



SEXUAL MISCONDUCT POLICY 2022-2023

WELLS COLLEGE SEXUAL MISCONDUCT POLICY

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Wells College Sexual Misconduct Policy

2022-2023

INTRODUCTION

All members of the Wells College (Wells, the College) community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The behavioral expectations outlined in this policy apply to all Wells College community members and non-community members (e.g., visitors to campus). Sexual Misconduct, as defined by Wells College, includes but is not limited to sexual harassment, sexual violence, sexual assault, stalking, domestic violence, and dating violence.

Wells College is committed to maintaining a positive emotional and physical environment in which all students, faculty, staff, administrators, and guests have an equal opportunity to thrive and succeed. The College will not tolerate any acts of sexual misconduct as outlined in this policy. These acts are consistent with the Wells College mission, Community Standards, Student Code of Conduct, Honor Code, faculty and staff handbooks, state and federal law, and maintaining social responsibility and academic freedom on campus. Any individual who is found to have violated this policy may face disciplinary sanctions, up to and including expulsion or termination of employment.

Wells College encourages prompt reporting of any violation of this policy. All reporting individuals, including employees, have the right to report an incident to the College and/or local law enforcement and/or civil rights enforcement agencies. All reporting individuals also have the right to be assisted by the campus authorities in notifying law enforcement authorities if the reporting individual(s) chooses. All reporting individuals also have the right to decline to notify any authority. All Wells College community members are strongly encouraged to report information regarding any incident of sexual misconduct directly to a Campus Security Authority (CSA) (see page 7). Wells College can only respond to those incidents that come to its attention.

This policy has been developed to reaffirm Wells College's institutional values, define community expectations, provide recourse to all parties, including employees, and provide fair and equitable procedures for determining when this policy has been violated. Retaliation against any person or group who makes a complaint, cooperates with an investigation, or participates in a grievance procedure violates this policy. Retaliation should be reported promptly to the Title IX Coordinator or designee, which may result in disciplinary action.

POLICY AND PROCEDURE SUMMARY

This policy prohibits all forms of sex and gender-related misconduct, referred to as “sexual misconduct.” A person who has experienced sexual misconduct has several options:

- **A Report to a Confidential Resource:** A confidential resource provides emotional and/or medical services and maintains confidentiality. A report to a confidential resource does not result in a College investigation or any other institutional action to respond to the incident. Confidential resources are not obligated to make a report to the College.
- **A Report to a Non-Confidential Resource:** Certain personnel at the College have the responsibility to receive reports of sexual misconduct. A non-confidential resource will forward a report to the Title IX Coordinator. The Title IX Coordinator will discuss options with the reporting person. The assistance the Title IX Coordinator can facilitate includes the following:
 - **Supportive Measures:** Supportive measures are intended to support individuals to continue their involvement in the College’s programs and activities. Supportive measures include no-contact orders, academic accommodations, changes in housing assignments, and other academic, residential, or work accommodations.
 - **Informal Resolution:** An informal resolution is a resolution that the parties (i.e., the individual(s) making the allegations and the accused individual(s)) agree upon to address the situation. Not all incidents are appropriate for informal resolution, and no party may be forced to accept an informal resolution. This is strictly a voluntary process.
 - **Grievance Process:** A grievance process includes an investigation and adjudication process. The outcome of a grievance process is either that the individual(s) accused of sexual misconduct are found responsible or not responsible for violating this policy. A violation results in appropriate sanctions and other remedies to address the violation.

The options for reporting above are not mutually exclusive; an individual may pursue multiple options simultaneously or separately pursue one and not others. An individual may obtain the services of a confidential resource and decide at that time or later to make a report to the College. There is no time limit for reporting an alleged violation of this policy, but delay in reporting may impact the College’s ability to respond effectively. An individual may report to the College and make a report to law enforcement or may make a report to only the College or only law enforcement.

SCOPE OF POLICY

The policy applies to all Wells community members, including students, faculty, administrators, staff, volunteers, vendors, independent contractors, visitors, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business, or having any official capacity with the College or on College property.

This policy is intended to protect and guide individuals who have been affected by sexual misconduct, whether as a Complainant (the individual(s) who made allegations of sexual misconduct in violation of this policy, a Respondent (the individual(s) accused of engaging in sexual misconduct in violation of this policy, or a third party, and to provide fair and equitable procedures for investigation and resolution for each report made to the College.

This policy applies to conduct occurring on Wells College property, at Wells College' sanctioned events or programs that take place off-campus, including study abroad and internship programs. In addition, off-campus conduct that is likely to have a substantial adverse effect on or may pose a threat of danger to any member of the Wells College community or Wells College may also be covered under this policy. However, the location and character of the activity where the conduct occurred may affect the College's response.

Periodically, students or local organizations host community/campus awareness events (i.e., Take Back the Night, Denim Day), where the College will not take action on information shared during the event. Participants will be notified of the event's nature and resources available for reporting, resources, and support. If, however, a disclosure is made that raises a Significant threat to the safety of the campus community, the College may be required to take further action to mitigate such a threat.

A Complainant is encouraged to report misconduct regardless of where the incident occurred or who committed it. Even if the College does not have jurisdiction over the Respondent, the College will take prompt action to provide for the safety and well-being of the Complainant and the broader campus community.

