



## **POLICY PROHIBITING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

In accordance with Title IX of the Education Amendments Act of 1972, Title VII of the Civil Rights Act of 1964, New York Education Law Section 129-b, the New York State Human Rights Law and other federal and state laws, the College of Westchester does not discriminate against students or employees on the basis of sex/gender in its educational programs and activities and prohibits students, employees and third parties from engaging in sexual misconduct, including sexual harassment, sexual assault, sexual exploitation, domestic violence, dating violence and stalking.

In May 2020, the United States Department of Education promulgated regulations that the definition of sexual harassment covered under Title IX and mandated certain procedures for investigating and adjudicating such claims.<sup>1</sup> In accordance with those regulations, the College has adopted the Grievance Policy for Addressing Formal Complaints of Sexual Harassment Under the Title IX Regulations (“Title IX Grievance Policy”), which can be accessed here:

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

There are, however, types of sexual harassment and sexual misconduct that are not covered by Title IX pursuant to the 2020 regulations but are prohibited by other federal and state laws. Accordingly, this Policy Prohibiting Sexual Harassment and Sexual Misconduct remains in effect. The Title IX Coordinator or designee will determine whether the allegations fall under the jurisdiction of the Title IX Grievance Policy. Allegations of sexual harassment that are covered by the Title IX Grievance Policy must be adjudicated under the Title IX Grievance Policy. If an allegation is dismissed from the Title IX Grievance Process, it may be referred for investigation and/or adjudication under this Policy. Conduct found not to have violated the Title IX Policy may violate this Policy.

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<sup>1</sup> In order to be covered by the Title IX Grievance Policy, all of the following must be met:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in the College’s education program or activity; and
4. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

Conduct that meets the definition of covered sexual harassment is limited to:

1. An employee conditioning educational benefits on participation in unwelcome sexual conduct;
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College’s education program or activity;
3. Sexual assault;
4. Domestic violence;
5. Dating violence; and
6. Stalking.

Any attempt to engage in prohibited conduct may itself constitute a violation of this policy. Any actions knowingly taken to aid, facilitate or encourage another to engage in prohibited conduct and any actions taken for the purpose of interfering in the investigation of an allegation of prohibited conduct shall constitute a violation of this policy. Anyone found to have violated this policy will be subject to disciplinary action as set forth in the procedures below. The College is committed to provide those who feel that they have been subjected to conduct in violation of this policy with mechanisms for seeking redress and resources for support. Accordingly, the College of Westchester prohibits retaliation against any person for complaining of a violation of this policy or for participating in any investigation or proceedings related to an alleged violation.

Community members, including students, employees (faculty and staff), interns (paid and unpaid), vendors and contractors, are protected from sexual misconduct regardless of their sex, sexual orientation, immigration status, citizenship status or national origin, or any other protected characteristic.

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## **Definitions**

We hear and use many words to describe sexual violence and other crimes. These definitions are provided so you can understand the College’s definitions of these terms. The criminal definitions under state and federal law may differ from the College’s definitions. The College prohibits conduct as defined by this policy.

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

- Consent to one form of sexual activity does not imply consent to other forms of sexual activity, nor does past consent to intimacy imply consent to future intimacy.
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- 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
- In order to give consent, a person must be of the legal age of consent, which is 17 in New York.
- Consent cannot be given and is deemed invalid 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.

**Coercion** is unreasonable pressure. The use of emotional manipulation to persuade someone to do something they may not want to do, such as being sexual or performing certain sexual acts, constitutes coercion. Coercing someone into having sex or performing sexual acts does not constitute obtaining consent and is considered sexual misconduct.

**Complainant** is the person who was allegedly subjected to prohibited conduct.

**Dating Violence** includes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship would be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence would include, but would not be limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts that meet the definition of “domestic violence.”

**Domestic Violence** includes the use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual or economic abuse directed towards (i) a current or former spouse or intimate partner; (ii) a person with whom one shares a child; or (iii) anyone who is protected from the respondent’s acts under the domestic or family violence laws of New York. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. Domestic violence can be a single act or a pattern of behavior in relationships.

**Force** is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation and coercion to overcome resistance.

**Incapacitation** is a state where someone cannot make rational, reasoned decisions. A person may be incapacitated due to mental disability, sleep, unconsciousness, physical restraint, or from the consumption (voluntary or otherwise) of incapacitating drugs or quantities of alcohol. Sexual activity with someone whom you know or, reasonably should know, is mentally or physically incapacitated (i.e., by alcohol or other drug use, unconsciousness or blackout) constitutes a violation of this policy. Evidence of incapacity may be detected by physical cues, such as slurred

speech, bloodshot eyes, the odor of alcohol on a person's breath or clothing, inability to maintain balance, vomiting, unusual or irrational behavior, and unconsciousness. Incapacity may be indicated by the quantity of alcohol consumed. The presence of one or more of these cues does not necessarily indicate incapacity, nor does the absence of these cues necessarily indicate capacity.

**Intimidation** means unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**Respondent** is the person who is accused of violating this policy.

**Retaliation** includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's informal or formal complaint of a violation of this policy or participation in a school or government investigation or proceedings related to an alleged violation of this policy or related civil rights law. Federal, state and local civil rights laws, including Title IX, make it unlawful to retaliate against an individual for the purpose of interfering with any right or privilege secured by these laws.

**Sexual or Sex-based Harassment** is defined as unwelcome sex-based verbal, visual or physical conduct:

- that has the purpose or effect of creating an intimidating, hostile, or offensive living, learning or working environment;
- that has the purpose or effect of unreasonably interfering with an individual's academic or job performance or limiting or depriving someone of the ability to participate in or benefit from the College of Westchester's educational programs, activities and/or employment;
- where submission to the conduct is explicitly or implicitly made a term or condition of an individual's education, employment, or participation in other activities sponsored by the College of Westchester; or
- where submission to or rejection of the conduct is used as the basis for academic or employment decisions.

