act requirements. Should the College determine that a timely warning is necessary, the College will make every effort to notify the reporting individual prior to the issuance of the notification.
3. Conduct a preliminary inquiry into the report or assign a team of investigators to do so.

### **Purpose of the Investigation:**

The College will conduct an investigation into allegations of sexual violence that occur within the campus community or that have an effect on the campus community. The purpose of an investigation is:

1. When the Respondent is a student or an employee, to collect and compile evidence for the purpose of determining whether the complaint, if accepted as true, alleges a violation of SUNY Potsdam policy and if so, which specific policies may have been violated;
2. When the Respondent is a student or employee, to determine whether the allegations warrant review by the Office of Student Conduct or the Office of Human Resources, if such review has not yet been initiated<sup>7</sup>;
3. When the Respondent is not a member of the campus community, to collect and compile evidence relevant to the allegations in order to determine whether a violation of College policy has occurred. This determination will be made by the Title IX Coordinator or Deputy Title IX Coordinator.
4. To assist the College in its obligation to stop individual instances of sexual violence, to prevent the recurrence of the violence, and to remedy any effects the violence has had on the entire campus community.

### **Preliminary Inquiry:**

Upon receipt of a report alleging sexual violence, the Title IX Coordinator or Deputy Title IX Coordinator will assess whether a formal Title IX investigation will be conducted under this policy; that is, whether the allegations in the initial report(s), if true, would constitute prohibited sexual violence in accordance with College policy. This preliminary review, including any necessary interviews to be conducted and any necessary interim measures to be put in place, will usually be completed within seven (7) days of receipt of the complaint.

### **Investigation Process When the Accused Is a Student:**

If the Title IX Coordinator determines that an investigation is necessary, the following will occur, in no particular order:

1. The Title IX Coordinator or Deputy Title IX Coordinator will notify all parties to the complaint, if their identities are known, that the College will be conducting an investigation;
2. The Title IX Coordinator or Deputy Title IX Coordinator will contact the alleged victim/survivor in order to:
  - a. Advise the victim/survivor of resources available both on and off campus for support, advocacy, and accommodations for safety and security;<sup>7</sup>
  - b. Advise the victim/survivor of their reporting rights and options; including the right to request that the College not take action;
  - c. Advise the victim/survivor about the investigation process;
  - d. Advise the victim/survivor about the College's prohibition against retaliation;
  - e. Conduct an interview of the victim/survivor, should they choose to participate;
  - f. Allow the victim/survivor to provide evidence, including, but not limited to documents, recordings, and names of potential witnesses.
3. The Title IX Coordinator or Deputy Title IX Coordinator will meet with the Respondent(s) in order to:
  - a. Advise the respondent(s) of resources available both on and off campus for support, advocacy, and accommodations;
  - b. Advise the respondent about the investigation process;
  - c. Advise the respondent about the College's prohibition against retaliation;
  - d. Conduct an interview of the respondent, should they choose to participate;
  - e. Allow the respondent to provide evidence, including, but not limited to documents, recordings, and names of potential witnesses.
4. The Title IX Coordinator or Deputy Title IX Coordinator will attempt to meet with and speak to all witnesses who have or may have information relevant to the investigation.
5. The Title IX Coordinator or Deputy Title IX Coordinator will attempt to collect all evidence relevant to the investigation;
6. When it appears that the investigation may result in a student conduct referral, the Title IX Coordinator or Deputy Title IX Coordinator will prepare a draft investigation report. Once that draft is prepared the following will occur:
  - a. First, each witness will be permitted to review the portion of the report that memorializes their statements to investigators. The witness will be permitted to suggest changes, offer clarifications, and make additions. The witness will

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<sup>7</sup>When the Respondent(s) is a member of the campus community, the investigation report will not contain opinions as to the credibility of the evidence. Nor will it contain findings of fact or opinions as to whether the conduct alleged can be proven by the preponderance of the evidence standard. Rather, the report will determine whether the complaint, if accepted as true, alleges a violation of College policy and if so, which specific policies may have been violated.