NOTICE OF NON-DISCRIMINATION

The College does not permit discrimination or harassment in its programs and activities on the basis of (but not limited to) race, color, religion, ethnic or national origin, ancestry, sex, gender, gender identification, gender expression, sexual orientation, disability, age, religion, physical and/or mental disability, medical condition, veteran status, military status, marital status, pregnancy or related status, status as a victim of domestic violence or any other characteristic protected by institutional policy or state, local, or federal law.

This policy addresses all forms of sexual discrimination, including sexual harassment, sexual violence, domestic and dating violence, and stalking. Wells College does not unlawfully discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that states that:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964 and the New York Human Rights Law. The College, as an educational community, will respond promptly and equitably to reports of sexual misconduct to eliminate the harassment, prevent its recurrence, and address its effects on any individual or the community.

The College has designated Geoffrey P. Gabriel, to serve as the College's Title IX Coordinator. The Title IX Coordinator oversees the College's centralized review, investigation, and resolution of

reports of violations of this policy. The Title IX Coordinator also oversees the College's overall compliance with Title IX.

The Title IX Coordinator is:

- Responsible for oversight of the investigation and resolution of all reports of sexual misconduct involving students, staff, administrators, faculty, vendors, and visitors.
- Assisted by a designated Deputy Title IX Coordinator. This Deputy Title IX Coordinator has a shared responsibility for supporting the Title IX Coordinator and is accessible to any member of the community for consultation and guidance.
- Knowledgeable and trained in College policies, procedures, and relevant state and federal laws.
- Available to advise any individual, including a Complainant, a Respondent, or a third party, about the courses of action available at the College, both informally and formally, and in the community.
- Available to assist any College employee regarding how to respond appropriately to a report of sexual misconduct.
- Responsible for monitoring full compliance with all procedural requirements and time frames outlined in this policy.
- Responsible for training, prevention, and education efforts and periodic reviews of campus climate and culture.
- Responsible for holding records of reports and investigations for a minimum of 5 years.

The Sexual Misconduct Team:

The Sexual Misconduct Team (the Team) consists of a small group of faculty and staff. The Team meets on an ad hoc basis. There are two main roles and functions of the Team:

- **Support:**
The Team advises on upcoming training, programs, and continued education for staff, faculty, and students, about awareness and prevention of sexual misconduct at Wells, including but not limited to:
 - Title IX, Clery Act, Enough is Enough—general knowledge training
 - Bystander Intervention
 - Training for Campus Security Authorities
- **Campus Safety:** The Team will meet to discuss reports of sexual misconduct to determine the following:
 - Review appeals to no-contact orders.
 - Risk assessment to determine any need for an emergency dismissal of a prospective Respondent(s) for sexual misconduct.
 - Assess instances when a reporting party does not want to pursue a formal investigation, but the information that Wells College has received is sufficiently severe and poses safety risks to the campus community. In these instances, the Title IX Coordinator can function

as the reporting party/Complainant, and an investigation can be conducted, overruling the wishes of the original reporting party/Complainant.

Inquiries and reports concerning the application of Title IX may be referred to the College's Title IX Coordinator, Deputy Title IX Coordinator and/or to the U.S. Department of Education's Office for Civil Rights:

Geoffrey P. Gabriel
Title IX Coordinator
Wells College
315-364-3313
ggabriel@wells.edu

Ryan Steinberg
Deputy Title IX Coordinator
Associate Dean of Residence Life & Student Conduct
Wells College
315-364-3426
rsteinberg@wells.edu

Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202 1-
800-421-3481 ocr@ed.gov

Inquiries and reports concerning this policy may also be referred to the College's designated Campus Security Authorities (CSA). CSAs are trained to receive reports, provide resources, inform Respondents of their rights, provide parties with information about the Student Bill of Rights, medical assistance resources, including transportation to a medical facility, and the right to report an incident to law enforcement.

The College's designated Campus Security Authorities are composed of the following departments and personnel:

- Title IX Coordinator and Deputy Title IX Coordinator
- Vice President for Academic and Student Affairs
- Campus Security
- Dean of Students and Student Affairs Staff
- Residential Assistants
- Residential Life Coordinator

- Athletics Director
- Coaches and Athletics Staff
- Human Resources
- Student Leaders
 - Student Leaders include but are not limited to the following:
 - Collegiate
 - Presidents of Wells College’s student clubs and organizations
 - Captains of sports teams
 - Resident Advisors

The College will continue to identify and train additional members of the campus community as Campus Security Authorities. If you are a designated Campus Security Authority and are working with a reporting party to make a report, please use the following reporting form: [CSA Reporting Form.](#)

PRIVACY V. CONFIDENTIALITY

Wells College is committed to protecting the privacy of all individuals involved in a report of sexual misconduct. All College employees who are involved in response to reported sexual misconduct receive specific instruction and training about respecting and safeguarding private information. Throughout the process, every effort will be made to protect the privacy of all individuals involved in a manner consistent with the need for a thorough review of a report and its resolution. Students, faculty, and staff should be aware, however, that privacy and confidentiality have distinct meanings under this policy.