Conduct that does not amount to more than petty slights or trivial inconveniences does not constitute harassment.

Examples of sex-based harassment that may cause a hostile environment include, but are not limited to:

- subtle or persistent pressure for sexual activity;
- unnecessary touching, or brushing against a person;
- requesting or demanding sexual favors concerning employment, academic activities or other College of Westchester activities;
- unwelcome communications (verbal, written, electronic, etc.) of a sexual nature;
- sexually oriented gestures, noises, remarks, jokes, or comments;
- failure to accept the termination of a consensual relationship with repeated and persistent requests and behavior;
- verbal and/or physical aggression toward another based upon their status as transgender or a perception that the other fails to conform to stereotypical notions of expected characteristics for males or females.

**Sexual Assault** is divided into two categories of behavior: **Non-consensual Sexual Contact** and **Non-consensual Sexual Intercourse**.

**Sexual Assault--Non-consensual Sexual Contact** includes the below:

1. The intentional touching of the clothed or unclothed body parts of another person without their affirmative consent for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
2. Requiring another to touch one's clothed or unclothed body parts for the purpose of sexual degradation, sexual gratification, or sexual humiliation without affirmative consent and/or by force.

Consent is required regardless of whether the person initiating the sexual contact is under the influence of drugs and/or alcohol. When consent is withdrawn or can no longer be given due to incapacitation, sexual activity must stop.

Examples of non-consensual sexual contact include, but are not limited to:

- intentional contact with the breasts, buttocks, groin, or genitals;
- intentional touching of another with breasts, buttocks, groin, or genitals;
- making another person touch someone or themselves in a sexual manner;
- any intentional bodily contact in a sexual manner.

**Sexual Assault--Non-consensual Sexual Intercourse** includes any sexual intercourse, however slight, with any object or body part by a person against other person that is without affirmative consent and/or by force. Affirmative consent is required regardless of whether the person initiating the sexual contact is under the influence of drugs and/or alcohol. When consent is withdrawn or can no longer be given due to incapacitation, sexual activity must stop.

Examples of non-consensual sexual intercourse include, but are not limited to:

- vaginal penetration by a penis, object, tongue or finger;
- anal penetration by a penis, object, tongue or finger;
- oral copulation (mouth to genital contact or genital to mouth contact).

**Sexual Exploitation** includes but is not limited to:

- invasion of sexual privacy and voyeurism (in-person or through audio or video recording);
- electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person, whether authentic or created or enhanced through technology
- knowingly transmitting a sexually transmitted infection;
- exposing of a person's body or genitals;
- prostituting or soliciting another community member.

**Stalking** is a course of conduct directed at a specific person that would cause a reasonable person to feel fear for her, his, or others' safety, or to suffer substantial emotional distress.

Examples of stalking include but are not limited to:

- constantly appearing at places the victim is known to frequent;

- persistent unwanted communication or contact whether in person, by telephone, text, or email;
- persistent unwanted gifts;
- following or surveillance;

### **WHEN AND TO WHOM DOES THIS POLICY APPLY**

This policy applies to the conduct of College of Westchester applicants, students and employees, including faculty and non-faculty, as well as third parties doing business with the College of Westchester (including interns, vendors and contractors) or attending College sponsored programs or activities.

This policy shall apply to conduct that occurs on the College of Westchester's campus, on College technological systems, at College sponsored programs, activities and events, as well as off-campus when the accused is a matriculated College of Westchester student or when the conduct has a continuing adverse impact upon the College of Westchester work or school environment. Each student shall be responsible for his or her conduct from the time of application for admission through the awarding of a degree, as well as during periods between terms of actual enrollment, study abroad and leaves of absence or suspension. Each employee shall be responsible for his or her conduct from the date of application through the termination of employment.

### **TITLE IX COORDINATORS**

Inquiries regarding the application of this Policy should be referred to the **Title IX Coordinator, Janna Gullery**, (914-831-0401, [jgullery@cw.edu](mailto:jgullery@cw.edu)), or the **Deputy Title IX Coordinator, Anna Bravo** (914-831-0353, [abravo@cw.edu](mailto:abravo@cw.edu)), 325 Central Avenue, White Plains, NY 10606. In addition to coordinating compliance with Title IX, the Title IX Coordinators are responsible for coordinating the College of Westchester's efforts to comply with other federal and state laws governing sexual harassment and sexual misconduct, overseeing the College's responses to reports of alleged violations, and identifying and addressing any pattern or systemic problems. The Deputy Title IX Coordinator will oversee compliance with respect to employees and will provide updates to the Title IX Coordinator. Students and employees who file a grievance are hereby assured that no adverse action will be taken against them for filing a complaint.

### **CONFIDENTIALITY, REPORTING REQUIREMENTS, AND SUPPORT RESOURCES**

#### ***Sexual Harassment and Misconduct Involving Students***

With the exception of licensed Counseling Center staff, all other College staff and faculty who become aware of an incident of sexual misconduct or harassment involving a student are required to elevate the report to the Title IX Coordinator or Deputy Title IX Coordinator for investigation and response.

Non-confidential resources on campus include:

- Faculty
- Success Coaches
- Deans
- Manager of Human Resources
- Security staff
- Career Counselors
- Student Financial Services
- Veterans Support staff member
- Administrative staff
- Executive Office staff
- Peer Mentor

### **Privacy Versus Confidentiality**

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

### **On Campus Confidential Resources for Students**

Individuals who are *confidential* resources will not report policy violations to law enforcement or college officials without your permission, except for extreme circumstances, such as a health and/or safety emergency. At The College of Westchester this includes:

The Counseling Center: [counseling@cw.edu](mailto:counseling@cw.edu) or 914-831-0441

### **Off-Campus Confidential Resources for Students and Employees**

Off-campus counselors and advocates. Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency. Notifying any of these outside agencies does not constitute notice to the College.

