



NEW YORK COLLEGE OF PODIATRIC MEDICINE

Annual Security & Fire Safety Report  
2024

NOTICE OF NONDISCRIMINATION.....	1
OVERVIEW .....	2
ANNUAL SUBMISSION OF REPORTS.....	2
BUILDING ACCESS & SECURITY POLICY.....	2
STUDENT RESIDENTIAL FACILITIES ACCESS POLICY: .....	3
SECURITY .....	3
REPORTING TO OTHER CAMPUS SECURITY AUTHORITIES .....	4
CRIMES INVOLVING STUDENTS AT OFF- CAMPUS LOCATIONS.....	5
EMERGENCY PREPAREDNESS EFFORTS .....	5
ALCOHOL AND CONTROLLED SUBSTANCES POLICY STATEMENT .....	6
SMOKE FREE ENVIRONMENT .....	9
WEAPONS & FIREARMS POLICY.....	9
NEW YORK COLLEGE of PODIATRIC MEDICINE RESPONSE TO SEXUAL AND GENDER VIOLENCE .....	10
BYSTANDER INTERVENTION .....	14
EMERGENCY ACTIONS IN RESPONSE TO VIOLENCE.....	17
NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY .....	18
Complaints .....	20
CRIME LOG.....	20
TIMELY WARNING OF CRIMINAL ACTIVITY .....	21
HATE CRIMES STATISTICS.....	24
ANNUAL FIRE SAFETY REPORT .....	26
APPENDIX A: NYCPM Crisis Management	
APPENDIX B: Controlled Substance Policy	
APPENDIX C: Title IX Grievance Policy	
APPENDIX D: Sexual Misconduct Policy	
APPENDIX E: Title IX and Sexual Misconduct Complaint Form	
APPENDIX F: NYCPM Biennial Report	

## **NOTICE OF NONDISCRIMINATION**

The New York College of Podiatric Medicine (“NYCPM”) is an equal opportunity employer. NYCPM treats all employees, job applicants, and students without unlawful consideration of race, ethnicity, religious creed, color, national origin, ancestry, sex (including pregnancy, childbirth or related medical condition), age, disability, medical condition, marital status, genetic information, sexual orientation, gender, gender identity, gender expression, military service or veteran status, citizenship status, or any other classification protected by applicable federal, state or local laws. We are committed to ensuring the fulfillment of this policy in all decisions, including but not limited to, recruitment, the administration of educational programs and activities, hiring, compensation, training and apprenticeship, placement, promotion, upgrading, demotion, downgrading, transfer, layoff, suspension, expulsion and termination, and all other terms and conditions of admission, matriculation, and employment.

Inquiries or complaints concerning the non-discrimination policies for NYCPM should be sent to Mr. Joel Sturm, Chief Operating Officer & Vice President for Administration (Title IX Coordinator) 53 East 124<sup>th</sup> Street, New York, NY 10035 or [JSturm@nycpm.edu](mailto:JSturm@nycpm.edu).

As an alternative, individuals may contact the Office for Civil Rights of the U.S. Department of Education for inquiries concerning the above. The Office for Civil Rights is located at 32 Old Slip, 26th Floor, New York, New York 10005. They may be reached by phone at (646) 428-3800 or via email at [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov).

**NOTE: Any reference to NYCPM actions, policies, procedures or contacts in this entire document may be conducted in conjunction with or solely by an authorized representative from Touro University’s Legal Department.**

Please refer to the link provided for locations: [Office for Civil Rights | U.S. Department of Education](#)

## **OVERVIEW**

In accordance with the Jeanne Clery and the Higher Education Opportunity Act, The New York College of Podiatric Medicine has created this report identifying the following:

- Operations of the Office of Campus Safety and Security
- College policies pertaining to adherence to municipal, state and federal laws
- Policies and procedures regarding reporting of incidents, missing students, access into facilities, fire safety, emergency response and notification systems
- Crime prevention programs
- Statistical information on crimes that occurred in The New York College of Podiatric Medicine and The Foot Center of New York (FCNY) over the past three years. The Foot Center (Clinics) of New York, while being the clinical training ground for students of the College is a separate 501 ( c ) ( 3 ) corporation. The FCNY leases all space from the College. The College is solely responsible for all safety and security issues arising on its property.

Faculty, staff and students are notified by email of the availability of the Annual Crime Statistics & Fire Safety Report on the [NYCPM Website](#). Hard copies of this brochure are also available in the Office of the Safety and Security upon request.

## **ANNUAL SUBMISSION OF REPORTS**

An Annual Security Report (“ASR”), including Crime Statistics for the reporting calendar year, will be prepared timely by security director/designee(s) and the Office of Institutional Compliance and published in accordance with federal regulations under the Clery Act. <sup>1</sup>

- A) The ASR will be posted to the NYCPM website on or before the first (1) day of October of each year.
- B) The ASR will include Crime Statistics by appropriate location, where applicable, and will include the previous three (3) years of reported statistics.
- C) Notification of the availability of the ASR must be viewable on or before the first (1) day of October of each year to students, faculty and employees by web posting. The notification will include the link to the report and the Crime Statistics.
- D) The New York College of Podiatric Medicine provides the notification via email communications upon request.
- E) Distribution is made electronically via web page, email communication or hard copy upon request.
- F) Documentation of the steps taken to comply with the notification process is required, when available.

## **BUILDING ACCESS & SECURITY POLICY**

During regular business hours, NYCPM is open to the college community, guests and others with legitimate College or Clinic business. The hours of operation for the buildings vary based on the academic school year.

## **STUDENT RESIDENTIAL FACILITIES ACCESS POLICY:**

NOTE: NYCPM does not own any student housing. NYCPM passes the rental fee to the owners of said property. However, we do maintain the following policies. More detailed policies can be viewed in the lease.

Access into student residential facilities is restricted to residents, their approved guests and other approved members of the NYCPM community. Access is strictly monitored and regulated by key card. Policies and procedures pertaining to guest privileges are governed by individual student housing facility management. Residents are cautioned against permitting strangers access into student residential facilities and are encouraged to maintain community watch for suspicious activity or behavior.

## **SECURITY**

The landlord attempts to provide for the security of individuals and their belongings through a security system that includes locks for rooms and buildings, controlled access to buildings, alarm systems and/or video monitoring. To report or discuss security issues contact the Director of Safety and Security.

Security measures are only as effective as the individuals on campus choose to make them. Students are encouraged to use sound judgment at all times.

At times it may be necessary to establish other security checks and procedures and it is expected that students will cooperate fully in carrying out security procedures, all of which are designed to promote the safety and security of the College community.

All students, faculty and staff are expected to assume reasonable responsibility for personal safety. By using common sense, safety practices such as walking in groups, reporting suspicious activities, keeping money, books and other personal items protected, locking car, room and office doors when leaving and generally being alert to personal welfare will ensure personal safety on and off campus. All threats and/or altercations (verbal or physical) that are based on religious, gender or racial bias by either a member of the College community or a stranger must be reported.

Students should be their own safety advocates and take these strategies seriously:

- Stalker – If you feel someone is stalking you, make an immediate report to the college administration. A restraining order or some other action may be taken to keep you safe. If someone is following you suspiciously, head towards crowds, lighted areas or occupied buildings.
- Obscene Calls – Don't engage an unknown caller in conversation or give any personal information. Keep track of unwanted phone calls and document the time and content of these calls. Save harassing or obscene phone messages, and turn over all of this information to the College administration.
- Walking Around - Don't walk alone after dark. Stay in well-lit and populated areas.
- The Element of Surprise – Make it difficult for someone to surprise you. For example, don't walk around or jog with headphones when you are alone.

- Protect Your Personal Property – Don't leave backpacks, purses or other bags unattended; always lock your bike or car; don't leave valuables in plain sight; don't leave large amounts of cash in your room or on your person.
- Cyber-Safety - Despite the perceived anonymity of cyberspace, the internet and spam can pose serious threats. Releasing personal information (particularly your Social Security number or phone number) over the internet can result in identity theft and/or stalking. Identity theft is a long-hard road to overcome, often involving years of effort to reestablish damaged credit ratings and more. Meeting people on-line can be dangerous. On-line matchmaking can be risky and require careful monitoring, and students are recommended to seek thorough background checks by a reliable authority before arranging a meeting with anyone.

To report or discuss security issues contact the Director of Safety and Security or a member of the administration.

## **REPORTING TO OTHER CAMPUS SECURITY AUTHORITIES**

The Clery Act recognizes certain College officials and offices as "Campus Security Authorities (CSA)." The Act defines these individuals as "official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings. An official is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution."

All Campus Security Authorities are required to report a crime in writing if they have a reasonable basis for believing the information is not simply rumor or hearsay. Campus Security Authorities are not sworn law enforcement personnel and do not have the authority to make arrests. If a Campus Security Authority is unsure whether the information was provided in good faith, he/she should report the information. A Campus Security Authority is not responsible for determining authoritatively whether a crime took place. It is the function of Law Enforcement Personnel to determine whether a crime took place, if applicable. **NYCPM's Campus Security Authorities:**

Title IX Coordinator  
COO & Vice President for Administration  
Mr. Joel A. Sturm  
53 East 124<sup>th</sup> St  
New York, NY 10035  
(212) 410 -8047  
Email: Jsturm@nycpm.edu

Director of Safety and Security  
Mr. Michael Lee  
(212) 410- 8063 (office)  
(917) 572-1896  
MLee@nycpm.edu

## **CRIMES INVOLVING STUDENTS AT OFF- CAMPUS LOCATIONS**

The New York College of Podiatric Medicine does not allow student organizations to maintain off-campus locations. All individuals, whether they belong to the College community or not, are subject to all international, federal, state and local laws while on the NYCPM campus and affiliated sites and may be subject to criminal charges when applicable, even for first offenses. We encourage the NYCPM community to report any incidents promptly to both NYCPM security representatives and/or your local law enforcement agencies (where applicable). The College relies on its close working relationships with local law enforcement agencies to receive information about incidents involving students and employees at all College sites.

## **EMERGENCY PREPAREDNESS EFFORTS**

Recognizing the importance of emergency preparedness, The New York College of Podiatric Medicine has created a written document, School Emergency and Crisis Response Plan, outlining the College's response and recovery to any emergency or crisis that "threatens the College populations, programs, properties, reputation, and viability."

## ALCOHOL AND CONTROLLED SUBSTANCES POLICY STATEMENT

It is the policy of NYCPM, as stated in the Personal Conduct section of the Student Handbook, that the unlawful use, possession, distribution, or manufacture of drugs or controlled substances on NYCPM property is strictly prohibited. Individuals who possess, use, distribute or manufacture drugs or controlled substances, are subject to disciplinary action, including but not limited to expulsion, as well as possible criminal prosecution. Improper use of prescription drugs is similarly prohibited. Students found in violation of these policies may be subject to disciplinary proceedings as described in the school catalog and student handbook. Student violators may be subject to the following sanctions and remedial measures:

<b>Nature of Violation</b>	<b>Responses for First-Time Violations May Include, But Are Not Limited To:</b>	<b>Responses for Repeat Violations May Include, But Are Not Limited To:</b>
Possession or use of alcohol or other drugs, including prescription drugs, in violation of NYCPM policy or federal, state, or local law	<ul style="list-style-type: none"> <li>• Warnings</li> <li>• Disciplinary Probation</li> <li>• Counseling and treatment</li> <li>• Service to the college community</li> </ul>	<ul style="list-style-type: none"> <li>• Disciplinary Probation</li> <li>• Mandatory referral for counseling and treatment</li> <li>• Suspension from dormitory (if dormitory student)</li> <li>• Parental Notification</li> <li>• College-Level disciplinary action</li> </ul>
Possession or use of alcohol or other drugs, including prescription drugs, in violation of NYCPM policy or federal, state, or local law in a manner involving aggravated circumstances (e.g. actual/potential harm to self or others, disruption of the NYCPM community, repeated offenses)	<ul style="list-style-type: none"> <li>• Warnings</li> <li>• Disciplinary Probation</li> <li>• Mandatory counseling and treatment</li> <li>• College-Level disciplinary action</li> </ul>	<ul style="list-style-type: none"> <li>• Disciplinary Probation</li> <li>• Mandatory counseling and treatment</li> <li>• Service to the college community</li> <li>• College-Level disciplinary action</li> </ul>
Distribution or intent to distribute a controlled substance, including improper distribution of prescription drugs, in violation of NYCPM policy or federal, state, or local law	<ul style="list-style-type: none"> <li>• Legal action</li> <li>• College-level disciplinary actions</li> </ul>	<ul style="list-style-type: none"> <li>• Legal action</li> <li>• College-level disciplinary action</li> </ul>

Each faculty and staff member of NYCPM is expected to abide by NYCPM's policies for maintaining a drug-free workplace. The policy statement on drug abuse pertaining to students also applies to faculty and staff. Furthermore, all faculty and staff are required to notify the appropriate Dean or Chief Operating Officer of any criminal conviction relating to his or her own drug activity within five (5) days of such conviction. Faculty and staff (part-time or full-



time) who violate NYCPM policies on drugs and controlled substances may be subject to disciplinary sanctions.

In both cases for students and faculty and staff, the existence of a progressive system of disciplinary sanctions measures does not preclude NYCPM from levying a heavy sanction, without first resorting to a lesser sanction. By way of illustration and not exclusion, NYCPM may expel a student or terminate a staff or faculty member for a violation of policy without first issuing a warning or putting that student or employee on probation. The following regulations apply to students, faculty and staff of NYCPM:

The consumption of alcoholic beverages by individuals under the age of 21 is illegal.

All persons are prohibited from consuming alcoholic beverages on the premises of NYCPM (unless at an event specifically sanctioned by NYCPM Administration in writing), where inebriation may occur or entering or remaining on NYCPM premises in an impaired state. Alcoholic beverages are not, by and large, banned from the campus. NYCPM recognizes an adults practice of social drinking.

Alcoholism, while it may be a disability, does not excuse any faculty and/or staff member of NYCPM from violating a legitimate NYCPM policy or neglecting their responsibilities to NYCPM. Individuals whose work performance is impaired as a result of the use/abuse of alcohol may be required to participate in an appropriate evaluation/treatment program and may, in certain circumstances, lead to sanctions against that individual.

If you are an alcoholic, you may self identify to the Dean or Chief Operating Officer, as the case may be, and request confidential counseling and/or referral services to help with your problems. All inquiries and requests for assistance will be handled with strict confidentiality.

#### *Substance Abuse Self-Identification and Amnesty*

NYCPM recognizes that, sometimes, there may be health or safety emergencies related to the use of drugs or alcohol in which the potential for disciplinary action by NYCPM may deter students who want to seek assistance for themselves or for another member of the NYCPM community. In such instances, the health and safety of the at-risk student will be NYCPM's top priority. Therefore, should a student, or another individual on behalf of that student, voluntarily come forward seeking assistance in a situation involving the over-consumption or abuse of drugs and/or alcohol, NYCPM's student conduct response to the over-consumption/abuse will be, first and foremost, focused on medical treatment, counseling, and/or educational interventions. However, NYCPM reserves the right to address any associated acts that compromise the well-being of its community and its members, such as harassment, violence, damage, harm to self or others, or distribution of illegal substances, on a case-by-case basis as deemed appropriate and necessary.

#### *Reporting a Personal Concern*

Students who have concerns about their use of alcohol and/or other drugs, or students who are concerned of such use by a friend are encouraged to seek assistance through one of NYCPM's

support services. Confidentiality in these circumstances may be protected in compliance with NYCPM policy and applicable law (e.g. FERPA, HIPPA, etc.).

Know the signs of substance abuse:

- Passed out or difficult to awaken
- Cold, clammy, pale or bluish skin
- Slowed breathing
- Vomiting (asleep or awake) Know how to help:
- Turn a vomiting person on his/her side to prevent choking
- Clear vomit from the mouth
- Keep the person awake
- NEVER leave the person unattended

### *Substance Abuse Counseling*

Many different mutual and self-help programs are available near NYCPM. Although most programs are abstinence-based and follow the 12-step approach, there are also programs that support moderation and a goal and/or do not use 12 steps. Some of the programs listed below may have a religious affiliation; others may merely use spirituality as part of the program. Meeting times and locations are available upon contacting the corresponding phone numbers or websites. Each meeting is somewhat different from any other, even within the same program, both in terms of structure and participants. Many people find it helpful to explore different options.

### **United States**

National Drug & Alcohol Treatment Referral Service:

Phone: 800-662-4357

Alcoholics Anonymous:

Phone: 212-870-3400

<https://alcoholicsanonymous.com/aa-meetings/new-york/>

Focus on Recovery:

Phone: 800-234-0420

Marijuana Anonymous:

Phone: 800-766-6779

Website: [www.marijuana-anonymous.org](http://www.marijuana-anonymous.org)

Cocaine Anonymous:

Phone: 310-559-5833

Website: [www.ca.org](http://www.ca.org)

Narcotics Anonymous:

Phone: 212-929-7117

[www.na.org](http://www.na.org)

Al-Anon:

Phone: 773-471-0225

## **SMOKE FREE ENVIRONMENT**

New York City requires that educational institutions, among other public places and places of employment, be smoke-free inside and within 100 feet of entrances, exits, windows that open, and ventilation intakes. Under this Act, NYCPM prohibits smoking as defined below, including electronic smoking devices and hookahs, in all of its in-door areas and classrooms, including but not limited to lobbies, libraries, lounges, bathrooms, conference rooms, and offices. No smoking shall be permitted within 100 feet of entrances, exits, windows that open, and ventilation intakes of any NYCPM facility. Violation of this policy may result in official reprimand; and if the violation persists or is repeated may result in expulsion.

### *Definitions*

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this policy.

“Electronic Smoking Device” means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

“Hookah” means a water pipe and any associated products and devices which are used to produce fumes, smoke, and/or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.

## **WEAPONS & FIREARMS POLICY**

Concealed weapons are prohibited on and within property of institutions of higher education. The New York College of Podiatric Medicine expands the law to include prohibiting possession or carrying of weapons, firearms, or explosives; and possession or use of fireworks, ammunition, air guns, airsoft, or other weapons such as knives, tasers, swords, billy clubs, throwing stars, and nunchucks. Exclusions made for security personnel and others where deemed necessary.

## **NEW YORK COLLEGE of PODIATRIC MEDICINE RESPONSE TO SEXUAL AND GENDER VIOLENCE**

### *Policy on Title IX and Sexual Misconduct*

This policy applies to all members of the NYCPM community, including students, faculty, and administrators as well as third parties (i.e. vendors, and invitees). Discrimination or harassment of any kind in regard to a person's sex is not tolerated at our institution. Information and/or training regarding this policy is available to students, faculty, and staff.

NYCPM promotes an environment in which the dignity and worth of all members of the community are respected. It is the policy of NYCPM that sexual intimidation of students and employees is unacceptable behavior and will not be tolerated.

### *Title IX Grievance Procedure*

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access our educational programs and opportunities.

This Title IX Grievance Procedure became effective on August 1, 2024, and only applies to formal complaints of sexual harassment alleged to have occurred on or after August 1, 2024. Alleged Conduct that occurred prior to August 1, 2024 will be investigated and adjudicated according to the Title IX and Sexual Misconduct Policy then in effect.

### *Title IX Coordinator*

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator:

Title IX Coordinator  
Mr. Joel Sturm  
53 East 124<sup>th</sup> St  
New York, NY 10035  
(212) 410 - 8047  
Email: [jsturm@nycpm.edu](mailto:jsturm@nycpm.edu)

### **NOTE:**

**NYCPM may at times engage Touro University's Office of Institutional Compliance for procedure, investigation, and guidance.**

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

## When Title IX Applies

The Title IX process will apply when all of the following elements are met:

- The conduct is alleged to have occurred on or after August 1, 2024;
- The conduct is alleged to have occurred in the United States;
- The conduct is alleged to have occurred in NYCPM's education program or activity; and
- The alleged conduct, if true, would constitute Sex-Based Harassment as defined in the Grievance Procedure.

If all elements of jurisdiction are met, Touro will investigate the allegations according to this Grievance Procedure as appropriate, unless informal resolution is pursued or there are grounds for dismissal of the Complaint. Complaint means an oral or written request to Touro that objectively can be understood as a request for Touro to investigate and make a determination about alleged Sex-Based Harassment at the institution.

If the alleged misconduct does not meet these Title IX requirements, it requires a mandatory dismissal under Title IX, but it may be addressed by the broader Touro Sexual Misconduct Policy or another applicable Touro policy.

For more details surrounding the Title IX Grievance Policy please see:

<https://www.touro.edu/title-ix-policy/>

### *Sexual Misconduct*

NYCPM prohibits discrimination based on sex, including sexual harassment. The prohibition against discrimination extends to employment and third-parties. Sexual harassment is unwelcome conduct of a sexual nature and can include sexual advances, request for sexual favors, and other verbal, non-verbal, or physical conduct. Environmental harassment (sometimes referred to as hostile environment) is sexually harassing conduct that is sufficiently severe, persistent or pervasive to limit an individual's ability to participate in or receive benefits, services, or opportunities at Touro. This can include persistent comments or jokes about an individual's, sex; verbal behavior, including insults, remarks, epithets, or derogatory statements; nonverbal behavior, including graffiti, inappropriate physical advances short of physical violence such as repeated and unwanted touching; and assault, including physical violence or the threat of physical violence.

New York Law also defines these acts as crimes if any of them are engaged in with a person who is incapable of consent either because of the person's age or because the person is mentally defective, mentally incapacitated, or physically helpless. Therefore, sexual abuse, sodomy, and rape are sex crimes and violators will be prosecuted in accordance with New York Penal Law.

Retaliation against any individual who made a complaint will not be tolerated.

To officially file charges for an act of sexual assault or rape, please contact the NYPD. If the alleged perpetrator is a student, you can initiate disciplinary action against this individual. All incidents must be reported within six (6) months of their occurrence.

NYCPM seek to foster a collegial atmosphere in which students are nurtured and educated through close faculty-student relationships, student camaraderie, and individualized attention. Discrimination or harassment of any kind is anathema to NYCPM's mission, history, and identity. NYCPM will resolve any identified discrimination in a timely and effective manner,

and will ensure that it does not recur. Compliance with NYCPM's policies and procedures is a necessary step in achieving a safe environment in our educational community. The policies set forth were developed to promote a safe educational environment in compliance with the Violence Against Women Act (VAWA) and a high-quality campus life.

Those believing that they have been harassed or discriminated against on the basis of their sex, including sexual harassment, should contact the Office of the Chief Operating Officer immediately. When NYCPM has notice of the occurrence, NYCPM is compelled to take immediate and effective corrective action reasonably calculated to stop the harassment, prevent its recurrence, and as appropriate, remedy its effects.

This policy applies to all members of NYCPM, including students, faculty, and administrators as well as third parties (including, but not limited to, vendors, invitees, etc.). Information and/or training regarding this policy are available to students, faculty, and staff.

For more details surrounding the Sexual Misconduct Policy please see:  
<https://www.touro.edu/sexual-misconduct-policy/>

### *Complaints*

Complaints may be filed by contacting Joel Sturm:

Phone: 212-410-8047

Email: [jsturm@nycpm.edu](mailto:jsturm@nycpm.edu)

For Further Information: Students are strongly urged to read the full policy at  
<https://www.touro.edu/sexual-misconduct-policy/>

Additional information about this policy will be available on Touro's website. Students may contact the Office for Civil Rights of the U.S. Department of Education for inquiries concerning the application of Title IX as well as the implementation of its regulations.

The Office for Civil Rights can be contacted using the following information:

U.S. Department of Education  
Office for Civil Rights  
32 Old Slip, 26<sup>th</sup> Floor  
New York, NY 10005  
(646) 428-3800  
[OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

### Crime Prevention Education & Awareness Is Provided As Follows

- During student orientation
- During employee orientation
- Upon request by location
- As a result of trends identified

Crime Prevention Surveys are conducted by your resident precinct or local law enforcement upon request. In addition, NYCPM takes personal security issues seriously, and engages in an ongoing process of improving systems as they are implemented.

Programs to prevent about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others and a description of programs designed to inform students and employees about the prevention of crimes including dating violence, domestic violence, sexual assault and stalking are provided as comprehensive, intentional and integrated programming, initiatives, strategies and campaigns intended to end all crimes including dating violence, domestic violence, sexual assault and stalking that are:

- culturally relevant,
- inclusive of diverse communities and identities,
- sustainable,
- responsive to community needs,
- informed by research or assessed for value, effectiveness or outcome, and consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

The programs NYCPM implements are tailored to the college's community and the needs of NYCPM's students and employees.

Such Programs include but are not limited to:

#### STUDENT ORIENTATION

During these Orientations we process the students into security procedures at the College. We also go through Clery Compliance requirements including but not limited to VAWA, alcohol/drug usages, self-safety awareness, and property and identification protection.

#### EVERYDAY SAFETY

We will elaborate that you should be aware of your surroundings and that you could be safer while out enjoying the scenes. We provide tips on safety while in elevators, subway, buses, and in dorms etc.

#### COMMON-SENSE DEFENSE

We may not all be fighters or large individuals, but there are tactics that could be used to allow you to survive a dangerous interaction. These methods will be shown and instructed. We focus on the art of verbal communication.

#### FORMING HEALTHY RELATIONSHIPS

We discuss methods on how to read another's actions and determine if this is a good or bad relationship. We offer tips on healthy relationships and how do deal with an unhealthy relationship.

#### CONTROLLING BEHAVIOR

We discuss the signs that a person maybe displaying in a controlling situation. We discuss the psychological issues that arise in these relationships and how you can defend yourself or others from this behavior.

#### RACISM, CLASSISM AND RELIGION (DISCRIMINATION)

We discuss discrimination and how it affects us. We will identify the trends that are presently being observed and how to combat them. We will instruct those on how to report incidents involving discriminations occurring here at NYCPM.

## SEXUAL MISCONDUCT/ASSAULT

We discuss our Policy, Protocol, Procedure and Prevention. We will identify what is Sexual Misconduct/Assault and how to report if an incident should occur. How to attend to those who have been victimized and how these incidents will be investigated. Present what resources there are for those who have been victimized. We also offer tips on how to prevent these incidents and what to do if you become a victim or know someone who is a victim. We discuss buddy system and we encourage our students to contact us if they are in a situation that they can't handle.

## STALKING

Familiarize those with what stalking actually is and how it could affect their daily lives. With the Internet and Social Media, those who seek knowledge about others are easily obtained. We will discuss ways of protecting oneself from this intrusion. We also discuss on what to do if you are a victim of Stalking.

## BYSTANDER INTERVENTION

The goal of Bystander Intervention is to block bad behavior before it goes too far. We will educate our NYCPM community of their role and how they can prevent this behavior. We offer tips on what they can do to prevent any of the behaviors identified.

### *Rape & Sexual Violence*

Sexual Assault/Improper Sexual Conduct is a criminal offense pursuant to the Penal Law. If a member of NYCPM community engages in improper sexual conduct, it may result in the severest disciplinary sanctions available to NYCPM. NYCPM will cooperate fully with Law Enforcement authorities should the victim seek criminal prosecution. NYCPM also recognizes that confidentiality is most important to victims of sex crimes.

While complete confidentiality cannot be guaranteed, every effort will be made to maintain confidentiality on a "need to know basis." The victim's wishes not to report a sexual assault to the police will generally prevail, but NYCPM reserves the right to notify the police when it is believed that such reporting is necessary for the protection of others.

All reports of Rape and Sexual Violence must be investigated by the Title IX Coordinator. Any reports made to a member of the pastoral care or clinical services provider on campus must be reported for statistical purposes only.

### **Indicators/Signs of Stalking Behavior**

- Persistent phone calls despite the fact that you have told the person not to contact you in any form.
- Someone waiting at or outside your workplace, residence, or school.
- Overt threats.
- Manipulative behaviors (i.e. stating that they will hurt themselves).
- Sending written messages, letters, emails, graffiti, etc.
- Sending of gifts.
- Defamation.

### **If You Become A Victim Of A Stalker, Do Not Take It Lightly:**

- Notify the Dean, the Chief Operating Officer, or the Director of Safety and Security. Even if the problem is not campus/site related, they can assist you with reporting the problem to the local law enforcement agency.



- Apply for a restraining order. If you already have one, file a copy with the office on your campus.
- Document everything. Even if you have decided not to go the legal route, you may change your mind. Keep answering machine recordings, letters, gifts, etc. Keep a log of drive-bys or any suspicious occurrences.
- Have co-workers screen all calls and visitors.
- Do not accept packages unless they were personally ordered.
- Do not destroy discarded mail.
- If you think you are being followed, go to the nearest police station or public place.
- Never be afraid to sound your horn to attract attention.
- Do not be ashamed and think you caused this. Instead tell everyone you know that you are being stalked, from neighbors, to co-workers, to classmates so that no information about you is provided to the stalker.
- Tell the stalker NO once and only once, and never give him/ her satisfaction of a reaction again.

Preserve any evidence that may help you obtain College help through no-contact orders, or court assistance with restraining orders. For help with this, contact the local police or Security right away. Some examples of evidence preservation include:

- Preserving any email, texts, or electronic messages on social media.
- Photographing any threatening messages that are not electronic.
- Asking friends to witness any overt behaviors such as being followed.
- Keeping a journal of stalking events.

### **If You Are Being Sexually Assaulted**

- Keep your head. Stay as calm as possible, think rationally and evaluate your resources and options.
- Be realistic about your ability to protect yourself. Yelling, hitting, or biting may give you a chance to escape, but be aware it can also expose you to further harm.
- Passive resistance such as vomiting, urinating, or telling the attacker that you are ill or menstruating is another option.
- Knowing self-defense can help you to overcome fear and think clearly in emergencies.
- Do not try to defeat the attacker. Just get away as fast as you can. There is no right way to respond to an attack. If you escaped alive, you responded in the right way.

### **If You Have Been Sexually Assaulted**

- You must NEVER BEAR the RESPONSIBILITY for being assaulted. Responsibility for the crime lies with the rapist alone.
- If possible do not shower, bathe, brush your teeth eat, drink, smoke, urinate or change your clothes.
- Do not disturb anything in the area where the assault occurred.
- Get immediate medical attention. An exam may reveal the presence of a physical injury. Following a sexual assault, antibiotics are typically given at the time of the exam to help prevent the victim from acquiring certain sexually transmitted diseases. A urine test conducted within 96 hours can determine if a drug was used.
- Write down a description of the assault, circumstances, and the attacker.
- Many police departments now have special victims units that are specially trained to deal with rape and/or sexual violence victims. In addition, many hospitals also have rape crisis units.

- Reporting the assault is an important step in ending this violence. You should feel comfortable with your decision.
- Call someone to be with you. You should not be alone. Contact a rape crisis center to help you deal with the aftermath.