Privacy: Privacy generally means that information related to a report of sexual misconduct will only be shared with a limited number of individuals and only those on a “need to know” basis. The use of this information will be limited to College employees to assist in the active review, investigation, and/or resolution of a report. The College’s employees who cannot guarantee confidentiality will maintain an individual’s privacy to the greatest extent possible. The information provided to non-confidential resources will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. Reported information will not be made public and will only be shared as necessary to comply with the law and/or institutional policy.

Confidentiality: Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual. These campus and community professionals include our mental health providers, rape crisis counselors at the local Sexual Assault Victims Awareness Resource (SAVAR), the Medical Center, local hospitals, and clergy. To see a complete list of confidential sources, please see the resources section of this policy. These confidential resources are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others.

There are extremely limited exceptions to the rule that confidentiality will be maintained by anyone listed as a confidential source. For example, if abuse of a minor under the age of eighteen is suspected, it must be reported to Child Protective Services and/or local law enforcement.

A student may also seek assistance from a medical provider. In general, the disclosure of private information contained in a provider's medical records is protected by the Health Insurance Portability and Accountability Act (HIPAA). In the context of sexual misconduct, however, medical providers are required to notify law enforcement if a patient tells personnel that they have experienced sexual assault, and either a weapon was used, or child abuse is suspected. All evidence collected will be kept for up to 30 calendar days, and there is requirement to file a legal report unless desired. The patient has the right to request that an advocate be present at the hospital or clinic.

Request for Confidentiality: The College shall weigh a request for confidentiality and respond to such a request. Suppose a reporting individual discloses an incident to a non-confidential College employee but wishes to maintain confidentiality or does not consent to the institution's request to initiate an investigation. In that case, the Title IX Coordinator and the Sexual Misconduct Team will weigh the request against the institution's obligation to provide a safe, non-discriminatory environment for all members of its community. The institution will assist with academics, housing, transportation, employment, and other reasonable and available accommodations regardless of reporting choices. Wells College will take all reasonable steps to investigate and respond to a report consistent with the request for confidentiality or request not to pursue an investigation. Declining consent to an investigation will be honored unless the College determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the Complainant or other community member. In making this determination, Wells College may consider the seriousness of the conduct, the respective ages of the parties, and the roles of the Complainant and Respondent, whether there have been other complaints or reports of retaliation, sexual harassment, or sexual misconduct against the Respondent, and the rights of the Respondent to receive a notice and relevant information before disciplinary action is sought. The College will notify the Complainant should it be in the best interest of the Complainant and community to move forward with an investigation and take actions as necessary to protect and assist the Complainant about the course of action that will be taken, which may include the College seeking disciplinary action against a Respondent. Alternatively, the course of action may also include an informal resolution that does not involve formal disciplinary action against a Respondent or revealing the Complainant's identity.

PROHIBITED CONDUCT AND DEFINITIONS

Definitions:

Advisor of Choice: An advisor of choice is a person selected by the Complainant or Respondent to advise and accompany them throughout the investigation and adjudication process, as well as meetings with the Title IX Coordinator or designee. An advisor of choice may be any person,

including an attorney. The College does not appoint or pay for an advisor of choice. An advisor of choice's role is limited to the functions further described in this policy.

Affirmative Consent: Wells College expects that any sexual activity or sexual contact will be based on affirmative consent to the specific sexual activity. All references to consent in this policy will mean affirmative consent as defined in this policy. Under New York law, 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 if those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based on a participant's sex, sexual orientation, gender identity, or gender expression.

The following are essential elements of effective consent:

Informed and reciprocal: All parties must demonstrate a clear and mutual understanding of the nature and scope of the specific actions to which they are consenting and a willingness to do the same thing, at the same time, in the same way.

Freely and actively given: Consent cannot be obtained through force, coercion, threats, intimidation, or pressure, or if the other party is incapacitated.

Mutually understandable: Communication regarding consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage in sexual activity. In the absence of clear communication or outward demonstration, there is no consent. Consent may not be inferred from silence, passivity, lack of resistance, or lack of active response. An individual who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.

Not indefinite: Consent may be withdrawn by any party at any time. Recognizing the dynamic nature of the sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity. Withdrawal of consent can be an expressed "no" or can be based on an outward demonstration that conveys that an individual is hesitant, confused, uncertain, or is no longer a mutual participant. Once consent is withdrawn, the sexual activity must cease immediately, and all parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.

Not unlimited: Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant.

Even in the context of a current or previous intimate relationship, each party must consent to each instance of sexual contact each time. The consent must be based on mutually understandable communication that indicates a willingness to engage in sexual activity. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.

Force: Force is the use or threat of physical violence or intimidation to overcome an individual's freedom to choose whether or not to participate in sexual activity. For the use of force to be demonstrated, there is no requirement that a Complainant resists the sexual advance or request. However, resistance by the Complainant will be viewed as a clear demonstration of non-consent.

Coercion: Coercion is the use of a threat or undue pressure to engage in sexual activity. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and extortion. Coercion is more than an effort to persuade, seduce, entice, or attract another person to engage in sexual activity. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether to engage in sexual activity. Examples of coercion include threatening to "out" someone based on sexual orientation, gender identity, or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity.