- My Sisters' Place – White Plains Administrative Office  
One Water Street  
White Plains, NY 10601  
Phone (914) 683-1333
- Hope's Door Main Office  
P.O. Box 262  
50 Broadway

Hawthorne, NY 10532  
(914)747-0828

- Westchester Jewish Community Services  
845 North Broadway  
White Plains, NY 10603  
(914)761-0600
- Victims Assistance Services  
2 Westchester Plaza  
Elmsford, NY 10523  
(914) 345-3113

Off-campus healthcare providers:

- Westchester Medical Center SAAVE Program  
100 Woods Rd  
Valhalla, NY 10595  
Main Number: (914) 493-7000 / 24-Hour Crisis Hotline: 1-833-220-2444
- New York State Office of Victims Services  
<https://ovs.ny.gov/>

Note that medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. More information may be found here: <https://www.ovs.ny.gov/sites/default/files/brochure/ovsrightsofcvbooklet.pdf> or by calling 1-800-247-8035. Options are explained here: <https://www.ovs.ny.gov/help-crime-victims>.

**Off-campus legal assistance:**

- Hopes Door Family Justice Center, County Courthouse  
111 Martin Luther King Jr. Blvd  
White Plains, NY 10601  
914-995-3100

Note that even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.

## **Anonymous Disclosure**

- My Sister's Place: 1-800-298-7233 (SAFE)
  - If you need to speak to a crisis counselor immediately, please call the above 24-hour, toll-free hotline. The hotline is for crisis intervention, resources and referrals and is not a reporting mechanism.
- New York State Hotline for Sexual Assault and Domestic Violence: 1-800-942-6906
- Hope's Door Domestic Abuse 24 Hour Hotline: 1-888-438-8700

## **Public Awareness/Advocacy Events:**

If an incident is disclosed through a public awareness event such as "Take Back the Night," candlelight vigils, protests, or other public event, The College of Westchester is not obligated to begin an investigation.

## **Student Requests for Confidentiality after Disclosure: How The College of Westchester Will Weigh the Request and Respond**

If you disclose an incident to a College of Westchester employee who is obligated to report to the Title IX Coordinator but wish to maintain confidentiality or do not consent to the institution's request to initiate an investigation, the Title IX Coordinator must weigh your request against our obligation to provide a safe, non-discriminatory environment for all members of our community, including you.

We will seek consent from you prior to conducting an investigation. You may decline to consent to an investigation, and that determination will be honored unless The College of Westchester's failure to act does not adequately mitigate the risk of harm to you or other members of The College of Westchester community. Honoring your request may limit our ability to meaningfully investigate and pursue conduct action against an accused individual.

In evaluating a request not to investigate or to maintain confidentiality, The College of Westchester will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

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

If The College of Westchester determines that it must move forward with an investigation, the reporting individual or victim/survivor will be notified and the College will take immediate action as necessary to protect and assist them.

The College cannot honor requests not to investigate or address incidents of sexual harassment in the workplace.

## **REPORTING TO LAW ENFORCEMENT**

**If you are in immediate danger, dial 911 and attempt to get to a safe place.**

Acts of violence, including sexual assault, domestic violence, dating violence, and stalking, are against the law. If you are not in immediate danger and would like to report an incident to the police, you can do so by contacting:

New York State Police Campus Sexual Assault Hotline

1-844-845-7269

This number is monitored 24/7

If you would like someone to assist you in contacting the police or go with you to the police department, any of the following individuals at The College of Westchester can assist you:

- Title IX Coordinator
- Deputy Title IX Coordinator
- Director of Security
- Mental Wellness Counselor

The College strongly encourages individuals to report incidents of sexual misconduct because it is the only way that responsive action can be taken against perpetrators of sexual misconduct. In the event a sex offense, domestic violence, dating violence, sexual assault, or stalking incident has occurred, victims are strongly encouraged to preserve evidence as may be necessary to the proof of a crime. The College of Westchester campus authorities will assist in notifying law enforcement if the victim chooses. Victims may report an incident to law enforcement regardless of whether they choose to report the incident to The College of Westchester. Conversely, reporting an incident to The College of Westchester does not require the Complainant to report the incident to law enforcement. The College of Westchester reserves the right to report any crime to law enforcement, but, as a general rule, will not alert law enforcement to an incident of sexual misconduct without the Complainant's permission, except where there is a serious and immediate threat to the campus community, when a minor is involved, or as otherwise required by law.

If the complainant files a criminal complaint with a local law enforcement agency, the College will comply with law enforcement agency requests for cooperation, which may require the College to temporarily suspend the fact-finding aspect of a College investigation while the

law-enforcement agency gathers evidence. Absent extraordinary circumstances, the College will suspend an active investigation for a maximum of 10 days.

In addition to the protective measures that The College of Westchester may take, law enforcement may be able to provide additional protections, such as a restraining order. The College of Westchester can assist students in contacting law enforcement and legal services organizations to learn about additional remedies that may be available.

### **Institutional Crime Reporting**

Reports of certain crimes occurring in certain geographic locations will be included in The College of Westchester's Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the victim/survivor. For a copy of The College's Annual Security Report, please contact:

Charles Boklan  
Director of Security  
325 Central Avenue  
White Plains, NY 10606  
914-831-0409, [cboklan@cw.edu](mailto:cboklan@cw.edu)

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

The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parents' prior year federal income tax return. Generally, The College of Westchester will not share information about a report of sexual violence with parents without the permission of the reporting individual. No employee should notify a student's parents without first consulting with the Title IX Coordinator.

### **INTERNAL COMPLAINT PROCEDURES**

Although students, faculty, staff and third parties are expected to meet the College's expectations for conduct, there are different procedures for investigating and adjudicating complaints depending upon the identity of the parties. Students have the right to request that charges be filed against the accused in proceedings governed by this policy, along with other applicable institutional policies.

## **STUDENT COMPLAINANT AND STUDENT RESPONDENT**

This procedure is used when both the person alleging a violation of the policy and the accused are students.