- ultimately be asked to affirm, in writing, (1) that they are satisfied that they have shared all relevant information known to them, and (2) that the report is an accurate representation of their conversations with the investigators.
- b. Next, the victim/survivor and the respondent(s) will be permitted to review the entire draft report. With respect to their own statements, they will be permitted to suggest changes, offer clarifications, and make additions. Each party will also be given the opportunity to respond to the content of the draft report, request that additional questions be asked of witnesses or the other party to the complaint, and to offer additional evidence or information.
  - c. If one party has additional questions, or if additional evidence is offered, the investigators will follow up on those questions or the evidence and if relevant, will include it in the draft report. The process set forth in paragraph (b), above, will then be repeated until all parties are satisfied that the investigation is thorough and complete.
7. Once the victim/survivor and the respondent(s) are satisfied that the investigation report is accurate as to their statements and complete in that it contains all relevant information, a final investigation report will be prepared and distributed to the parties. The parties will then be required to affirm, in writing, that: (1) they have had the opportunity to review the report in its entirety, (2) the portion of the report in which their statements are summarized is accurate and complete, (3) they are satisfied that they have shared all relevant information and evidence known to them, and (4) they are satisfied that the investigation was thorough and complete.
  8. If the investigation identifies evidence that, if true, could constitute a violation of the Student Code of Conduct, the Title IX Coordinator or Deputy Title IX Coordinator will make a referral to the Director of Student Conduct and Community Standards and the investigation report will be provided to that office for further action.
  9. Absent extenuating circumstances, investigation and resolution is expected to take place within sixty (60) calendar days from receipt of the complaint. All deadlines and time requirements detailed below may be extended for good cause as determined by the Title IX Coordinator, Deputy Title IX Coordinator, Dean of Students, or a designee of either of those individuals. Both the respondent and the complainant will be notified in writing of the delay, the reason for delay, and provided the date of the new deadline or event. Extensions requested by one party will not be longer than five (5) business days.

**Investigation Process When the Accused is an Employee:**

When the accused is an employee, the investigation will be conducted by the Office of Human Resources and the Title IX Coordinator or Deputy Title IX Coordinator in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the College, College officials will, at the request of the reporting individual, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and institutional policy.

## **X. Adjudication of Sexual Violence Complaints**

### **Student Conduct Process:**

When the alleged perpetrator of an act of sexual violence is a student, the reporting individual has the right to request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the Student Code of Conduct as well as federal<sup>8</sup> and New York State Law<sup>9</sup>, including the due process provisions of the United States and New York State Constitutions. The Student Code of Conduct can be found in the Student Handbook, which can be accessed here:

<http://www.potsdam.edu/studentlife/handbook/>.

### **Employee Complaint Adjudications:**

When the accused is an employee, disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the College, College officials will, at the request of the reporting individual, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and college policy.

## **XI. Prohibition Against Retaliation**

Retaliation is an intentional act taken against an individual who initiates or participates in **any** sexual violence or misconduct investigation or proceeding. Any act of retaliation, either directly or through a third party, against a person who files a sexual violence complaint, serves as a witness, or assists or participates in any manner in any investigation or conduct proceeding involving allegations of sexual violence is strictly prohibited and will result in a disciplinary action. Reports of retaliation can be made to the following College officials.

Title IX Coordinator <a href="http://www.potsdam.edu/offices/hr/titleix/">www.potsdam.edu/offices/hr/titleix/</a>	315-267-2516	Van Housen Hall, Room 392
Deputy Title IX Coordinator	VACANT	
Human Resources <a href="http://www.potsdam.edu/offices/hr/">www.potsdam.edu/offices/hr/</a>	316-267-4816	Raymond Hall, Room 219

## **XII. Student Onboarding and Ongoing Education**

SUNY Potsdam believes that sexual violence prevention training and education cannot be accomplished via a single day or a single method of training. To that end, SUNY Potsdam,

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<sup>8</sup>Title IX of the Education Law Amendments of 1972, section 503 of the Violence Against Women Act Reauthorization Act, and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act govern set forth certain requirements for the administration adjudication of sexual assault complaints on colleges campuses.

<sup>9</sup>See, New York State Education Law Article 129b.

in accordance with SUNY-wide policy and state and federal law<sup>10</sup>, will continue to educate all new and current students using a variety of best practices aimed at educating the entire university community in a way that decreases sexual violence and maintains a culture where sexual assault and acts of sexual violence are not tolerated.