Incapacitation: Affirmative consent cannot be given when a person is incapacitated. Incapacitation is a state where an individual cannot make an informed decision to engage in sexual activity because the individual lacks the ability to knowingly choose to participate in sexual activity. An individual is incapacitated and therefore unable to give affirmative consent if they are asleep, unconscious, involuntarily restrained, or otherwise cannot consent to sexual activity.

Incapacitation may also result from the use of alcohol and/or drugs. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation because the impact of alcohol and drugs varies from person to person. 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.

Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual misconduct and does not diminish one's responsibility to obtain consent. Consent to sexual activity is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.

Formal Complaint: A formal complaint refers to a written complaint filed in accordance with the grievance process below. A formal complaint is necessary to initiate an investigation and adjudication process.

Institution Advisor. A Complainant or Respondent who does not opt to be accompanied by an advisor of choice at a hearing is entitled to be appointed an advisor by the College at no charge to the party. This advisor is referred to as an "institution advisor" who may be, but need not be, an attorney and who may be a person internal or external to the College. An institution advisor's role is limited

to asking the party's cross-examination questions of the other party during a hearing. An institution advisor does not represent a party in any legal sense. The party is responsible for formulating the cross-examination questions, and the institution advisor will pose them during the hearing.

Party. A Complainant or Respondent may be referred to as a Party, or collectively, the Parties.

Reporting Party. The term Reporting Party refers to the person who made the report. This may or may not be the same as the Complainant, a witness, or a bystander.

Complainant: The term Complainant refers to the person who allegedly experienced sexual misconduct in violation of the policy whether a formal complaint is filed. In some cases, the Title IX Coordinator may file a formal complaint and thereby initiate an investigation and adjudication process pursuant to this policy. In that instance, the Title IX Coordinator is not the "Complainant;" the Complainant remains the person who allegedly experienced sexual misconduct.

Respondent. The term Respondent refers to the person alleged to have committed a violation of this policy.

Sexual Misconduct. Sexual misconduct is an umbrella term used in this policy to more conveniently refer to any form of conduct prohibited by this policy.

Definitions and Conduct Violations:

This policy sets forth conduct expectations for our community and provides a process for the reporting, investigation, and adjudication of alleged violations. This policy applies to alleged conduct in violations of Title IX of the Education Amendments of 1972 (i.e., "Title IX Category" violations) and also applies to a broader range of contexts and behaviors inconsistent with the College's commitment to equal opportunity (i.e., "College Category" violations).

The designation of conduct or allegations as either "Title IX Category" or "College Category" is not a function of the seriousness of the alleged conduct but rather a function of the scope and coverage of Title IX versus the College's broader jurisdiction to prohibit and discipline a larger scope of sexual misconduct.

Title IX Category Violations:

In accordance with Title IX as interpreted by the Department of Education, the College recognizes the following as conduct violations within the meaning of Title IX, provided that the context and circumstances of the conduct fall within the scope of Title IX.

Wells College will update this policy pursuant to any future changes to the federal Title IX regulations.

Sexual harassment. "Sexual harassment" means conduct on the basis of sex (including sex, gender, sexual orientation, gender identity, and transgender status) that satisfies one or more of the following:

- a. An employee of the College conditioning the provision of aid, benefit, or service of the College on an individual's participation in unwelcome sexual activity (commonly referred to as a "quid pro quo").
- b. A reasonable person determines unwelcome conduct to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity (commonly referred to as a sexual or gender-based "hostile environment").
- c. Sexual harassment also encompasses "sexual assault", "dating violence", "domestic violence", or "stalking" as defined below.

Sexual assault. "Sexual assault" is a sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault consists of the following specific acts:

- a. **Rape.** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
- b. **Fondling.** The touching of the private body parts (including the genital area, anus, groin, buttocks, or breast) of another person, whether under or over clothing, for sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
- c. **Incest.** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d. **Statutory Rape.** Non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York is 17.

Dating violence. "Dating violence" means violence committed by a person on the basis of sex: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (2) 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. (iii) The frequency of interaction between the persons involved in the relationship.

Domestic violence. "Domestic violence" means violence on the basis of sex committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the College is located, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Stalking. “Stalking” is engaging in the course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to: (1) fear for their safety or the safety of others; or (2) suffer substantial emotional distress. Stalking that does not occur on the basis of sex may be addressed under a College Category Violation as described below.

College Category Violations:

For the purpose of College Category violations, the conduct listed below is prohibited even if the conduct occurs off-campus or outside of the United States. These violations are also considered College Category Violations when the Complainant is not participating or seeking to participate in the College’s education program or activity, or otherwise in circumstances over which the College does not have influence or control, including but not limited to when the College academic breaks. The College retains the discretion to not respond to, investigate, or adjudicate circumstances in which no College interest is implicated.

Sexual Harassment: Sexual harassment” means unwelcome, offensive conduct that occurs on the basis of sex, sexual orientation, pregnancy or related condition, self-identified or perceived sex, gender, gender expression, gender identity, gender-stereotyping or the status of being transgender, but that does not constitute sexual harassment as a Title IX Category Violation as defined above. Sexual harassment can be verbal, written, visual, electronic, or physical.