### **Amnesty Policy**

The health and safety of every student at The College of Westchester (CW) is of utmost importance. CW recognizes that individuals 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. CW strongly encourages individuals 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 CW's officials or law enforcement will not be subject to CW's Code of Conduct section for violation of alcohol and/or drug use policies occurring at or near the time of the commission of domestic violence, dating violence, stalking or sexual assault.

### **Informal Resolution Option**

Once a complaint is made, the complainant has the option to proceed with informal resolution or to proceed with a formal investigation. The complainant may initially choose informal resolution and later decide to proceed formally. The informal procedures (mediation) are designed to resolve complaints quickly, efficiently, and to the mutual satisfaction of all parties involved. Where circumstances allow, and both parties agree to participate, informal procedures will be initiated as soon as possible and within five school days, absent any unusual circumstances. A complainant may elect to terminate a formal complaint process and enter into mediation at any point, including after the commencement of the formal process.

Mediation is a voluntary process intended to allow the parties involved in an alleged complaint of discrimination or harassment to discuss their respective understandings of the incident with each other through the assistance of a trained mediator. Mediation is designed to encourage each person to be honest and direct with the other and to accept personal responsibility where appropriate. Mediation is only offered as an option if both the complainant and the respondent are members of The College of Westchester community and agree to participate. Informal mediation is not appropriate for certain cases, such as alleged sexual assaults, even on a voluntary basis.

### **Formal Investigation Process**

Notice of a formal complaint may be in person, or orally to an appropriate official. The College encourages complainants to submit a written grievance (in writing, by email attachment, etc.) to the Title IX Coordinator or designee. The formal grievance should be clear and concise and describe the alleged incident(s) in detail including location and time the incident occurred, details about the incident, and desired remedy sought. The grievance should be signed by the complainant or in the case of an email submission, sent as an email attachment, in letter format and should contain the name and all contact information of the initiator filing the complaint.

Any and all supporting documentation and evidence should be referenced within the body of the formal grievance, whenever possible.

Upon receipt of a formal grievance, the Title IX Coordinator or designee will:

- Open a formal case file and determine any necessary interim measures (as described below) for the alleged victim, and any other necessary remedial short-term actions.
- Determine the identity and contact information of the complainant (whether that be the initiator, the alleged victim, university representative, or third party).
- Assess whether the facts as alleged by the complainant, if true, would constitute a violation of the policy. If the alleged facts do not state a violation, the grievance will be closed with no further action. If the alleged facts could state a violation, then the Title IX Coordinator or her designee will begin the investigation.

### **Interim Protective Measures**

If necessary, The College may take interim protective measures to protect the complainant and the College's community during the investigation. These remedial measures may include the following:

- No contact order;
- A change in academic situations as appropriate with the minimum burden on the complainant;
- Counseling;
- Health and mental health services;
- Escort services;
- Academic services
- Retake course or withdraw without penalty
- Interim suspension pending the outcome of an investigation (so long as the interim suspension is used not as a disciplinary sanction, but rather, as an interim tool to protect the safety of campus community members, such as in the event that the presence of the respondent presents a continued threat to the health and safety of the community)
- Temporary designation as a persona non grata and deemed unauthorized to enter the campus premises (only in the event that the accused is not an active student and also presents a continuing threat to the safety of the campus community)

The College of Westchester determines which protective measures are appropriate for a particular situation on a case-by-case basis. Not all of the measures listed above will be necessary in every case to keep complainants safe and ensure their equal access to educational programs and activities. If the complainant identifies an interim measure that is not already provided, The College of Westchester will consider whether the request can be granted.

These interim measures will be taken promptly at no cost to the complainant. Depending upon the circumstances, some or all of the protective measures may be lifted once the process is

complete and a decision is rendered, or the protective measures may be continued to assist the complainant after a determination has been made, even if it is determined that some or all of the allegations have not been substantiated. Additional remedies and sanctions may be rendered after a violation is found.

Failure to comply with a directive relating to a protective measure may lead to further disciplinary action. Remedial measures will be kept confidential to the extent possible. Only those individuals who need to be informed in order to effectuate the measures will be informed.

The complainant or the respondent may request review and modification of any interim remedial measure(s) that directly impacts him or her, including review of the need for and terms of the protective measure(s), by submitting a letter to the Title IX Coordinator along with any evidence he or she wishes to present. In the event the measure impacts the other party, he or she will be given an opportunity to state his or her position and present evidence as appropriate. The Title IX Coordinator or her designee will review the submissions and make a determination. In addition to the measures that The College of Westchester may take, law enforcement may be able to provide additional protections, such as a restraining order. The College of Westchester can assist students in contacting law enforcement and legal services organizations to learn about additional remedies that may be available.

### **Investigation**

The investigator will conduct a prompt, fair, impartial, and thorough investigation. During the investigation, the appointed investigator will:

- interview the complainant, the respondent, and any material witnesses (the investigator will not interview witnesses whose sole purpose is to provide character information);
- gather all relevant documentary and/or physical evidence from the complainant, respondent, and witnesses; (This may include, but is not limited to, texts, emails, photos, Facebook posts, voicemail messages, etc.
- give the respondent proper notice of the complaint, the date, time, location and factual allegations concerning the alleged violation as well as the specific policy provisions he or she is alleged to have violated and provide an opportunity for the respondent to provide information;
- complete the investigation in a timely manner, without unnecessary deviation from the intended timeline; and
- maintain communication with the complainant and the respondent on the status of the investigation and overall process.

### **Information regarding Romantic and Sexual History**

The investigator will not consider information concerning the romantic or sexual history of either the complainant or the respondent, except as provided by the complainant or respondent relating to their shared sexual history. If either offers such information, the other will have the right to respond.

### Information regarding Mental Health Diagnosis or Treatment History

Each party shall have the right to object to the investigator's consideration of his or her own mental health history or treatment. In the event such an objection is raised, the investigator will neither gather nor consider information regarding mental health diagnosis or treatment.