### **If Someone You Know Is a Victim of an Assault**

- See that they have a safe place to stay and will stay with someone.
- Give the victim your emotional support. Let them express their feelings. Do not pry into details.
- Do not be judgmental, instead listen, and provide understanding.
- Rape and/or sexual violence are never the victim's fault. Do not let them blame themselves or think that they did something to cause the attack
- Encourage the victim to get medical attention, contact a rape crisis center, and report the incident. Help the victim explore their options but let them make the decision.
- Point out that since they are still alive they have achieved a major victory.

### **Bystander Awareness**

- Don't turn a blind eye.
- If you are attending a social gathering with a friend, remember the same principles apply in every scenario.
- Be mindful of your friend(s) and make sure you come and go together and if you don't leave together that your friend(s) is/ are able to make decisions for himself/herself/themselves.
- If you see someone at risk, get involved.
- Don't wait for someone else to take an action.
- Be honest and directly talk about the consequences of their actions.
- Solicit help from other bystanders.
- If the person is your friend, communicate by either asking the person "Are you okay," "Is he/she bothering you," etc.
- Give the person an out like calling their cell phone or distracting the other person.
- If it doesn't feel safe to say something, you can call the police or any other person of authority.

Don't let resentment prevent you from stepping in.

### **Risk Reduction**

Risk reduction consists of options designed to decrease perpetration and bystander inaction and to increase empowerment in an effort to promote safety and to help individuals and communities address conditions that facilitate violence. In addition to the risk reduction strategies above, consider the following:

- If someone is behaving disrespectfully or making you feel uncomfortable, take steps to remove yourself from the situation early, especially if you are concerned it may become violent.
- If you feel as though someone may be stalking you, ask someone who understands these issues, like the Security Team to help you clarify what's going on and develop a safety plan. If you are being stalked, tell everyone you know. Ask your friends to keep an eye out for your stalker.
- If you feel afraid, call 911. NYCPM staff members are available to provide support and escorts around campus and in certain instances to assist the individual in getting home.

- You have the right to defend your body, your personal integrity, yourself.
- Do not second-guess yourself or the intentions of the person harming you. If you have indicated that you do not want to engage in a particular physical activity and your partner ignores you, take this as a sign that he or she has no intention of taking your feelings into consideration. This will help you decide what to do next.
- Your voice and your body are your best weapons. Learn effective ways to use them by taking a self-defense class, and bring a friend with you.
- There is no shame in being a victim.

### **Victim Assistance**

In cases of rape and/or sexual violence, there are many sources of support available to victims.

### **On Campus**

- NYCPM staff members are available to provide support and escorts around campus and in certain instances to assist the individual in getting home.
- Other available community resources may be provided based on student's individual needs.

### **EMERGENCY ACTIONS IN RESPONSE TO VIOLENCE**

Individuals who have experienced an act of violence, such as domestic violence, dating violence, sexual assault and/or stalking requiring immediate emergency assistance are advised to take the following actions:

- Get to a place of safety. Dial 911 for local police.
- Seek any necessary medical attention as soon as possible.

Nearby hospitals include:

#### **Metropolitan Hospital**

1901 1<sup>st</sup> Avenue  
New York, NY 10029  
(212) 423-6262

#### **Lincoln Hospital**

234 East 149<sup>th</sup> Street  
Bronx, NY 10451  
New York, NY 10025

#### **Harlem Hospital**

506 Malcolm X Blvd  
New York, NY 10037  
(212) 939-3555

#### **Mt. Sinai Hospital**

440 West 114<sup>th</sup> Street  
(718) 579-5000  
(212)523-4410

Going to a hospital for medical care after an incident of sexual violence does not obligate an individual to file a report with the College or the police.

Upon addressing the immediate safety needs, individuals have multiple options for reporting incidents of relationship violence, depending on their comfort level and confidentiality needs. Students reporting incidents of sexual misconduct, to include sexual assault; sexual harassment; dating violence, domestic violence and stalking of a sexual nature, may contact:

Mr. Joel Sturm, COO  
Title IX Coordinator  
53 East 124<sup>th</sup> St  
New York, NY 10035  
(212) 410 - 8047  
Email: [jsturm@nycpm.edu](mailto:jsturm@nycpm.edu)

Ms. Lisa Lee  
Dean of Student Services  
53 East 124<sup>th</sup> St  
New York, NY 10035  
(212) 410 – 8007  
Email: [LLee@nycpm.edu](mailto:LLee@nycpm.edu)

#### *Options to File a Grievance*

A victim of any criminal act, to include domestic violence, dating violence, stalking and or sexual assault has the option to pursue a criminal complaint with the police and if requested may be assisted by campus personnel to make the call. If the victim and the accused are both affiliated with the College, a complaint of sexual misconduct may be pursued through the College or through both processes consecutively or concurrently. Regardless of the option, the College will promptly initiate an investigation of domestic violence, dating violence, sexual assault and stalking in a prompt comprehensive manner consistent with the obligations identified in VAWA and the College's Title IX Policy.

#### *Police/Emergency Services*

Many police departments now have special victims units that are specially trained to deal with rape and/or sexual violence victims. In addition, many hospitals also have rape crisis units. *To report a sexual assault to the police, dial 911.*

#### *Sexual Assault Crisis Centers/Hotlines*

- National Sexual Assault Hotline: 1-800-656-4673
- New York State Coalition Against Sexual Assault: 1-800-942-6906

### **NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

This policy applies to all members of the New York College of Podiatric Medicine community, including students, faculty, and administrators as well as third-parties (including, but not limited to, vendors, invitees, etc.). Discrimination or harassment of any kind in regards to a person's gender is not tolerated at our institution. Information and/or training regarding this policy are

available to students, faculty, and staff. In addition, information about this policy is available on Hebrew Theological College's website.

All divisions of the New York College of Podiatric Medicine seek to foster a collegial atmosphere where students are nurtured and educated through close faculty-student relationships, student camaraderie, and individualized attention. Discrimination or harassment of any kind is anathema to NYCPM's mission, history, and identity. NYCPM will resolve any identified discrimination in a timely and effective manner, and will ensure that it does not recur. Those believing that they have been harassed or discriminated against on the basis of a protected class should immediately contact the Title IX coordinator. When NYCPM has notice of the occurrence, it will take effective corrective action reasonably calculated to stop the harassment, prevent its recurrence, and as appropriate, remedy its effects.

### *Definitions*

#### *Discrimination and Harassment*

Harassment on the basis of any protected characteristic is strictly prohibited. Under this policy, harassment is verbal, written or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, gender, sexual orientation, national origin, age, disability, marital status, citizenship, genetic information or any other characteristic protected by law or that of his/her relatives, friends or associates, and that

- a) has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- b) has the purpose or effect of unreasonably interfering with an individual's work performance; or
- c) otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group and that is placed on walls or elsewhere on the employer's premises or circulated in the workplace, on company time or using company equipment via e-mail, phone (including voice messages), text messages, tweets, blogs, social networking sites or other means.

#### *Retaliation*

Retaliation is any kind of reprisal, adverse action, or negative action taken against an individual because he or she has: (1) complained about alleged discrimination or harassment as defined above, (2) participated as a party or witness in an investigation relating to such allegations, or (3) participated as a party or witness in a proceeding regarding such allegations. Retaliation can occur contemporaneously during the complaint process or subsequent to it, once the retaliator is aware of the recipient's participation in the process. Retaliation does not exist in the absence of an adverse action. An individual is protected from retaliation even when the complaint at issue is ultimately found to lack merit, as long as the complaint was made in good faith.

The New York College of Podiatric Medicine does not allow, nor tolerate any conduct by any NYCPM community member that may be regarded as retaliatory. Retaliation against any individual, whether said person submitted a complaint through the method described below, or for any other reason will not be tolerated.

## **Complaints**

Contact: Mr. Joel Sturm, Chief Operating officer & Vice President for Administration

212-410-8047

JSturm@nycpm.edu

## **ANTI-DISCRIMINATION POLICY**

NYCPM admits students to all of the rights, privileges, programs and other activities generally accorded or made available to students at the college without regard to their race, creed, color, age, sex, national origin, or disability/handicap.

## **CRIME LOG**

The College maintains a database, which archives all crimes reported to the department, except when disclosure of such information is prohibited by law or such disclosure would jeopardize the confidentiality of the victim. Information may be temporarily withheld if release of such information would: (a) jeopardize an ongoing criminal investigation or the safety of an individual; (b) cause a suspect to flee or evade detection; or (c) result in the destruction of evidence. The crime log data consists of the nature, date, time and general location of the crime and the disposition of the complaint, if known.

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## TIMELY WARNING OF CRIMINAL ACTIVITY

In accordance with the Clery Act, the College will generate a Campus Safety Alert upon receiving notification from a College member or the Police of a crime that is occurring in or around our campus buildings that represents an ongoing or a continuous threat to the College Community. **CRIME STATISTICS CATEGORIES AND RECORDING MEASURES**

Statistical crime data is provided for the past three calendar years in accordance with the federal laws articulated in the Clery Act. Data included in the statistics column for Murder/ Non Negligent Manslaughter, Negligent Manslaughter, Domestic Violence, Dating Violence, and Stalking, Sex Offenses, Aggravated Assault, Larceny / Theft, Intimidation, Simple Assault, Vandalism and Motor Vehicle Thefts represent the number of victims in the crime occurrence. Similarly, cases involving arrests for Liquor Law, Drug Law and Illegal Weapons violations are recorded per person. Statistics captured under “Referred for Disciplinary Action” reflect the number of individuals in a reported incident submitted to a campus official authorized to administer and maintain a record of a disciplinary action. Statistics recorded for Robbery, Burglary and Arson indicate the number of occurrences only.

	2021		2022		2023	
<b>On Campus</b>						
Murder and Non-negligent Manslaughter	0		0		0	
Negligent Murder	0		0		0	
Rape	0		0		0	
Fondling	0		0		0	
Incest	0		0		0	
Statutory Rape	0		0		0	
Robbery	0		0		0	
Aggravated assault	0		0		0	
Burglary	0		0		0	
Motor vehicle theft	0		0		0	
Arson	0		0		0	
<b>Liquor law violation</b>						
Arrests	0		0		0	
Disciplinary action	0		0		0	
<b>Drug-related violation</b>						
Arrests	0		0		0	
Disciplinary action	0		0		0	
<b>Weapon possession violation</b>						
Arrests	0		0		0	
Disciplinary action	0		0		0	
<b>Violence Against Women Act (VAWA) offenses</b>	0		0		0	
Dating Violence	0		0		0	
Domestic Violence	0		0		0	
Stalking	0		0		0	

	2021		2022		2023	
<b>Residential Facilities</b>						
Murder and Non-negligent Manslaughter	0		0		0	
Negligent Murder	0		0		0	
Rape	0		0		0	
Fondling	0		0		0	
Incest	0		0		0	
Statutory Rape	0		0		0	
Robbery	0		0		0	
Aggravated assault	0		0		0	
Burglary	0		0		0	
Motor vehicle theft	0		0		0	
Arson	0		0		0	
<b>Liquor law violation</b>						
Arrests	0		0		0	
Disciplinary action	0		0		0	
<b>Drug-related violation</b>						
Arrests	0		0		0	
Disciplinary action	0		0		0	
<b>Weapon possession violation</b>						
Arrests	0		0		0	
Disciplinary action	0		0		0	
<b>Violence Against Women Act (VAWA) offenses</b>						
Dating Violence	0		0		0	
Domestic Violence	0		0		0	
Stalking	0		0		0	



	2021		2022		2023	
<b>Public Property</b>						
Murder and Non-negligent Manslaughter	0		0		0	
Negligent Murder	0		0		0	
Rape	0		0		0	
Fondling	0		0		0	
Incest	0		0		0	
Statutory Rape	0		0		0	
Robbery	0		0		0	
Aggravated assault	0		0		0	
Burglary	0		0		0	
Motor vehicle theft	0		0		0	
Arson	0		0		0	
<b>Liquor law violation</b>						
Arrests	0		0		0	
Disciplinary action	0		0		0	
<b>Drug-related violation</b>						
Arrests	0		0		0	
Disciplinary action	0		0		0	
<b>Weapon possession violation</b>						
Arrests	0		0		0	
Disciplinary action	0		0		0	
<b>Violence Against Women Act (VAWA) offenses</b>	0		0		0	
Dating Violence	0		0		0	
Domestic Violence	0		0		0	
Stalking	0		0		0	

## HATE CRIMES STATISTICS

<b>Hate Crimes 2021 On-Campus</b>	<b>Race</b>	<b>Religion</b>	<b>Sexual Orientation</b>	<b>Gender</b>	<b>Disability</b>	<b>Ethnicity/National origin</b>
Murder and Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Murder	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor vehicle theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0
Larceny-theft	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0
Damage/Vandalism to Property	0	1	0	0	0	0

<b>Hate Crimes 2022 On-Campus</b>	<b>Race</b>	<b>Religion</b>	<b>Sexual Orientation</b>	<b>Gender</b>	<b>Disability</b>	<b>Ethnicity/National origin</b>
Murder and Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Murder	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor vehicle theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0
Larceny-theft	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0
Damage/Vandalism to Property	0	1	0	0	0	0

<b>Hate Crimes 2023 On-Campus</b>	<b>Race</b>	<b>Religion</b>	<b>Sexual Orientation</b>	<b>Gender</b>	<b>Disability</b>	<b>Ethnicity/National origin</b>
Murder and Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Murder	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor vehicle theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0
Larceny-theft	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0
Damage/Vandalism to Property	0	0	0	0	0	0

Note: NYCPM has no non-campus facilities.

## ANNUAL FIRE SAFETY REPORT

	2021				2022				2023			
	Fire	Injury	Death	Value	Fire	Injury	Death	Value	Fire	Injury	Death	Value
<b>NYCPM Campus</b>	0	N/A	N/A	N/A	0	N/A	N/A	N/A	0	N/A	N/A	N/A

	Fire Safety Amenities					
	Fire Alarm Monitoring	Sprinkler System	Smoke Detection	Fire Extinguishers	Evacuation Plans and Placards	Fire Drills Previous Calendar Year
<b>NYCPM Campus</b>	Y	Y	Y	Y	Y	4

Appendix A  
New York College of Podiatric Medicine  
&  
Foot Center of New York

**DEPARTMENT OF SAFETY & SECURITY**

**CRISIS MANAGEMENT**

Rev.2023

**CRISIS MANAGEMENT**

The purpose of this document is for the development of an effective protocol, to ensure a safe and secure environment for our students, faculty, staff, visitors, and patients during a violent/dangerous episode occurring on the premises of NYCPM. Related to this purpose is the need to have an effective Crisis Management Team of essential components inclusive of NYPD, FDNY, EMS and if the circumstances demand the intervention of same. The goal is to maximize the safety of our students, staff, faculty and visitors.

**Emergency Preparedness**

Emergency Preparedness is thinking of the hazards that can threaten safety and formulating a plan to minimize the emergency. An emergency is an unanticipated event that threatens the life/safety or health of members of the NYCPM community including students, faculty, staff or patients. Due to the varied nature of such incidents, it is difficult to plan for every scenario. It is incumbent on the staff and faculty to familiarize themselves with building protocols in the event of an emergency. The top priority of any situation is to end the threat and resolve the emergency.

## **Crisis Management Team**

The membership of this Crisis Management Team should consist of an immediately accessible core group of personnel; thus, the business hours would encompass a larger core group as related to off hours, when there is minimal staff. Security is an essential part of the core. The Crisis Management team consists of five members. The members will meet regularly to discuss the existing plan as well as changes as circumstances dictate. Members will confer regularly with other faculty, students, and staff to monitor but not limited to any changes in student behavior, suspicious activity, or alarming social media posts. All members of the New York College of Podiatric Medicine Community are strongly encouraged to report any suspicious activity to staff, or faculty members. The NYCPM Crisis Management team consists of:

- Joel A. Sturm, Chief Operating Officer
- Michael Trepal, Dean
- Alain Silverio, Dean of Academics Administration
- Michael Lee, Director of Security
- Alexander Sanchez, Building Chief Engineer

## **Building Security/ Layout**

The New York College of Podiatric Medicine is located at 53 East 124 Street in the borough of Manhattan. The facility has three street level entrances 53, 55 and 57. All three entrances are on the north side of East 124<sup>th</sup> Street between Park and Madison Avenue. The 55 East 124<sup>th</sup> Street entrance is the Foot Clinic of New York. It accepts patients and visitors Monday through Friday from 8 A.M until 4pm. The 57<sup>th</sup> And 53<sup>rd</sup> East 124 Street entrances are utilized by NYCPM students and staff. (see below for Foot Clinic) Security Guards are posted at the three building entrances Monday through Friday. Only the 57 East 124 Street entrance is accessible 24 hours a day, seven days a week, this entrance is always staffed by a security guard. This entrance also serves as a delivery entrance for all outside vendors.

All guards and maintenance staff are equipped with portable radios. In the event of an emergency information can be relayed in real time. The building is equipped with an overhead speaker system that can be activated and relay information to building occupants. Ninety-eight (98) security cameras are installed throughout the college and clinic. In the event of an emergency cameras can be viewed in real time or remotely. Building entrances at 53 and 57 East 124<sup>th</sup> Street as well as the third-floor security director's office are equipped with monitors. Director of Security Michael Lee and members of the IT department have 24/7 access to building security cameras on scene or remotely.

Foot Center of New York- The Foot Center's entrance is located at 55 East 124 Street and occupies most of the buildings' first floor. It accepts patients Monday through Friday from 7:30 A.M to 4 P.M. It has three waiting rooms and numerous examination rooms. At all times while the center is open security is present. In the event of an emergency the center has two rear exits that can be utilized should circumstances dictate. Patients, guests, and staff will be directed by security.

NYPD Police Precinct- The New York College of Podiatric Medicine is located within the confines of the 25<sup>th</sup> Police Precinct located at 120 East 119 Street. The Commanding Officer is Captain Raul Maisonet. They can be reached at 212-860-6511

## **Communication/ Rave Alert System**

The overhead paging system is just one part of the communication requirement. The flow of information will generally be facilitated via e-mail and (or) cellular phone. Thus, expeditious notifications throughout our premises should include the activation of the RAVE alert notification system. Members of the NYCPM will receive timely notifications via the Rave system, voice, email and voice messaging.

## **Emergency Notification System**

NYCPM Uses the RAVE ALERT notification system.

Enrolled: Students, staff, Faculty, Administration, Residents, and maintenance

All staff and student's cell phone numbers have been logged into the College's emergency notification system in addition to NYCPM related emails. This system is a cellular texting service that sends text, voicemail, and email notifications to all enrolled. This system is not used for regular mass messages. This system will only be utilized in an emergency. The system is tested quarterly and updated regularly.

**Notifying 911 – During an emergency 911 is the first step to making emergency responders aware of the situation at hand. The more information that can be relayed to 911 dispatchers the more information responding personal will have. Multiple 911 calls from the same location usually make first responders aware that there is an ongoing situation at hand. A few tips when speaking with 911:**

- Remain on the call if the dispatcher needs you to answer questions. Try and speak clearly and calmly.
- Give as much information as possible. What is the emergency? Although you do not need to reveal your identity, doing such lets the dispatcher know the call is real and not a prank. If you leave your phone number with the 911 dispatcher, there are instances where they will call you back with follow-up questions.
- Your location is the first information that should be relayed to the dispatcher. Be specific "I'm a student and I'm on the third floor of the building in a back room"
- If a description or identity of the subject is known relay that information the 911, it is not uncommon for the subject to be former or current student or employee.
- Remember, while you are speaking to 911 the dispatcher is relaying the information to responding units. By staying on the line, you are not delaying a response.
- Be guided by instructions from emergency dispatchers.
- When possible, notify the closet security staff.

## **Lockdown/ Shelter in Place**

During a violent/ dangerous episode, it may become necessary to lock down or shelter in place in one or more buildings or floors. There are two types of shelter in place, lockdown, and lockout. A lockdown is a form of sheltering that is used to limit access of the threat. A lockout is a building-based concept that allows the building to be used as a safe haven when a situation outside the building is considered dangerous. An example of this would be hazardous material spills or civil disturbances. To accomplish lockdown, there are structural elements that are required. The following are important but not all-inclusive:

- The lecture hall doors and classroom doors allow for egress as required by fire safety laws. These doors may be locked from the cylinder, with a key, on the outer side of the door; keeping the doors secured when class is in session should be practiced. Recently all classrooms, lecture halls and stairwells have been equipped with steel locking bars. These devices can easily be placed in the locking mechanism to stop any outside intrusion. Once the door is locked it should remain locked until instructed to by a competent authority.
- Areas where the entrance doors are entirely glass may be locked using the turnkey. During an emergency doors should be locked and occupants should move away from the glass door. When possible, move to a back room. The following locations have glass door entrances.
  1. Office of the Dean- First floor -Room 100
  2. Admissions/Student Services- First floor- Room 110
  3. Executive Suite -Second Floor- Room 200
  4. Clinical Sciences- 4<sup>th</sup>Floor Room 401
  5. Business/ Accounting 4<sup>th</sup> Floor-Room 407
  6. 5<sup>th</sup> Floor Skills Lab- 5<sup>th</sup> Floor- Room 515
  7. Bruce Frankel Conference Room- Third Floor
- The Anatomy Lab doors should always be secured whether the lab is in use.

## **Building Evacuation**

Evacuation will always be part of an effective means to safety when danger engulfs a given environment. The key to the safety component is that evacuation is implemented in an orderly manner. Walking to the exits is important, running may cause a situation to become chaotic. Generally, evacuations are preceded by an alarm, as in a fire, an overhead paged announcement, a strobe light blinking or a directive from an individual authorized to do so. In all cases, knowing your environment is paramount. One must "be aware" of the locations of the exits and their specific labeling. Security guards who are posted at the three building entrances will be assigned to hold open doors for rapid egress. The following tips are always recommended when an evacuation is in progress.



- Remain Calm
- When possible, walking or running creates a panic situation.
- Do not use elevators, use the stairs.
- proceed to the designated staging area
- -do not re-enter the building unless instructed to by a competent authority.

There are two separate elevators within the College/ Clinic. One is inside the building's 53<sup>rd</sup> entrance and one is in the rear of the clinic. Elevators should be avoided during an emergency or an evacuation. Elevators can be deactivated by fireman's service keys located at first floor command stations.

- Stairway "A" - located on the west end of the college building (53 East 124th Street).
- Stairwell "B" - located between the college building and the clinic building (55 East 124th Street).
- Stairwell "C" - located at the East End (57 East 124th Street).

**Safe zone's locations:** There are two locations that will be utilized in the event of a building evacuation. The key component to the location of the staging areas is for evacuees to be out of sight from the building. In the event of an active shooter or bomb threat the more distance away from the target location is encouraged (at least 500 feet is recommended) these locations are not permanent and can change as circumstances dictate.

\*South side of 124<sup>th</sup> Street and Madison Avenue past the building line.

\*East side of 123<sup>rd</sup> Street and Park Avenue across from the entrance to the B and C parking lots.

### **Sensitive/ Critical Locations**

The following are the locations of critical equipment that may or may not need to be shut off during a crisis: Maintenance and security personnel as well as members of the Crisis Management Team can direct responding authorities to the following locations when needed.

1. Overhead Paging System -Activated by any telephone on the premises.
2. Electric Shut-Off - Panels are in the Maintenance Shop and the electrical room adjacent to the boiler room. Both areas are in the basement.
3. Gas Shut-Off - Maintenance Shop in the south corner. Equipment looks like a car's steering wheel in the color of red.
4. Water Shut-Off - Maintenance Shop contains the shut off valves for domestic water (green) and the Sprinkler System (red}. An additional valve (red} is in the Boiler Room.
5. Fire Extinguishers - See Fire Safety Plan for locations.

**Emergency Supplies:** Most needed supplies, including oxygen masks and tubing, are available within the FCNY clinic dispensary.

**AED:** Automated External Defibrillators – located in the following locations, Inside first floor clinic, Basement outside Physical Therapy, Second floor computer lab and in the third-floor cafeteria.

### **\*Crisis Kit Supplies**

\* Inside the closets at the below locations are disaster kits. Some of the items contained in the kits are listed below.

Utility closet in the basement (next to medical records)

Utility closet on the third floor near the cafeteria

Closet located inside Lecture Hall 203- second floor

- Box of Latex gloves
- Bottled water.
- Flashlights
- Batteries
- Clipboard with student release forms
- Permanent magic markers, pens and (or) pencils
- Blankets
- Legal pads
- Duct tape and plastic drop cloths
- Copy of Fire Safety Plan and Crisis Management Protocol
- First aid kits

A complete list of crisis kit supplies must be kept up to date to ensure that the kit has all items required and stored with the items of importance. The following is a list of items included:

- 2"X2" Gauze pads
- 4"X4" Gauze pads
- large compression bandages
- 2" stretch gauze roller bandages
- Scissors
- ½ or 1" adhesive tape
- Band-Aids
- Sterile eye pads Eye wash
- Cleansing pads
- Safety pins
- Chemical cold pack
- Triangular bandages
- Plastic airway for mouth-to-mouth resuscitation
- First aid cream

## **Command Stations Emergency Operations Staging Location**

All emergencies are different in nature. Staging areas will be designated by responding emergency personnel after consultation with the Director of Security or Security Personnel on scene. It should be noted that during different types of emergencies Command stations might require set up locations not inside the school or clinic. Nearby store fronts or buildings are examples of suitable staging areas should it become necessary. When events dictate that command stations can be established inside NYCPM the command stations (as identified in the Fire Safety Plan) are located at 53 East 124th Street and 57 East 124th Street. Specifically, they are designated as Fire Command Station 1 (53 East) and Fire Command Station 2 (57 East), inclusive of the Fire Command Station in the basement. These locations have all relative information available for emergency responders from outside agencies as well as responders from within. All overhead announcements relative to an emergency will be facilitated at one of the command stations, not both simultaneously.

### **Media**

All media inquiries must be directed to the Office of the Chief Operating officer.

### **Accountability**

It is essential to account for every person who may have been on campus during a violent/dangerous event. (Students, staff, visitors, and patients) If you are present inside a building that is evacuated, and the situation resolves itself. Please make sure you are accounted for. By doing so let staff know you are accounted for and safe, and no further action is needed to locate you.

- Students -A comprehensive list of students and their related activities inclusive of rotations.
- Students- access control to establish who may be on campus at any given time
- Staff - Attendance System, sign in sheets
- Visitors- sign-in sheet for visitors located at the 57 and 53 entrances.
- Patients - Clinical Works (clinic computer program).
- General notifications will be broadcast VIA the RAVE alert system.
- Video surveillance

### **Types of threats, emergency situations.**

The Crisis Management team will examine the numerous events that may be the impetus to an evacuation procedure. These events will include, but are not limited to, the following:

Bomb Threats  
Active Shooter/ Armed person on school premise  
Fire  
Natural Disaster  
Chemical Spill/ Unknown Substance  
Death on NYCPM property  
Any other unusual incident requiring emergency assistance.

### **Active shooter/ Hostage/ Armed Intruder**

**Active Shooter** – An individual actively engaged in killing or attempting to kill people in a confined and populated area. Active shooters use firearms, explosives, or other deadly weapons. Often there is no pattern or method to their selections of victims.

**Hostage situation**- A hostage situation begins the moment a suspect takes a person under control and subjects that person to the risk of bodily harm.

1. Activate mass communication system with information relative to the location of the crisis, thereby informing people how to evacuate the building without contacting the crisis, and informing those who may not be able to evacuate to begin lockdown in the nearest classroom. Follow up messages will be broadcast over the schools Rave Alert System,
  - During a lockdown the use of an overhead speaker system should be avoided. The theory being the subject individual can hear the information being relayed to occupants of the building potentially putting them in harms way.
2. If you are directed to remain in a classroom, library or other location locking the door is paramount. NYCPM classrooms, lecture halls and hallway stairwells are equipped with locking bars that are located inside the room near the door. They are red in color. They can be easily affixed to the locking mechanism to prevent outside intrusion. The door should only be opened upon direction of responding emergency responders.
3. Do not make any unnecessary noise. Remain quiet. Turn off cellular phones and electronic devices. Avoid windows.
4. Do not open doors until the police or other competent authority arrive at the location you are. Remember the situation may not yet be resolved. It is not uncommon for perpetrators to mingle to avoid capture.

### **Bomb Threat**

Bomb Threat procedures should be kept confidential to ensure that only those who need to know, know. Not to cause unnecessary panic. As in the previous section dealing with calling 911 many of the same variables apply. When receiving a bomb threat extracting as much information from the caller is essential in a successful outcome. The list below can act as a guide or checklist:

\*\*\* It should be noted that bomb threats or any other threat can be posted on social media platforms. If a perceived threat is discovered VIA social media, it should be immediately brought to the attention of security or other staff. The same procedures remain in place regardless of how the threat is received. \*\*\*\*

\*\*\* Most phones can identify the number the call is originating from, record the number and give it to security.

1. Immediately notify the Director of Safety & Security or his designee. Who will determine the nature of the threat. The building video surveillance system should be used to verify the threat.
2. Call 911 by Director of Safety & Security, designee or any member of the Crisis Management Team, whichever is most expeditious.
3. Crisis Team notification towards a determination of an evacuation procedure, if required.
4. Do not use cellular telephones or two-way radios during crisis.
5. Any emergency announcement should describe what directions are to be followed. In conjunction with the emergency announcement (overhead paging system), the mass communication system should be activated with specific information that informs people inside our buildings and outside of the buildings.

## **Bomb Threat Checklist**

Questions to ask the caller:

- When is the bomb to explode?
- Where is the bomb right now?
- What does it look like?
- What kind of bomb is it?
- What will cause it to explode?
- Did you place the bomb?
- Why?
- Who are you?

Take note of the following

Sex of caller

Age of the caller

Callers race

Length of call

If the voice is familiar, who does it sound like?

## **Fire**

As a rule, leave the building in an orderly manner. Walk, don't run. See Fire Safety Plan.

## **Biological /Hazardous Materials, Chemical Spills**

1. Notify Security / Management Team, Maintenance team - Call 911
2. Activation of mass communication system/ Be guided by FDNY, D.E.P
3. Shut down heating, air conditioning units and ventilation units.
4. Close all windows, doors and roll down gates if warranted.
5. If the threat is outside, keep everyone inside.
6. If the threat is inside, relocate to a "safe zone".
7. Isolate and confine anyone believed exposed.
8. Identify a de-contamination area/room with running water only after conferring with emergency responders
  - In most cases decontamination areas are set up by responding agencies in an area deemed safe. Mobile decontamination units are commonly used by responding City agencies and should be used before contaminating other parts of the building.

## **Death at College**

1. Notify Security Director, Crisis Management Team
2. Call 911
3. Administer first aid and (or) CPR until qualified medical personnel arrive.