Sexual harassment includes any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when:

- Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment, evaluation of academic work, or participation in any aspect of a College program or activity.
- Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual.
- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance. In other words, it is sufficiently serious, pervasive, or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both a subjective and objective standard.

The fact that a person is offended is not alone enough to establish a violation of this policy. The College evaluates complaints based on a “reasonable person” standard, taking into account the totality of the circumstances, including the context of the interaction. Wells College is an academic institution, and freedom of intellectual thought and expression is valued. The College will not construe this policy to prevent or penalize a statement, opinion, theory, or idea offered within the bounds of legitimate, relevant, and responsible teaching, learning, working, or discussion.

Sexual harassment also includes gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

Sexual Harassment:

- May be blatant and intentional and involve an overt action, a threat or reprisal, or subtle and indirect, with an unstated coercive aspect.
- Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- May be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, due to differences in age, social, educational, or employment relationships, harassment can occur in any context.
- May be committed by a stranger, an acquaintance, or someone with whom the Complainant has an intimate or sexual relationship.
- May be committed by or against an individual or may be a result of the actions of an organization or group.
- May occur by or against an individual of any sex, gender identity, gender expression or sexual orientation.
- May occur in the classroom, workplace, residential settings, or other settings.
- May be a one-time event or can be part of a pattern of behavior.
- May be committed in the presence of others or when the parties are alone.
- May affect the Complainant and/or third parties who witness or observe harassment and are affected by it.

Examples of conduct that may constitute sexual harassment as defined above may include one or more of the following:

- **Physical conduct:**
 - Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements
 - Unwanted sexual advances within the academic or employment context
- **Verbal conduct:**
 - Making or using derogatory comments, epithets, slurs, or humor
 - Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes, or invitations
 - Objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes.
- **Visual conduct:**
 - Leering, making sexual gestures, displaying suggestive objects or pictures, cartoons or posters in a public space or forum if deemed severe, persistent, or pervasive by a reasonable party.
 - Severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that lack pedagogical value.

- **Written conduct:**
 - Letters, notes, or electronic communications containing comments, words, or images described above.

- **Quid pro quo conduct:**
 - Direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists.
 - Offering employment benefits in exchange for sexual favors.
 - Submitting sexual advances on an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose.
 - Making or threatening reprisals after a negative response to sexual advances.

Sexual Assault:

Sexual assault is a sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent, but that does not constitute sexual assault as a Title IX Category Violation as defined above because of the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the College’s education program or activity at the time of the complaint, or because the conduct did not occur in the context of the College’s education program or activity). Sexual assault consists of the following specific acts:

- **Non-consensual sexual intercourse** is any sexual penetration (anal, oral, or vaginal), however slight, with any body part (e.g., penis, tongue, finger, hand) or object, by a person upon another person that is without affirmative consent. Non-consensual sexual acts can include the following:
 - **Rape** is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - **Statutory Rape** is non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.
 - **Non-Consensual Sexual Contact/fondling** is any intentional sexual touching, however slight, with the private parts of another (including over clothing), causing another to touch one's intimate parts or disrobing or exposure without permission. Private parts may include the breasts, anus, genital area, buttocks, or groin.

Sexual Exploitation:

Sexual Exploitation occurs when, without affirmative consent, an individual takes sexual advantage of another. Examples of sexual exploitation include, but are not limited to, surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved; non-consensual sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved; exposing one's genitals or inducing another to expose their genitals in non-consensual circumstances; knowingly exposing another individual to a sexually transmitted disease or virus without their knowledge; acts of incest; and inducing incapacitation to make another person vulnerable to non-consensual sexual activity.

Domestic Violence:

Domestic violence refers to physical violence, threats of violence or acts of physical intimidation between spouses, former spouses or intimate partners, cohabitating romantic partners or individuals who were formerly cohabitating romantic partners, individuals who share a child in common, individuals who are similarly situated to spouses and/or individuals who are protected from the other person's acts under the domestic or family violence laws of the jurisdiction in which the act of violence occurs, if the conduct does not constitute domestic violence as a Title IX Category Violation as defined above because of the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the College's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the College's education program or activity).

Dating Violence:

Dating violence refers to a pattern of violent behavior (including, but not limited to, sexual or physical abuse or the threat of such abuse) that is committed by a person who is or has been in a social relationship with a romantic or intimate nature with the victim if the conduct does not constitute domestic violence as a Title IX Category Violation as defined above because of the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the College's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the College's education program or activity). The existence of such a relationship is determined based on the Complainant's statement and considering the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Stalking:

"Stalking" is engaging in the course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress but that does not constitute stalking as a Title IX Category

Violation as defined above because of the basis on which it occurs or the context in which it occurs (for example because the Complainant was not in the United States at the time of the alleged conduct, because the Complainant was not participating in or seeking to participate in the College's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the College's education program or activity).

Retaliation:

Retaliation consists of acts or attempts to retaliate or seek retribution against the Complainant, Respondent, or any individual or group of individuals involved in reporting the complaint, responding to a complaint, or participating in the investigation and/or resolution of an allegation of sexual misconduct. Retaliation can be committed by any individual or group, not just a Respondent or Complainant. Retaliation can take many forms, including threats, intimidation, pressuring, continued abuse, violence, or other forms of harm to others. An act of retaliation may be anything that would tend to discourage an individual from reporting sexual misconduct, pursuing an informal or formal complaint, or participating in an investigation or adjudication as a party or a witness. A person who acts in good faith is protected from retaliation. The fact that a statement is not determined to be proven or established following investigation and adjudication does not mean that the statement lacks good faith; a person may provide inaccurate information believing it is accurate, which is still good faith. If a person makes a statement knowing it is false, they have acted without good faith.