### Prior Conduct Violations

The investigator will not consider prior alleged misconduct. If an individual has previously been found responsible for a violation of this policy, that information may be considered in the context of determining an appropriate disciplinary sanction.

### **Determination and Sanctions**

At the conclusion of the investigation, the investigator will prepare a written investigation report. The report will clearly set forth the prohibited conduct alleged and will include summaries of all witness interviews and any documentary or physical evidence identified. The report will further provide the investigator's assessment of whether it is more likely than not that the prohibited conduct occurred and the evidentiary basis for that assessment.

The parties will have an opportunity to review the report but will not be provided with a copy of the report. Within 3 business days of reviewing the report, the parties may submit in writing any additional information or clarifications that they believe are relevant to the determination and sanctions. This may include a statement regarding the impact the alleged events have had on them.

Upon completion of the investigation, the Title IX Coordinator or their designee will review all of the evidence and determine whether the evidence establishes that it is more likely than not that the policy was violated. In other words, whether a violation has been established based upon a preponderance of the evidence. If a violation is found, the College of Westchester will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the university campus community.

### **Remedies and Sanctions**

Potential remedies and/or sanctions may include one or more of the following:

- A no contact order.
- Revisions to class schedules to maintain separation of parties.
- Transfer of respondent to different division of the College (Adult/Day/Online).
- Temporary suspension from The College pending program completion of victim(s).
- Loss of privileges (including but not limited to use of facilities and participation in campus organizations and activities),
- Community service.
- Mandated training and education.
- Revocation of honors or awards.
- Warning or reprimand.
- Disciplinary probation.
- Permanent dismissal from The College.

- Transcript notation.

The Title IX Coordinator will provide both the complainant and the respondent with written notice of the determination and the rationale for such determination. In cases of sexual assault, dating violence, domestic violence and/or stalking, the complainant and the respondent will be informed simultaneously and in writing of any sanctions imposed and the rationale for such sanction. In other cases of sexual misconduct, the complainant will only be informed of discipline to the extent such sanctions relate to the complainant.

#### Declining to Participate

If the student respondent chooses not to cooperate in the investigation, the investigator will still complete the investigation and prepare a report based solely upon the information available. No adverse inference will be made as a result of a party's decision not to participate in the investigation, but a determination will be made based upon the information available.

If the complainant chooses to withdraw the complaint prior to the completion of the investigation, the Title IX Coordinator will determine whether to continue to pursue the complaint employing the factors outlined on previously.

#### **Appeal Procedure**

Both the complainant and the respondent have the option to appeal the final determination of an investigation by submitting a letter of appeal to the Appeal Officer:

Dr. Erica Schacht, Vice President of Academic Affairs and Dean of Faculty, 325 Central Avenue, White Plains, NY 10606, 914-831-0237 or [eschacht@cw.edu](mailto:eschacht@cw.edu).

Requirements for appeal:

1. The appeal is made within 14 days of the original sanction, and
2. The appeal articulates one of the following grounds:
  - a) A procedural error occurred that significantly impacted the outcome of the Informal or Formal Resolution (e.g. substantiated bias, material deviation from established procedures, etc.)
  - b) To consider new evidence, unavailable during the original hearing, Informal or Formal Resolution or Investigation, that could substantially impact the finding or sanction
  - c) The sanctions fall outside the range typically imposed for this offense, or for the cumulative conduct record of the Accused

If the Appeal Officer determines that the request for appeal sets forth a legitimate ground for appeal, he/she will notify the non-appealing party and give them the opportunity to review the letter of appeal and submit a written response within 7 days of notification.

The Appeal Officer will render a decision applying the following principles:

1. Decisions by the Appeal Officer are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/remedial action only if there is a compelling justification to do so.
2. Appeals are not intended to be full re-hearings of the complaint. In most cases, appeals are confined to a review of the written documentation or record of the rationale for the original sanction, and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the Title IX Coordinator for additional investigation.
3. Sanctions imposed are implemented immediately unless the Title IX Coordinator or designee stays their implementation pending the outcome of the appeal.
4. The Appeal Officer will normally render a written decision on the appeal to all parties within 7 business days from receipt of the non-appealing party's submission.
5. All parties will be informed in writing of the results of the appeal decision.
6. Once an appeal is decided, the outcome is final: further appeals are not permitted.

If neither party files an appeal within two weeks of the determination's rendering, the Title IX Coordinator will provide both parties with written notice that the determination is final.

### **Privacy During and After the Conduct Process**

Parties have the right to choose whether to disclose or discuss the outcome of a conduct or judicial process. However, parties are prohibited from unreasonably sharing private information in a manner intended to harm or embarrass another individual, or in a manner that would recklessly do so regardless of intention.

Parties have a 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.

### **Transcript Notations**

Any student who is found responsible for domestic violence, dating violence, sexual assault or stalking (or any other crime of violence) and suspended will have a notation on his or her transcript indicating, "suspended after a finding of responsibility for a policy violation."

Any student who is found responsible for domestic violence, dating violence, sexual assault or stalking (or any other crime of violence) and expelled will have a notation on his or her transcript indicating, "expelled after a finding of responsibility for a policy violation."

Any student who withdraws from the College of Westchester while a complaint of sexual assault, domestic violence, dating violence, or stalking (or any other crime of violence) is pending against him or her and declines to complete the investigatory and disciplinary process will have a notation on his or transcript indicating, "withdrew with conduct charges pending."

If a finding of responsibility is vacated for any reason, the transcript notation will be removed. Students shall have the right to seek the removal of a notation of suspension after one year has elapsed since the end of the suspension. Students wishing to request removal should submit a letter to the Title IX Coordinator setting forth the justification for removal. Notations of expulsion cannot be removed.