During the course of their onboarding to SUNY Potsdam, which will not be limited to a single day during orientation, all new first-year and transfer students will receive training on the following topics:

- The institution prohibits sexual harassment, including sexual violence, domestic violence, dating violence, stalking, other violence or threats of violence, and will offer resources to any victims/survivors of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of the institution.
- Relevant definitions including, but not limited to, the definitions of sexual violence and consent.
- Policies apply equally to all students regardless of sexual orientation, gender identify, or gender expression.
- The role of the Title IX Coordinator, University Police, and other relevant offices that address violence prevention and response.
- Awareness of violence, its impact on victims/survivors and their friends and family, and its long-term effects.
- The Students' Bill of Rights and Sexual Violence Response Policy, including:
  - How to report sexual violence and other crimes confidentially, and/or to College officials, campus law enforcement and security, and local law enforcement.
  - How to obtain services and support.
- Bystander intervention and the importance of taking action, when one can safely do so, to prevent violence.
- The protections of the Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases.
- Risk assessment and reduction including, but not limited to, steps that potential victims/survivors *and* potential assailants and bystanders to violence can take to lower the incidence of sexual violence.
- Consequences and sanctions for individuals who commit these violations.

The onboarding process is not limited to a single day of orientation. SUNY Potsdam will conduct these trainings for all new students, whether first-year or transfer, undergraduate, graduate, or professional. The College will use multiple methods to educate students about sexual violence prevention.

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<sup>10</sup>See, Title IX of the Education Law Amendments of 1972, Section 503 of the Violence Against Women's Reauthorization Act, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and New York State Education Law article 129b.

Students at SUNY Potsdam shall be offered general and specialized training in sexual violence prevention. SUNY Potsdam will conduct a campaign, compliant with the requirements of the Violence Against Women Act, to educate the student population. Further, the College will, as appropriate, provide or expand specific training to include groups such as international students, students that are also employees of the campus, leaders and officers of registered/recognized student organizations, online and distance education students. The institution will also provide specific training to members of groups identified as likely to engage in high-risk behavior.

In accordance with New York State Education Law section 129b, the College will require that student leaders and officers of registered/recognized student organizations and those seeking recognition complete training on domestic violence, dating violence, sexual assault, or stalking prevention as part of the approval process and require student athletes to complete training in domestic violence, dating violence, sexual assault, or stalking prior to participating in intercollegiate athletics.

**Methods of training and educating** students may include, but are not limited to:

- President's welcome messaging;
- Peer theater and peer education programs;
- Online training;
- Social media outreach;
- First-year seminars and transitional courses;
- Course syllabi;
- Faculty teach-ins;
- Institution-wide reading programs;
- Posters, bulletin boards, and other targeted print and email materials;
- Programming surrounding large recurring campus events;
- Partnering with neighboring SUNY and non-SUNY colleges to offer training and education;
- Partnering with State and local community organizations that provide outreach, support, crisis intervention, counseling and other resources to victims/survivors of crimes to offer training and education. Partnerships can also be used to educate community organizations about the resources and remedies available on campus for students and employees seeking services; and
- Outreach and partnering with local businesses that attract students to advertise and education about these policies.

SUNY Potsdam will engage in a regular assessment of sexual violence education and prevention programming and policies to determine effectiveness.

### **XIII. Institutional Crime Reporting**

Reports of certain crimes occurring in certain geographic locations will be included in SUNY Potsdam's Clery Act Annual Security Report in an anonymized manner that neither

identifies the specifics of the crime or the identity of the reporting individual or victim/survivor.

SUNY Potsdam is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the reporting individual or victim/survivor). A reporting individual will never be identified in a timely warning.

The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parents' prior year federal income tax return. Generally, SUNY Potsdam will not share information about a report of sexual violence with parents without the permission of the reporting individual.