Prohibited Relationships by Persons in Authority:

Sexual or intimate relationships in which one party maintains a direct supervisory or evaluative role over the other party are prohibited. This includes all sexual or other intimate relationships between students and their employers, supervisors, professors, coaches, advisors, or other College employees. Similarly, College employees (faculty and staff) who supervise or otherwise hold positions of authority over others are prohibited from having a sexual or other intimate relationship with an individual under their supervision.

Power Differential:

The College does not wish to interfere with private choices regarding personal relationships when these relationships do not impede the goals and policies of the College. However, faculty, administrators, and others who educate, supervise, evaluate, employ, counsel, coach, or otherwise guide students should understand the fundamentally asymmetrical nature of their relationship with students or subordinates. Intimate or sexual relationships where there is a differential in power or authority produce risks for every member of our community and undermine the professionalism of faculty and supervisors. In either context, the unequal position of the parties presents an inherent element of risk and may raise sexual harassment concerns if one person in the relationship has the actual or apparent authority to supervise, evaluate, counsel, coach, or otherwise make decisions or recommendations as to the other person in connection with their employment or education at the College.

Sexual relations between persons occupying asymmetrical positions of power, even when both consent, raise suspicions that the person in authority has violated standards of professional conduct and potentially subject the person in authority to charges of sexual harassment based on changes in the perspective of the individuals as to the consensual nature of the relationship. Similarly, these relationships may impact third parties based on perceived or actual favoritism or special treatment based on the relationship.

Therefore, persons with direct supervisory or evaluative responsibilities who contemplate beginning or are involved in such relationships are required to promptly: 1) discontinue any supervising role or relationship over the other person; and 2) report the circumstances to their own supervisor. Failure to fully or timely comply with these requirements is a violation of this policy, and the person in authority could be subject to disciplinary action, up to and including dismissal from employment by the College.

Any individual may file a complaint alleging harassment or discrimination, including an aggrieved party outside the relationship affected by the perceived harassment or discrimination. Retaliation against persons who report concerns about consensual relationships is prohibited and constitutes a violation of this policy.

RESOURCES AND SUPPORT

Treating all College community members with dignity, care, and respect is of utmost importance to Wells College. Campus community members are expected to understand and respect one another's boundaries. Students are encouraged to take care of their friends and ask that they take care of you. Any individual who experiences or is affected by sexual misconduct, whether as a Complainant, a Respondent, or a third party, will be referred to support and counseling services and other resources.

Wells College encourages all community members to make a prompt report of any incident of sexual harassment, sexual violence, stalking, domestic violence, or dating violence to local law enforcement and the College. The College recognizes that deciding whether or not to make a report to either Wells College or law enforcement and choosing how to proceed can be difficult. All individuals are encouraged to seek the support of campus and community resources regardless of where the incident occurred. These resources can advise individuals that if you have sexual limits, it is best to make them known as early as possible in any encounter. These trained professionals can also guide either party if a report and/or resolution under this policy is pursued.

As detailed below, there are a number of resources available both on and off-campus. There are confidential resources, which by law cannot share information without the consent of the individual seeking assistance. There are also various College resources that will be discreet and private but are not considered confidential. Even College offices and employees who cannot guarantee confidentiality will maintain a Complainant's privacy to the extent possible in furtherance of this

policy. The information provided to non-confidential resources will be relayed only on a “need to know basis,” including sharing information as required by law.

Confidential Resources:

The confidential resources listed below will not share information with the College or anyone else without the individual’s permission. These confidential resources can provide assistance and information regarding medical assistance and treatment (including information about sexually transmitted infections and sexual assault forensic examinations) and resources available through the New York State Office of Victim Services. The On-Campus health and counseling services noted below are generally available to students free of charge.

On-Campus Confidential Resources:

Community Medical Center:

The Community Medical Center is open five days a week, 8 a.m. to 6 p.m. Counselors are available during these times and can assist and support individuals needing a confidential resource. (315) 364-3273

Mindwell:

Mindwell is a company that offers several in-person and virtual resources about trauma and mental health. Wells College has contracted with Mindwell and a Mindwell counselor is available twenty hours each week during the spring and fall semesters.

Off-Campus Confidential Resources:

Sexual Assault Victim’s Advocate Resource (SAVAR), Rape/Crisis Hotline:

SAVAR offers services to survivors of all forms of sexual and provides a 24-hour hotline with certified rape crisis counselors and advocates. They will answer any questions, help sort out feelings, refer individuals to appropriate resources, and accompany individuals through the process of reporting a sexual assault if they should wish to do so and with seeking appropriate treatment.