\*\*Every effort should be made to have EMS remove an aided patient to a hospital. The Director of Security or Member of the Crisis team will request the presence of an NYC EMS supervisor should this situation present itself.

4. Do not disturb the scene, Police follow up might be warranted.
5. Notification to nearest relative or family should be done on a case-by-case basis. The security director with consultation with NYPD Detectives will determine family notification.
6. A faculty member or competent authority should remain with the deceased unless

instructed otherwise.

7. Press inquiries must be referred to Public Relations or The Chief Operating Officer
8. Activate counseling services.

### **Tornado/Hurricane**

1. Crisis Management Team/Security Director will determine severity of alert after conferral with local officials including. DEP, FDNY, NYPD and NYC.OEM. Although Hurricanes and Tornados are not common in the NYC area. All efforts will be made to close the College prior to one of these events occurring.
2. Overhead announcement/ Rave Alert system activated.
3. Account for all students and staff.
4. Maintain "shelter in place" until "all clear" is issued by a responsible authority.
5. Do not re-enter any damaged area.
6. If evacuation is required, move in an orderly manner to the identified "safe zones".

### **Snowstorm/Transit Strike**

Any weather conditions or transit events that impact the ability of students and employees to travel to the college and clinic safely will be reviewed by the Chief Operating Officer Joel Sturm and Dean Michael Trepal in a timely manner. The Team's conclusion will be posted on [www.nycpm.edu](http://www.nycpm.edu). Additionally, on the back of your ID card is an emergency number,(212) 420-8012, you may call for updates.

**New York College of Podiatric Medicine  
&  
Foot Center of New York**

**53-55 East 124<sup>th</sup> Street  
New York, NY 10035**

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**APPROVAL:**

Joel Sturm  
Chief Operation Officer/  
VP Administration



Michael Trepal  
Chief Academic Officer/Dean

Michael Lee  
Director of Security

Revised 04/2023



## **Appendix B**

### **NEW YORK COLLEGE OF PODIATRIC MEDICINE DRUG AND CONTROLLED SUBSTANCES POLICY**

#### **1.0 POLICY**

The United States Department of Education has issued regulations implementing the provisions of The Drug-Free Schools and Communities Act Amendments of 1989 (Public Law 101-226). In compliance with Federal Law and New York State Law, this policy includes information to ensure that all members of the New York College of Podiatric Medicine (“NYCPM”) Community are aware of the dangers of substance abuse and to outline the sanctions for violating this policy.

The New York College of Podiatric Medicine prohibits the illegal and irresponsible use of alcohol and other drugs, including abuse of prescription drugs, in accordance with all applicable federal, state, and local laws. Students, faculty and staff who distribute or use illegal drugs or illicitly use drugs which would otherwise be legal, while on NYCPM campus and facilities, or as part of any NYCPM activities, are violating Federal Laws, New York State Laws, and the policies and procedures of NYCPM. Violations of federal and state laws may lead to prosecution and criminal sanctions, including, but not limited to, fines and/or imprisonment.

NYCPM may provide confidential referral services to students, faculty and staff with drug and/or alcohol problems. These services are available through the Dean of Student Services. All inquiries and requests for assistance will be handled with confidentiality.

#### **2.0 PURPOSE**

NYCPM seeks to safeguard the health and well-being of all members of NYCPM: students, faculty and staff. All members of NYCPM are accountable to know the law and to understand the policies and procedures of NYCPM.

#### **3.0 PUBLIC EDUCATION STATEMENT ON ILLICIT DRUG AND ALCOHOL USE**

In order to better educate students, faculty and staff, NYCPM wishes to provide all members of NYCPM with an education of the effects of substance abuse. The mind-altering substances to be discussed here are: marijuana, cocaine, heroin (and their derivatives); amphetamines (uppers); barbiturates (downers); hallucinogens; and alcohol. Many individuals take such drugs to escape from their problems; but doing so only creates more problems.

What are some of the health problems associated with drugs?

- The most obvious problems are death or severe organ damage (such as heart attack, respiratory arrest, damage to the liver and lungs, and stroke).
- The less obvious, though much more prevalent, problems of the mind and body are as follows:
  - **Marijuana:** Can cause short-term effects such as slow reflexes; increase in forgetfulness; alters judgment of space and distance; aggravate pre-existing heart and/or mental health problems; long-term health effects include permanent damage to lungs, reproductive organs and brain function; Can interfere with physical, psychological, social development of young users.
  - **Cocaine (Crack):** Can cause short-term effects such as impaired judgment; increased breathing, heart rate, heart palpitations; anxiety, restlessness, hostility, paranoia, confusion; long-term effects may include damage to respiratory and immune systems; malnutrition, seizures and loss of brain function; highly addictive.
  - **Hallucinogens (PCP, LSD, ecstasy, DXM):** Can cause extreme distortions of what's seen and heard; induces sudden changes in behavior, loss of concentration and memory; increases risk of birth defects in user's children; overdose can cause psychosis, convulsions, coma and death. Frequent and long-term use can cause permanent loss of mental function.
  - **Inhalants (nitrous oxide, amyl nitrite, butyl nitrite, chlorohydrocarbons, hydrocarbons):** Can cause short-term effects such as nausea, dizziness, fatigue, slurred speech, hallucinations or delusions; may lead to rapid and irregular heart rhythms, heart failure and death; long-term use may result in loss of feeling, hearing and vision; can result in permanent damage to the brain, heart, lungs, liver and kidneys.
  - **Opiates/Narcotics (heroin, morphine, opium, codeine, oxycodone, china white):** Can cause physical and psychological dependence; overdose can cause coma, convulsions, respiratory arrest and death; long term use leads to malnutrition, infection and hepatitis; sharing needles is a leading cause of the spread of HIV and hepatitis; highly addictive, tolerance increases rapidly.
  - **Sedatives:** Can cause reduced reaction time and confusion; overdose can cause coma, respiratory arrest, convulsions and death; withdrawal can be dangerous; in combination with other controlled substances can quickly cause coma and death; long-term use can produce physical and psychological dependence; tolerance can increase rapidly.

- **Tobacco** (cigarettes, cigars, chewing tobacco): Can cause diseases of the cardiovascular system, in particular smoking being a major risk factor for a myocardial infarction (heart attack), diseases of the respiratory tract such as Chronic Obstructive Pulmonary Disease (COPD) and emphysema, and cancer, particularly lung cancer and cancers of the larynx and mouth; nicotine is highly addictive.
- **Alcohol**: Can cause short-term effects such as loss of concentration and judgment; slowed reflexes; disorientation leading to higher risk of accidents and problem behavior; long-term effects include risk of liver and heart damage, malnutrition, cancer and other illnesses; can be highly addictive to some persons.

**Warning! AIDS:** Users of needles who take any drugs run a high risk of contracting AIDS and hepatitis.

**Warning! Addiction:** This is the common denominator for all mind-altering substances. With its insidious onset, addiction often goes undetected until the user's life is in chaos. Addiction pervades one's life, overpowering one's ability to reason and to relate to others. Addiction ruins the user's life and the lives of those around him/her.

#### 4.0 DISCIPLINARY STANDARDS FOR POSSESSING, USING, DISTRIBUTING AND/OR SELLING DRUGS & CONTROLLED SUBSTANCES

For **students**:

It is the policy of NYCPM, as stated in the Student Handbook, that the unlawful use, possession, distribution, or manufacture of drugs or controlled substances on NYCPM property is strictly prohibited. Individuals who possess use, distribute or manufacture drugs or controlled substances are subject to disciplinary action, including but not limited to expulsion, as well as possible criminal prosecution. Students found in violation of these policies may be subject to disciplinary proceedings as outlined in the school catalogs and student handbooks. Student violators may be subject to the following sanctions and remedial measures:

Nature of Violation	Responses for First-Time Violations May Include, But Are Not Limited To:	Responses for Repeat Violations May Include, But Are Not Limited To:
Possession or use of alcohol or other drugs in violation of NYCPM policy or federal, state, or local law	<ul style="list-style-type: none"> <li>• Warnings</li> <li>• Disciplinary Probation</li> <li>• Counseling and treatment</li> <li>• Service to the college community</li> </ul>	<ul style="list-style-type: none"> <li>• Disciplinary Probation</li> <li>• Mandatory referral for counseling and treatment</li> <li>• Suspension from NYCPM sponsored housing)</li> <li>• College-Level disciplinary action</li> </ul>

Possession or use of alcohol or other drugs in violation of NYCPM policy or federal, state, or local law in a manner involving aggravated circumstances (e.g. actual/potential harm to self or others, disruption of the NYCPM community, repeated offenses)	<ul style="list-style-type: none"> <li>• Warnings</li> <li>• Disciplinary Probation</li> <li>• Mandatory counseling and treatment</li> <li>• College-Level disciplinary action</li> </ul>	<ul style="list-style-type: none"> <li>• Disciplinary Probation</li> <li>• Mandatory counseling and treatment</li> <li>• Service to the college community</li> <li>• College-Level disciplinary action</li> </ul>
Distribution or intent to distribute a controlled substance in violation of NYCPM policy or federal, state, or local law	<ul style="list-style-type: none"> <li>• Legal action</li> <li>• College-level disciplinary actions</li> </ul>	<ul style="list-style-type: none"> <li>• Legal action</li> <li>• College-level disciplinary action</li> </ul>

NYCPM uses the following definitions for the above sanctions:

- **Possession:** Illegal holding or controlling of alcohol, drugs, or associated paraphernalia.
- **Use:** Illegal personal use of alcohol or drugs.
- **Abuse:** Repeated illegal use of alcohol or drugs, or use accompanied by other behavior, including but not limited to:
  - Disorderly, disruptive, or aggressive behavior that interferes with the well-being, safety, security, health, or welfare of the community and/or the regular operations of NYCPM
  - Engaging in or threatening to engage in any behavior that endangers the health, safety, or well-being of oneself, another person, or property
  - Physical violence (actual or threatened) against any individual or group of persons
- **Distribution:** Illegal sale, exchange, or giving of alcohol or other drugs to one or more persons. Factors to consider when determining NYCPM’s response include, but are not limited to:
  - Health and wellness of the responsible student
  - NYCPM’s interests
  - Impact on the NYCPM community
  - Type, quantity, and packaging of the substance
  - Number of persons to which the substance was distributed
  - Amount of revenue associated with the distribution
  - Existence of any other aggravating or extenuating circumstances
- **Warning:** A written reprimand putting the student on notice that he/she has violated the Personal Conduct Policy and indicating that further misconduct may result in a more severe disciplinary action. A copy of this warning is placed in the student's folder.
- **Probation:** A student may be placed on disciplinary probation for a definite period of time. While on probation, students may not represent NYCPM in

any capacity. Further violations while on probationary status will result in suspension or expulsion from NYCPM.

- **Counseling and Treatment:** A student's continued enrollment at NYCPM may be conditioned on his/her participation in counseling or treatment at outside counseling and treatment agencies. A student's failure to participate in such a program after being advised that his/her enrollment is conditional upon it, may result in other disciplinary sanctions.
- **Legal Action:** The administration may recommend that students be turned over to law enforcement authorities for legal action. The final decision on referring student cases to the authorities is made by the Office of the Dean or COO.

#### **College-Level Sanctions:**

- **Service to College Community:** Student must complete a designated number of hours of service to the NYCPM community. Service hours cannot interfere with the individual's course schedule.
- **Disciplinary Probation:** Exclusion from participation in specified privileges or NYCPM programs and activities as set forth in the notice of disciplinary probation for a designated period of time.
- **Restitution:** A student may be required to pay restitution to NYCPM or to fellow students for damages and losses resulting from his/her actions.
- **Suspension:** At any time during a student's enrollment at NYCPM he/she may be suspended and barred from attending classes for a definite period, not to exceed two years. Notification of the suspension will appear on the student's academic transcript and will remain until the end of the suspension period. A notification of the suspension will remain in the student's file. A student may not be automatically enrolled at the end of his suspension He/she must apply to the office of the Dean for re-enrollment.
- **Expulsion:** This is termination of the student's enrolled status at the college. A student who is expelled from the college is not permitted to complete his courses and may not re-register for a future semester. Notification of the expulsion will appear on the student's academic transcript.

#### **For faculty and staff members:**

Each faculty and staff member of NYCPM is expected to abide by NYCPM's policies for maintaining a drug-free workplace. The policy statement on drug abuse pertaining to students also applies to faculty and staff. Furthermore, all faculty and staff are required to notify the appropriate Dean of any criminal conviction relating to his or her own drug activity within five (5) days of such conviction. Faculty and staff (part-time or full-time) who violate NYCPM policies on drugs and controlled substances may be subject to disciplinary sanctions, or other sanctions, as follows (sanctions need not be progressive):

- **Censure:** A written reprimand, outlining the violation(s) of NYCPM's policies, may be placed in the personnel file of individual violators.
- **Probation:** Faculty and/or staff may be placed on probation for a definite period of time up to a maximum of one year. In such instances, individuals may be required to enroll in a therapeutic counseling or treatment program.
- **Suspension:** Faculty and/or staff may be suspended from employment without pay for a period of time ranging from seven days to a maximum of one year.
- **Termination of Employment:** Faculty and/or staff may be dismissed from employment upon written notice by Vice President for Administration, and/or the Chief Academic Officer.
- **Legal Action:** Faculty and/or staff may be turned over to law enforcement authorities for criminal prosecution and legal action.

In both cases for students and faculty and staff, the existence of a tiered system of disciplinary sanctions measures does not preclude NYCPM from levying a heavy sanction, without first resorting to a lesser sanction. By way of illustration and not exclusion, NYCPM may expel a student or terminate a staff member for a violation of policy without first issuing a warning or putting that student or employee on probation.

## 5.0 REGULATIONS ON ALCOHOL USE/ABUSE

The following regulations apply to students, faculty and staff of NYCPM:

- The consumption of alcoholic beverages by individuals under the age of 21 is illegal.
- All persons are prohibited from consuming alcoholic beverages on the premises of NYCPM (unless at an event specifically sanctioned by NYCPM Administration in writing), to the level of inebriation or entering or remaining on NYCPM premises in an impaired state.
- Any faculty and/or staff member of NYCPM who provides alcohol to a minor on NYCPM premises shall be subject to full penalty under the laws of Illinois.
- Forcing any student or faculty member to consume alcohol and/or drugs for the purpose of initiation into or affiliation with any NYCPM sanctioned organization is not permitted.
- Treating or seeing patients at any NYCPM affiliated facility while impaired may cause an individual to be terminated and may lead to a hearing with regulatory agencies on their license to practice medicine.
- Alcoholism, while it may be a disability, does not excuse any faculty and/or staff member of NYCPM from violating a legitimate NYCPM policy or neglecting their responsibilities to NYCPM. Individuals whose work performance is impaired as a result of the use/abuse of alcohol may be required to participate in an appropriate evaluation/treatment program and

may, in certain circumstances, lead to sanctions against that individual. If you are an alcoholic, you may self-identify to the Dean of your campus or supervisor, as the case may be, and request confidential counseling and/or referral services to help with your problems. All inquiries and requests for assistance will be handled with strict confidentiality.

- NYCPM observes the culpability laws for serving drinks to the mentally-impaired and to individuals who are already inebriated. Some signs that may indicate if a person is inebriated may be the smell of alcohol on their clothes, impairment to speech, mood changes, slowed reflexes, or impairment of coordination.
- NOTE: Mothers who drink alcohol during pregnancy may give birth to infants with irreversible physical abnormalities and cognitive disabilities. Research shows that children of alcoholic parents are at greater risk.

## **6.0 CRIMINAL SANCTIONS FOR ALCOHOL MISUSE**

Persons giving or selling alcohol to someone under 21 years of age are committing a misdemeanor or possible felony crime punishable in New York State.

If you are under the age of 21, you are prohibited from possessing alcoholic beverages with the intent to consume them.

## **7.0 SUBSTANCE ABUSE SELF-IDENTIFICATION AND AMNESTY**

NYCPM recognizes that, sometimes, there may be health or safety emergencies related to the use of drugs or alcohol in which the potential for disciplinary action by NYCPM may deter students who want to seek assistance for themselves or for another member of the NYCPM community. In such instances, the health and safety of the at-risk student will be NYCPM's top priority. Therefore, should a student, or another individual on behalf of that student, voluntarily come forward seeking assistance in a situation involving the over-consumption or abuse of drugs and/or alcohol, NYCPM's student conduct response to the over-consumption/abuse will be, first and foremost, focused on medical treatment, counseling, and/or educational interventions. However, NYCPM reserves the right to address any associated acts that compromises the well-being of its community and its members, such as harassment, violence, damage, harm to self or others, or distribution of illegal substances, on a case-by-case basis as deemed appropriate and necessary.

**Reporting a Personal Concern:** Students who have concerns about their use of alcohol and/or other drugs, or students who are concerned of such use by a friend, are encouraged to seek assistance through one of NYCPM's support services. Confidentiality in these circumstances may be protected in compliance with NYCPM policy and applicable law (e.g. FERPA, HIPPA, etc.).

## **8.0 SUBSTANCE ABUSE COUNSELING**

Many different mutual and self-help programs are available near NYCPM. Although most programs are abstinence-based and follow the 12-step approach, there are also programs that support moderation and a goal and/or do not use 12 steps. Some of the programs listed below may have a religious affiliation, others may merely use spirituality as part of the program. Meeting times and locations are available upon contacting the corresponding phone numbers or websites. Each meeting is somewhat different from any other, even within the same program, both in terms of structure and participants. Many people find it helpful to explore different options.

### **United States**

- National Drug & Alcohol Treatment Referral Service:
  - Phone: 800-662-4357
  - Website: <https://www.samhsa.gov/find-help/national-helpline>
  
- Alcoholics Anonymous:
  - Phone: 312-346-1475
  - Website: [www.aa.org](http://www.aa.org)
  
- Focus on Recovery:
  - Phone: 800-234-0420
  
- Marijuana Anonymous:
  - Phone: 800-766-6779
  - Website: [www.marijuana-anonymous.org](http://www.marijuana-anonymous.org)
  
- Cocaine Anonymous:
  - Phone: 310-559-5833
  - Website: [www.ca.org](http://www.ca.org)
  
- Narcotics Anonymous:
  - Phone: 708-848-4884
  - Website: [www.chicagona.org](http://www.chicagona.org)
  
- Al-Anon:
  - Phone: 773-471-0225
  - Website: [www.niafg.com](http://www.niafg.com)

## **9.0 IMPLEMENTATION**

This policy shall be implemented by the Vice President for Administration and the Chief Academic Officer.

## **10.0 APPROVAL**

This policy has been approved by the Chief Operating Officer and the Office of the Dean.



## Appendix C

# TOURO UNIVERSITY SYSTEM TITLE IX GRIEVANCE PROCEDURE FOR SEX DISCRIMINATION COMPLAINTS

**NOTE: NYCPM follows the procedure and policies of  
Touro University**  
*Effective August 1, 2024*

### **1.0 Effective Date and Changes to Procedure Based on Court Rulings and Legal Challenges or Changes in Law or Regulation**

This Grievance Procedure applies to incidents that occur on or after August 1, 2024. Any incidents reported under this Grievance Procedure that occurred on or before July 31, 2024, will be processed through the institution's prior applicable 2020 Title IX Grievance Policy.

Should any portion of the 2024 Title IX Final Rule (89 Fed. Reg. 33474 (Apr. 29, 2024)), be stayed or held invalid by a court of law, or if the 2024 Title IX Final Rule is withdrawn or modified to not require elements of this Grievance Procedure, the Grievance Procedures in its entirety, or the invalidated elements of this Procedure, they will be deemed revoked as of the publication date of the opinion or order from the Court and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by the date of the opinion or order publication by the Court. If this Procedure is revoked in this manner, any conduct covered under this Procedure shall be investigated and adjudicated under the previous 2020 Title IX Grievance Policy, NYCPM's Code of Conduct, and/or NYCPM's Sexual Misconduct Policy, as applicable. NYCPM will update this Grievance Procedure as soon as practicable to reflect any court rulings or changes that invalidate parts of the Grievance Procedure, if applicable.

### **2.0 Scope of Procedure**

Sex-Based Harassment is considered discrimination on the basis of sex if it includes harassment due to actual or perceived sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity.

### **3.0 Jurisdiction of Procedure**

New York College of Podiatric Medicine's ("NYCPM") Title IX Coordinator will determine if this Grievance Procedure applies to a Complaint. This Grievance Procedure will apply when the following elements are met, in the reasonable determination of the Title IX Coordinator:

- The conduct alleged occurred on or after August 1, 2024;
- The conduct alleged occurred in the United States, except for cases of sexual assault, domestic violence, dating violence and stalking, in which case, if such occurred off campus or during study abroad, will be subject to the jurisdiction of this Grievance Procedure;
- The conduct alleged occurred in NYCPM's Education Program or Activity; and
- The conduct alleged, if true, would constitute Sex-Based Harassment as defined in this Grievance Procedure.

**NOTE:** NYCPM has an obligation to address a sex-based hostile environment under its Education Program or Activity, even when some conduct alleged to be contributing to the Hostile Environment occurred outside NYCPM's Education Program or Activity, or outside of the United States, if such conduct affects a NYCPM Education Program or Activity in the United States. NYCPM's Title IX Coordinator will work with all Complainants to assess such Complaints that may fall under these criteria, and direct to appropriate University Policies and Procedures that may apply if this Grievance Procedure does not. NYCPM will communicate all such decisions in writing to the Complainant. Any such dismissals shall be subject to appropriate appeal rights under this Grievance Procedure as outlined in the Dismissals section below.

Conduct that occurs under NYCPM's Education Program or Activity includes but is not limited to conduct that occurs in a building owned or controlled by a Student organization that is officially recognized by NYCPM, and conduct that is subject to NYCPM's disciplinary authority under NYCPM's Code of Conduct.

If all elements of jurisdiction are met, NYCPM will investigate the allegations according to this Grievance Procedure as appropriate, unless informal resolution is pursued or there are grounds for dismissal of the Complaint.

#### **4.0 Non-Discrimination in Application**

The requirements and protections of this Grievance Procedure apply equally regardless of sex, sexual orientation, gender identity, gender expression, race, color, national origin, religion, creed, age, disability, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, criminal conviction, or other protected classes covered by applicable federal, state, or local law. All requirements and protections are equitably provided to individuals regardless of such protected status(es) or status as a Complainant, Respondent, or Witness. Individuals who wish to file a Complaint about the institution's policy or process may contact the U.S. Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>. Individuals may also file complaints with the New York State Division of Human Rights (DHR), using contact information available at <https://dhr.ny.gov/complaint>.

#### **5.0 Students' Bill of Rights**

All Students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of Domestic Violence, Dating Violence, Stalking, and Sexual Assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the Reporting Individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;

8. Be protected from Retaliation by the institution, any Student, the Accused and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by a process support person of choice who may assist and advise a Reporting Individual or Complainant, Accused, or Respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

## 6.0 Definitions

- **Accused** means a person accused of a violation who has not yet entered an institution's judicial or conduct process.
- **Admission** means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an Education Program or Activity operated by NYCPM.
- **Consent** means a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate Consent. The definition of Consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. Consent to any sexual act or prior consensual sexual activity between or with any Party does not necessarily constitute Consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot Consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to Consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When Consent is withdrawn or can no longer be given, sexual activity must stop. "Consent" and "affirmative consent" may be used interchangeably under this Grievance Procedure.
- **Complainant** means:
  - (1) a student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment as defined in this Grievance Procedure and who was participating or attempting to participate in NYCPM's Education Program or Activity; or
  - (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment under this Grievance Procedure and who was participating or attempting to participate in NYCPM's Education Program or Activity at the time of the alleged Sex-Based Harassment.

A Complainant may also be referred to as a Reporting Individual in this Grievance Procedure, in alignment with New York State Education Law Article 129-B.

- **Complaint** means an oral or written request to NYCPM that objectively can be understood as a request for NYCPM to investigate and make a determination about alleged Sex-Based Harassment at the institution.

- ***Disciplinary Sanctions*** means consequences imposed on a Respondent following a determination under this Grievance Procedure that the Respondent violated NYCPM's prohibition on Sex-Based Harassment. For students, faculty and staff, the existence of a progressive system of disciplinary sanctions measures does not preclude NYCPM from levying a heavy sanction, without first resorting to a lesser sanction. By way of illustration and not exclusion, NYCPM may expel a student or terminate a staff member for a violation of policy without first issuing a warning or putting that student or employee on probation.
- ***Education Program or Activity*** means any academic, extracurricular, research, occupational training or other Education Program or Activity operated by NYCPM that receives Federal financial assistance.
- ***Party*** means Complainant or Respondent.
- ***Peer Retaliation*** means Retaliation by a Student against another Student.
- ***Privacy and Confidentiality***. References made to confidentiality refer to the ability of identified confidential resources (e.g. priests/clergy) to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. NYCPM offices and employees cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed 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 for tracking patterns and spotting systemic issues. NYCPM will endeavor to limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality or privacy cannot be honored. Please note that NYCPM does not have any personnel that can be deemed or considered "Confidential Reporters" and, as such, all information provided to NYCPM may be disclosed to the Title IX Coordinator or other relevant administrator with Authority. **Â**
- ***Relevant*** means related to the allegations of Sex-Based Harassment under investigation as part of this Grievance Procedure. Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.
- ***Remedies*** means measures provided, as appropriate, to a Complainant or any other person NYCPM identifies as having had their equal access to NYCPM's Education Program or Activity limited or denied by Sex-Based Harassment. These measures are provided to restore or preserve that person's access to NYCPM's Education Program or Activity after NYCPM determines that Sex-Based Harassment occurred.
- ***Respondent*** means a person who is alleged to have violated NYCPM's prohibition on Sex-Based Harassment.
- ***Retaliation*** means intimidation, threats, coercion, or discrimination by any person by NYCPM, a Student, or an employee or other person authorized by NYCPM to provide aid, benefit, or service under NYCPM's Education Program or Activity, for the purpose of interfering with any right or privileged secured by Title IX, or because the person has reported information, made a Complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Grievance Procedure, including an informal resolution process.
- ***Sex-Based Harassment*** means sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

(1) *Quid pro quo harassment*. An employee, agent or other person authorized by NYCPM's Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) *Hostile Environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from NYCPM's Education Program or Activity (i.e., creates a Hostile Environment). Whether a Hostile Environment has been created is a fact-specific inquiry that includes consideration of the following: (i) the degree to which the conduct affected the Complainant's ability to access NYCPM's Education Program or Activity; (ii) the type, frequency, and duration of the conduct; (iii) the Parties' ages, roles within NYCPM's Education Program or Activity, previous interactions and other factors about each Party that may be Relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other Sex-Based Harassment in NYCPM's Education Program or Activity;

(3) *Sexual Assault* (as defined in the Clery Act, 20 U.S.C. 1092(f)) means any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent;

(4) *Dating Violence* (as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

(5) *Domestic Violence* means any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or Domestic Violence laws of New York, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shared a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or Domestic Violence laws of New York; or

(6) *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.

- **Student** means a person who has gained Admission.
- **Supportive Measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent, to: (1) restore or preserve that Party's access to NYCPM's Education Program or Activity, including measures that are designed to protect the safety of the Parties or NYCPM's educational environment; or (2) provide support during NYCPM's Grievance Procedure for Sex-Based Harassment or during the informal resolution process.

## **7.0 Disability Accommodations**

### *Generally*

This Grievance Procedure does not alter any institutional obligations under applicable federal, state, and/or local, disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, among others. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedure. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

### *Requests for Reasonable Accommodations During the Title IX Grievance Procedure*

If the Complainant or Respondent discloses a disability, the Title IX Coordinator or designee may consult, as appropriate, with the Office of Student Disability Services to provide support to Students with disabilities to determine how to comply with applicable law including, without limitation, Section 504 of the Rehabilitation Act of 1973 in the implementation of any Supportive Measures, or any other reasonable accommodations requested during the Grievance Procedure.

## **8.0 Policy for Alcohol and/or Drug Use Amnesty**

The health and safety of every student at NYCPM is of utmost importance. NYCPM 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. NYCPM 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 NYCPM's officials or law enforcement will not be subject to NYCPM's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

## **9.0 Basic Requirements of the Grievance Procedure**

NYCPM is required to:

- Treat Complainants and Respondents equitably;
- Ensure that any person designated by NYCPM as a Title IX Coordinator, investigator, or decisionmaker does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent;
- Establish reasonably prompt timeframes for the major stages of this Grievance Procedure, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay;
- Ensure that reasonable steps to protect the privacy of the Parties and witnesses during the pendency of the Grievance Procedure are taken, provided that the steps do not restrict the abilities of the Parties to obtain and present evidence, including by speaking to witnesses (as long as such does not result in Retaliation), consult with their family members, confidential resources, or process support persons, or otherwise prepare for or participate in this Grievance Procedure (so long as all necessary FERPA Waivers have been executed on the Party's or witness's behalf);

- Ensure an objective evaluation of all evidence that is Relevant and not otherwise impermissible under this Procedure, including both inculpatory and exculpatory evidence, and provide that credibility determinations must not be based on a person's status as a Complainant, Respondent or Witness;
- Exclude impermissible evidence from consideration as defined in the Grievance Procedure; and
- Clearly articulate principles for how NYCPM will determine which policies and procedures apply if not all such Complaints are handled under this institutional Grievance Procedure.

Per New York State Law, NYCPM is also required to additionally ensure that Complainants are advised of their right to:

- Notify Campus Security, local law enforcement, and/or state police;
- Have emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a Complainant 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 detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated New York Penal Law should be addressed to law enforcement or to the district attorney, who shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the Complainant of other reporting options;
- Disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for Complainants;
- Disclose confidentially the incident and obtain services from the state or local government;
- Disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;
- File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate institution representatives for information and assistance, ensure that Complainants know that reports shall be investigated in accordance with this Grievance Procedure and/or any other institutional policies that may be applicable, and ensure that a Complainant's identity will remain private at all times if said Complainant wishes to maintain privacy;
- If the accused is an employee of NYCPM, the incident to NYCPM's Human Resources Department, at which point such referral shall be handled according to NYCPM's Employee or Faculty Handbook;
- Receive assistance from appropriate NYCPM representatives in initiating legal proceedings in family court or civil court; and
- Withdraw a complaint or involvement from NYCPM's Grievance Procedure at any time.

## **10.0 Reporting Sex-Based Harassment Occurring Between Students to the Institution**

### *Non-Confidential Reports*

Any person may report sex discrimination, including Sex-Based Harassment (whether or not the person reporting is the person alleged to be the victim of the conduct that may constitute sex discrimination or Sex-Based Harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

## *Contact Information for the Title IX Coordinator at NYCPM:*

Joel A. Sturm  
53 East 124th Street  
New York, NY 10035  
212-410-8047  
[jsturm@nycpm.edu](mailto:jsturm@nycpm.edu)

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

## *Confidential Reports*

The following officials at NYCPM will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited by Title IX:

- Title IX Coordinator or designee(s);
- Officials with Authority to institute corrective measures under Title IX;
- All other employees at NYCPM that are not designated as confidential resources

Please note that NYCPM employees cannot guarantee confidentiality in any situation.