#### **XIV. Scope of This Policy**

This policy applies to all members of the SUNY Potsdam community and its guests, without regard to an individual's race, color, national origin, religion, creed, age, disability, sex, gender identity, gender expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. Employees, students, applicants or other members of the campus community (including but not limited to vendors, visitors, and guests) may not be subjected to harassment that is prohibited by law, or treated adversely or retaliated against based upon a protected characteristic. This policy applies both on-campus and off-campus, as described below:

##### **On-Campus Violations:**

This policy forbids acts of sexual violence anywhere on campus. "Campus" includes University-owned or leased property, streets and pathways contiguous to University property, or in the immediate vicinity of campus. It also includes the property, facilities, and leased premises of organizations affiliated with the College, including College housing and College recognized housing. College housing includes all types of college residence housing, such as halls and apartments.

##### **Off-Campus Violations:**

Off-campus violations, including online behavior, that affect a clear and distinct interest of the College are subject to disciplinary sanctions. For example, sexual violence by a student is within the College's interests when the behavior:

1. Involves conduct directed at a student or other member of the college community;
2. Occurs during college-sponsored events (e.g., field trips, social or educational functions, college-related travel, student recruitment activities, internships, and service learning experiences);
3. Occurs during the events of organizations affiliated with the College, including the events of student organizations;

4. Occurs during study abroad program or other international travel; or
5. Poses a disruption or threat to the College community;
6. The effects of the violence are such that they create a hostile environment within the University community.

## **XV. Definitions**

### **A. Terms**

**Accused or Accused Individual:** A person accused of a violation who has not yet entered a judicial or institutional administrative conduct or review process.

**Affirmative Consent:** A knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identify, or gender expression. For more detail, see [www.potsdam.edu/offices/hr/titleix/affirmative/consent.cfm](http://www.potsdam.edu/offices/hr/titleix/affirmative/consent.cfm)

**Bystander:** A person who observes a crime, impending crime, conflict, potentially-violent or violent behavior, or conduct that is in violation of rules or policies of the College. A bystander does not become a "reporting individual" when they bring forth a report. They remain a bystander.

**Confidentiality** may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers, and pastoral counselors are examples of institution employees who may offer confidentiality.

**Privacy** may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate institution officials. Institutions may substitute another relevant term having the same meaning, as appropriate to the policies of the institution.

**Respondent or Responding Individual:** A person accused of a violation who has entered an institutional administrative review process or administrative student conduct process.

**Sexual Activity** shall have the same meaning as "sexual act" and "sexual contact" as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3). The term "Sexual act" means: (1) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; (2) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the

anus; (3) the penetration, however slight, of the anal or genital opening of another by 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 (4) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person. The term “sexual contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person. Individuals must obtain affirmative consent prior to engaging in any of the activity referenced above.

Sexual Assault is forced, manipulated, or coerced sexual acts, which include, but are not limited to, unwanted touching of an intimate part of another person such as a sexual organ, buttocks, breast, sodomy, oral copulation, and rape by a foreign object.

Sexual Harassment in the Educational Setting is any unwelcome conduct of a sexual nature and can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student denies or limits, on the basis of sex, the student’s ability to participate in or to receive benefits, services, or opportunities in the educational institution’s program.

Sexual Harassment in the Employment Setting is any unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature when any of the following occurs: (1) submission to such conduct is made a term or condition of an individual’s continued employment, promotion, or other condition of employment; (2) submission to or rejection of such conduct is used as a basis for employment decisions affecting an employee or job applicant; or (3) such conduct is intended to interfere, or results in interference, with an employee’s work performance or creates an intimidating hostile, or offensive work environment.

Sexual Violence: The term sexual violence as used throughout this policy includes sexual harassment, sexual assault, and domestic violence, dating violence, intimate partner violence and stalking.

Title IX Coordinator shall mean the Title IX Coordinator and/or their designee or designees, such as the Deputy Title IX Coordinator.

## **B. Federal and State Laws**

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act: This federal law, passed in 1990, the “Clery Act” requires all colleges and universities who receive federal funding to share information about crime on campus and their efforts to improve campus safety through the publishing of an annual security report. Additionally, the act requires institutions to provide survivors of sexual violence with reasonable accommodations and assistance in reporting and it requires institutions to outline specific

policies and procedures for the prevention of sexual violence in their annual security reports.