(315) 364-9795 - Main Office, 17 East Genesee Street, Auburn, NY 13021

(315) 252-2112 - Sexual Assault Hotline

NYS Domestic Violence Hotline

1(800) 253-3358

NYS Office of Victim Services

1(800) 247-8035

You Are Not Alone (YANA) Campaign: 1-833-400-YANA (9262) M-F (:00 Am - 5:00 PM, live chat 24/7, <https://opdv.ny.gov/survivors-victims>)

Confidential Medical Resources:

A medical provider can provide emergency and/or follow-up medical services. The medical exam has two goals: first, to diagnose and treat the full extent of any injury or physical effect (including prevention of sexually transmitted illnesses and pregnancy), and second, to properly collect and preserve evidence. There is a limited window of time (usually within 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Taking the step to gather evidence immediately does not commit an individual to any particular course of action. However, the decision to seek timely medical attention and gather evidence will preserve the full range of options to seek resolution under this policy or through the pursuit of criminal prosecution. All hospitals in the state of New York are required to provide care for victims of sexual assault in the Emergency Department.

Hospitals in the Area:

Auburn Community Hospital (315-255-7011)

17 Lansing Street, Auburn, NY 13021

Cayuga Medical Center (607-274-4011)

101 Dates Drive, Ithaca, NY 14850

Cayuga Medical Center provides a SANE (Sexual Assault Nurse Examiner) for examinations. This program employs a team approach to assist survivors of sexual assault, sexual abuse, and rape with medical, emotional, and legal needs. With the survivor's consent, a team of nurses, sexual assault counselors/advocates, doctors, and law enforcement work together to support the survivor.

New York State Department of Health designated Sexual Assault Forensic Examiner (SAFE) hospitals to provide specialized care to victims of sexual assault.

The goals of the SAFE program are to:

1. Provide timely, compassionate, patient-centered care in a private setting that provides emotional support and reduces further trauma to the patient.
2. Provide quality medical care to the patient who reports sexual assault, including evaluation, treatment, referral, and follow-up.
3. Ensure the quality of collection, documentation, preservation, and custody of physical evidence by utilizing a trained, and New York State Department of Health certified sexual assault forensic examiner to perform the exam.
4. Utilize an interdisciplinary approach by working with rape crisis centers and other service providers, law enforcement, and prosecutors' offices to effectively meet the needs of the sexual assault victim and the community.
5. Provide expert testimony when needed if the patient chooses to report the crime to law enforcement.

6. Improve and standardize data regarding the incidence of sexual assault victims seeking treatment in hospital emergency departments.

The hospital and the Rape Crisis Program will not report the crime to the police unless the individual wants the crime reported. Reporting is an individual's choice. An individual can also refuse any step of the evidence collection process. This is also their choice.

The hospital will not release evidence to the police without the individual's written consent and will hold the evidence for 30 calendar days if they decide to make a police report later.

Other Hospitals in the Area:

St. Joseph's Hospital Health Center (315-448-5111)

301 Prospect Avenue, Syracuse, NY 13203

University Hospital SUNY Health Science Center (315)-464-5540

750 East Adams Street, Syracuse, NY 13210

Newark-Wayne Community Hospital (315)-332-2022

1200 Driving Park Avenue, Newark, NY 14513

Clifton Springs Hospital & Clinic (315)-462-9561

2 Coulter Road, Clifton Springs, NY 14432

Geneva General Hospital (315) 787-4000

196 North Street, Geneva, NY 14456

Non-Confidential Campus Resources:

Community members may contact the below non-confidential campus resources for information about the College's policies and procedure, and information and access to support and resources. Our Campus Security Authorities (CSA) are trained to receive notification of alleged sexual misconduct and to initiate the College's response to those reports. CSA's and the departments listed below are trained on an ongoing basis to support individuals affected by sexual misconduct, consistent with the College's commitment to a safe and healthy educational environment. While not bound by confidentiality, these resources will maintain the privacy of information from any party who is covered by this policy.

Non-confidential, on-campus College resources, also referred to as Campus Security Authorities, and departmental resources include the following individuals/departments:

- Title IX Coordinator and Deputy Title IX Coordinator

- Vice President of Academic and Student Affairs
- Campus Security
- Dean of Students and Student Affairs Staff
- Residential Assistants
- Coordinators of Residence Life & Service Learning
- Athletics Director
- Coaches and Athletics Staff
- Human Resources Staff
- Student Leaders
 - Student Leaders include but are not limited to the following:
 - Collegiate
 - Presidents of Wells College’s student clubs and organizations
 - Captains of sports teams
 - Resident Advisors
- If you are a designated Campus Security Authority and are working with a reporting party to make a report, please use the following reporting form: [CSA Reporting Form.](#)

REPORTING SEXUAL MISCONDUCT TO THE COLLEGE

Wells College encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual misconduct. This is the best practice to ensure evidence preservation and begin a timely investigative and remedial response.

Wells College encourages all individuals to make a report to the College and local law enforcement. Reporting options are not mutually exclusive. Both internal and criminal reports may be pursued simultaneously.

Making a report means telling a designated non-confidential, on-campus College Resource or Campus Security Authority (see above) what happened—in person, by telephone, in writing, or by electronic communication. Once a report is received, the Complainant will receive medical treatment options, counseling support services, the right to request a campus No Contact Order, reporting options to campus security and local law enforcement, Wells College Sexual Misconduct policy, and the Student Bill of Rights.