There are other confidential options available for crisis intervention, resources and referrals, but these are not reporting mechanisms to the institution, meaning that disclosure on a call to one of these hotlines does not provide any information to NYCPM.

Complainants are encouraged to additionally contact a campus confidential or private resource so that NYCPM can take appropriate action in these cases. Some resources for confidential disclosure **NOT** to the institution are:

- The New York State Office for the Prevention of Domestic Violence hotlines: <http://www.opdv.ny.gov/help/dvhotlines.html>. Additional disclosure and assistance options that can be found and are presented in several languages can also be found here: <http://www.opdv.ny.gov/help/index.html> (or by calling 1-800-942-6906).
- SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints/>;
- Legal Momentum: <https://www.legalmomentum.org/>;
- NYSCASA: <https://nyscasa.org/responding>;
- NYSCADV: <http://www.nyscadv.org/>;
- Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>;
- GLBTQ Domestic Violence Project: <http://glbtqdv.org/>;
- RAINN: <https://www.rainn.org/get-help>; and
- Safe Horizons: <http://www.safehorizon.org/>.

## *Privacy vs. Confidentiality*

References made to confidentiality refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to privacy mean NYCPM offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed 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 for tracking



patterns and spotting systemic issues. NYCPM will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

### *At the First Instance of Disclosure of a Report*

NYCPM shall ensure that, at a minimum, at the first instance of disclosure by a Complainant to a NYCPM representative, the following information shall be presented to the Complainant: “You have the right to make a report to university police or campus security, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from Retaliation for reporting an incident; and to receive assistance and resources from your institution.”

## **11.0 Supportive and Interim Measures**

### *Providing Supportive Measures*

Complainants who report allegations of Sex-Based Harassment have the right to receive Supportive Measures from NYCPM regardless of whether they file a Complaint. Supportive Measures are non-disciplinary and non-punitive. Supportive Measures may vary depending upon what is reasonably available at NYCPM.

As appropriate, Supportive Measures may include without limitation:

- Counseling services
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services, as available
- Restrictions on contact applied to one or more Parties (no contact orders)
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Training and education programs related to Sex-Based Harassment
- Assistance by NYCPM’s police or security forces, if applicable, or other officials in obtaining an order of protection or, if outside of New York state, an equivalent protective or restraining order

Supportive Measures must not unreasonably burden either Party and must be designed to protect the safety of the Parties or NYCPM’s educational environment, or to provide support during NYCPM’s Sex-Based Harassment grievance procedure under this policy or during informal resolution under this procedure.

NYCPM may modify or terminate Supportive Measures at the conclusion of the grievance procedure or at the conclusion of the informal resolution process or may continue them beyond that point, within NYCPM’s discretion.

NYCPM may disclose information about any Supportive Measures provided to either party, including informing one Party of Supportive Measures provided to another Party. These disclosures are at the sole and absolute discretion of the Title IX Coordinator, though the Parties can request that the supportive measures not be shared. Supportive measures may also be shared if necessary to provide the supportive measure or restore or preserve a Party’s access to NYCPM’s education program or activity.

Supportive measures may otherwise be disclosed to the extent that the Title IX Coordinator determines necessary

- To carry out the purpose of the policy when it is necessary to address conduct that reasonably may constitute Sex-Based Harassment under Title IX in NYCPM's education program or activity;
- As required by Federal law, federal regulations, or the terms and conditions of a federal award; or
- To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, or its implementing regulations, 34 CFR Part 99).

***Note on Orders of Protection and their equivalent:*** NYCPM must provide a copy of the order of protection or equivalent when it is received by NYCPM, and Parties shall have the opportunity to meet or speak with the Title IX Coordinator, who can explain the order and answer questions about it, including information from the order about the Accused's/Respondent's responsibility to stay away from the protected person or persons. Parties are entitled to an explanation of the consequences for violating these orders, including without limitation, arrest, additional conduct charges, and interim suspension or emergency removal, as applicable. NYCPM Campus Security does not possess arresting powers, so a Complainant is also entitled to receive assistance from Campus Security to call on and assist local law enforcement in effecting an arrest for violating such order, in accordance with limits on current law enforcement jurisdiction and procedures.

### ***Process for Review of Supportive Measures***

NYCPM provides for a Complainant or Respondent to seek modification or reversal of NYCPM's decision to provide, deny, modify or terminate a Supportive Measure provided to that party. Grounds for challenge of Supportive Measures include, but are not limited to:

- Whether a Supportive Measure is reasonably burdensome;
- Whether a Supportive Measure is reasonably available;
- Whether a Supportive Measure is being imposed for punitive or disciplinary reasons;
- Whether the Supportive Measure is being imposed without fee or charge; and
- Whether the Supportive Measure is effective in meeting the purposes for which it is intended, including to restore or preserve access to the Education Program or Activity, provide safety, or provide support during the Grievance Procedure.

This review will be conducted by an impartial employee of NYCPM, who did not make the challenged decision on the original supportive measure request. The impartial employee of NYCPM who makes this determination will have the authority to modify or reverse the decision if that impartial employee determines that the decision to provide, deny, modify or terminate the supportive measure was inconsistent with the procedures as outlined above for providing Supportive Measures in accordance with the Title IX regulations.

Parties are only allowed to challenge their own individual Supportive Measures. Challenges by one Party will not be heard to Supportive Measures afforded to the opposite Party, unless that supportive measure directly impacts the Party making such challenge (i.e., two-way no contact orders).

### ***Emergency Removal***

NYCPM retains the authority to remove a Respondent from all or part of NYCPM's education program or activity on an emergency basis, where NYCPM (1) undertakes an individualized safety and risk analysis, and (2) determines that an imminent and serious threat to the health or safety of a Complainant

or any Students, employees, or other persons arising from the allegations of Sex-Based Harassment justifies removal.

NYCPM will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal. The Respondent may file an appeal against the decision to remove. The request for an appeal must include the grounds for which the request is based and be submitted in writing to the Title IX Coordinator within seven (7) business days following the date of the emergency removal. Upon receipt of the appeal, the other party will receive notification of the appeal.

The decisionmaker who hears a challenge to an emergency removal must not be involved in any decision regarding responsibility or appeal of a determination.

Emergency removals will not be considered Relevant evidence that can be considered in reaching a determination of whether Sex-Based Harassment occurred.

### *Administrative Leave*

NYCPM retains the authority to place a non-Student employee Respondent on administrative leave during the Title IX Grievance Procedures, consistent with the Employee or Faculty Handbook **Note on Student Employees:** when a Complainant or Respondent is both a Student and an employee of NYCPM, NYCPM will make a fact-specific inquiry to determine whether these procedures apply to that Student employee. NYCPM will consider if the Complainant or Respondent's primary relationship with NYCPM is to receive an education and whether the alleged Sex-Based Harassment occurred while the Party was performing employment-related work.

## **12.0 The Title IX Grievance Procedure for Allegations of Sex-Based Harassment Occurring Between Students**

### **12.1 Filing a Complaint**

#### *Who can make a Complaint?*

- A Complainant (as defined in Section 4.0(4) of this Grievance Procedure); or
- The Title IX Coordinator.

#### *Note on Title IX Coordinator initiated Complaints:*

In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an Informal Resolution process, the Title IX Coordinator must determine whether to initiate a Complaint of Sex-Based Harassment. This determination is fact-specific, and the Title IX Coordinator must consider:

- The Complainant's request not to proceed with the initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Sex-Based Harassment would occur if a Complaint is not initiated;
- The severity of the alleged Sex-Based Harassment, including whether the Sex-Based Harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Sex-Based Harassment and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee of

- The scope of the alleged Sex-Based Harassment, including information suggesting a pattern, ongoing Sex-Based Harassment, or Sex-Based Harassment alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether Sex-Based Harassment occurred; and
- Whether NYCPM could end the alleged Sex-Based Harassment and prevent its recurrence without initiating these Grievance Procedures.

If, after considering these and other Relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents NYCPM from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint.

If the Title IX Coordinator does initiate the Complaint after making this determination, the Title IX Coordinator must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures as listed in Section VI of this Grievance Procedure.

*Is there a particular format that the Complaint needs to be in?*

As defined in VI(5) of this Grievance Procedure, a Complaint can be an oral or written request to NYCPM that objectively can be understood as a request for NYCPM to investigate and make a determination about alleged Sex-Based Harassment at the institution.

Individuals who are looking to file a complaint are encouraged to submit the complaint formally in writing to the Title IX Coordinator.

*Who can I report a Complaint to?*

Any reports of Sex-Based Harassment may be made directly to the Title IX Coordinator, whose contact information is listed at the beginning of this Grievance Procedure. There are also other ways in which a Party may report a Complaint.

NYCPM requires that any employee who is not a Confidential Employee and who either has authority to institute corrective measures on behalf of NYCPM or has responsibility for administrative leadership, teaching, or advising in NYCPM's Education Program or Activity must notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination, including Sex-Based Harassment.

All other employees at NYCPM who are not Confidential Employees and are not employees as identified above are required notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Sex Discrimination, including Sex-Based Harassment.

**Note:** If an employee has personally been subject to conduct that reasonably may constitute Sex Discrimination, including Sex-Based Harassment, under Title IX or any institutional policy or this Grievance Procedure, these requirements do not apply to an employee reporting a personal Complaint.

*What is the timeframe for NYCPM to evaluate if the Title IX Coordinator is initiating an investigation under this Grievance Procedure?*

The Title IX Coordinator must evaluate whether the Complaint falls under this Grievance Procedure five (5) business days after the Complaint is made and must issue the Notice of Allegations as soon as

practicable after the Complaint is evaluated. If there are any delays or extensions, the Title IX Coordinator must appropriately notice the Parties in writing, on a case-by-case basis, with good cause and the rationale for the extension or delay.

*Can I make a Complaint and request initiation of the Grievance Procedure even if I have made a complaint to law enforcement?*

Yes. NYCPM has an obligation to appropriately evaluate all Complaints, regardless of whether there is a concurrent Complaint before law enforcement. This process is an administrative process that is different from the criminal justice process. Per New York state law, it is required that NYCPM's process run concurrently with a criminal justice investigation and proceeding, however, temporary delays are allowed 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.

## **12.2 Multi-Party Situations and Consolidation of Complaints**

NYCPM may consolidate Complaints alleging Sex-Based Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of Sex-Based Harassment arise out of the same facts or circumstances. NYCPM can consider factors when making this fact-specific determination, which include, but are not limited to:

- The facts and circumstances of the particular Complaints when deciding whether to consolidate, including the toll of separate proceedings on the Parties; and
- Any risks to the fairness of the investigation or outcome.

## **12.3 Allegations Potentially Falling Under Two Policies**

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied to investigation and adjudication of only the allegations that constitute covered sexual harassment.

## **12.4 Dismissal of a Complaint**

### *Grounds for Dismissal*

NYCPM may dismiss a Complaint of Sex-Based Harassment for any of the following reasons:

- NYCPM is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in NYCPM's Education Program or Activity and is not employed by NYCPM;
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint through this Grievance Procedure, and NYCPM determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex-Based Harassment under Title IX or this Grievance Procedure even if proven; or
- NYCPM determines that the conduct alleged in the Complaint, even if proven, would not constitute Sex-Based Harassment under Title IX or these procedures. Note: NYCPM must make reasonable efforts to clarify the allegations with the Complainant before dismissing under this basis.

### *Notice of Dismissal*

If NYCPM dismisses a Complaint, NYCPM is required to promptly notify the Complainant of the basis for dismissal.

If the dismissal of the Complaint occurs before a Notice of Allegations is issued to the Respondent, the Title IX Coordinator does not need to notice the Respondent at that time. However, if the Complainant appeals the dismissal, the Respondent will need to be noticed of the Complaint allegations and given an opportunity to respond to the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then NYCPM must notify the Respondent and Complainant of the dismissal and the basis for the dismissal simultaneously in writing.

Appeal rights must also be outlined in any notification of dismissal of a Complaint, as included below under *Appeal of Dismissals*.

### *Appeals of Dismissals*

NYCPM must notify the Complainant that a dismissal may be appealed and provide the Complainant with an opportunity to appeal the dismissal of a Complaint on the following grounds:

- **Procedural irregularity:** procedural irregularity that affected the outcome of the matter (i.e., a failure to follow NYCPM's own policy to a degree that had material effect on the outcome of the matter);
- **New evidence:** New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred or dismissal of the Complaint was made; and
- **Bias or Conflict of Interest:** The Title IX Coordinator, investigator(s), or decisionmaker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome of the matter.

If the dismissal occurs after the Respondent has been notified of the allegations, then NYCPM must also notify the Respondent that the dismissal may be appealed on the grounds set out above.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive Measures and remote learning opportunities (if possible) remain available during the pendency of the appeal.

If a Party appeals, the institution will as soon as practicable notify the other Party in writing of the appeal, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.

Appeals will be decided by the Appeals Committee that is appointed by the Title IX Coordinator. These individuals will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter. If either party believes any individual appointed to the Appeals Committee has a conflict of interest or bias, this should be reported to the Title IX Committee.

The outcome of the appeal will be provided in writing simultaneously to both Parties, and include rationale for the decision.

### **12.5 Notice of Allegations**

Upon initiating NYCPM's Grievance Procedure, the Title IX Coordinator shall provide a Notice of Allegations in writing to the Parties whose identities are known. Such notice will occur as soon as practicable after NYCPM receives a Complaint, if there are no extenuating circumstances. NYCPM will endeavor to provide the Notice of Allegations within 30 days after receiving a Formal Complaint.

*What does the Notice of Allegations Include?*

The written Notice of Allegations must include:

- NYCPM's Grievance Procedure and NYCPM's Informal Resolution process;
- Sufficient information available at the time of the issuance of the Notice of Allegations to allow the Parties to respond to the allegations, which includes the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex-Based Harassment under the Grievance Procedure, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to NYCPM;
- A statement that the Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence;
- A statement that the Respondent is presumed not responsible for the alleged Sex-Based Harassment until a determination is made at the conclusion of NYCPM's Grievance Procedure and that prior to the determination, the Parties will have an opportunity to present Relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- Parties may have a process support person of their choice, and that the process support person may be, but is not required to be, an attorney; and
- NYCPM's code of conduct prohibits knowingly making false statements or knowingly submitting false information during NYCPM's Grievance Procedure.

*What if NYCPM decides to investigate additional allegations of Sex-Based Harassment?*

If, in the course of an investigation, NYCPM decides to investigate additional allegations of Sex-Based Harassment by the Respondent toward the Complainant that are not included in the original issued written Notice of Allegations, or that are included in a Complaint that is consolidated under this Grievance Procedure, NYCPM shall provide notice of the additional allegations to the Parties whose identities are known.

*What if I have safety concerns about a Notice of Allegations being issued to a Respondent?*

To the extent that NYCPM has reasonable concerns for the safety of any person as a result of providing a written Notice of Allegations, NYCPM, through the Title IX Coordinator, may reasonably delay providing the written Notice of Allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

## **12.6 Process Support Person of Choice and Participation of Process Support Person of Choice**

A Party's process support person of choice may accompany the Party to any meeting or proceeding, and that NYCPM cannot limit the choice of who that process support person may be or their presence for the Parties in any meeting or proceeding unless such process support person does not follow NYCPM's established rules of decorum and rules around participation discussed below

## **12.7 Investigation**

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### *General Rules of Investigations*

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will perform an investigation of the conduct alleged to constitute Sex-Based Harassment in a reasonably prompt timeframe, after issuing the Notice of Allegations.

NYCPM, and not the Parties, have the burden to conduct an investigation that gathers sufficient evidence to determine whether Sex-Based Harassment occurred under this Grievance Procedure. This burden does not rest with either Party, and either Party may decide not to share their account of what occurred or may decide not to participate in the investigation or hearing. This does not shift the burden of proof away from NYCPM and does not indicate responsibility.

NYCPM cannot access, consider, or disclose medical records without a waiver from the Party (or parent, if applicable) to whom the records belong, or of whom the records include information. NYCPM will provide an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory or exculpatory evidence, as described below.

### *Notice of Participation*

NYCPM will provide written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate, if a Party is invited or expected to participate in any such meeting or proceeding.

### *Process Support Persons of Choice and Participation of Process Support Persons of Choice*

NYCPM will provide the Parties with the same opportunities to be accompanied to any meeting or proceeding by the process support person of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of the process support person for the Complainant or Respondent in any meeting or proceeding.

Process Support Person of Choice restrictions:

- Both the Complainant and Respondent have the right to choose a Process Support Person. The Process Support Person will be the process support person of choice for such Party at the Hearing and may be, but does not have to be, an attorney. An attorney acting in this role has no different role in the process and serves in the same capacity as a non-attorney.
- The Process Support Person of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- The parties themselves are not permitted to conduct cross-examination; it must be conducted by the Process Support Person. As a result, if a party does not select a Process Support Person, the institution will select a Process Support Person to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The Process Support Person is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The Process Support Person is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's Process Support Person may appear and conduct cross-examination on their behalf.
- If neither a party nor their Process Support Person appear at the hearing, NYCPM will provide a Process Support Person to appear on behalf of the non-appearing party.



- Process Support Personnel shall be subject to NYCPM’s Rules of Decorum, and may be removed upon violation of those Rules.

### *Expert Witnesses*

Parties may present expert witnesses as part of an investigation.

Parties are allowed to call “expert witnesses” for direct examination and credibility assessment by the hearing board and cross examination. While the expert witness will be allowed to testify, the decisionmaker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses regardless of whether all Parties present experts as witnesses.

### *Character Witnesses*

NYCPM allows Parties to call character witnesses to testify. While the character witnesses will be allowed to testify, the decisionmaker will be instructed to afford very low weight to any non-factual character testimony of any witness.

### *Review and Access to Relevant and Not Otherwise Impermissible Evidence*

Each Party will have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are Relevant and not otherwise impermissible, to the Title IX Coordinator and/or an investigator designated by the Title IX Coordinator. The Title IX Coordinator will review all evidence gathered through the investigation and determine what evidence is Relevant and what evidence is impermissible regardless of relevance, consistent with this Grievance Procedure.

Each Party and their process support person of choice will have an equal opportunity to review and access the evidence that is Relevant to the allegations of Sex-Based Harassment and not otherwise impermissible regardless of relevance prior to the conclusion of the investigation. The Title IX Coordinator will provide each Party with a reasonable opportunity to respond to the evidence. Both Parties will have the opportunity to respond to the evidence prior to the live hearing

NYCPM will take reasonable steps to prevent and address the Parties’ unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure. Participating individuals who engage in the unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure may be subject to NYCPM’s Code of Conduct, if applicable, and other University policies and/or procedures that may apply.

**Note:** Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the Complaint of Sex-Based Harassment are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

Prior to obtaining access to any evidence, the parties and their Process Support Person must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn. Failure to sign or adhere to this agreement may result in a negative inference against the party and the immediate withdrawal of that Process Support Person from the Title IX grievance process.

### *Relevant Evidence*

Evidence is Relevant when it is related to the allegations of Sex-Based Harassment under investigation as part of this Grievance Procedure.

Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.

### *Impermissible Evidence*

The following types of evidence, and questions seeking that evidence, are excluded as impermissible (i.e., must not be accessed or considered, except by NYCPM to determine whether an exception applies, must not be disclosed, and must not otherwise be used) regardless of whether they are Relevant:

- Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless NYCPM obtains that Party's or witness's voluntary, written Consent for use in NYCPM's Grievance Procedure; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the alleged Sex-Based Harassment. Note: the fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

### *Timeframes*

An investigation shall take be completed in a reasonably prompt fashion. If there are any delays or extensions, the Title IX Coordinator must appropriately notice the Parties in writing, as detailed below. NYCPM shall endeavor to complete its investigation in ninety (90) days.

Extensions may occur based on:

- Availability or unavailability of a witness or relevant/material documents;
- Reluctance of a witness and/or any necessary party;
- Delay or other uncooperative actions of any necessary party;
- Numerosity of witnesses;
- Holidays and vacation periods;
- Any other unforeseeable events/circumstances.

### *Extensions and Delays*

NYCPM allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the Parties that includes the reason for the extension or delay.

## **12.8 Live Hearing**

### *General Rules for Live Hearings*

NYCPM will not issue a finding or disciplinary sanction arising from an allegation of Sex-Based Harassment without holding a live hearing unless otherwise resolved through an informal resolution process.

The live hearing may be conducted with the Parties physically present in the same geographic location, or, at NYCPM's sole discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through Zoom or other appropriate video conferencing tools available at the time. This technology will enable participants simultaneously to see and hear each other. At its discretion, NYCPM may delay or adjourn a hearing based on technological errors not within a party's control.

All proceedings will be recorded through either recording and/or transcript. The choice of medium is at NYCPM's sole discretion.

Prior to obtaining access to any evidence, the parties and their Process Support Person must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn. Failure to sign or adhere to this agreement may result in a negative inference against the party and the immediate withdrawal of that Process Support Person from the Title IX grievance process.

### *Notice of Hearing*

Upon completion of the investigation, the Complainant and Respondent will be notified in writing of:

- the date, time, and location of the live hearing;
- the applicable grievance process;
- that both Parties can have a Process Support Person of their choice;
- that they may inspect and review evidence obtained in the investigation;
- the allegations and conduct that potentially constitute Sexual Harassment;
- the identities of the Parties involved (if known); and
- the date and location of the alleged offense (if known).

Depending on the circumstances and, at the sole discretion of NYCPM, the hearing may be conducted in-person or virtually, but will always be conducted in real-time. Permission to postpone a hearing may be granted provided that the request to postpone is reasonable.

Prior to the scheduled hearing, a trained Decision-maker will be appointed to be the fact-finder of responsibility for the alleged conduct.

While the Complainant, Respondent and witnesses are expected to be present and fully participate in the hearing (including being subject to questioning by a Process Support Person), it is the right of any and all parties to choose not to participate in the hearing of the alleged conduct. In the event that any party chooses not to participate fully in the hearing process, their statements (including those made in the investigation stage) may not be considered in the Decision-maker's determination of responsibility.

If the hearing is held in-person (not virtually), by request of either the Complainant or Respondent, questioning by a Process Support Person can be conducted in separate rooms with technology available that enables the other party to see and hear the questioning in real-time. The entire hearing will be recorded, either by electronic means or transcription. The recording will be made available, upon request, for inspection and review to both Parties. This recording will be kept on file by NYCPM in accordance with applicable rules and regulations.

NYCPM shall create an audio or audiovisual recording or transcript of any live hearing and make it available to the Parties for inspection and review.

#### *Continuances or Granting Extensions*

NYCPM may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, NYCPM will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

#### *Before the Hearing*

Prior to the Hearing, each party will be required to submit any questions, that have not already been addressed in the investigation, that they wish to ask at the oral-cross examination to the Title IX Coordinator no later than twenty-four (24) hours before the Hearing is scheduled to begin.

The Title IX Coordinator will provide the questions to the Decision-maker, who will determine the relevancy of each of the questions. If deemed relevant, the question is permissible to be asked during the hearing. If the Decision-maker determines that a question is not relevant, they will provide a brief reasoning for that decision and the question will not be permitted to be asked during the Hearing. Parties may appeal the relevance determinations at the beginning of the Hearing. The Decision-Maker will endeavor to provide their relevancy determinations at least one hour prior to the Hearing, but no later than the commencement of the Hearing.

#### *Understanding Relevance:*

For these adjudications, the basic test for relevance is whether the question posed is probative to the question of responsibility. This includes a Process Support Person asking questions that address the credibility of the party. However, there are some topics that are presumptively never relevant unless an exception applies, or a party has waived a privilege. These topics include questions and evidence:

- about the Complainant's sexual predisposition or prior sexual behavior, unless offered to prove that someone other than the Respondent committed the alleged conduct;
- that concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent, unless offered to prove consent;
- that would traditionally be protected by a legally recognized privilege (e.g., attorney-client privilege), unless the party has waived the privilege;
- in reference to a party's psychological or medical records unless the party has given voluntary, written consent.

#### *Participants in the Live Hearing*

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

#### **Complainant and Respondent (The Parties)**

- The parties cannot waive the right to a live hearing.
- The institution may still proceed with the live hearing in the absence of a party, and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a "statement" by that party.

- NYCPM will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party's participation.
- If a party does not submit to cross-examination, the Decision-Maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a "statement" by that party.
- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions.

### **The Decision-Maker**

- The hearing body will consist of a single Decision-Maker.
- The Decision-Maker will also not have served as the Title IX Coordinator, Title IX investigator, or Process Support Person to any party in the case, nor may the Decision-Maker serve on the appeals body in the case.
- The Decision-Maker will not have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The Decision-Maker will be trained on topics including how to serve impartially, issues of relevance, how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
- The parties will have an opportunity to raise any objections regarding a Decision-Maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

### **Process Support Person**

- Both the Complainant and Respondent have the right to choose a Process Support Person. The Process Support Person will be the process support person of choice for such Party at the Hearing and may be, but does not have to be, an attorney. An attorney acting in this role has no different role in the process and serves in the same capacity as a non-attorney.
- The Process Support Person of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- The parties themselves are not permitted to conduct cross-examination; it must be conducted by the Process Support Person. As a result, if a party does not select a Process Support Person, the institution will select a Process Support Person to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The Process Support Person is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The Process Support Person is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's Process Support Person may appear and conduct cross-examination on their behalf.
- If neither a party nor their Process Support Person appear at the hearing, NYCPM will provide a Process Support Person to appear on behalf of the non-appearing party.
- Process Support Personnel shall be subject to NYCPM's Rules of Decorum, and may be removed upon violation of those Rules.

## Witnesses

- Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation.
- If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing.
- See 12.7 of this Policy in determining who can be a witness.

## *Rules of Decorum*

The following Rules of Decorum are to be observed in the hearing and applied equally to all parties (meaning the complainant and respondent) and process support persons:

1. Questions must be conveyed in a neutral tone.
2. Parties and process support persons will refer to other parties, witnesses, process support persons, and institutional staff using the name and gender used by the person and shall not intentionally mis-name or mis-gender that person in communication or questioning.
3. No party may act abusively or disrespectfully during the hearing toward any other party or to witnesses, process support persons, or decision-makers.
4. While a process support person may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
5. The process support person may not yell, scream, badger, or physically “lean in” to a party or witness’s personal space. Process support persons may not approach the other party or witnesses without obtaining permission from the decisionmaker.
6. The process support person may not use profanity or make irrelevant *ad hominem* attacks upon a party or witness. Questions are meant to be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the question.
7. The process support person may not ask repetitive questions. This includes questions that have already been asked by the decisionmaker, the process support person in cross-examination, or (if an expert witness is participating) the party or process support person in direct testimony. When the decisionmaker determines a question has been “asked and answered” or is otherwise not relevant, the process support person must move on.
8. Parties and process support persons may take no action at the hearing that a reasonable person in the shoes of the affected party would see as intended to intimidate that person (whether party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.

## *Warning and Removal Process*

The decisionmaker shall have sole discretion to determine if the Rules of Decorum have been violated. The decisionmaker will notify the offending person of any violation of the Rules.

Upon a second or further violation of the Rules, the decision-maker shall have discretion to remove the offending person or allow them to continue participating in the hearing or other part of the process.

Where the decisionmaker removes a party’s process support person, the party may select a different process support person of their choice or accept a process support person provided by the institution for

the limited purpose of cross-examination at the hearing. Reasonable delays, including the temporary adjournment of the hearing, may be anticipated should a process support person be removed. A party cannot serve as their own process support person in this circumstance.

The decisionmaker shall document any decision to remove a process support person in the written determination regarding responsibility.

### *Hearing Process*

1. The hearing will begin with any appeals by the Parties to the Pre-Hearing relevancy determinations by the Decision-maker.
2. The Decision-maker will then open the hearing by establishing the rules and expectations. The Decision-maker will then read the charges.
3. Either party (Complainant or Respondent) may subsequently request to provide a brief statement of additional clarification of no more than five (5) minutes in duration.
4. Upon conclusion of any clarification statement, the Decision-Maker will ask questions of the Parties and Witnesses.
5. Parties will be given the opportunity for live cross-examination after the Decision-Maker conducts its initial round of questioning; During the Parties' cross-examination, the Decision-Maker will have the authority to pause cross-examination at any time for the purposes of asking their own follow up questions; and at any time necessary in order to enforce the established rules of decorum. The Complainant, then followed by the Respondent, may have their Process Support Person ask any approved, relevant questions that have not already been addressed in the investigation or hearing. Should a Party or the Party's Process Support Person choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Decision-Maker. A Party's waiver of cross-examination does not eliminate the ability of the Decision-Maker to use statements made by the Party.
6. Each Party will have an opportunity to submit additional questions for review by the Decision-Maker after the initial Oral Cross-Examination has concluded. Should such questions be approved, the Complainant, followed by the Respondent, may have their Process Support Person ask any additional approved, relevant questions. There will only be one round of additional questions allowed.
7. There shall be no Oral Direct Examination at any point in the hearing process. The only time it is may be allowed is if a Party identifies, and provides sufficient justification for, an "Expert Witness" prior to the Hearing. If an "Expert Witness" is identified by one party, the other party will have an opportunity to Cross-Examine that "Expert Witness", if they so choose.
8. Upon completion of questioning, any Party must raise any procedural, substantive, bias, conflict or other perceived irregularity to the Decision-Maker's attention for review and consideration. Failure to do so will forever waive such complaint.
9. Thereafter the Decision-maker will conclude the hearing.

### *Live Cross-Examination Procedure*

Each party's Process Support Person will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination the Process Support Person will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

Cross-examination questions that are duplicative of those already asked, including by the Decision-Maker, may be deemed irrelevant if they have been asked and answered.

#### *Newly-Discovered Evidence*

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

If a Party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the Party may request that such evidence or witnesses be considered at the live hearing.

The Decision-maker will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The Party offering the newly-discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the Decision-maker answers in the affirmative to both questions, then the Parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.

## **12.9 Determination Regarding Responsibility and Sanctioning**

### *Standard of Proof*

NYCPM uses the preponderance of the evidence standard of proof to determine whether or not Sex-Based Harassment occurred. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Grievance Procedure occurred.

### *General Considerations for Evaluating Evidence and Testimony*

The decisionmaker is required to evaluate Relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that Sex-Based Harassment occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that Sex-Based Harassment occurred.

Determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the decisionmaker. Decisionmakers shall not draw inferences regarding a Party or witness' credibility based on the Party or witness' status as a Complainant, Respondent, or witness, nor shall it base its judgments in stereotypes about how a Party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the Party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence. However, credibility judgments should not rest on whether a Party or witness' testimony is non-linear or incomplete, or if the Party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by Parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.



A witness' testimony regarding third-Party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred. See 12.7 under this policy to further understand the weight given to Expert Witness testimony and Character Witness testimony.

Where a Party or witness' conduct or statements demonstrate that the Party or witness is engaging in retaliatory conduct, including without limitation, witness tampering and intimidation, the decisionmaker may draw an adverse inference as to that Party or witness' credibility.

#### *Communication of the Determination in Writing*

All determinations on whether Sex-Based Harassment occurred will be communicated to the Parties in writing, simultaneously.

The written determination will include:

- A description of the alleged Sex-Based Harassment;
- Information about the policies and procedures that NYCPM used to evaluate the allegations;
- The decisionmaker's evaluation of the Relevant evidence and determination on whether Sex-Based Harassment occurred;
- Any Disciplinary Sanctions NYCPM will impose on the Respondent, whether Remedies other than the imposition of Disciplinary Sanctions will be provided by NYCPM to the Complainant, and, to the extent appropriate, other Students identified by NYCPM to be experiencing the effects of Sex-Based Harassment, if there is a finding that Sex-Based Harassment occurred; and
- NYCPM's procedures for Complainant and Respondent to appeal.

#### *Timeline of Determination Regarding Responsibility*

If there are no extenuating circumstances, the determination regarding responsibility will be issued by NYCPM within a reasonable timeframe following the completion of the hearing. NYCPM shall endeavor to provide a determination regarding responsibility within ten (10) days upon the completion of the hearing.

#### *Determination of Disciplinary Sanctions After a Finding of Responsibility*

Per New York state law, past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction. However, it is not admissible prior to determination of responsibility.

In addition, the Complainant will have an opportunity to make an impact statement during the point of the proceeding where the decisionmaker is deliberating on appropriate sanctions.

#### *Finality of Determination*

The determination regarding responsibility becomes final either on the date that NYCPM provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

#### *Disclosures of Outcome by the Parties*

The Complainant and Respondent have the right to choose whether to disclose or discuss the outcome of a conduct or judicial process related to sexual assault, dating violence, domestic violence, or stalking.

The Complainant and Respondent have the right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

### 12.10 Disciplinary Sanctions

Student violators may be subject to the following sanctions and remedial measures on a case-by-case basis:

- **Warning:** A written reprimand putting the student on notice that he/she has violated the Code of Conduct. A copy of this warning is placed in the student's folder.
- **No-Contact Order:** A student may be ordered to temporarily not intentionally contact a victim through any medium.
- **Probation:** A student may be placed on disciplinary probation for a definite period of time. While on probation, students may not hold office in Student Government Organizations, Clubs or Societies or represent the university in any capacity. Further violations while on probationary status will result in suspension or expulsion from the university.
- **Restitution:** A student may be required to pay restitution to the university or to fellow students for damages and losses resulting from his/her actions.
- **Suspension:** At any time during a student's enrollment at the university he/she may be suspended and barred from attending classes for a definite period, not to exceed two years. A student who is suspended is entitled to a written clarification with specific reasons for and description of the sanction. A student may not be automatically re-enrolled at the end of his/her suspension. He/she must apply to the Student Affairs Committee for re-enrollment.
- **Expulsion:** NYCPM may terminate a student's status at the university at any time.

Faculty and staff (part-time and full-time) who violate the policy will be subject to disciplinary sanctions on a case-by-case basis as follows:

- **Censure:** A written reprimand, outlining the violation(s) of university policies, may be placed in the personnel file of individual violators.
- **Probation:** Faculty and/or staff may be placed on probation for a definite period of time up to a maximum of one year. In such instances, individuals may be required to enroll in a therapeutic counseling or treatment program.
- **Suspension:** Faculty and/or staff may be suspended from employment without pay for a period of time ranging from seven days to a maximum of one year.
- **Termination of Employment:** Faculty and/or staff may be dismissed from employment upon written notice by the Dean of Faculties (for faculty members) or the Vice President for Administration (all other employees).
- **Legal Action:** Faculty and/or staff may be turned over to law enforcement authorities for criminal prosecution and legal action.

In both cases for students, faculty and staff, the existence of a progressive system of disciplinary sanctions measures does not preclude NYCPM from levying a heavy sanction, without first resorting to a lesser sanction. By way of illustration and not exclusion, NYCPM may expel a student or terminate a staff member for a violation of policy without first issuing a warning or putting that student or employee on probation.

*University-Initiated Protective Measures*

In addition to those protective measures previously described, the Title IX Coordinator or their designee will determine whether interim interventions and protective measure should be implemented, and, if so, take steps to implement those protective measures as soon as possible.

When the accused or respondent is a student, to have the institution issue a “no contact order” consistent with institution policies and procedures, whereby continued intentional contact with the reporting individual would be a violation of institution policy subject to additional conduct charges; if the accused or respondent and a reporting individual observe each other in a public place, it shall be the responsibility of the accused or respondent to leave the area immediately and without directly contacting the reporting individual. Both the accused or respondent and the reporting individual shall, upon request and consistent with institution policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no contact order, including potential modification, and shall be allowed to submit evidence in support of his or her request. Institutions may establish an appropriate schedule for the accused and respondents to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the reporting individual.

Other examples of interim protective measures include, but are not limited to: a University order of no contact, residence hall relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. These remedies may be applied to one, both, or multiple parties involved. Protective measures imposed may be temporary pending the results of an investigation or may become permanent as determined by NYCPM. Violations of the Compliance Officer’s directives and/or protective measures will constitute related violations that may lead to additional disciplinary action including interim suspension pending the outcome of a judicial or conduct process consistent with NYCPM policy. Both the accused or respondent and the reporting individual shall, upon request and consistent with the institution’s policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of the request.

Every institution shall ensure that individuals are provided the following protections and accommodations:

- To receive a copy of the order of protection or equivalent when received by an institution and have an opportunity to meet or speak with an institution representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused’s responsibility to stay away from the protected person or persons;
- When the accused is not a student but is a member of the institution’s community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and rules and policies of the institution.

#### *Policy For Transcript Notations*

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), NYCPM shall make a notation on the transcript of students found responsible after a conduct process that they were “suspended after a finding of responsibility for a code of conduct violation” or “expelled after a finding of responsibility for a code of conduct violation.” For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they “withdrew with conduct charges pending.” A NYCPM will allow for appeals seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of

responsibility is vacated for any reason, any such transcript notation shall be removed. (Section 6444(6) NYS Education Law Article 129-B).

### **12.11 Appeals**

The Complainant and Respondent will both be provided with at least one level of appeal. For appeals resulting from dismissal of a complaint, please see the section on *Dismissal of Complaints*.

#### *Grounds for Appeal*

The limited grounds for appeal available are as follows:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred or dismissal was made;
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent, that affected the outcome of the matter; or
- the sanction imposed is disproportionate to the violation.

The Complainant and Respondent may also appeal the dismissal of a complaint based on the first three points listed above.

The request for an appeal must include the grounds on which the request is based and be submitted in writing to the Title IX Coordinator within seven (7) business days following the date of the written determination. The appeal should also state the remedy sought by the appealing party. Upon receipt of the appeal, the other party will receive notification of the appeal and be provided opportunity to respond in writing. Written responses to the other party's appeal must be submitted within three (3) business days following the delivery of notice of the appeal.

In order to ensure a neutral and unbiased review, a party's request for appeal will be sent to an Appeals Panel comprised of individuals with no connection to the initial determination, which serves as a separate decisionmaker. An appeal decision will be rendered within twenty (20) business days after the receipt of the formal appeal request. The appeal decision will be provided in writing to both parties.

#### *Additional Procedures for Appeal Process*

NYCPM will notify the Parties of any appeal, provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome, and will notify the Parties of the result of the appeal and the rationale for the result.

The submission of an appeal stays (or pauses) any sanctions for the period during which an appeal determination is being assessed. Supportive Measures and remote learning opportunities remain available while an appeal is being deliberated and before a final decision has been made.

#### *Finality*

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in "Appeals" above, or if an appeal is not filed, the date on which the opportunity to appeal expires.

### **12.12 Informal Resolution**

### *Procedures for Entering and Exiting Informal Resolution Process*

At any time prior to determining whether Sex-Based Harassment occurred under this Grievance Procedure, including prior to making a Complaint, Parties may instead seek NYCPM's assistance to resolve allegations of Sex-Based Harassment, and may elect to enter the informal resolution process.

No Informal Resolution process will be offered to resolve Formal Complaints involving a student as Complainant and a staff or faculty member as Respondent.

The Parties may voluntarily elect to enter the NYCPM's informal resolution process at any time through an informed written Consent. This informed written Consent will include all terms of the elected informal process, including a statement that any agreement reached through the process is binding on the Parties.

No Party may be required to participate in informal resolution, and NYCPM may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.

The Parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded. If a Party elects to leave the informal resolution process, the Grievance Procedure that the Parties paused will continue. In participating in the informal resolution process, the Parties understand that the timeframes governing the Grievance Procedure will temporarily cease, and only reinstate upon reentry into the Grievance Procedure.

Supportive Measures will be available, or continue to be available if already provided, during an informal resolution process, if elected to proceed. The Title IX Coordinator will also, to the extent necessary, take other appropriate prompt and effective steps to ensure that Sex-Based Harassment does not continue or recur within NYCPM's Education Program or Activity.

### *Notice Prior to Entry Into Informal Resolution Process*

Before the initiation of an informal resolution process, the Title IX Coordinator must provide to the Parties a written notice that explains:

- The allegations;
- The requirements of the informal resolution process;
- That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume NYCPM's Grievance Procedures;
- That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming NYCPM's Grievance Procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- What information NYCPM will maintain and whether and how NYCPM could disclose such information for use in its Grievance Procedures if they are initiated or resumed.

### *Determination to Approve Entry into Informal Resolution Process*

Even where the Parties agree to submit a matter to informal resolution, the Title IX Coordinator may approve the decision to move the matter to the informal resolution process and may determine that informal resolution is not appropriate under the circumstances.

Factors that the Title IX Coordinator may weigh in considering the appropriateness of the informal resolution process include, but are not limited to, the gravity of the allegations, whether there is an

ongoing threat of harm or safety to the campus, whether the Respondent is a repeat offender, whether the alleged conduct would present a future risk of harm to others, and whether the Parties are participating in good faith. This determination is not subject to appeal.

At any time after the commencement of the informal resolution process, the Title IX Coordinator may determine that the informal resolution process is not an appropriate method for resolving the matter, and may require that the matter be resolved through the Grievance Procedures. This determination is not subject to appeal.

If informal resolution is approved or denied, the Title IX Coordinator will provide the outcome in writing simultaneously to the Parties.

#### *Contents of Informal Resolution Agreements*

Potential terms that may be included in an informal resolution agreement between the Parties include but are not limited to:

- Restrictions on contact; and
- Restrictions on the Respondent's participation in one or more of NYCPM's education programs or activities or attendance at specific events, including restrictions NYCPM could have imposed as Remedies or Disciplinary Sanctions had NYCPM determined at the conclusion of the Grievance Procedure that Sex-Based Harassment occurred.

#### *Breach of Informal Resolution Agreements*

If a Party breaches the resolution or if NYCPM has other compelling reasons, such as if it learns of any fraud by a Party in entering into the agreement, NYCPM may void the agreement and initiate or resume the Grievance Procedure.

#### *Confidentiality*

In entering the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the complaint is confidential. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, process support person, or other source of emotional support, or with an advocacy organization. As a condition of entering the informal resolution process, any evidence shared or received during the informal resolution process may not be used in any subsequent Grievance Procedure or institutional appeal.

### **13.0 Transcript Notations**

For crimes of violence, including, without limitation, sexual violence, defined as crimes that meet the reporting requirements pursuant to the Clery Act (20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII)), NYCPM is required to make a notation on the transcript of a student found responsible for suspension or expulsion, per NYCPM's Transcript Notation Policy. That policy reads:

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), NYCPM shall make a notation on the transcript of students found responsible after a conduct process that they were "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the

disciplinary process, institutions shall make a notation on the transcript of such students that they “withdrew with conduct charges pending.” A NYCPM will allow for appeals seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed. (Section 6444(6) NYS Education Law Article 129-B).

## **14.0 Retaliation**

When NYCPM has information about conduct that reasonably may constitute Retaliation under Title IX or its Grievance Procedure, NYCPM is obligated to initiate its Grievance Procedure, or, as appropriate, NYCPM’s informal resolution process.

NYCPM will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of Sex-Based Harassment or sex discrimination under the NYCPM Title IX Grievance Procedures, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under NYCPM’s Title IX Grievance Procedures.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under NYCPM’s Grievance Procedures.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes Retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or Sex-Based Harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or complaint of Sex-Based Harassment. See NYCPM’s Amnesty Policy, 8.0, above.

Complaints alleging Retaliation may be filed according to Joel A. Sturm at [jsturm@nycpm.edu](mailto:jsturm@nycpm.edu)

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## **Grievance Procedure for Sex-Based Harassment Complaints for New York Campuses**

**Effective August 1, 2024**

### **1.0 Effective Date and Changes to Procedure Based on Court Rulings and Legal Challenges or Changes in Law or Regulation**

This Grievance Procedure applies to incidents that occur on or after August 1, 2024. Any incidents reported under this Grievance Procedure that occurred on or before July 31, 2024, will be processed through the institution’s prior applicable 2020 Title IX Grievance Policy.

Should any portion of the 2024 Title IX Final Rule (89 Fed. Reg. 33474 (Apr. 29, 2024)), be stayed or held invalid by a court of law, or if the 2024 Title IX Final Rule is withdrawn or modified to not require elements of this Grievance Procedure, the Grievance Procedures in its entirety, or the invalidated elements of this Procedure, they will be deemed revoked as of the publication date of the opinion or order from the Court and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by the date of the opinion or order publication by the Court. If this Procedure is revoked in this manner, any conduct covered under this Procedure shall be investigated and adjudicated under the previous 2020 Title IX Grievance Policy, NYCPM's Code of Conduct, and/or NYCPM's Sexual Misconduct Policy, as applicable. NYCPM will update this Grievance Procedure as soon as practicable to reflect any court rulings or changes that invalidate parts of the Grievance Procedure, if applicable.

## **2.0 Scope of Procedure**

Sex-Based Harassment is considered discrimination on the basis of sex if it includes harassment due to actual or perceived sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity.

## **3.0 Jurisdiction of Procedure**

New York College of Podiatric Medicine's ("NYCPM") Title IX Coordinator will determine if this Grievance Procedure applies to a Complaint. This Grievance Procedure will apply when the following elements are met, in the reasonable determination of the Title IX Coordinator:

- The conduct alleged occurred on or after August 1, 2024;
- The conduct alleged occurred in the United States, except for cases of sexual assault, domestic violence, dating violence and stalking, in which case, if such occurred off campus or during study abroad, will be subject to the jurisdiction of this Grievance Procedure;
- The conduct alleged occurred in NYCPM's Education Program or Activity; and
- The conduct alleged, if true, would constitute Sex-Based Harassment as defined in this Grievance Procedure.

**NOTE:** NYCPM has an obligation to address a sex-based hostile environment under its Education Program or Activity, even when some conduct alleged to be contributing to the Hostile Environment occurred outside NYCPM's Education Program or Activity, or outside of the United States, if such conduct affects a NYCPM Education Program or Activity in the United States. NYCPM's Title IX Coordinator will work with all Complainants to assess such Complaints that may fall under these criteria, and direct to appropriate University Policies and Procedures that may apply if this Grievance Procedure does not. NYCPM will communicate all such decisions in writing to the Complainant. Any such dismissals shall be subject to appropriate appeal rights under this Grievance Procedure as outlined in the Dismissals section below.

Conduct that occurs under NYCPM's Education Program or Activity includes but is not limited to conduct that occurs in a building owned or controlled by a Student organization that is officially recognized by NYCPM, and conduct that is subject to NYCPM's disciplinary authority under NYCPM's Code of Conduct.

If all elements of jurisdiction are met, NYCPM will investigate the allegations according to this Grievance Procedure as appropriate, unless informal resolution is pursued or there are grounds for dismissal of the Complaint.

## **4.0 Non-Discrimination in Application**

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The requirements and protections of this Grievance Procedure apply equally regardless of sex, sexual orientation, gender identity, gender expression, race, color, national origin, religion, creed, age, disability, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, criminal conviction, or other protected classes covered by applicable federal, state, or local law. All requirements and protections are equitably provided to individuals regardless of such protected status(es) or status as a Complainant, Respondent, or Witness. Individuals who wish to file a Complaint about the institution's policy or process may contact the U.S. Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>. Individuals may also file complaints with the New York State Division of Human Rights (DHR), using contact information available at <https://dhr.ny.gov/complaint>.

## 5.0 Students' Bill of Rights

All Students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of Domestic Violence, Dating Violence, Stalking, and Sexual Assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the Reporting Individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from Retaliation by the institution, any Student, the Accused and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by a process support person of choice who may assist and advise a Reporting Individual or Complainant, Accused, or Respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

## 6.0 Definitions

- **Accused** means a person accused of a violation who has not yet entered an institution's judicial or conduct process.
- **Admission** means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an Education Program or Activity operated by NYCPM.
- **Consent** means a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate Consent. The definition of Consent does not vary

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

- **Complainant** means:

- (1) a student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment as defined in this Grievance Procedure and who was participating or attempting to participate in NYCPM's Education Program or Activity; or
- (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment under this Grievance Procedure and who was participating or attempting to participate in NYCPM's Education Program or Activity at the time of the alleged Sex-Based Harassment.

A Complainant may also be referred to as a Reporting Individual in this Grievance Procedure, in alignment with New York State Education Law Article 129-B.

- **Complaint** means an oral or written request to NYCPM that objectively can be understood as a request for NYCPM to investigate and make a determination about alleged Sex-Based Harassment at the institution.
- **Disciplinary Sanctions** means consequences imposed on a Respondent following a determination under this Grievance Procedure that the Respondent violated NYCPM's prohibition on Sex-Based Harassment. For students, faculty and staff, the existence of a progressive system of disciplinary sanctions measures does not preclude NYCPM from levying a heavy sanction, without first resorting to a lesser sanction. By way of illustration and not exclusion, NYCPM may expel a student or terminate a staff member for a violation of policy without first issuing a warning or putting that student or employee on probation.
- **Education Program or Activity** means any academic, extracurricular, research, occupational training or other Education Program or Activity operated by NYCPM that receives Federal financial assistance.
- **Party** means Complainant or Respondent.
- **Peer Retaliation** means Retaliation by a Student against another Student.
- **Privacy and Confidentiality.** References made to confidentiality refer to the ability of identified confidential resources (e.g. priests/clergy) to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. NYCPM offices and employees cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed 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 for tracking patterns and spotting systemic issues. NYCPM will endeavor to limit the disclosure as much as practicable, even if the Title IX Coordinator

determines that the request for confidentiality or privacy cannot be honored. Please note that NYCPM does not have any personnel that can be deemed or considered “Confidential Reporters” and, as such, all information provided to NYCPM may be disclosed to the Title IX Coordinator or other relevant administrator with Authority. <sup>Â</sup>

- **Relevant** means related to the allegations of Sex-Based Harassment under investigation as part of this Grievance Procedure. Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.
- **Remedies** means measures provided, as appropriate, to a Complainant or any other person NYCPM identifies as having had their equal access to NYCPM’s Education Program or Activity limited or denied by Sex-Based Harassment. These measures are provided to restore or preserve that person’s access to NYCPM’s Education Program or Activity after NYCPM determines that Sex-Based Harassment occurred.
- **Respondent** means a person who is alleged to have violated NYCPM’s prohibition on Sex-Based Harassment.
- **Retaliation** means intimidation, threats, coercion, or discrimination by any person by NYCPM, a Student, or an employee or other person authorized by NYCPM to provide aid, benefit, or service under NYCPM’s Education Program or Activity, for the purpose of interfering with any right or privileged secured by Title IX, or because the person has reported information, made a Complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Grievance Procedure, including an informal resolution process.
- **Sex-Based Harassment** means sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

(1) *Quid pro quo harassment*. An employee, agent or other person authorized by NYCPM’s Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;

(2) *Hostile Environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from NYCPM’s Education Program or Activity (i.e., creates a Hostile Environment). Whether a Hostile Environment has been created is a fact-specific inquiry that includes consideration of the following: (i) the degree to which the conduct affected the Complainant’s ability to access NYCPM’s Education Program or Activity; (ii) the type, frequency, and duration of the conduct; (iii) the Parties’ ages, roles within NYCPM’s Education Program or Activity, previous interactions and other factors about each Party that may be Relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other Sex-Based Harassment in NYCPM’s Education Program or Activity;

(3) *Sexual Assault* (as defined in the Clery Act, 20 U.S.C. 1092(f)) means any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent;

(4) *Dating Violence* (as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) Where the existence of such a relationship shall be determined based on a consideration

of the following factors: (i) The length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

(5) *Domestic Violence* means any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or Domestic Violence laws of New York, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shared a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or Domestic Violence laws of New York; or

(6) *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.

- **Student** means a person who has gained Admission.
- **Supportive Measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent, to: (1) restore or preserve that Party's access to NYCPM's Education Program or Activity, including measures that are designed to protect the safety of the Parties or NYCPM's educational environment; or (2) provide support during NYCPM's Grievance Procedure for Sex-Based Harassment or during the informal resolution process.

## **7.0 Disability Accommodations**

### *Generally*

This Grievance Procedure does not alter any institutional obligations under applicable federal, state, and/or local, disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, among others. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedure. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

### *Requests for Reasonable Accommodations During the Title IX Grievance Procedure*

If the Complainant or Respondent discloses a disability, the Title IX Coordinator or designee may consult, as appropriate, with the Office of Student Disability Services to provide support to Students with disabilities to determine how to comply with applicable law including, without limitation, Section 504 of the Rehabilitation Act of 1973 in the implementation of any Supportive Measures, or any other reasonable accommodations requested during the Grievance Procedure.

## **8.0 Policy for Alcohol and/or Drug Use Amnesty**

The health and safety of every student at NYCPM is of utmost importance. NYCPM 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. NYCPM 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

NYCPM's officials or law enforcement will not be subject to NYCPM's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

## **9.0 Basic Requirements of the Grievance Procedure**

NYCPM is required to:

- Treat Complainants and Respondents equitably;
- Ensure that any person designated by NYCPM as a Title IX Coordinator, investigator, or decisionmaker does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent;
- Establish reasonably prompt timeframes for the major stages of this Grievance Procedure, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay;
- Ensure that reasonable steps to protect the privacy of the Parties and witnesses during the pendency of the Grievance Procedure are taken, provided that the steps do not restrict the abilities of the Parties to obtain and present evidence, including by speaking to witnesses (as long as such does not result in Retaliation), consult with their family members, confidential resources, or process support persons, or otherwise prepare for or participate in this Grievance Procedure (so long as all necessary FERPA Waivers have been executed on the Party's or witness's behalf);
- Ensure an objective evaluation of all evidence that is Relevant and not otherwise impermissible under this Procedure, including both inculpatory and exculpatory evidence, and provide that credibility determinations must not be based on a person's status as a Complainant, Respondent or Witness;
- Exclude impermissible evidence from consideration as defined in the Grievance Procedure; and
- Clearly articulate principles for how NYCPM will determine which policies and procedures apply if not all such Complaints are handled under this institutional Grievance Procedure.

Per New York State Law, NYCPM is also required to additionally ensure that Complainants are advised of their right to:

- Notify Campus Security, local law enforcement, and/or state police;
- Have emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a Complainant 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 detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated New York Penal Law should be addressed to law enforcement or to the district attorney, who shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the Complainant of other reporting options;
- Disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for Complainants;
- Disclose confidentially the incident and obtain services from the state or local government;
- Disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;

- File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate institution representatives for information and assistance, ensure that Complainants know that reports shall be investigated in accordance with this Grievance Procedure and/or any other institutional policies that may be applicable, and ensure that a Complainant's identity will remain private at all times if said Complainant wishes to maintain privacy;
- If the accused is an employee of NYCPM, the incident to NYCPM's Human Resources Department, at which point such referral shall be handled according to NYCPM's Employee or Faculty Handbook;
- Receive assistance from appropriate NYCPM representatives in initiating legal proceedings in family court or civil court; and
- Withdraw a complaint or involvement from NYCPM's Grievance Procedure at any time.

## **10.0 Reporting Sex-Based Harassment Occurring Between Students to the Institution**

### *Non-Confidential Reports*

Any person may report sex discrimination, including Sex-Based Harassment (whether or not the person reporting is the person alleged to be the victim of the conduct that may constitute sex discrimination or Sex-Based Harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

### *Contact Information for the Title IX Coordinator at NYCPM:*

Joel A. Sturm  
 53 East 124th Street  
 New York, NY 10035  
 212-410-8047  
[jsturm@nycpm.edu](mailto:jsturm@nycpm.edu)

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

### *Confidential Reports*

The following officials at NYCPM will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited by Title IX:

- Title IX Coordinator or designee(s);
- Officials with Authority to institute corrective measures under Title IX;
- All other employees at NYCPM that are not designated as confidential resources

Please note that NYCPM employees cannot guarantee confidentiality in any situation.

There are other confidential options available for crisis intervention, resources and referrals, but these are not reporting mechanisms to the institution, meaning that disclosure on a call to one of these hotlines does not provide any information to NYCPM.

Complainants are encouraged to additionally contact a campus confidential or private resource so that NYCPM can take appropriate action in these cases. Some resources for confidential disclosure **NOT** to the institution are:

- The New York State Office for the Prevention of Domestic Violence hotlines: <http://www.opdv.ny.gov/help/dvhotlines.html>. Additional disclosure and assistance options that can be found and are presented in several languages can also be found here: <http://www.opdv.ny.gov/help/index.html> (or by calling 1-800-942-6906).
- SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints/>;
- Legal Momentum: <https://www.legalmomentum.org/>;
- NYSCASA: <https://nyscasa.org/responding>;
- NYSCADV: <http://www.nyscadv.org/>;
- Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>;
- GLBTQ Domestic Violence Project: <http://glbtqdv.org/>;
- RAINN: <https://www.rainn.org/get-help>; and
- Safe Horizons: <http://www.safehorizon.org/>.

### *Privacy vs. Confidentiality*

References made to confidentiality refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to privacy mean NYCPM offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed 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 for tracking patterns and spotting systemic issues. NYCPM will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

### *At the First Instance of Disclosure of a Report*

NYCPM shall ensure that, at a minimum, at the first instance of disclosure by a Complainant to a NYCPM representative, the following information shall be presented to the Complainant: "You have the right to make a report to university police or campus security, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from Retaliation for reporting an incident; and to receive assistance and resources from your institution."

## **11.0 Supportive and Interim Measures**

### *Providing Supportive Measures*

Complainants who report allegations of Sex-Based Harassment have the right to receive Supportive Measures from NYCPM regardless of whether they file a Complaint. Supportive Measures are non-disciplinary and non-punitive. Supportive Measures may vary depending upon what is reasonably available at NYCPM.

As appropriate, Supportive Measures may include without limitation:

- Counseling services
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services, as available

- Restrictions on contact applied to one or more Parties (no contact orders)
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Training and education programs related to Sex-Based Harassment
- Assistance by NYCPM's police or security forces, if applicable, or other officials in obtaining an order of protection or, if outside of New York state, an equivalent protective or restraining order

Supportive Measures must not unreasonably burden either Party and must be designed to protect the safety of the Parties or NYCPM's educational environment, or to provide support during NYCPM's Sex-Based Harassment grievance procedure under this policy or during informal resolution under this procedure.

NYCPM may modify or terminate Supportive Measures at the conclusion of the grievance procedure or at the conclusion of the informal resolution process or may continue them beyond that point, within NYCPM's discretion.

NYCPM may disclose information about any Supportive Measures provided to either party, including informing one Party of Supportive Measures provided to another Party. These disclosures are at the sole and absolute discretion of the Title IX Coordinator, though the Parties can request that the supportive measures not be shared. Supportive measures may also be shared if necessary to provide the supportive measure or restore or preserve a Party's access to NYCPM's education program or activity.

Supportive measures may otherwise be disclosed to the extent that the Title IX Coordinator determines necessary

- To carry out the purpose of the policy when it is necessary to address conduct that reasonably may constitute Sex-Based Harassment under Title IX in NYCPM's education program or activity;
- As required by Federal law, federal regulations, or the terms and conditions of a federal award; or
- To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, or its implementing regulations, 34 CFR Part 99).

***Note on Orders of Protection and their equivalent:*** NYCPM must provide a copy of the order of protection or equivalent when it is received by NYCPM, and Parties shall have the opportunity to meet or speak with the Title IX Coordinator, who can explain the order and answer questions about it, including information from the order about the Accused's/Respondent's responsibility to stay away from the protected person or persons. Parties are entitled to an explanation of the consequences for violating these orders, including without limitation, arrest, additional conduct charges, and interim suspension or emergency removal, as applicable. NYCPM Campus Security does not possess arresting powers, so a Complainant is also entitled to receive assistance from Campus Security to call on and assist local law enforcement in effecting an arrest for violating such order, in accordance with limits on current law enforcement jurisdiction and procedures.

#### *Process for Review of Supportive Measures*

NYCPM provides for a Complainant or Respondent to seek modification or reversal of NYCPM's decision to provide, deny, modify or terminate a Supportive Measure provided to that party. Grounds for challenge of Supportive Measures include, but are not limited to:



- Whether a Supportive Measure is reasonably burdensome;
- Whether a Supportive Measure is reasonably available;
- Whether a Supportive Measure is being imposed for punitive or disciplinary reasons;
- Whether the Supportive Measure is being imposed without fee or charge; and
- Whether the Supportive Measure is effective in meeting the purposes for which it is intended, including to restore or preserve access to the Education Program or Activity, provide safety, or provide support during the Grievance Procedure.

This review will be conducted by an impartial employee of NYCPM, who did not make the challenged decision on the original supportive measure request. The impartial employee of NYCPM who makes this determination will have the authority to modify or reverse the decision if that impartial employee determines that the decision to provide, deny, modify or terminate the supportive measure was inconsistent with the procedures as outlined above for providing Supportive Measures in accordance with the Title IX regulations.

Parties are only allowed to challenge their own individual Supportive Measures. Challenges by one Party will not be heard to Supportive Measures afforded to the opposite Party, unless that supportive measure directly impacts the Party making such challenge (i.e., two-way no contact orders).