New York State Education Law Article 129-B, also known as “Enough is Enough,” requires all colleges in the State of New York to adopt a comprehensive set of policies and guidelines, including a uniform definition of affirmative consent, a statewide amnesty policy, and expanded access to law enforcement.

Title IX of the Education Amendments of 1972 is a comprehensive federal law that protects people from discrimination based on sex in education programs or activities which receive Federal financial assistance. The law prohibits discrimination on the basis of sex in any federally funded education program or activity. Colleges must promptly respond to known instances of gender discrimination, which includes sexual harassment and sexual violence, in a way that limits its effects and prevents its recurrence.

Violence Against Women Act (“VAWA”) Reauthorization Act of 2013: This federal law requires colleges and universities to: (1) report dating violence, domestic violence, sexual assault, and stalking, beyond crime categories the Clery Act already mandates; (2) adopt certain student discipline procedures, such as for notifying purported victims of their rights; and (3) adopt certain institutional policies to address and prevent campus sexual violence through the education and training of an institution’s community.

### **C. Prohibited Conduct: Student Code of Conduct**

The following conduct is prohibited by SUNY Potsdam’s Student Code of Conduct is applicable to students:

Dating Violence: Any act of violence, including physical, sexual, psychological, and verbal violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Dating Violence can occur as a single act, or it can consist of a pattern of violent, abusive, or coercive acts that serve to exercise power and control in the context of a romantic or intimate relationship. The existence of such a relationship shall be determined based on the victim’s statement and with consideration of the type and length of the relationship and the frequency of the interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship.

Domestic Violence: Any violent felony, non-violent felony, or misdemeanor crime, as those terms are defined by the laws of the State of New York and of the federal government committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.



Intimate Partner Violence includes Dating Violence and Domestic Violence, both of which are further defined above. Intimate Partner Violence can occur in relationships of the same or different genders.

Retaliation: Engaging, directly or indirectly in any action or attempting to harass, intimidate, retaliate against, or improperly influence any individual involved with the student conduct system. An intentional act taken against an individual who initiates **any** sexual misconduct complaint, including stalking of intimate partner violence, pursues legal recourse for such a complaint, or participants in any manner in the investigation of such a report. Any act of retaliation is prohibited and is subject to a student conduct referral.

Sexual Assault I: Sexual intercourse or any sexual penetration, however slight, of another person's oral, anal, or genital opening with any object (an object includes but is not limited to parts of a person's body) without the active consent of the victim.

Sexual Assault II: Touching a person's intimate parts (defined as genitalia, groin, breast, or buttocks), whether directly or through clothing, without the active consent of the victim. Sexual Assault II also includes forcing an unwilling person to touch another's intimate parts.

Sexual Exploitation: Non-consensual, abusive sexual behavior that does not otherwise constitute Sexual Assault I, Sexual Assault II or Sexual Harassment. Examples include but are not limited to: intentional, nonconsensual tampering with or removal of condoms or other methods of birth control and STI prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the non-consenting party; nonconsensual video or audio taping of sexual activity; allowing others to watch consensual or nonconsensual sexual activity without the consent of a sexual partner; observing others engaged in dressing/undressing or in sexual acts without their knowledge or consent; trafficking people to be sold for sex; and inducing incapacitation with the intent to sexually assault another person.

Sexual Harassment: Unwelcome verbal or physical conduct of a sexual nature that is sufficiently severe or pervasive to effectively alter or deny the individual reasonable access to University resources or that such conduct creates an intimidating, hostile or sexually offensive environment for learning, working or living on campus.

Stalking: Intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimate, annoy or alarm him or her. Stalking does not require direct contact between parties and can be accomplished in many ways, including through the use of electronic media such as Internet, pagers, cell phones, or other similar devices.

#### **D. Prohibited Conduct: Criminal Offenses in the State of New York**

The New York State Penal Law defines criminal conduct in the State of New York. Definitions of criminal offenses can be accessed here: <http://ypdcrime.com/penal.law/>. The Penal Law is applicable to all members and guests of the SUNY Potsdam community within the State of New York. For questions or information or questions regarding conduct prohibited by New York State and Federal Law, please contact University Police.