**Advisors**

Student complainants and respondents have a right to be accompanied by an advisor of his or her choice at all meetings and interviews related to an allegation of sexual misconduct. In cases involving allegations of domestic violence, dating violence, sexual assault or stalking, the advisor may be an attorney.

Advisors are not permitted to advocate on behalf of the individual or to address the investigator, the Title IX Coordinator or the Appeal Officer directly. The party may confer with the advisor, and the advisor may pass notes to the party. If the advisor is disruptive or otherwise fails to comply with these parameters, he or she may be asked to leave.

**Conflict of Interest**

Both the complainant and the respondent have the right to have a fair and impartial investigation, determination and appeal. If either the complainant or respondent has any reason to believe that the investigator, the Title IX Coordinator or any of the Appeal Officer members has a conflict of interest or would otherwise be unable to be fair and impartial, the concerned party should submit a letter explaining the basis for his or her concern. Concerns regarding the investigator or the Appeal Officer should be submitted to the Title IX Coordinator. Concerns regarding the Title IX Coordinator should be submitted to the Appeal Officer. The other party will be provided with a copy of the letter and will have an opportunity to respond. If based upon those submissions and any independent inquiry the decision-maker may choose to make, the decision-maker determines that there is a conflict of interest, another individual will be appointed to take on the role. If it is found that there is no such conflict, the individual will continue in his or her role. Concerns regarding conflicts of interest should be raised as soon as they are identified and prior to the individual with the alleged conflict's rendering of his or her determination, e.g. prior to the submission of the investigation report, the determination, or the appeal decision.

**Notice**

Each party will receive reasonable and advance written or electronic notice of any meeting he or she is required or eligible to attend. In cases of domestic violence, dating violence, or stalking, each party will be given prompt notice of any meeting relating to the proceeding at which either the complainant or the respondent will be present, except that the respondent will not be notified of meetings with the complainant relating solely to interim protective measures and other supportive accommodations.

**STUDENT COMPLAINANT AND EMPLOYEE RESPONDENT OR  
EMPLOYEE COMPLAINANT AND STUDENT RESPONDENT**

This procedure is used when one of the parties is a student and one of the parties is an employee (faculty or staff), an intern, or a non-employee working on campus (e.g. a vendor or contractor).

### **Amnesty Policy**

The health and safety of every student at The College of Westchester (CW) is of utmost importance. CW recognizes that individuals 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. CW strongly encourages individuals 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 CW's officials or law enforcement will not be subject to CW's Code of Conduct section for violation of alcohol and/or drug use policies occurring at or near the time of the commission of domestic violence, dating violence, stalking or sexual assault. *The Amnesty Policy is not applicable to employees.*

### **Informal Resolution Option**

Once a complaint is made, the complainant has the option to proceed with informal resolution or to proceed with a formal investigation. The complainant may initially choose informal resolution and later decide to proceed formally. The informal procedures (mediation) are designed to resolve complaints quickly, efficiently, and to the mutual satisfaction of all parties involved. Where circumstances allow, and both parties agree to participate, informal procedures will be initiated as soon as possible and within five school days, absent any unusual circumstances. A complainant may elect to terminate a formal complaint process and enter into mediation at any point, including after the commencement of the formal process.

Mediation is a voluntary process intended to allow the parties involved in an alleged complaint of discrimination or harassment to discuss their respective understandings of the incident with each other through the assistance of a trained mediator. Mediation is designed to encourage each person to be honest and direct with the other and to accept personal responsibility where appropriate. Mediation is only offered as an option if both the complainant and the respondent are members of The College of Westchester community and agree to participate. Informal mediation is not appropriate for certain cases, such as alleged sexual assaults, even on a voluntary basis.

### **Formal Investigation Process**

Notice of a formal complaint may be in person, or orally to an appropriate official. The College encourages complainants to submit a written grievance (in writing, by email attachment, etc.) to the Title IX Coordinator or designee. The formal grievance should be clear and concise and describe the alleged incident(s) in detail including location and time the incident occurred, details about the incident, and desired remedy sought. The grievance should be signed by the complainant or in the case of an email submission, sent as an email attachment, in letter format and should contain the name and all contact information of the initiator filing the complaint.

Any and all supporting documentation and evidence should be referenced within the body of the formal grievance, whenever possible.

Upon receipt of a formal grievance, the Title IX Coordinator or designee will:

- Open a formal case file and determine any necessary interim remedial measures (as described below) for the alleged victim, and any other necessary remedial short-term actions.
- Determine the identity and contact information of the complainant (whether that be the initiator, the alleged victim, university representative, or third party).
- Assess whether the facts as alleged by the complainant, if true, would constitute a violation of the policy. If the alleged facts do not state a violation, the grievance will be closed with no further action. If the alleged facts could state a violation, then the Title IX Coordinator or her designee will begin the investigation.

### **Interim Protective Measures**

If necessary, The College may take interim protective measures to protect the complainant during the investigation. These remedial measures include the following:

- No contact order;
- A change in academic situations as appropriate with the minimum burden on the complainant;
- Counseling;
- Health and mental health services;
- Escort services;
- Academic services; and/or
- Retake course or withdraw without penalty.

The College of Westchester determines which protective measures are appropriate for a particular situation on a case-by-case basis. Not all of the measures listed above will be necessary in every case to keep victims safe and ensure their equal access to educational programs and activities. If the complainant identifies an interim measure that is not already provided, The College of Westchester will consider whether the request can be granted. These interim measures will be taken promptly at no cost to the complainant. Depending upon the circumstances, some or all of the protective measures may be lifted once the process is complete and a decision is rendered or they may be continued to assist the complainant after a determination has been made, even if it is determined that some or all of the allegations have not been substantiated. Additional remedies and sanctions may be rendered after a violation is found.

The College retains the authority to place an employee respondent on administrative leave during a pending complaint process under this policy, with or without pay as appropriate. Administrative leave implemented as a interim protective measure is subject to the procedural provisions above, including the right to challenge the decision to implement that measure.