#### *Emergency Removal*

NYCPM retains the authority to remove a Respondent from all or part of NYCPM's education program or activity on an emergency basis, where NYCPM (1) undertakes an individualized safety and risk analysis, and (2) determines that an imminent and serious threat to the health or safety of a Complainant or any Students, employees, or other persons arising from the allegations of Sex-Based Harassment justifies removal.

NYCPM will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal. The Respondent may file an appeal against the decision to remove. The request for an appeal must include the grounds for which the request is based and be submitted in writing to the Title IX Coordinator within seven (7) business days following the date of the emergency removal. Upon receipt of the appeal, the other party will receive notification of the appeal.

The decisionmaker who hears a challenge to an emergency removal must not be involved in any decision regarding responsibility or appeal of a determination.

Emergency removals will not be considered Relevant evidence that can be considered in reaching a determination of whether Sex-Based Harassment occurred.

#### *Administrative Leave*

NYCPM retains the authority to place a non-Student employee Respondent on administrative leave during the Title IX Grievance Procedures, consistent with the Employee or Faculty Handbook

**Note on Student Employees:** when a Complainant or Respondent is both a Student and an employee of NYCPM, NYCPM will make a fact-specific inquiry to determine whether these procedures apply to that Student employee. NYCPM will consider if the Complainant or Respondent's primary relationship with NYCPM is to receive an education and whether the alleged Sex-Based Harassment occurred while the Party was performing employment-related work.

## **12.0 The Title IX Grievance Procedure for Allegations of Sex-Based Harassment Occurring Between Students**

## 12.1 Filing a Complaint

*Who can make a Complaint?*

- A Complainant (as defined in Section 4.0(4) of this Grievance Procedure); or
- The Title IX Coordinator.

*Note on Title IX Coordinator initiated Complaints:*

In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an Informal Resolution process, the Title IX Coordinator must determine whether to initiate a Complaint of Sex-Based Harassment. This determination is fact-specific, and the Title IX Coordinator must consider:

- The Complainant's request not to proceed with the initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Sex-Based Harassment would occur if a Complaint is not initiated;
- The severity of the alleged Sex-Based Harassment, including whether the Sex-Based Harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Sex-Based Harassment and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee of
- The scope of the alleged Sex-Based Harassment, including information suggesting a pattern, ongoing Sex-Based Harassment, or Sex-Based Harassment alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether Sex-Based Harassment occurred; and
- Whether NYCPM could end the alleged Sex-Based Harassment and prevent its recurrence without initiating these Grievance Procedures.

If, after considering these and other Relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents NYCPM from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint.

If the Title IX Coordinator does initiate the Complaint after making this determination, the Title IX Coordinator must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures as listed in Section VI of this Grievance Procedure.

*Is there a particular format that the Complaint needs to be in?*

As defined in VI(5) of this Grievance Procedure, a Complaint can be an oral or written request to NYCPM that objectively can be understood as a request for NYCPM to investigate and make a determination about alleged Sex-Based Harassment at the institution.

Individuals who are looking to file a complaint are encouraged to submit the complaint formally in writing to the Title IX Coordinator.

*Who can I report a Complaint to?*

Any reports of Sex-Based Harassment may be made directly to the Title IX Coordinator, whose contact information is listed at the beginning of this Grievance Procedure. There are also other ways in which a Party may report a Complaint.

NYCPM requires that any employee who is not a Confidential Employee and who either has authority to institute corrective measures on behalf of NYCPM or has responsibility for administrative leadership, teaching, or advising in NYCPM's Education Program or Activity must notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination, including Sex-Based Harassment.

All other employees at NYCPM who are not Confidential Employees and are not employees as identified above are required notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Sex Discrimination, including Sex-Based Harassment.

**Note:** If an employee has personally been subject to conduct that reasonably may constitute Sex Discrimination, including Sex-Based Harassment, under Title IX or any institutional policy or this Grievance Procedure, these requirements do not apply to an employee reporting a personal Complaint.

*What is the timeframe for NYCPM to evaluate if the Title IX Coordinator is initiating an investigation under this Grievance Procedure?*

The Title IX Coordinator must evaluate whether the Complaint falls under this Grievance Procedure five (5) business days after the Complaint is made and must issue the Notice of Allegations as soon as practicable after the Complaint is evaluated. If there are any delays or extensions, the Title IX Coordinator must appropriately notice the Parties in writing, on a case-by-case basis, with good cause and the rationale for the extension or delay.

*Can I make a Complaint and request initiation of the Grievance Procedure even if I have made a complaint to law enforcement?*

Yes. NYCPM has an obligation to appropriately evaluate all Complaints, regardless of whether there is a concurrent Complaint before law enforcement. This process is an administrative process that is different from the criminal justice process. Per New York state law, it is required that NYCPM's process run concurrently with a criminal justice investigation and proceeding, however, temporary delays are allowed 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.

## **12.2 Multi-Party Situations and Consolidation of Complaints**

NYCPM may consolidate Complaints alleging Sex-Based Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of Sex-Based Harassment arise out of the same facts or circumstances.

NYCPM can consider factors when making this fact-specific determination, which include, but are not limited to:

- The facts and circumstances of the particular Complaints when deciding whether to consolidate, including the toll of separate proceedings on the Parties; and
- Any risks to the fairness of the investigation or outcome.

## **12.3 Allegations Potentially Falling Under Two Policies**

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied to investigation and adjudication of only the allegations that constitute covered sexual harassment.

## 12.4 Dismissal of a Complaint

### *Grounds for Dismissal*

NYCPM may dismiss a Complaint of Sex-Based Harassment for any of the following reasons:

- NYCPM is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in NYCPM's Education Program or Activity and is not employed by NYCPM;
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint through this Grievance Procedure, and NYCPM determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex-Based Harassment under Title IX or this Grievance Procedure even if proven; or
- NYCPM determines that the conduct alleged in the Complaint, even if proven, would not constitute Sex-Based Harassment under Title IX or these procedures. Note: NYCPM must make reasonable efforts to clarify the allegations with the Complainant before dismissing under this basis.

### *Notice of Dismissal*

If NYCPM dismisses a Complaint, NYCPM is required to promptly notify the Complainant of the basis for dismissal.

If the dismissal of the Complaint occurs before a Notice of Allegations is issued to the Respondent, the Title IX Coordinator does not need to notice the Respondent at that time. However, if the Complainant appeals the dismissal, the Respondent will need to be noticed of the Complaint allegations and given an opportunity to respond to the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then NYCPM must notify the Respondent and Complainant of the dismissal and the basis for the dismissal simultaneously in writing.

Appeal rights must also be outlined in any notification of dismissal of a Complaint, as included below under *Appeal of Dismissals*.

### *Appeals of Dismissals*

NYCPM must notify the Complainant that a dismissal may be appealed and provide the Complainant with an opportunity to appeal the dismissal of a Complaint on the following grounds:

- **Procedural irregularity:** procedural irregularity that affected the outcome of the matter (i.e., a failure to follow NYCPM's own policy to a degree that had material effect on the outcome of the matter);
- **New evidence:** New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred or dismissal of the Complaint was made; and

- ***Bias or Conflict of Interest:*** The Title IX Coordinator, investigator(s), or decisionmaker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome of the matter.

If the dismissal occurs after the Respondent has been notified of the allegations, then NYCPM must also notify the Respondent that the dismissal may be appealed on the grounds set out above.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive Measures and remote learning opportunities (if possible) remain available during the pendency of the appeal.

If a Party appeals, the institution will as soon as practicable notify the other Party in writing of the appeal, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.

Appeals will be decided by the Appeals Committee that is appointed by the Title IX Coordinator. These individuals will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter. If either party believes any individual appointed to the Appeals Committee has a conflict of interest or bias, this should be reported to the Title IX Committee.

The outcome of the appeal will be provided in writing simultaneously to both Parties, and include rationale for the decision.

## **12.5 Notice of Allegations**

Upon initiating NYCPM's Grievance Procedure, the Title IX Coordinator shall provide a Notice of Allegations in writing to the Parties whose identities are known. Such notice will occur as soon as practicable after NYCPM receives a Complaint, if there are no extenuating circumstances. NYCPM will endeavor to provide the Notice of Allegations within 30 days after receiving a Formal Complaint.

*What does the Notice of Allegations Include?*

The written Notice of Allegations must include:

- NYCPM's Grievance Procedure and NYCPM's Informal Resolution process;
- Sufficient information available at the time of the issuance of the Notice of Allegations to allow the Parties to respond to the allegations, which includes the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex-Based Harassment under the Grievance Procedure, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to NYCPM;
- A statement that the Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence;
- A statement that the Respondent is presumed not responsible for the alleged Sex-Based Harassment until a determination is made at the conclusion of NYCPM's Grievance Procedure and that prior to the determination, the Parties will have an opportunity to present Relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- Parties may have a process support person of their choice, and that the process support person may be, but is not required to be, an attorney; and
- NYCPM's code of conduct prohibits knowingly making false statements or knowingly submitting false information during NYCPM's Grievance Procedure.

*What if NYCPM decides to investigate additional allegations of Sex-Based Harassment?*

If, in the course of an investigation, NYCPM decides to investigate additional allegations of Sex-Based Harassment by the Respondent toward the Complainant that are not included in the original issued written Notice of Allegations, or that are included in a Complaint that is consolidated under this Grievance Procedure, NYCPM shall provide notice of the additional allegations to the Parties whose identities are known.

*What if I have safety concerns about a Notice of Allegations being issued to a Respondent?*

To the extent that NYCPM has reasonable concerns for the safety of any person as a result of providing a written Notice of Allegations, NYCPM, through the Title IX Coordinator, may reasonably delay providing the written Notice of Allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

## **12.6 Process Support Person of Choice and Participation of Process Support Person of Choice**

A Party's process support person of choice may accompany the Party to any meeting or proceeding, and that NYCPM cannot limit the choice of who that process support person may be or their presence for the Parties in any meeting or proceeding unless such process support person does not follow NYCPM's established rules of decorum and rules around participation discussed below

## **12.7 Investigation**

### *General Rules of Investigations*

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will perform an investigation of the conduct alleged to constitute Sex-Based Harassment in a reasonably prompt timeframe, after issuing the Notice of Allegations.

NYCPM, and not the Parties, have the burden to conduct an investigation that gathers sufficient evidence to determine whether Sex-Based Harassment occurred under this Grievance Procedure. This burden does not rest with either Party, and either Party may decide not to share their account of what occurred or may decide not to participate in the investigation or hearing. This does not shift the burden of proof away from NYCPM and does not indicate responsibility.

NYCPM cannot access, consider, or disclose medical records without a waiver from the Party (or parent, if applicable) to whom the records belong, or of whom the records include information. NYCPM will provide an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory or exculpatory evidence, as described below.

### *Notice of Participation*

NYCPM will provide written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate, if a Party is invited or expected to participate in any such meeting or proceeding.

### *Process Support Persons of Choice and Participation of Process Support Persons of Choice*

NYCPM will provide the Parties with the same opportunities to be accompanied to any meeting or proceeding by the process support person of their choice, who may be, but is not required to be, an

attorney, and not limit the choice or presence of the process support person for the Complainant or Respondent in any meeting or proceeding.

Process Support Person of Choice restrictions:

- Both the Complainant and Respondent have the right to choose a Process Support Person. The Process Support Person will be the process support person of choice for such Party at the Hearing and may be, but does not have to be, an attorney. An attorney acting in this role has no different role in the process and serves in the same capacity as a non-attorney.
- The Process Support Person of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- The parties themselves are not permitted to conduct cross-examination; it must be conducted by the Process Support Person. As a result, if a party does not select a Process Support Person, the institution will select a Process Support Person to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The Process Support Person is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The Process Support Person is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's Process Support Person may appear and conduct cross-examination on their behalf.
- If neither a party nor their Process Support Person appear at the hearing, NYCPM will provide a Process Support Person to appear on behalf of the non-appearing party.
- Process Support Personnel shall be subject to NYCPM's Rules of Decorum, and may be removed upon violation of those Rules.

#### *Expert Witnesses*

Parties may present expert witnesses as part of an investigation.

Parties are allowed to call "expert witnesses" for direct examination and credibility assessment by the hearing board and cross examination. While the expert witness will be allowed to testify, the decisionmaker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses regardless of whether all Parties present experts as witnesses.

#### *Character Witnesses*

NYCPM allows Parties to call character witnesses to testify. While the character witnesses will be allowed to testify, the decisionmaker will be instructed to afford very low weight to any non-factual character testimony of any witness.

#### *Review and Access to Relevant and Not Otherwise Impermissible Evidence*

Each Party will have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are Relevant and not otherwise impermissible, to the Title IX Coordinator and/or an investigator designated by the Title IX Coordinator. The Title IX Coordinator will review all evidence

gathered through the investigation and determine what evidence is Relevant and what evidence is impermissible regardless of relevance, consistent with this Grievance Procedure.

Each Party and their process support person of choice will have an equal opportunity to review and access the evidence that is Relevant to the allegations of Sex-Based Harassment and not otherwise impermissible regardless of relevance prior to the conclusion of the investigation. The Title IX Coordinator will provide each Party with a reasonable opportunity to respond to the evidence. Both Parties will have the opportunity to respond to the evidence prior to the live hearing

NYCPM will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure. Participating individuals who engage in the unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure may be subject to NYCPM's Code of Conduct, if applicable, and other University policies and/or procedures that may apply.

**Note:** Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the Complaint of Sex-Based Harassment are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

Prior to obtaining access to any evidence, the parties and their Process Support Person must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn. Failure to sign or adhere to this agreement may result in a negative inference against the party and the immediate withdrawal of that Process Support Person from the Title IX grievance process.

#### *Relevant Evidence*

Evidence is Relevant when it is related to the allegations of Sex-Based Harassment under investigation as part of this Grievance Procedure.

Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-Based Harassment occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-Based Harassment occurred.

#### *Impermissible Evidence*

The following types of evidence, and questions seeking that evidence, are excluded as impermissible (i.e., must not be accessed or considered, except by NYCPM to determine whether an exception applies, must not be disclosed, and must not otherwise be used) regardless of whether they are Relevant:

- Evidence that is protected under a privileged as recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless NYCPM obtains that Party's or witness's voluntary, written Consent for use in NYCPM's Grievance Procedure; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the



alleged Sex-Based Harassment. Note: the fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

### *Timeframes*

An investigation shall take be completed in a reasonably prompt fashion. If there are any delays or extensions, the Title IX Coordinator must appropriately notice the Parties in writing, as detailed below. NYCPM shall endeavor to complete its investigation in ninety (90) days.

Extensions may occur based on:

- Availability or unavailability of a witness or relevant/material documents;
- Reluctance of a witness and/or any necessary party;
- Delay or other uncooperative actions of any necessary party;
- Numerosity of witnesses;
- Holidays and vacation periods;
- Any other unforeseeable events/circumstances.

### *Extensions and Delays*

NYCPM allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the Parties that includes the reason for the extension or delay.

## **12.8 Live Hearing**

### *General Rules for Live Hearings*

NYCPM will not issue a finding or disciplinary sanction arising from an allegation of Sex-Based Harassment without holding a live hearing unless otherwise resolved through an informal resolution process.

The live hearing may be conducted with the Parties physically present in the same geographic location, or, at NYCPM's sole discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through Zoom or other appropriate video conferencing tools available at the time. This technology will enable participants simultaneously to see and hear each other. At its discretion, NYCPM may delay or adjourn a hearing based on technological errors not within a party's control.

All proceedings will be recorded through either recording and/or transcript. The choice of medium is at NYCPM's sole discretion.

Prior to obtaining access to any evidence, the parties and their Process Support Person must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn. Failure to sign or adhere to this agreement may result in a negative inference against the party and the immediate withdrawal of that Process Support Person from the Title IX grievance process.

### *Notice of Hearing*

Upon completion of the investigation, the Complainant and Respondent will be notified in writing of:

- the date, time, and location of the live hearing;
- the applicable grievance process;
- that both Parties can have a Process Support Person of their choice;
- that they may inspect and review evidence obtained in the investigation;
- the allegations and conduct that potentially constitute Sexual Harassment;
- the identities of the Parties involved (if known); and
- the date and location of the alleged offense (if known).

Depending on the circumstances and, at the sole discretion of NYCPM, the hearing may be conducted in-person or virtually, but will always be conducted in real-time. Permission to postpone a hearing may be granted provided that the request to postpone is reasonable.

Prior to the scheduled hearing, a trained Decision-maker will be appointed to be the fact-finder of responsibility for the alleged conduct.

While the Complainant, Respondent and witnesses are expected to be present and fully participate in the hearing (including being subject to questioning by a Process Support Person), it is the right of any and all parties to choose not to participate in the hearing of the alleged conduct. In the event that any party chooses not to participate fully in the hearing process, their statements (including those made in the investigation stage) may not be considered in the Decision-maker's determination of responsibility.

If the hearing is held in-person (not virtually), by request of either the Complainant or Respondent, questioning by a Process Support Person can be conducted in separate rooms with technology available that enables the other party to see and hear the questioning in real-time. The entire hearing will be recorded, either by electronic means or transcription. The recording will be made available, upon request, for inspection and review to both Parties. This recording will be kept on file by NYCPM in accordance with applicable rules and regulations.

NYCPM shall create an audio or audiovisual recording or transcript of any live hearing and make it available to the Parties for inspection and review.

#### *Continuances or Granting Extensions*

NYCPM may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, NYCPM will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

#### *Before the Hearing*

Prior to the Hearing, each party will be required to submit any questions, that have not already been addressed in the investigation, that they wish to ask at the oral-cross examination to the Title IX Coordinator no later than twenty-four (24) hours before the Hearing is scheduled to begin.

The Title IX Coordinator will provide the questions to the Decision-maker, who will determine the relevancy of each of the questions. If deemed relevant, the question is permissible to be asked during the hearing. If the Decision-maker determines that a question is not relevant, they will provide a brief reasoning for that decision and the question will not be permitted to be asked during the Hearing. Parties may appeal the relevance determinations at the beginning of the Hearing. The Decision-Maker will endeavor to provide their relevancy determinations at least one hour prior to the Hearing, but no later than the commencement of the Hearing.

### *Understanding Relevance:*

For these adjudications, the basic test for relevance is whether the question posed is probative to the question of responsibility. This includes a Process Support Person asking questions that address the credibility of the party. However, there are some topics that are presumptively never relevant unless an exception applies, or a party has waived a privilege. These topics include questions and evidence:

- about the Complainant's sexual predisposition or prior sexual behavior, unless offered to prove that someone other than the Respondent committed the alleged conduct;
- that concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent, unless offered to prove consent;
- that would traditionally be protected by a legally recognized privilege (e.g., attorney-client privilege), unless the party has waived the privilege;
- in reference to a party's psychological or medical records unless the party has given voluntary, written consent.

### *Participants in the Live Hearing*

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

#### **Complainant and Respondent (The Parties)**

- The parties cannot waive the right to a live hearing.
- The institution may still proceed with the live hearing in the absence of a party, and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a "statement" by that party.
- NYCPM will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party's participation.
- If a party does not submit to cross-examination, the Decision-Maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a "statement" by that party.
- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions.

#### **The Decision-Maker**

- The hearing body will consist of a single Decision-Maker.
- The Decision-Maker will also not have served as the Title IX Coordinator, Title IX investigator, or Process Support Person to any party in the case, nor may the Decision-Maker serve on the appeals body in the case.
- The Decision-Maker will not have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The Decision-Maker will be trained on topics including how to serve impartially, issues of relevance, how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.

- The parties will have an opportunity to raise any objections regarding a Decision-Maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

### **Process Support Person**

- Both the Complainant and Respondent have the right to choose a Process Support Person. The Process Support Person will be the process support person of choice for such Party at the Hearing and may be, but does not have to be, an attorney. An attorney acting in this role has no different role in the process and serves in the same capacity as a non-attorney.
- The Process Support Person of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- The parties themselves are not permitted to conduct cross-examination; it must be conducted by the Process Support Person. As a result, if a party does not select a Process Support Person, the institution will select a Process Support Person to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The Process Support Person is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The Process Support Person is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's Process Support Person may appear and conduct cross-examination on their behalf.
- If neither a party nor their Process Support Person appear at the hearing, NYCPM will provide a Process Support Person to appear on behalf of the non-appearing party.
- Process Support Personnel shall be subject to NYCPM's Rules of Decorum, and may be removed upon violation of those Rules.

### **Witnesses**

- Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation.
- If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing.
- See 12.7 of this Policy in determining who can be a witness.

### *Rules of Decorum*

The following Rules of Decorum are to be observed in the hearing and applied equally to all parties (meaning the complainant and respondent) and process support persons:

1. Questions must be conveyed in a neutral tone.
2. Parties and process support persons will refer to other parties, witnesses, process support persons, and institutional staff using the name and gender used by the person and shall not intentionally mis-name or mis-gender that person in communication or questioning.
3. No party may act abusively or disrespectfully during the hearing toward any other party or to witnesses, process support persons, or decision-makers.

4. While a process support person may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
5. The process support person may not yell, scream, badger, or physically “lean in” to a party or witness’s personal space. Process support persons may not approach the other party or witnesses without obtaining permission from the decisionmaker.
6. The process support person may not use profanity or make irrelevant *ad hominem* attacks upon a party or witness. Questions are meant to be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the question.
7. The process support person may not ask repetitive questions. This includes questions that have already been asked by the decisionmaker, the process support person in cross-examination, or (if an expert witness is participating) the party or process support person in direct testimony. When the decisionmaker determines a question has been “asked and answered” or is otherwise not relevant, the process support person must move on.
8. Parties and process support persons may take no action at the hearing that a reasonable person in the shoes of the affected party would see as intended to intimidate that person (whether party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.

#### *Warning and Removal Process*

The decisionmaker shall have sole discretion to determine if the Rules of Decorum have been violated. The decisionmaker will notify the offending person of any violation of the Rules.

Upon a second or further violation of the Rules, the decision-maker shall have discretion to remove the offending person or allow them to continue participating in the hearing or other part of the process.

Where the decisionmaker removes a party’s process support person, the party may select a different process support person of their choice or accept a process support person provided by the institution for the limited purpose of cross-examination at the hearing. Reasonable delays, including the temporary adjournment of the hearing, may be anticipated should a process support person be removed. A party cannot serve as their own process support person in this circumstance.

The decisionmaker shall document any decision to remove a process support person in the written determination regarding responsibility.

#### *Hearing Process*

1. The hearing will begin with any appeals by the Parties to the Pre-Hearing relevancy determinations by the Decision-maker.
2. The Decision-maker will then open the hearing by establishing the rules and expectations. The Decision-maker will then read the charges.
3. Either party (Complainant or Respondent) may subsequently request to provide a brief statement of additional clarification of no more than five (5) minutes in duration.
4. Upon conclusion of any clarification statement, the Decision-Maker will ask questions of the Parties and Witnesses.
5. Parties will be given the opportunity for live cross-examination after the Decision-Maker conducts its initial round of questioning; During the Parties’ cross-examination, the Decision-Maker will have the authority to pause cross-examination at any time for the purposes of asking their own follow up questions; and at any time necessary in order to enforce the established rules

of decorum. The Complainant, then followed by the Respondent, may have their Process Support Person ask any approved, relevant questions that have not already been addressed in the investigation or hearing. Should a Party or the Party's Process Support Person choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Decision-Maker. A Party's waiver of cross-examination does not eliminate the ability of the Decision-Maker to use statements made by the Party.

6. Each Party will have an opportunity to submit additional questions for review by the Decision-Maker after the initial Oral Cross-Examination has concluded. Should such questions be approved, the Complainant, followed by the Respondent, may have their Process Support Person ask any additional approved, relevant questions. There will only be one round of additional questions allowed.
7. There shall be no Oral Direct Examination at any point in the hearing process. The only time it is may be allowed is if a Party identifies, and provides sufficient justification for, an "Expert Witness" prior to the Hearing. If an "Expert Witness" is identified by one party, the other party will have an opportunity to Cross-Examine that "Expert Witness", if they so choose.
8. Upon completion of questioning, any Party must raise any procedural, substantive, bias, conflict or other perceived irregularity to the Decision-Maker's attention for review and consideration. Failure to do so will forever waive such complaint.
9. Thereafter the Decision-maker will conclude the hearing.

#### *Live Cross-Examination Procedure*

Each party's Process Support Person will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination the Process Support Person will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

Cross-examination questions that are duplicative of those already asked, including by the Decision-Maker, may be deemed irrelevant if they have been asked and answered.

#### *Newly-Discovered Evidence*

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

If a Party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the Party may request that such evidence or witnesses be considered at the live hearing.

The Decision-maker will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The Party offering the newly-discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the Decision-maker answers in the affirmative to both questions, then the Parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.

## **12.9 Determination Regarding Responsibility and Sanctioning**

### *Standard of Proof*

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NYCPM uses the preponderance of the evidence standard of proof to determine whether or not Sex-Based Harassment occurred. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Grievance Procedure occurred.

#### *General Considerations for Evaluating Evidence and Testimony*

The decisionmaker is required to evaluate Relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that Sex-Based Harassment occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that Sex-Based Harassment occurred.

Determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the decisionmaker. Decisionmakers shall not draw inferences regarding a Party or witness' credibility based on the Party or witness' status as a Complainant, Respondent, or witness, nor shall it base its judgments in stereotypes about how a Party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the Party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence. However, credibility judgments should not rest on whether a Party or witness' testimony is non-linear or incomplete, or if the Party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by Parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

A witness' testimony regarding third-Party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred. See 12.7 under this policy to further understand the weight given to Expert Witness testimony and Character Witness testimony.

Where a Party or witness' conduct or statements demonstrate that the Party or witness is engaging in retaliatory conduct, including without limitation, witness tampering and intimidation, the decisionmaker may draw an adverse inference as to that Party or witness' credibility.

#### *Communication of the Determination in Writing*

All determinations on whether Sex-Based Harassment occurred will be communicated to the Parties in writing, simultaneously.

The written determination will include:

- A description of the alleged Sex-Based Harassment;
- Information about the policies and procedures that NYCPM used to evaluate the allegations;
- The decisionmaker's evaluation of the Relevant evidence and determination on whether Sex-Based Harassment occurred;
- Any Disciplinary Sanctions NYCPM will impose on the Respondent, whether Remedies other than the imposition of Disciplinary Sanctions will be provided by NYCPM to the Complainant, and, to the extent appropriate, other Students identified by NYCPM to be experiencing the effects of Sex-Based Harassment, if there is a finding that Sex-Based Harassment occurred; and
- NYCPM's procedures for Complainant and Respondent to appeal.

### *Timeline of Determination Regarding Responsibility*

If there are no extenuating circumstances, the determination regarding responsibility will be issued by NYCPM within a reasonable timeframe following the completion of the hearing. NYCPM shall endeavor to provide a determination regarding responsibility within ten (10) days upon the completion of the hearing.

### *Determination of Disciplinary Sanctions After a Finding of Responsibility*

Per New York state law, past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction. However, it is not admissible prior to determination of responsibility.

In addition, the Complainant will have an opportunity to make an impact statement during the point of the proceeding where the decisionmaker is deliberating on appropriate sanctions.

### *Finality of Determination*

The determination regarding responsibility becomes final either on the date that NYCPM provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

### *Disclosures of Outcome by the Parties*

The Complainant and Respondent have the right to choose whether to disclose or discuss the outcome of a conduct or judicial process related to sexual assault, dating violence, domestic violence, or stalking.

The Complainant and Respondent have the right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

## **12.10 Disciplinary Sanctions**

Student violators may be subject to the following sanctions and remedial measures on a case-by-case basis:

- **Warning:** A written reprimand putting the student on notice that he/she has violated the Code of Conduct. A copy of this warning is placed in the student's folder.
- **No-Contact Order:** A student may be ordered to temporarily not intentionally contact a victim through any medium.
- **Probation:** A student may be placed on disciplinary probation for a definite period of time. While on probation, students may not hold office in Student Government Organizations, Clubs or Societies or represent the university in any capacity. Further violations while on probationary status will result in suspension or expulsion from the university.
- **Restitution:** A student may be required to pay restitution to the university or to fellow students for damages and losses resulting from his/her actions.
- **Suspension:** At any time during a student's enrollment at the university he/she may be suspended and barred from attending classes for a definite period, not to exceed two years. A student who is suspended is entitled to a written clarification with specific reasons for and description of the sanction. A student may not be automatically re-enrolled at the end of his/her suspension. He/she must apply to the Student Affairs Committee for re-enrollment.



- **Expulsion:** NYCPM may terminate a student's status at the university at any time.

Faculty and staff (part-time and full-time) who violate the policy will be subject to disciplinary sanctions on a case-by-case basis as follows:

- **Censure:** A written reprimand, outlining the violation(s) of university policies, may be placed in the personnel file of individual violators.
- **Probation:** Faculty and/or staff may be placed on probation for a definite period of time up to a maximum of one year. In such instances, individuals may be required to enroll in a therapeutic counseling or treatment program.
- **Suspension:** Faculty and/or staff may be suspended from employment without pay for a period of time ranging from seven days to a maximum of one year.
- **Termination of Employment:** Faculty and/or staff may be dismissed from employment upon written notice by the Dean of Faculties (for faculty members) or the Vice President for Administration (all other employees).
- **Legal Action:** Faculty and/or staff may be turned over to law enforcement authorities for criminal prosecution and legal action.

In both cases for students, faculty and staff, the existence of a progressive system of disciplinary sanctions measures does not preclude NYCPM from levying a heavy sanction, without first resorting to a lesser sanction. By way of illustration and not exclusion, NYCPM may expel a student or terminate a staff member for a violation of policy without first issuing a warning or putting that student or employee on probation.

#### *University-Initiated Protective Measures*

In addition to those protective measures previously described, the Title IX Coordinator or their designee will determine whether interim interventions and protective measure should be implemented, and, if so, take steps to implement those protective measures as soon as possible.

When the accused or respondent is a student, to have the institution issue a “no contact order” consistent with institution policies and procedures, whereby continued intentional contact with the reporting individual would be a violation of institution policy subject to additional conduct charges; if the accused or respondent and a reporting individual observe each other in a public place, it shall be the responsibility of the accused or respondent to leave the area immediately and without directly contacting the reporting individual. Both the accused or respondent and the reporting individual shall, upon request and consistent with institution policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no contact order, including potential modification, and shall be allowed to submit evidence in support of his or her request. Institutions may establish an appropriate schedule for the accused and respondents to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the reporting individual.

Other examples of interim protective measures include, but are not limited to: a University order of no contact, residence hall relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. These remedies may be applied to one, both, or multiple parties involved. Protective measures imposed may be temporary pending the results of an investigation or may become permanent as determined by NYCPM. Violations of the Compliance Officer’s directives and/or protective measures will constitute related violations that may lead to additional disciplinary action including interim suspension pending the outcome of a judicial or conduct process consistent with NYCPM policy. Both the accused or respondent and the reporting individual shall, upon request and consistent with the institution’s policies and procedures, be afforded a prompt review, reasonable under

the circumstances, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of the request.