The student complainant or the student respondent may request review and modification of any interim remedial measure(s) that directly impacts him or her, including review of the need for and terms of the protective measure(s), by submitting a letter to the Title IX Coordinator along with any evidence he or she wishes to present. In the event the measure impacts the other party, he or she will be given an opportunity to state his or her position and present evidence as

appropriate. The Title IX Coordinator or her designee will review the submissions and make a determination.

Failure to comply with a directive relating to a protective measure may lead to further disciplinary action. Remedial measures will be kept confidential to the extent possible. Only those individuals who need to be informed in order to effectuate the measures will be informed.

### **Investigation**

The investigator will conduct a prompt, fair, impartial, and thorough investigation. During the investigation, the appointed investigator will:

- interview the complainant, the respondent, and any material witnesses (the investigator will not interview witnesses whose sole purpose is to provide character information);
- gather all relevant documentary and/or physical evidence from the complainant, respondent, and witnesses; (This may include, but is not limited to, texts, emails, photos, Facebook posts, voicemail messages, etc.)
- give the respondent proper notice of the complaint, the date, time, location and factual allegations concerning the alleged violation as well as the specific policy provisions he or she is alleged to have violated and provide an opportunity for the respondent to provide information;
- complete the investigation in a timely manner, without unnecessary deviation from the intended timeline; and
- maintain communication with the complainant and the respondent on the status of the investigation and overall process.

### Information re Romantic and Sexual History

The investigator will not consider information concerning the romantic or sexual history of either the complainant or the respondent, except as provided by the complainant or respondent relating to their shared sexual history. If either offers such information, the other will have the right to respond.

### Information re Mental Health Diagnosis or Treatment History

Each party shall have the right to object to the investigator's consideration of his or her own mental health history or treatment. In the event such an objection is raised, the investigator will neither gather nor consider information regarding mental health diagnosis or treatment.

### **Determination and Sanctions**

At the conclusion of the investigation, the investigator will prepare a written investigation report. The report will clearly set forth the prohibited conduct alleged and will include summaries of all witness interviews and any documentary or physical evidence identified. The report will further provide the investigator's assessment of whether it is more likely than not that the prohibited conduct occurred and the evidentiary basis for that assessment.

The parties will have an opportunity to review the report but will not be provided with a copy of the report. Within 3 business days of reviewing the report, the parties may submit in writing any

additional information or clarifications that they believe are relevant to the determination and sanctions. This may include a statement regarding the impact the alleged events have had on them.

Upon completion of the investigation, the Title IX Coordinator or her designee will review all of the evidence and determine whether the evidence establishes that it is more likely than not that the policy was violated. In other words, whether a violation has been established based upon a preponderance of the evidence. If a violation is found, the College of Westchester will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the university campus community.

### **Remedies and Sanctions**

Potential remedies and/or sanctions may include one or more of the following:

- A no contact order.
- Mandated training and education.
- Revocation of honors or awards.
- Revisions to class schedules to maintain separation of parties.
- Transfer of student respondent to different division of the College (Adult/Day/Online).
- Loss of privileges (including but not limited to use of facilities and participation in campus organizations and activities),
- Community service.
- Warning or reprimand.
- Disciplinary probation.
- Suspension.
- Termination of Employment.
- Permanent dismissal from The College.
- Transcript notation.

The Title IX Coordinator will provide both the complainant and the respondent with written notice of the determination and the rationale for such determination. In cases of sexual assault, dating violence, domestic violence and/or stalking, the complainant and the respondent will be informed simultaneously and in writing of any sanctions imposed and the rationale for such sanction. In other cases of sexual misconduct, the complainant will only be informed of discipline to the extent such sanctions relate directly to the complainant.

### **Declining to Participate**

If a student respondent chooses not to cooperate in the investigation, the investigator will still complete the investigation and prepare a report based solely upon the information available. No adverse inference will be made as a result of a student's decision not to participate in the investigation, but a determination will be made based upon the information available. Employee respondents who refuse to cooperate in the investigation may be subject to disciplinary action, up to and including dismissal.

If the complainant chooses to withdraw the complaint prior to the completion of the investigation, the Title IX Coordinator will determine whether to continue to pursue the complaint employing the factors described above.

### **Advisors**

Student complainants have a right to be accompanied by an advisor of his or her choice at all meetings and interviews related to an allegation of sexual misconduct. In cases involving allegations of domestic violence, dating violence, sexual assault or stalking, the advisor may be an attorney.

Employees are entitled to be accompanied by an advisor of their choice, who may be an attorney, in cases involving allegations of dating violence, domestic violence, sexual assault or stalking.

Advisors are not permitted to advocate on behalf of the individual or to address the investigator, the Title IX Coordinator or the Appeal Officer directly. The party may confer with the advisor, and the advisor may pass notes to the party. If the advisor is disruptive or otherwise fails to comply with these parameters, he or she may be asked to leave.

### **Conflict of Interest**

Both the complainant and the respondent have the right to have a fair and impartial investigation, determination and appeal. If either the complainant or respondent has any reason to believe that the investigator, the Title IX Coordinator or any of the Appeal Officer members has a conflict of interest or would otherwise be unable to be fair and impartial, the concerned party should submit a letter explaining the basis for his or her concern. Concerns regarding the investigator or the Appeal Officer should be submitted to the Title IX Coordinator. Concerns regarding the Title IX Coordinator should be submitted to the Appeal Officer. The other party will be provided with a copy of the letter and will have an opportunity to respond. If based upon those submissions and any independent inquiry the decision-maker may choose to make, the decision-maker determines that there is a conflict of interest, another individual will be appointed to take on the role. If it is found that there is no such conflict, the individual will continue in his or her role. Concerns regarding conflicts of interest should be raised as soon as they are identified and prior to the individual with the alleged conflict's rendering of his or her determination, e.g. prior to the submission of the investigation report, the determination, or the appeal decision.

### **Notice**

Each party will receive reasonable and advance written or electronic notice of any meeting he or she is required or eligible to attend. In cases of domestic violence, dating violence, or stalking, each party will be given prompt notice of any meeting relating to the proceeding at which either the complainant or the respondent will be present, except that the respondent will not be notified of meetings with the complainant relating solely to interim protective measures and other supportive accommodations.

### **Appeal Procedure—Only Applies in Cases of Sexual Assault, Domestic Violence, Dating Violence and Stalking**

Both the complainant and the respondent have the option to appeal the final determination of an investigation by submitting a letter of appeal to Dr. Erica Schacht, Vice President of Academic Affairs and Dean of Faculty, 325 Central Avenue, White Plains, NY 10606, 914-831-0237 or [eschacht@cw.edu](mailto:eschacht@cw.edu).

Requirements for appeal:

1. The appeal is made within 14 days of the original sanction, and
2. The appeal articulates one of the following grounds:
  - a) A procedural error occurred that significantly impacted the outcome of the Informal or Formal Resolution (e.g. substantiated bias, material deviation from established procedures, etc.)
  - b) To consider new evidence, unavailable during the original hearing, Informal or Formal Resolution or Investigation, that could substantially impact the finding or sanction
  - c) The sanctions fall outside the range typically imposed for this offense, or for the cumulative conduct record of the Accused

If the Appeal Officer determines that the request for appeal sets forth a legitimate ground for appeal, she will notify the non-appealing party and give them the opportunity to review the letter of appeal and submit a written response within 7 days of notification.

The Title IX Appeal Officer will render a decision applying the following principles:

1. Decisions by the Title IX Appeal Officer are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/remedial action only if there is a compelling justification to do so.
2. Appeals are not intended to be full re-hearings of the complaint. In most cases, appeals are confined to a review of the written documentation or record of the rationale for the original sanction, and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the Title IX Coordinator for additional investigation.
3. Sanctions imposed are implemented immediately unless the Title IX Coordinator or her designee stays their implementation pending the outcome of the appeal.
4. The Appeal Officer will normally render a written decision on the appeal to all parties within 7 business days from receipt of the non-appealing party's submission.
5. All parties will be informed simultaneously in writing of the results of the appeal decision.
6. Once an appeal is decided, the outcome is final: further appeals are not permitted.

If neither party files an appeal within two weeks of the determination's rendering, the Title IX Coordinator will provide both parties with written notice that the determination is final.

### **Privacy During and After the Conduct Process**

Parties have the right to choose whether to disclose or discuss the outcome of a conduct or judicial process. However, parties are prohibited from unreasonably sharing private information in a manner intended to harm or embarrass another individual, or in a manner that would recklessly do so regardless of intention.

Parties have a 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.

### **STUDENT BILL OF RIGHTS**

All students have the right to:

- Make a report to local law enforcement and/or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
- Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
- Access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.
- Response to Reports: Notify university police or campus security, local law enforcement and/or the 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 first instance of disclosure by reporting individual to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination, and detailing that the criminal justice process utilizes different standards of proof and evidence. The official shall also explain

- whether he or she is authorized to offer the reporting individual confidentiality or privacy and shall inform the reporting individual of other reporting options;
- Confidentially disclose the incident to institution representatives, who may offer confidentiality and can assist in obtaining services;
  - Disclose confidentially the incident and obtain services from the state or local government;
  - 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. Reports shall be investigated in accordance with the institution policy and a reporting individual's identity shall remain private at all time if said reporting individual wishes to maintain privacy;
  - Disclose the incident, if the accused is an employee of the institution, to the institution's human resources authority;
  - Receive assistance from appropriate institution initiating legal proceedings in family or civil court; and
  - Withdraw a complaint or involvement from the institution process at any time.

## **EXTERNAL REMEDIES FOR EMPLOYEES**

The College of Westchester is committed to responding quickly and effectively to any internal report of harassment and encourages employees and nonemployee workers to come forward and allow the institution to pursue an internal investigation of the matter.

In addition to the College's internal complaint procedure, an employee or nonemployee worker may also choose to pursue legal remedies with the following governmental entities at any time.

### **New York State Division of Human Rights**

<https://dhr.ny.gov/>

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to CW does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400, [www.dhr.ny.gov](http://www.dhr.ny.gov)

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### **U.S. Equal Employment Opportunity Commission**

<http://www.eeoc.gov/contact>

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court. The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov)

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **The Westchester County Human Rights Commission**

<https://humanrights.westchestergov.com/>

112 East Post Road, 3<sup>rd</sup> Floor  
White Plains, NY 10601  
Phone: (914) 995-7710

## **Employee Complaint Form**

If you believe that you have been subjected to sexual misconduct, you are encouraged to complete this form and submit it to Anna Bravo Human Resources Manager, 325 Central Avenue, White Plains, NY 10606, 914-831-0353, [abravo@cw.edu](mailto:abravo@cw.edu). You may also submit a complaint orally.

### **COMPLAINANT INFORMATION**

Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Job Title: \_\_\_\_\_ Email: \_\_\_\_\_

### **SUPERVISOR INFORMATION**

Immediate Supervisor's Name: \_\_\_\_\_

Title: \_\_\_\_\_

### **COMPLAINT INFORMATION**

1. Your complaint of Sexual Misconduct is made against:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Relationship to you: Supervisor/ Subordinate/ Co-Worker/ Student/ Other

2. Please describe the conduct or incident(s) that is the basis of this complaint and your reasons for concluding that the conduct is sexual misconduct. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual misconduct occurred: \_\_\_\_\_

Is the sexual misconduct continuing? Yes/No

4. Please list the name and contact information of any witnesses or individuals that may have information related to your complaint:
  
  
  
  
  
  
  
  
  
  
5. Have you previously complained or provided information about sexual harassment at the College? If yes, when and to whom did you complain or provide information?

Signature: \_\_\_\_\_ Date: \_\_\_\_\_