Every institution shall ensure that individuals are provided the following protections and accommodations:

- To receive a copy of the order of protection or equivalent when received by an institution and have an opportunity to meet or speak with an institution representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused's responsibility to stay away from the protected person or persons;
- When the accused is not a student but is a member of the institution's community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and rules and policies of the institution.

### *Policy For Transcript Notations*

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), NYCPM shall make a notation on the transcript of students found responsible after a conduct process that they were "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they "withdrew with conduct charges pending." NYCPM will allow for appeals seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed. (Section 6444(6) NYS Education Law Article 129-B).

### **12.11 Appeals**

The Complainant and Respondent will both be provided with at least one level of appeal.

For appeals resulting from dismissal of a complaint, please see the section on *Dismissal of Complaints*.

#### *Grounds for Appeal*

The limited grounds for appeal available are as follows:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred or dismissal was made;
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent, that affected the outcome of the matter; or
- the sanction imposed is disproportionate to the violation.

The Complainant and Respondent may also appeal the dismissal of a complaint based on the first three points listed above.

The request for an appeal must include the grounds on which the request is based and be submitted in writing to the Title IX Coordinator within seven (7) business days following the date of the written determination. The appeal should also state the remedy sought by the appealing party. Upon receipt of the appeal, the other party will receive notification of the appeal and be provided opportunity to respond in writing. Written responses to the other party's appeal must be submitted within three (3) business days following the delivery of notice of the appeal.

In order to ensure a neutral and unbiased review, a party's request for appeal will be sent to an Appeals Panel comprised of individuals with no connection to the initial determination, which serves as a separate decisionmaker. An appeal decision will be rendered within twenty (20) business days after the receipt of the formal appeal request. The appeal decision will be provided in writing to both parties.

#### *Additional Procedures for Appeal Process*

NYCPM will notify the Parties of any appeal, provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome, and will notify the Parties of the result of the appeal and the rationale for the result.

The submission of an appeal stays (or pauses) any sanctions for the period during which an appeal determination is being assessed. Supportive Measures and remote learning opportunities remain available while an appeal is being deliberated and before a final decision has been made.

#### *Finality*

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in "Appeals" above, or if an appeal is not filed, the date on which the opportunity to appeal expires.

### **12.12 Informal Resolution**

#### *Procedures for Entering and Exiting Informal Resolution Process*

At any time prior to determining whether Sex-Based Harassment occurred under this Grievance Procedure, including prior to making a Complaint, Parties may instead seek NYCPM's assistance to resolve allegations of Sex-Based Harassment, and may elect to enter the informal resolution process.

No Informal Resolution process will be offered to resolve Formal Complaints involving a student as Complainant and a staff or faculty member as Respondent.

The Parties may voluntarily elect to enter the NYCPM's informal resolution process at any time through an informed written Consent. This informed written Consent will include all terms of the elected informal process, including a statement that any agreement reached through the process is binding on the Parties.

No Party may be required to participate in informal resolution, and NYCPM may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.

The Parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded. If a Party elects to leave the informal resolution process, the Grievance Procedure that the Parties paused will continue. In participating in the informal resolution process, the Parties understand that the timeframes governing the Grievance Procedure will temporarily cease, and only reinstate upon reentry into the Grievance Procedure.

Supportive Measures will be available, or continue to be available if already provided, during an informal resolution process, if elected to proceed. The Title IX Coordinator will also, to the extent necessary, take other appropriate prompt and effective steps to ensure that Sex-Based Harassment does not continue or recur within NYCPM's Education Program or Activity.

#### *Notice Prior to Entry Into Informal Resolution Process*

Before the initiation of an informal resolution process, the Title IX Coordinator must provide to the Parties a written notice that explains:

- The allegations;
- The requirements of the informal resolution process;
- That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume NYCPM's Grievance Procedures;
- That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming NYCPM's Grievance Procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- What information NYCPM will maintain and whether and how NYCPM could disclose such information for use in its Grievance Procedures if they are initiated or resumed.

#### *Determination to Approve Entry into Informal Resolution Process*

Even where the Parties agree to submit a matter to informal resolution, the Title IX Coordinator may approve the decision to move the matter to the informal resolution process and may determine that informal resolution is not appropriate under the circumstances.

Factors that the Title IX Coordinator may weigh in considering the appropriateness of the informal resolution process include, but are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the Respondent is a repeat offender, whether the alleged conduct would present a future risk of harm to others, and whether the Parties are participating in good faith. This determination is not subject to appeal.

At any time after the commencement of the informal resolution process, the Title IX Coordinator may determine that the informal resolution process is not an appropriate method for resolving the matter, and may require that the matter be resolved through the Grievance Procedures. This determination is not subject to appeal.

If informal resolution is approved or denied, the Title IX Coordinator will provide the outcome in writing simultaneously to the Parties.

#### *Contents of Informal Resolution Agreements*

Potential terms that may be included in an informal resolution agreement between the Parties include but are not limited to:

- Restrictions on contact; and
- Restrictions on the Respondent's participation in one or more of NYCPM's education programs or activities or attendance at specific events, including restrictions NYCPM could have imposed

as Remedies or Disciplinary Sanctions had NYCPM determined at the conclusion of the Grievance Procedure that Sex-Based Harassment occurred.

### *Breach of Informal Resolution Agreements*

If a Party breaches the resolution or if NYCPM has other compelling reasons, such as if it learns of any fraud by a Party in entering into the agreement, NYCPM may void the agreement and initiate or resume the Grievance Procedure.

### *Confidentiality*

In entering the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the complaint is confidential. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, process support person, or other source of emotional support, or with an advocacy organization. As a condition of entering the informal resolution process, any evidence shared or received during the informal resolution process may not be used in any subsequent Grievance Procedure or institutional appeal.

### **13.0 Transcript Notations**

For crimes of violence, including, without limitation, sexual violence, defined as crimes that meet the reporting requirements pursuant to the Clery Act (20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII)), NYCPM is required to make a notation on the transcript of a student found responsible for suspension or expulsion, per NYCPM's Transcript Notation Policy. That policy reads:

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), NYCPM shall make a notation on the transcript of students found responsible after a conduct process that they were "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they "withdrew with conduct charges pending." NYCPM will allow for appeals seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed. (Section 6444(6) NYS Education Law Article 129-B).

### **14.0 Retaliation**

When NYCPM has information about conduct that reasonably may constitute Retaliation under Title IX or its Grievance Procedure, NYCPM is obligated to initiate its Grievance Procedure, or, as appropriate, NYCPM's informal resolution process.

NYCPM will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of Sex-Based Harassment or sex discrimination under the NYCPM Title IX Grievance Procedures, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34

CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under NYCPM's Title IX Grievance Procedures.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under NYCPM's Grievance Procedures.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes Retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or Sex-Based Harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or complaint of Sex-Based Harassment. See NYCPM's Amnesty Policy, 8.0, above.

Complaints alleging Retaliation may be filed according to Joel A. Sturm at [jsturm@nycpm.edu](mailto:jsturm@nycpm.edu)

## **Appendix D**

NEW YORK COLLEGE OF PODIATRIC MEDICINE  
SEXUAL MISCONDUCT POLICY

**1.0 POLICY**

The New York College of Podiatric Medicine (“NYCPM”) pledges its efforts to ensure an environment in which the dignity and worth of all members of the community are respected. It is the policy of NYCPM that sexual intimidation of students and employees is unacceptable behavior and will not be tolerated. HTC will not tolerate unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature constituting sexual harassment or sexual assault (i.e. rape, fondling, incest or statutory rape).

All supervisors and managers who receive a complaint or information about suspected sexual misconduct, observe behavior that could be considered to be sexual misconduct or for any reason suspect that sexual misconduct is occurring, are required to report such suspected sexual harassment to the Office of the Chief Operating Officer. In addition to being subject to discipline if they engage in sexual misconduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual misconduct. Touro will also not tolerate any supervisory and/or managerial personnel who knowingly allow such behavior to continue.

In general, it is a sex crime to engage in any sexual contact with a person who does not affirmatively consent, or to engage in sexual intercourse, deviant sexual intercourse, or sexual abuse if it is accomplished by forcible compulsion. New York state law also defines these acts as crimes if any of them are engaged in with a person who is incapable of consent either because of the person’s age or because the person is mentally incapacitated, or physically helpless. Therefore, sexual abuse, sexual assault, and rape are sex crimes and violators will be prosecuted in accordance with Illinois state law.

NYCPM subscribes to all federal, state and institutional laws and regulations to ensure the goal that it maintains a safe environment for all community members. This policy is meant to work in harmony with other applicable NYCPM policies and procedures that address sexual and discriminatory misconduct when relevant. In the event that conduct falls within the scope of the Title IX Grievance Policy, under the Education Amendments of 1972, then Touro’s Title IX Grievance policy will serve as the operating process for addressing the violation.

**2.0 PURPOSE**

All divisions of NYCPM seek to foster a collegial atmosphere where students are nurtured and educated through close faculty-student relationships, student camaraderie, and individualized attention. Discrimination or harassment of any kind, including sexual assault (i.e. rape, fondling, incest or statutory rape), domestic violence, dating violence, and stalking, is anathema to NYCPM’s mission, history, and identity. NYCPM will resolve any identified discrimination, harassment or sexual assault in a timely and effective manner. Compliance with NYCPM’s policies and procedures is a necessary step in achieving a safe environment in our educational community. The policies set forth were developed to promote a safe educational environment in compliance with Title IX and Title VII of the Civil Rights Act of 1964, the Violence Against Women Act (VAWA),

Illinois Law including the Illinois Preventing Sexual Violence in Higher Education Act, and a high-quality campus life. Those believing that they have been harassed or discriminated against on the basis of their sex, including sexual harassment, should immediately contact the Office of Institutional Compliance. When NYCPM has notice of the occurrence, NYCPM is compelled to take immediate and effective corrective action reasonably calculated to stop the harassment, prevent its recurrence, and as appropriate, remedy its effects.

### 3.0 SCOPE

This policy applies to all members of NYCPM, including students, faculty, and administrators as well as third-parties (including, but not limited to, vendors, invitees, etc.). This policy applies to events that occur on-campus, off-campus, and on study abroad. Information and/or training regarding this policy are available to students, faculty, and staff. In addition, information about this policy will be available on NYCPM's website.

### 4.0 DEFINITIONS

- **Accused**
  - Accused means a person accused of a violation who has not yet entered an institution's judicial or conduct process.
- **Advisor**
  - Any individual who provides the accuser or accused support, guidance, or advice.
- **Awareness Programs**
  - Awareness program means community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.
- **Code of Conduct**
  - Code of conduct means the written policies adopted by an institution governing student behavior, rights and responsibilities while such student is matriculated in the institution
- **Confidentiality**
  - 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.
- **Institution**
  - Institution means any college or university chartered by the regents or incorporated by special act of the legislature that maintains a campus in Illinois.
- **Ongoing Prevention and Awareness Campaigns**
  - Ongoing prevention and awareness campaigns means programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using



a range of strategies with audience throughout the institution and including information on definitions of different crimes, options for bystander intervention, and risk reduction.

- **Primary Prevention Programs**
  - Primary prevention programs means programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.
- **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.
- **Consent** (with regards to sexual activity)
  - Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity.
  - Communicated through mutually understandable words or actions that clearly indicate willingness by all the involved parties to engage in the same sexual activity, at the same time, and in the same way.
  - Silence and lack of resistance do not constitute consent.
- **Dating Violence**
  - Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - The existence of a social relationship is based on the “reporting party’s statement” with consideration of
    - the length of the relationship,
    - the type of relationship, and
    - the frequency of the interaction between the persons involved.
  - Dating violence does not include acts covered by the definition of domestic violence.
- **Domestic Violence**
  - Domestic violence is a felony or misdemeanor crime of violence committed by any of the following individuals:
    - A current or former spouse or intimate partner of the victim; or
    - A person with whom the victim shares a child in common; or
    - A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; or
    - A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies [under VAWA]; or
    - Any other person against an adult or youth victim who is protected under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- **Proceeding**
  - All activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact finding

- investigations, formal or informal meetings, and hearings.
- Does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.
  - **Result**
    - Any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution.
    - The result must include any sanctions imposed by the institution and the rationale for the result and the sanctions.
  - **Discrimination and Harassment**
    - Title IX, and its implementing regulations, prohibit discrimination based on sex, including sexual harassment. The prohibition against discrimination extends to employment and third-parties. Sexual harassment is unwelcome conduct of a sexual nature and can include sexual advances, request for sexual favors, and other verbal, non-verbal, or physical conduct. Environmental harassment (sometimes referred to as hostile environment) is sexually harassing conduct that is sufficiently severe, persistent or pervasive to limit an individual's ability to participate in or receive benefits, services, or opportunities at NYCPM. This can include persistent comments or jokes about an individual's, sex; verbal behavior, including insults, remarks, epithets, or derogatory statements; nonverbal behavior, including graffiti, inappropriate physical advances short of physical violence such as repeated and unwanted touching; and assault, including physical violence or the threat of physical violence.
  - **Sexual Harassment**
    - Unwelcome sexual advances, requests for sexual favors, and, other visual, verbal or physical conduct of a sexual nature, when:
    - An individual's submission to or rejection of the conduct is made, either explicitly or implicitly, a term or condition of employment or of status in a course, program, or activity, or is used as a basis for employment or academic decision; or
    - The conduct has the purpose or effect of unreasonably interfering with an individual's work performance, academic performance, or educational experience, or of creating an intimidating, hostile, humiliating, or offensive working, educational, or living environment.
  - **Sexual Offense**
    - Unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature constituting sexual harassment.
  - **Sexual Assault**
    - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent, and including rape, fondling, incest or statutory rape as acted in the FBI's Uniform Crime Reporting program.
    - **Rape**
      - Is the perpetuation of an act of sexual intercourse with a person against his or her will and consent, or when such person is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity.
      - Is the penetration of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person without the consent of a

- person, or when such person is incapable of giving consent.
  - Acquaintance rape is rape that involves people who know or are familiar with each other.
- **Stalking**
  - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.
  - A course of conduct is two or more acts, including, but limited to:
    - Acts in which the 'stalker' directly, indirectly, or through third parties by any action, method, device, or means,
    - Follows, monitors, observes, surveils, threatens, or communication to or about, a person or interferes with a person's property.
  - Substantial emotional distress is a significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling.
  - A reasonable person is one under similar circumstances and with similar identities to the victim.
- **Jurisdictional Definitions of Domestic Violence, Dating Violence, Sexual Assault and Stalking**
- Domestic Violence
  - Under New York's Domestic Violence Act, any individual who threatens, harasses, hits, chokes, kicks, or, in any other way, interferes with the personal liberty interests of another family or household member has violated such law. Illinois defines "family or household members" as any: (a) family members related by blood, or persons who (b) were previously married or are currently married, (c) previously shared or currently share a dwelling, (d) have or claim to have a child together, I share a child in common, (f) previously were or currently are dating, or (g) are disabled and their caregivers.
  - Please see the meaning of the pertinent definitional terms under section 103 of the Act below:
    - "*Domestic violence*" – means *abuse* as defined under the Act.
    - "*Abuse*" – means physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis.
      - "Physical abuse" includes sexual abuse and means any of the following:
        - knowing or reckless use of physical force, confinement or restraint;
        - knowing, repeated and unnecessary sleep deprivation; or
        - knowing or reckless conduct which creates an immediate risk of physical harm.
      - "Harassment" – means knowing conduct which is not necessary to accomplish a
        - purpose that is reasonable under the circumstances; would cause a reasonable
        - person emotional distress; and does cause emotional distress to the petitioner. Unless the presumption is rebutted by a preponderance of the evidence, the following types of conduct shall be presumed to cause emotional distress:

- creating a disturbance at petitioner’s place of employment or school;
  - repeatedly telephoning petitioner’s place of employment, home or residence;
  - repeatedly following petitioner about in a public place or places;
  - repeatedly keeping petitioner under surveillance by remaining present outside his or her home, school, place of employment, vehicle or other place occupied by petitioner or by peering in petitioner’s windows;
  - improperly concealing a minor child from petitioner, repeatedly threatening to improperly remove a minor child of petitioner’s from the jurisdiction or from the physical care of petitioner, repeatedly threatening to conceal a minor child from petitioner, or making a single such threat following an actual or attempted improper removal or concealment, unless respondent was fleeing an incident or pattern of domestic violence; or
  - threatening physical force, confinement or restraint on one or more occasions
- “Intimidation of a dependent” – means subjecting a person who is dependent because of age, health or disability to participation in or the witnessing of: physical force against another or physical confinement or restraint of another which constitutes physical abuse as defined in this Act, regardless of whether the abused person is a family or household member.
- “Interference with personal liberty” – means committing or threatening physical abuse, harassment, intimidation or willful deprivation so as to compel another to engage in conduct from which she or he has a right to abstain or to refrain from conduct in which she or he has a right to engage.
- Dating Violence
  - New York’s Domestic Violence Act encompasses dating violence. A “dating relationship,” for purposes of the Act are included within the meaning of “family or household members,” and refers to a serious courtship.
- Sexual Assault
  - Under New York’s Criminal Code, “criminal sexual assault” is a criminal offense that is defined as:
    - a person commits criminal sexual assault if that person commits an act of sexual penetration and either:
      - uses force or threat of force;
      - knows that the victim is unable to understand the nature of the act or is unable to give knowing consent;
      - is a family member of the victim, and the victim is under 18 years of age; or (4) is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age.
  - Under the Criminal Code, “aggravated criminal sexual assault” is a criminal offense, defined as:

- A person commits aggravated criminal sexual assault if that person commits criminal sexual assault and any of the following aggravating circumstances exist during the commission of the offense or, for purposes of paragraph (7), occur as part of the same course of conduct as the commission of the offense:
  - the person displays, threatens to use, or uses a dangerous weapon, other than a firearm, or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;
  - the person causes bodily harm to the victim, except as provided in paragraph 10;
  - the person acts in a manner that threatens or endangers the life of the victim or any other person;
  - the person commits the criminal sexual assault during the course of committing or attempting to commit any other felony;
  - the victim is 60 years of age or older;
  - the victim is a person with a physical disability;
  - the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the vic'im's consent or by threat or deception for other than medical purposes;
  - the person is armed with a firearm;
  - the person personally discharges a firearm during the commission of the offense; or
  - the person personally discharges a firearm during the commission of the offense, and that discharge proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.
- A person commits aggravated criminal sexual assault if that person is under 17 years of age and:
  - commits an act of sexual penetration with a victim who is under 9 years of age; or
  - commits an act of sexual penetration with a victim who is at least 9 years of age but under 13 years of age and the person uses force or threat of force to commit the act.
- A person commits aggravated criminal sexual assault if that person commits an act of sexual penetration with a victim who is a person with a severe or profound intellectual disability.
- Under the Criminal Code, “criminal sexual abuse” is a criminal offense, defined as:
  - A person commits criminal sexual abuse if that person:
    - commits an act of sexual conduct by the use of force or threat of force; or
    - commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent.
  - A person commits criminal sexual abuse if that person is under 17 years of age and commits an act of sexual penetration or sexual conduct with a victim who is at least 9 years of age but under 17 years of age.

- A person commits criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is less than 5 years older than the victim.
  - Under the Criminal Code, “aggravated criminal sexual abuse” is a criminal offense, defined as:
    - A person commits aggravated criminal sexual abuse if that person commits criminal sexual abuse and any of the following aggravating circumstances exist (i) during the commission of the offense or (ii) for purposes of paragraph (7), as part of the same course of conduct as the commission of the offense:
      - the person displays, threatens to use, or uses a dangerous weapon or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;
      - the person causes bodily harm to the victim;
      - the victim is 60 years of age or older;
      - the victim is a person with a physical disability;
      - the person acts in a manner that threatens or endangers the life of the victim or any other person;
      - the person commits the criminal sexual abuse during the course of committing or attempting to commit any other felony; or
      - the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim for other than medical purposes without the vic’im’s consent or by threat or deception.
    - A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is under 18 years of age and the person is a family member.
    - A person commits aggravated criminal sexual abuse if:
      - that person is 17 years of age or over and:
        - commits an act of sexual conduct with a victim who is under 13 years of age; or
        - commits an act of sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person uses force or threat of force to commit the act; or
      - that person is under 17 years of age and:
        - commits an act of sexual conduct with a victim who is under 9 years of age; or
        - commits an act of sexual conduct with a victim who is at least 9 years of age but under 17 years of age and the person uses force or threat of force to commit the act.
    - A person commits aggravated criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is at least 5 years older than the victim.
    - A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is a person with a severe or profound intellectual disability.

- A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is at least 13 years of age but under 18 years of age and the person is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim.
  - For purposes of Article 11, “sexual conduct” means any knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus, or breast of the victim or the accused, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused. In the context of Article 11, “sexual penetration” means any contact, however slight, between the sex organ or anus of one person and an object or the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.
- Stalking
  - Under Article 12 of Illinois’ Criminal Code, “aggravated stalking” is a criminal offense in which:
    - A person commits stalking and:
      - causes bodily harm to the victim;
      - confines or restrains the victim; or
      - violates a temporary restraining order, an order of protection, a stalking no contact order, a civil no contact order, or an injunction prohibiting the behavior described in subsection (b)(1) of Section 214 of the Illinois Domestic Violence Act of 1986.
    - (a-1) A person commits aggravated stalking when he or she is required to register under the Sex Offender Registration Act or has been previously required to register under that Act and commits the offense of stalking when the victim of the stalking is also the victim of the offense for which the sex offender is required to register under the Sex Offender Registration Act or a family member of the victim.
- **Definitions Preventing Sexual Violence in Higher Education Act“**
  - *“Awareness programm”ng”* means institutional action designed to communicate the prevalence of sexual violence, including without limitation training, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussion“.
  - *“Bystander intervent”on”* includes without limitation the act of challenging the social norms that support, condone, or permit sexual violenc“.
  - *“Complain”nt”* means a student who files a complaint alleging violation of the comprehensive policy through the higher education institut’on’s complaint resolution procedur“.
  - *“Comprehensive policy”* means a policy created and implemented by a higher education institution to address student allegations of sexual violence, domestic violence, dating violence, and stalking.

- "Confidential advisor" means a person who is employed or contracted by a higher education institution to provide emergency and ongoing support to student survivors of sexual violence with the training, duties, and responsibilities described in Section 20 of this Act.
- "Consent"
  - (i) consent is a freely given agreement to sexual activity,
  - (ii) a person's lack of verbal or physical resistance or submission resulting from the use or threat of force does not constitute consent,
  - (iii) a person's manner of dress does not constitute consent,
  - (iv) a person's consent to past sexual activity does not constitute consent to future sexual activity,
  - (v) a person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another,
  - (vi) a person can withdraw consent at any time, and
  - (vii) a person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following:
    - (A) the person is incapacitated due to the use or influence of alcohol or drugs;
    - (B) the person is asleep or unconscious(C) the person is under age; or
    - (D) the person is incapacitated due to a mental disability.
- "Higher education institution" means a public university, a public community college, or an independent, not-for-profit or for-profit higher education institution located in this State.
- "Primary prevention programming" means institutional action and strategies intended to prevent sexual violence before it occurs by means of changing social norms and other approaches, including without limitation training, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions.
- "Respondent" means a student involved in the complaint resolution procedure who has been accused of violating a higher education institution's comprehensive policy.
- "Sexual violence" means physical sexual acts attempted or perpetrated against a person's will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.
- "Survivor" means a student who has experienced sexual violence, domestic violence, dating violence, or stalking while enrolled at a higher education institutions.
- "Survivor-centered" means a systematic focus on the needs and concerns of a survivor of sexual violence, domestic violence, dating violence, or stalking that (i) ensures the compassionate and sensitive delivery of services in a nonjudgmental manner; (ii) ensures an understanding of how trauma affects survivor behavior; (iii) maintains survivor safety, privacy, and, if possible, confidentiality; and (iv) recognizes that a survivor is not responsible for the sexual violence, domestic violence, dating violence, or



stalking.

- *"Trauma-informed response"* means a response involving an understanding of the complexities of sexual violence, domestic violence, dating violence, or stalking through training centered on the neurobiological impact of trauma, the influence of societal myths and stereotypes surrounding sexual violence, domestic violence, dating violence, or stalking, and understanding the behavior of perpetrators.

- **Preponderance of the Evidence**

- Just enough evidence to make it more likely than not that the fact the claimant seeks to prove is true.

- **Retaliation**

- Retaliation is any kind of reprisal, adverse action, or negative action taken against an individual because he or she has:
  - complained about alleged discrimination or harassment as defined above,
  - participated as a party or witness in an investigation relating to such allegations, or
  - participated as a party or witness in a proceeding regarding such allegations. Retaliation can occur contemporaneously during the complaint process or subsequent to it, once the retaliator is aware of the recipient's participation in the process.
- Retaliation does not exist in the absence of an adverse action. An individual is protected from retaliation even when the complaint at issue is ultimately found to lack merit, as long as the complaint was made in good faith.

HTC does not allow, nor tolerate any conduct by any HTC community member that may be regarded as retaliatory. Retaliation against any individual, whether said person submitted a complaint through the method described below, or for any other reason will not be tolerated.

- **Unlawful employment practices under Title VII:** It shall be an unlawful employment practice for an employer

- to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment, because of such individual's sex; or
- to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee, because of such individual's sex.
- to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer, indicating any preference, limitation, specification, or discrimination, based on sex, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on sex when sex is a bona fide occupational qualification for employment.
- to willfully not post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the EEOC setting forth excerpts from or, summaries of, the pertinent

provisions of Title VII and information pertinent to the filing of a complaint.

## 5.0 PROCEDURES

### Duty to Report Violations

All members of the NYCPM community are required to cooperate fully with any investigations of discrimination or harassment. A faculty member, staff member, or student who has relevant information and refuses to cooperate with an ongoing investigation will be subject to disciplinary action for, among other things, violations of the NYCPM policy and/ or insubordination.

Likewise, all NYCPM employees are required to ensure that complaints about discrimination, harassment, or retaliation are directed to the appropriate administrative office for evaluation and investigation. NYCPM is committed to conducting an inquiry that is thorough, prompt and impartial.

### Formal Investigation and Resolution of Discrimination, Harassment, Sexual Assault or Retaliation Complaints

#### Duty to Cooperate and Facilitate

All members of NYCPM are required to cooperate fully with any investigations of harassment. A faculty member, staff member, or student who has relevant information and refuses to cooperate with an ongoing investigation will be subject to disciplinary action for, among other things, violations of the NYCPM Code of Conduct and/or insubordination. Likewise, all NYCPM employees are required to ensure that complaints about harassment are directed to the appropriate administrative office for evaluation and investigation.

#### Right to Prompt and Impartial Proceeding and Complaint Process

NYCPM is committed to conducting an inquiry that is thorough, prompt and impartial. Accused and accuser will have the opportunity to object to NYCPM participants as impartial.

Victims have the options to notify proper law enforcement authorities, including on-campus and local police, or to decline to notify such authorities. Complaints concerning sexual harassment and/or sexual discrimination should be sent to Mr. Joel Sturm, COO & VP for Administration at 53 E. 124<sup>th</sup> St, New York, NY 10035, or to [JSturm@nycpm.edu](mailto:JSturm@nycpm.edu).

A written or verbal complaint, which should be submitted within the later of the following two dates: (a) thirty (30) days after the alleged misconduct; or, (b) the end of the semester in which the alleged incident occurred. A complaint should include the following information:

- Complaint's full name, home address, email, telephone number, and NYCPM Student/Employee ID number
- Name of the person against whom the complaint was made, including job title or student status, if known.
- The protected status that is the basis for the alleged discrimination,

- harassment, or retaliation based on the complainant's gender.
- A clear statement of the facts that constitute the alleged discrimination, harassment, or retaliation, including dates on which the acts were committed and any information to identify witnesses.
- Complainant should include the term and year of his/her most recent active employment, academic, or student status within the university.
- The full name, address, and telephone number of complainant's advisor or supervisor, if any.
- The specific harm that resulted from the alleged act and the remedy sought.
- The complainant's signature and the date on which the complaint was submitted.

The accused will receive notice of the complaint, along with references to the specific code provision violated and, if possible, the date, time and location of the incident, and notification of possible sanctions, although the accused will be considered innocent until proven guilty of a violation. While prompt reporting is expected, complaints older than 30 days will be processed. However, if more than 365 days have elapsed since the day of the complaint, the complaint may not be processed.

Every effort is made to conduct a thorough and speedy investigation. Several factors may impact NYCPM's ability to conduct a prompt investigation, including, but not limited to: the Complainant's accessibility or unresponsiveness, witness availability or unresponsiveness, the number of witnesses, the timing of the investigation (i.e. if an investigation is being conducted at a time when students are taking final exams or on recess), etc. The process allows for extension with good cause shown. The burden to develop facts surrounding the investigation and/or prove that an incident lacked consent is on the institution, not the reporting individual. A reporting individual may withdraw a complaint or report from the institution at any time. Such individual will not be penalized for withdrawing such complaint. Please note that the institution may, consistent with other provisions of this law as well as federal law, still have obligations to investigate and/or take actions even if the complaint has been withdrawn.

#### Availability of Counseling

NYCPM will offer a referral for counseling services to any complainant who has begun the complaint process. It is ultimately the complainant's decision of whether or not to accept the counseling service.

#### Accommodations and Protective Measures Available for Victims

Upon receipt of a report of domestic violence, dating violence, sexual assault or stalking, NYCPM will provide written notification to the students and employees involved about accommodations available to them, including academic, living, transportation and working situations. The written notification will include information regarding the accommodation options, available assistance in requesting accommodations, and how to request accommodations and protective measures (i.e., the notification will include the name and contact information for the individual or office that should be contacted to request the accommodations).

At the victim's request, and to the extent of the victim's cooperation and consent,

NYCPM's offices will work cooperatively to assist the victim in obtaining accommodations. If reasonably available, a victim may be offered changes to academic, living, working or transportation situations regardless of whether the victim chooses to report the crime to campus police or local law enforcement. Examples of options for a potential change to the academic situation may be to transfer to a different section of a class, withdraw and take a class at another time if there is no option for moving to a different section, etc. Potential changes to living situations may include moving to a different room or residence hall. Possible changes to work situations may include changing working hours. Possible changes in transportation may include having the student or employee park in a different location, assisting the student or employee with a safety escort, etc.

Certain remedial measures may be taken to protect both parties during the pendency of the investigation, including changes to academic, living, transportation, and working situations or other protective measures. NYCPM may make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

To request changes to academic, living, transportation and/or working situations or protective measures, a victim should contact the Office of the Dean of Student Services, [LLee@NYCPM.edu](mailto:LLee@NYCPM.edu)

#### Notice and Timely Access and Preservation of Evidence

The proceeding will be consistent with NYCPM's policies and transparent to both the accuser and the accused. Both accuser and accused will receive timely notice of meetings at which either accuser, accused, or others (upon request) may be present. Both accuser and accused will receive timely and equal access to information that will be used during formal and informal disciplinary meetings or hearings. NYCPM will endeavor to protect the privacy of the participating parties and/or witnesses.

It is very important that the victim preserve any proof or evidence of any criminal offense. Such incidents will be reviewed and investigated in an expedient and professional manner.

#### Intake Interview

After receipt of a complaint, the Office Chief Operating Officer or the Dean & Chief Academic Officer or their designee will meet with the complainant as soon as possible, usually within one week, but not later than thirty (30) days after receipt. The complainant must make himself/herself available to meet.

The meeting will be an intake interview where the College Officer's or their or his/her designee will inform the complainant about the investigation procedure and timeline. The complainant will have an opportunity to provide or present evidence and witnesses on their behalf. The complainant may sign a formal complaint form at that time (under the above guidelines) if he/she has not already done so. A complaint will proceed even in the absence of a signed written complaint.

#### Complaints about Students, Faculty, Other Employees or Third Parties

NYCPM's disciplinary process includes a prompt, fair, and impartial investigation and resolution process from the initial investigation to the final result. Upon receipt of a complaint, the Office of Institutional Compliance or his/her designee shall investigate the circumstances of the complaint. This investigation will include documented interviews of the complainant, the person against whom the complaint is written, and witnesses with relevant knowledge, if any. Further, the investigation will include a review of relevant documents and any other evidence. NYCPM will use the preponderance of the evidence standard in the investigation and disciplinary action, as VAWA requires.

#### Investigation of Complaints

The Office the Dean or the Chief Operating Officer, or their designee shall have thirty (30) days from the intake interview to complete the investigation of the event in question. Usually, the resolution of domestic violence, dating violence, sexual assault and stalking complaints are completed within 60 days of the report. However, each proceeding allows for extensions of timeframes for good cause with written notice to the accuser and the accused of the delay and the reason for the delay. NYCPM officials involved in the investigation or adjudication of domestic violence, dating violence, sexual assault and stalking complaints are trained annually on the issues related to domestic violence, dating violence, sexual assault, and stalking as well as how to conduct an investigation and hearing process that protects the safety of the victim and promotes accountability. Such thirty (30) days may be extended in the event that one of the following occurs:

- Availability or unavailability of a witness or relevant/material documents;
- Reluctance of a witness and/or any necessary party;
- Delay or other uncooperative actions of any necessary party;
- Numerosity of witnesses;
- Holidays and vacation periods;
- Any other unforeseeable events/circumstances.

Both the complainant and respondent will have the same opportunities to have others present during any disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice. NYCPM will not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding, but NYCPM may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.

During any such investigation, the complainant and the accused will each reserve the right to exclude their own prior sexual history with any persons other than the party involved in the hearing during the judicial or conduct investigation process. Both will also reserve the right to exclude any mental health diagnosis and treatment during the institutional disciplinary stage which determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the stage that determines sanction.

Generally speaking an investigation will take approximately 60 calendar days following receipt of the complaint. This may not be practicable in every investigation and may vary depending on the complexity of the investigation and the severity and

extent of the harassment. The institutional disciplinary procedures will not be conducted by officials who have a conflict of interest or bias for or against the accuser or the accused.

#### Notice of Determination and Further Action

The Office of Institutional Compliance or their designee shall report the findings of the investigation to a designated, impartial Fact Finder. The Fact Finder shall endeavor to issue a determination within fifteen day after receipt of the investigation file to determine and detail: (a) whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint, (b) a description of actions taken, if any, to prevent similar problems from occurring in the future, and (c) the proposed resolution of the complaint. Both parties will be informed of the outcome reached and sanctions imposed as a result of such investigation and determination.

Both the complainant, the party who filed the complaint or the alleged target of the sexual harassment or sexual assault, and the respondent, the accused, shall be informed of the fact finder's decision, including the outcome reached and sanctions imposed, in writing simultaneously within seven days of the conclusion of the fact finder's deliberation. They will both be notified simultaneously and in writing of the outcome of the proceeding; appeal procedures; any change to the result before it becomes final (if applicable); and when the result becomes final. Questions concerning these actions should be addressed to the Office of the Dean & Chief Academic Officer, or the Office of the Chief Operating Officer, or their designee. Notification to the appropriate law enforcement officials and other assistance to the student or staff member in notifying law enforcement officials will be provided, if requested.

NYCPM will provide the victim a written explanation of her/his rights and options with respect to the report when the victim reports to NYCPM about the misconduct.

#### Notification to Victims of Crimes of Violence

NYCPM will, upon written request, disclose to the alleged victim of a crime of violence, or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as the result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

#### Appeals

The complainant and respondent alike will be provided with at least one level of appeals.

Both the complainant and the respondent are eligible to file an appeal to the determination based on (i) a procedural error occurred, (ii) new information exists that would substantially change the outcome of the finding, or (iii) the sanction is disproportionate with the violation.

The request for an appeal, including the grounds upon which the request is based,

should be submitted in writing to the Office of Institutional Compliance within seven (7) business days following the date on the outcome letter. The Appeal should state the remedy sought by the appealing party. Each party may respond in writing to any appeal submitted by the other party. Written responses to the other party's appeal must be submitted within three (3) business days following delivery of the notice of the written appeal. Written requests for appeal submitted by one party will be shared with the other party.

Appeals will be conducted in an impartial manner by trained NYCPM officials without conflict of interest or bias for or against either party. A party with a concern about a conflict of interest or bias should contact the Office of Institutional Compliance. The Appeals Panel can determine whether a change in the decision is warranted. If applicable, both the accuser and accused will have an opportunity to be present or have others present during any disciplinary proceedings. If a change in this decision is necessary, the Appeals Panel will review the appeal and rationale and make a final decision. Both parties will be informed of the outcome reached and sanctions imposed as a result of such proceedings.

Appeals will not be reviewed or considered beyond the Appeals Panel. Appeals decisions will be rendered within twenty (20) business days after the receipt of the formal request for appeal. The appeal decision will be provided in writing to both parties and the appeal decision is final.

NYCPM has a grade appeal process, which is not circumvented by this policy. This procedure is not a substitute for a grade appeal. A grade appeal may be suspended until a determination has been made by the fact finder.

NYCPM will provide the victim a written explanation of her/his rights and options with respect to the report when the victim reports to NYCPM about the misconduct.

## 6.0 SANCTIONS FOR VIOLATIONS

Student violators may be subject to the following sanctions and remedial measures on a case-by-case basis:

- **Warning:** A written reprimand putting the student on notice that he/she has violated the Code of Conduct. A copy of this warning is placed in the student's folder.
- **No-Contact Order:** A student may be ordered to temporarily not intentionally contact a victim through any medium.
- **Probation:** A student may be placed on disciplinary probation for a definite period of time. While on probation, students may not hold office in Student Government Organizations, Clubs or Societies or represent the college in any capacity. Further violations while on probationary status will result in suspension or expulsion from the college.
- **Restitution:** A student may be required to pay restitution to the college or to fellow students for damages and losses resulting from his/her actions.
- **Suspension:** At any time during a student's enrollment at the college he/she may be suspended and barred from attending classes for a definite period, not to exceed two years. A student who is suspended is entitled to a written clarification with specific reasons for and description of the sanction. A

student may not be automatically re-enrolled at the end of his/her suspension. He/she must apply to the Student Affairs Committee for re-enrollment.

- **Expulsion:** NYCPM may terminate a student's status at the college at any time.

Faculty and staff (part-time and full-time) who violate the policy will be subject to disciplinary sanctions on a case-by-case basis as follows:

- **Censure:** A written reprimand, outlining the violation(s) of college policies, may be placed in the personnel file of individual violators.
- **Probation:** Faculty and/or staff may be placed on probation for a definite period of time up to a maximum of one year. In such instances, individuals may be required to enroll in a therapeutic counseling or treatment program.
- **Suspension:** Faculty and/or staff may be suspended from employment without pay for a period of time ranging from seven days to a maximum of one year.
- **Termination of Employment:** Faculty and/or staff may be dismissed from employment upon written notice by the Dean of Faculties (for faculty members) or the Vice President for Administration (all other employees).
- **Legal Action:** Faculty and/or staff may be turned over to law enforcement authorities for criminal prosecution and legal action.

In both cases for students, faculty and staff, the existence of a progressive system of disciplinary sanctions measures does not preclude NYCPM from levying a heavy sanction, without first resorting to a lesser sanction. By way of illustration and not exclusion, NYCPM may expel a student or terminate a staff member for a violation of policy without first issuing a warning or putting that student or employee on probation.

#### ***College-Initiated Protective Measures***

In addition to those protective measures previously described the Title IX Coordinator or their designee will determine whether interim interventions and protective measure should be implemented, and, if so, take steps to implement those protective measures as soon as possible.

When the accused or respondent is a student, to have the institution issue a "no contact order" consistent with institution policies and procedures, whereby continued intentional contact with the reporting individual would be a violation of institution policy subject to additional conduct charges; if the accused or respondent and a reporting individual observe each other in a public place, it shall be the responsibility of the accused or respondent to leave the area immediately and without directly contacting the reporting individual. Both the accused or respondent and the reporting individual shall, upon request and consistent with institution policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no contact order, including potential modification, and shall be allowed to submit evidence in support of his or her request. Institutions may establish an appropriate schedule for the accused and respondents to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the reporting individual.



Other examples of interim protective measures include, but are not limited to: a College order of no contact, residence hall relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. These remedies may be applied to one, both, or multiple parties involved. Protective measures imposed may be temporary pending the results of an investigation or may become permanent as determined by the New York College of Podiatric Medicine. Violations of the Dean or COO's directives and/or protective measures will constitute related violations that may lead to additional disciplinary action including interim suspension pending the outcome of a judicial or conduct process consistent with NYCPM policy. Both the accused or respondent and the reporting individual shall, upon request and consistent with the institution's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of the request.

Every institution shall ensure that individuals are provided the following protections and accommodations:

- To receive a copy of the order of protection or equivalent when received by an institution and have an opportunity to meet or speak with an institution representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused's responsibility to stay away from the protected person or persons;
- When the accused is not a student but is a member of the institution's community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and rules and policies of the institution.

## **7.0 CONFIDENTIALITY**

NYCPM has independent obligations to report or investigate potential misconduct, even if a complainant does not wish to initiate an official process. Therefore, absolute confidentiality cannot be promised with respect to a complaint of discrimination, harassment, sexual harassment, sexual assault (i.e. rape, fondling, incest or statutory rape) or retaliation received through the office of the Director of Safety and Security.

NYCPM wishes, however, to create an environment in which legitimate complaints are encouraged, while also protecting the privacy of all involved in an investigation. Complaints about violations of these policies will therefore be handled in strict confidence, with facts made available only to those who need to know in order for NYCPM to promptly and thoroughly investigate and resolve the matter. NYCPM employees will explain to the reporting individual whether he or she is authorized to offer the reporting individual privacy.

Reporting individuals may request confidentiality and choose not to consent to an investigation by NYCPM, and the Title IX Coordinator must weigh the request against the institution's obligation to provide a safe, non-discriminatory environment for all members of its community. If NYCPM determines that an investigation is

required, it must notify the reporting individuals and take immediate action as necessary to protect and assist them. NYCPM should seek consent from reporting individuals prior to investigating, and declining consent will be honored unless NYCPM determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to members of the community. If an individual discloses information through a public awareness event, NYCPM is not obligated to begin an investigation based on such information.

Declining to consent to an investigation shall be honored unless the institution determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual or other members of the community. Honoring such a request may limit the institution's ability to meaningfully investigate and pursue conduct action against an accused individual. Factors used to determine whether to honor such a request 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 in unlawful conduct on behalf of the accused from previously noted behavior;
- 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; and
- 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

NYCPM will complete publicly available record-keeping for purpose of Clery Act reporting and disclosure. These reports will not include identifying information about the victim or accused and shall maintain confidentiality of any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of Touro to provide the accommodations or protective measures.

By only sharing personally identifiable information with individuals on a need-to-know basis, without the inclusion of identifying information about the victim, the institution will maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of NYCPM to provide the accommodations or protective measures.

## **8.0 RETALIATION**

Retaliation is any kind of reprisal, adverse action, or negative action taken against an individual because he or she has:

- Complained about alleged discrimination, harassment or sexual assault as defined above,
- Participated as a party or witness in an investigation relating to such allegations, or
- Participated as a party or witness in a proceeding regarding such allegations.

Retaliation can occur contemporaneously during the complaint process or subsequent to it, once the retaliator is aware of the recipient's participation in the process. Retaliation does not exist in the absence of an adverse action. An individual is protected from retaliation even when the complaint at issue is ultimately found to lack merit, as long as the complaint was made in good faith.

NYCPM does not allow, nor tolerate any conduct by any NYCPM member that may be regarded as retaliatory. Retaliation against any individual, whether said person submitted a complaint, will not be tolerated.

Upon the first instance of disclosure by a reporting individual to a NYCPM representative, the individual will be informed:

Reporting individuals or bystanders who report an incident of sexual assault in good faith will receive amnesty for drug and alcohol use.

Employees, faculty and students who violate NYCPM's policies may be subject to disciplinary action. Individuals, who retaliate against someone who files a complaint, or against a witness, representative, or advocate for a complainant, will be subject to further disciplinary action.

## **9.0 ASSISTANCE FOR VICTIMS: RIGHTS & OPTIONS**

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

- the survivor's right to report or not report the alleged incident to the higher education institution, law enforcement, or both, including information about the survivor's right to privacy and which reporting methods are confidential;
- the contact information for the higher education institution's Dean or COO, confidential advisors, a community-based sexual assault crisis center, campus law enforcement, and local law enforcement;
- the survivor's right to request and receive assistance from campus authorities in notifying law enforcement;
- the survivor's ability to request interim protective measures and accommodations for survivors, including without limitation changes to academic, living, dining, working, and transportation situations, obtaining and enforcing a campus-issued order of protection or no contact order, if such protective measures and accommodations are reasonably available, and an order of protection or no contact order in State court;
- the higher education institution's ability to provide assistance, upon the survivor's request, in accessing and navigating campus and local health and mental health services, counseling, and advocacy services; and
- a summary of the higher education institution's complaint resolution procedures.
- the procedures victims should follow if a crime of dating violence, domestic violence, sexual assault or stalking has occurred;
- information about how the institution will protect the confidentiality of victims and other necessary parties;

- an explanation of the procedures for institutional disciplinary action

***Rights of Victims and the Institution'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 the Institution***

NYCPM complies with New York State law in recognizing orders of protection. Any person who obtains an order of protection from New York or any reciprocal state should provide a copy to the Chief Operating Officer. A complainant may then meet with Campus Security to develop a Safety Action Plan, which is a plan for administration and the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, providing a temporary cellphone, changing classroom location or allowing a student to complete assignments from home, etc.) NYCPM cannot apply for a legal order of protection, no contact order or restraining order for a victim from the applicable jurisdiction(s). However, the individual may receive assistance from police or campus security, or have them call the appropriate agency in order to effect an arrest when an individual violates an order of protection.

NYCPM may issue an institutional no contact order if deemed appropriate or at the request of the victim or accused. If NYCPM receives a report that such an institutional no contact order has been violated, NYCPM will initiate disciplinary proceedings appropriate to the status of the accused (student, employee, etc.) and will impose sanctions if the accused is found responsible for violating the no contact order.

It is very important that the victim preserve any proof or evidence of the criminal offense. Such incidents will be reviewed and investigated in an expedient and professional manner..

The federal laws require that both accuser and accused have the opportunity to object to NYCPM Participants as impartial.

Every institution shall ensure that every student be afforded the following rights:

- 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:
  - 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.
  - To make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.

- To simultaneous (among the parties) written or electronic notification of the outcome of a judicial or conduct process, including the sanction or sanctions.

***Procedures the College Will Follow When a Crime of Domestic Violence, Dating Violence, Sexual Assault and Stalking is Reported***

NYCPM has procedures in place that serve to be sensitive to victims who report sexual assault, domestic violence, dating violence, and stalking, including informing individuals about their right to file criminal charges as well as the availability of counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance and other services on and/or off campus as well as additional remedies to prevent contact between a complainant and an accused party, such as housing, academic, transportation and working accommodations, if reasonably available. NYCPM will make such accommodations, if the victim requests them and if they are reasonable available, regardless of whether the victim chooses to report the crime to the appropriate College individual or office or local law enforcement. Students and employees should contact However, the individual may receive assistance from police or campus security, or have them call the appropriate agency in order to effect an arrest when an individual violates an order of protection.

Communications between a confidential advisor and a survivor shall consist of:

- Informing the survivor of the survivor's choice of possible next steps regarding the survivor's reporting options and possible outcomes, including without limitation reporting pursuant to the higher education institution's comprehensive policy and notifying local law enforcement.
- Notifying the survivor of resources and services for survivors of sexual violence, including, but not limited to, student services available on campus and through community-based resources, including without limitation sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services, and mental health services.
- Informing the survivor of the survivor's rights and the higher education institution's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by the higher education institution or a criminal or civil court.
- Providing confidential services to and have privileged, confidential communications with survivors of sexual violence.
- Liaising with campus officials, community-based sexual assault crisis centers, or local law enforcement and, if requested, assist the survivor with contacting and reporting to campus officials, campus law enforcement, or local law enforcement (upon the survivor's request and as appropriate).
- Liaising with the necessary campus authorities to secure interim protective measures and accommodations for the survivor (upon the survivor's request).

If a report of domestic violence, dating violence, sexual assault or stalking is reported to NYCPM, NYCPM will follow the procedures above.

## **10.0 VICTIM ASSISTANCE**

In cases of rape and/or sexual violence, there are many sources of support available to victims. Please see the Office of the Dean of Student Services.

### **EMERGENCY ACTIONS IN RESPONSE TO VIOLENCE**

Individuals who have experienced an act of violence, such as domestic violence, dating violence, sexual assault and/or stalking requiring immediate emergency assistance are advised to take the following actions:

- Get to a place of safety. Dial 911 for local Police
- Seek any necessary medical attention as soon as possible.

#### Nearby hospitals include:

Metropolitan Hospital  
1901 1st Avenue  
New York, NY 10029  
(212) 423-6262

Lincoln Hospital  
234 E<sup>st</sup> 149th Street  
Bronx, NY 10451  
(718) 579- 5000

Harlem Hospital  
506 Malcolm X Blvd  
New York, NY 10037  
(212) 939-3555

Mt. Sinai Hospital  
440 We<sup>st</sup> 114th Street  
New York, NY 10025  
(212)523-4410

Going to any hospital for medical care after an incident of sexual violence does not obligate an individual to file a report with the College or the police.

## **11.0 EXTERNAL REPORTING**

NYCPM will conduct a campus climate assessment every other year to ascertain general awareness and knowledge of the provisions of this policy, including student experience with and knowledge of reporting and college adjudicatory processes, which shall be developed using standard and commonly recognized research methods. The aggregate results of these campus climate assessments

shall be posted on NYCPM's website with no identifying information about respondents.

Members of NYCPM are always subject to local, state, and federal laws, and nothing in these procedures is intended to limit or postpone the right of an individual to file a complaint or charge with appropriate federal, state, or local departments or agencies.

It is the rights of victims and the responsibilities of all members of the community to comply with protective orders issued by a criminal, civil or tribal court or by NYCPM.

Among other options, students may contact the Office for Civil Rights of the U.S. Department of Education for inquiries concerning the application of Title IX as well as the implementation of its regulations. The Office for Civil Rights can be contacted using the following information:

U.S. Department of Education  
Office for Civil Rights  
32 Old Slip, 25<sup>th</sup> Floor  
New York, NY 10005  
Telephone: (646) 428-3800  
Email:OCR.NewYork@ed.gov

## **12.0 POLICY ON MONITORING CRIMINAL ACTIVITY**

NYCPM monitors and records criminal activity by students at non-campus locations of student organizations officially recognized by NYCPM, including student organizations with non-campus housing facilities through local police agencies.

## **13.0 PROGRAMS**

All new students, including transfers, will attend a program about the provision of this policy and how to protect themselves against sexual assault. On at least an annual basis, Dean or his/her delegate at NYCPM will provide a formal educational program to increase awareness of sexual offenses, including rape, acquaintance rape, dating violence, domestic violence, sexual assault, stalking and other forcible and non-forcible sexual offenses.

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

- Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome; and
- Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.

The programs will include discussion of what constitutes these offenses, penalties for these offenses, definition of consent, prevention and awareness programs and

ongoing prevention and awareness campaigns; risk reduction for students and faculty, safe and positive options for bystander intervention and security measures to protect against the occurrence of these offenses. NYCPM will advertise the date, time and content of these educational programs on posters displayed in those areas regularly used by students and employees of NYCPM.

#### **14.0 RESOURCES FOR SEXUAL HARASSMENT VICTIMS**

NYCPM will provide referral resources for sexual harassment victims, regardless of whether the victims choose to report the crime to campus police or local law enforcement. These resources include but are not limited to:

- Crisis Intervention Counseling
  - In-person or telephone services which support clients and their families in their effort to cope with the trauma of victimization and provide assistance in the recovery process.
- Emergency Assistance
  - Counselors will work with clients to determine and meet immediate needs for mental health counseling, medical care, etc.
- Accompaniment
  - Security is available to provide support and escort around campus, and in certain instances to assist the individual in getting home.
- Others
  - Victims will have access to a sexual assault forensic examination with a nurse.
  - Available community resources will be provided based on client's individual needs.

#### **15.0 REGISTERED SEXUAL OFFENDERS**

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

#### **16.0 IMPLEMENTATION**

This policy shall be implemented by the Office of the Chief Academic Officer and/or the Office of the Chief Operating Officer.

#### **17.0 SOURCE DOCUMENTS**

- 34 CFR 106.8 and 106.9
- Revised Sexual Harassment Guidance: Harassment of Students By School Employees, Other Students, or Third Parties, dated January 19, 2001
- “Dear Colleague Letter” from the Assistant Secretary, U.S. Department of Education, Office of Civil Rights, dated April 4, 2011.
- “Dear Colleague Letter” from the Assistant Secretary, U.S. Department of Education, Office of Civil Rights, dated July 14, 2014.



## **18.0 APPROVAL**

This policy has been approved by the Office of the Chief Academic Officer and the Office of the Chief Operating Officer.

**Appendix E**  
**Complaint Form**

If you wish to file a complaint, please use the Title IX and Sexual Misconduct Policy Complaint Form located on the TouroOne Portal and using this [link](#).



***TOURO UNIVERSITY SYSTEM***

*Office of Institutional Compliance*

**TITLE IX AND SEXUAL MISCONDUCT COMPLAINT FORM**

In order to address concerns of sexual harassment or sexual misconduct concerning Touro's purview under the institution's Title IX and Sexual Misconduct Policy, complainants must complete this form and provide necessary information where known. Upon review of the information, the Office of Institutional Compliance will determine what response, if any, can be performed and the appropriate path toward addressing the information provided in the complaint.

Should it be determined that the information contained herein falls under the criteria for the Title IX grievance process, this form will be used as a Formal Complaint as defined by the Title IX regulations and Touro policy. A formal complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the educational institution investigate the allegation of Sexual Harassment.

This form may be submitted via email, online or in-person to the Office of Institutional Compliance. Upon receipt, a representative from the Office of Institutional Compliance will contact and schedule an in-take interview with the complainant. In addition, a complainant may complete this form in-person, if desired. Once this form has been completed and signed by the complainant, and then signed by a designated representative of the Office of Institutional Compliance, it becomes a formal complaint recognized by Touro.

The information provided on this form will be kept confidential to the extent necessary and possible under applicable institutional and federal regulations. Further, Touro implements a strict retaliation policy that prohibits retaliation of any kind against those coming forward with a complaint of alleged sexual harassment or sexual misconduct. For additional and detailed information on Touro's policies on confidentiality and retaliation, please see the Title IX and Sexual Misconduct Policy that is available on the TouroOne Portal and the website.

**Once completed, please submit to: [Compliance@touro.edu](mailto:Compliance@touro.edu)**

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**Name of the Person Filing a Complaint (Complainant):**

\_\_\_\_\_

\_\_\_\_\_

*School ID Number:*

**Affiliation with Touro /Division\*:**

Student  Faculty  Staff  Contractor  Other: \_\_\_\_\_

**Division/School of Touro:**

\_\_\_\_\_



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**Name of Person or Persons Who Committed the Offense Against You (if known)\*:**

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**Names and Contact Information of any Witnesses:**

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**Complainant Signature and Date:**

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\_\_\_\_\_ Name:  
\_\_\_\_\_ Date

Once completed, please submit to: [Compliance@touro.edu](mailto:Compliance@touro.edu)

**For the Internal Use of the Office of Institutional Compliance Only**

Does the alleged misconduct meet the definition of Sexual Harassment as provided under Title IX? YES / NO

Did the alleged misconduct occur in the United States? YES / NO

Did the alleged misconduct occur within an employment or education program where Touro exhibits substantial control? YES / NO

List any supportive measures provided to the Complainant during the initial assessment. If no supportive measures were provided, note such and provide reasoning:

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If the alleged misconduct is not within the scope of Title IX, will the alleged misconduct be addressed under another policy administered by Touro? If yes, provide which policy. If no, provide reasoning for not addressing.

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Internal File Number: \_\_\_\_\_

**Office of Institutional Compliance Representative:**

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Date

## **Appendix F Biennial Report**

### **Biennial Review of New York College of Podiatric Medicine Alcohol and Drug Programs**

**2022-2023**

#### **OVERVIEW**

The Drug Free Schools and Communities Act requires, as a condition of receiving any federal funding or other financial assistance, that an institution of higher education certify it has adopted and implemented a program to prevent the unlawful possession, use or distribution of illicit drugs and alcohol for students and employees on school premises and as a part of its activities New York College of Podiatric Medicine (“NYCPM” or “College”) is in compliance with the Drug Free Schools and Communities Act and continues to conduct a biennial review on the effectiveness of its alcohol and other drug programs and services.

NYCPM provides comprehensive alcohol and other drug prevention initiatives, programs and services that focus on policy, environmental management, education, intervention, prevention, research and assessment. In addition, in accordance with federal law, the Office of Campus Security and the Office of Institutional Compliance annually provide every employee and student with an “Annual Crime Statistics and Fire Safety Report” email notification that includes the following (as required by 34 CFR 86.100):

- Standards of conduct that prohibit the unlawful possession, use or distribution of illicit drugs and alcohol on school property or part of school activities.
- A description of the applicable legal sanctions under federal, state or local law for the unlawful possession or distribution of illicit drugs and alcohol.
- A description of the health risks associated with the use of illicit drugs and abuse of alcohol.
- A description of counseling and treatment programs available to students and staff.
- A clear statement and description of the disciplinary sanctions NYCPM will impose on students and employees.

This Annual Crime Statistics and Fire Safety Report is available year-round to students, staff and employees at the following [link](#).

It is the goal of NYCPM to produce a Biennial Review that would be used to document the progress made by NYCPM and also provide insight into how NYCPM’s Alcohol and Drug policy and programs (“ADP”) could be improved. The 2024 Touro Biennial Review meets two objectives:

1. Determines the effectiveness of the ADP programs at NYCPM and outlines any changes that the institution has made (if necessary)
2. Analyzes the disciplinary sanctions imposed by the institution and ensures that they are consistently enforced.

A hard copy of this Biennial report is also maintained on file with Director of Campus Security that can be provided to the U.S. Department of Education, as requested

#### **POLICY**

NYCPM is committed to educating and informing students, faculty and staff about the dangers and effects of substance abuse. NYCPM recognizes that drug addiction and alcoholism are illnesses that may not be

easily resolved and may require professional assistance and treatment. As such, NYCPM provides its ADP to all students and employees. This policy is reviewed and updated annually.

The entire ADP is included in the Annual Security and Fire Safety Report. It is available year-round to students, staff and employees at the following [link](#).

In addition to the Annual Security and Fire Safety Report notification described above, students and employees are made aware of NYCPM's drug and alcohol policies during New Student orientation and at residence hall meetings, as well as during other activities and events throughout the year. The student presentation, given by Dean or their delegate, includes, but is not limited to:

- Possession of alcoholic beverages, illegal narcotics or improper use of prescription drugs is strictly prohibited on NYCPM campuses, student dormitory and residences, and at any college function (on or off campus).
- Alcoholic beverages or illegal narcotics may not be sold on the campuses of NYCPM for any purpose.
- Alcoholic beverages may not be served to NYCPM students as part of College-sponsored events or non-official activities connected with the College - except for sacramental purposes.

The employee presentation, provided at Faculty meetings and given during the on-boarding process for other new employees, includes, but is not limited to:

- Notice that NYCPM is a Drug-Free and Smoke-Free workplace;
- Prohibition on the use of substances that impair a person's ability to perform his or her job responsibilities;
- Notification that the sale, manufacture, possession or use of illegal drugs on the College property and campuses is strictly prohibited

### **EDUCATION, INTERVENTION & PREVENTION**

NYCPM provides many different avenues for students and employees to receive education and counseling about alcohol and other drug issues. In addition to campus resources, NYCPM also provides students and employees with information about and referrals to community-based agencies for support, education and/or treatment. Campus and community members also work together to implement environmental risk management strategies to reduce the harmful consequences of drug and alcohol use.

### **POLICY ENFORCEMENT**

As seen in the chart below, NYCPM have steadily experienced no drug or alcohol related violations over the past few years. Based on this data, NYCPM have determined that its' current Drug and Alcohol policy and programs are inherently effective.

As NYCPM have not encountered any violations related to drugs or alcohol, disciplinary sanctions for violation of campus drug and alcohol policies are non-existent. That being said, NYCPM reviews their policies and sanctions on an annual basis to determine whether industry standards and best practices are being adhered to.

<i>On Campus</i>	<b>2022</b>	<b>2023</b>
<b><u>Liquor Law Violations</u></b>		
Arrests	0	0
Disciplinary Actions	0	0
<b><u>Drug-related violation</u></b>		
Arrests	0	0
Disciplinary action	0	0
<b><i>Residential Facilities</i></b>		
<b><u>Liquor Law Violations</u></b>		
Arrests	0	0
Disciplinary Actions	0	0
<b><u>Drug-related violation</u></b>		
Arrests	0	0
Disciplinary action	0	0
<b><i>Public Property</i></b>		
<b><u>Liquor Law Violations</u></b>		
Arrests	0	0
Disciplinary Actions	0	0
<b><u>Drug-related violation</u></b>		
Arrests	0	0
Disciplinary action	0	0