A Complainant has the right to request action against a Respondent or not pursue any particular course of action, nor does a Complainant need to know how to “label” what happened. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. The College provides support to assist each individual in making these important decisions, and the College will consider the Complainant’s wishes in deciding how to proceed. In this process, the

College will balance the individual's interest with its obligation to provide a safe, non-discriminatory environment for the campus community.

Reporting Considerations:

Anonymous Reporting: Any individual may make an anonymous report concerning an act of sexual misconduct. Individuals may report the incident without disclosing their name, identifying the Respondent, or requesting any action. Depending on the extent of information available about the incident or the individuals involved, the College's ability to respond to an anonymous report may be limited. The Anonymous Reporting Form can be found [here](#). The Title IX Coordinator/Deputy Title IX Coordinator will receive the anonymous report and determine any appropriate steps, including individual or community remedies as appropriate, and in consultation with the Director of Campus Safety, comply with all Clery Act obligations.

Non-Confidential Reporting: Any individual may self-report or report an incident that they have observed. The report will be sent directly to the Title IX Coordinator who will then initial the College Response. You can find that form [here](#).

Timeliness and Location of Incident: Complainants and third-party witnesses are encouraged to report sexual misconduct as soon as possible to maximize the College's ability to respond promptly and effectively. The College does not, however, limit the time frame for reporting. Suppose the Respondent is not a member of the Wells community. In that case, the College will still seek to meet its obligation pursuant to this policy by taking steps to end sexual misconduct, prevent its recurrence, and address its effects. Still, its ability to take disciplinary action against the Respondent may be limited.

An incident does not have to occur on campus to be reported to the College. Off-campus conduct likely to substantially affect the Complainant's on-campus life and activities or pose a threat or danger to members of the Wells community may also be addressed under this policy.

Amnesty Policy: The health and safety of every student at Wells College is of utmost importance. Wells 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. Wells 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 Wells officials or law enforcement will not be subject to the Wells code of conduct for violations of the 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.

Coordination with Law Enforcement: Wells College supports Complainants in pursuing criminal action for incidents of sexual misconduct that may also be crimes under New York law. The College will, upon request, assist a Complainant in making a criminal report and cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process to the extent permitted by law. The Cayuga County Sheriff can be reached at 315-253-1222 or 911, and can assist in filing a criminal complaint and securing an appropriate examination, including by a Sexual Assault Nurse Examiner.

The NYS Police Sexual Assault Hotline, which can be reached at 1(844) 845-7269, may also assist in reporting an incident to law enforcement.

This policy's definitions and burden of proof differ from New York criminal law. A Complainant may seek recourses under this policy and/or pursue criminal action. Neither law enforcement's determination of whether to prosecute an accused nor the outcome of any criminal prosecution are determinative of whether a violation of this policy has occurred.

Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

Any internal College investigation and/or hearing process will be conducted concurrently with any investigation and/or proceeding conducted by law enforcement authorities. Local law enforcement authorities may request temporary delays in the College's internal process to gather evidence. Any requested temporary delay shall not last more than ten (10) business days, except when local law enforcement authorities specifically request and justify a longer delay. The College will cooperate with any criminal proceeding as permitted by law. The Title IX Coordinator and other College officials listed above can assist individuals in reporting a crime to local law enforcement.

Additionally, orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence by a Wells College community member or another individual(s). In appropriate circumstances, an order of protection may be available that restricts the a Respondent's right to enter or remain on College property. Wells College will abide by a lawfully issued order of protection. Campus Safety or other College officials will, upon request, provide reasonable assistance to any member of the College community in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order, including providing that individual with:

- a copy of an order of protection or equivalent when received by the College and providing that person with an opportunity to meet or speak with a College representative, or other appropriate individuals, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons;

- an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- assistance in contacting local law enforcement to effect an arrest for violating such an order of protection.

False Reports: The College will not tolerate intentional false reporting of incidents. The College takes the accuracy of information very seriously as a charge of sexual misconduct may have severe consequences. A good-faith complaint that results in a finding of not responsible is not considered a false or fabricated accusation of sexual misconduct. However, when a Complainant or third-party witness is found to have intentionally fabricated allegations or given false information with malicious intent or in bad faith, that individual may be subject to disciplinary action. It is a violation of the Code of Student Conduct, faculty and student handbooks, and the Wells College Honor Code to make an intentionally false report of any policy violation. It may also violate state criminal statutes and civil defamation laws.

SUPPORTIVE MEASURES, EMERGENCY REMOVALS AND ACCOMMODATIONS

Supportive Measures:

Upon receipt of a report, Wells College will implement reasonable and appropriate supportive measures to eliminate any unsafe or hostile environment and protect all parties involved. Wells College will make reasonable efforts to communicate with the parties to ensure that, to the extent feasible, all safety, emotional, and physical well-being concerns are addressed. Supportive measures may be imposed regardless of whether the Complainant or the College seeks formal disciplinary action (a formal resolution). All individuals are encouraged to report concerns about the failure of another individual to abide by any restrictions imposed by supportive measures. The College will take immediate and responsive action to enforce a previously implemented supportive measure.

Once a report is made, the Complainant will be contacted by the Title IX Coordinator or designee and offered individualized support as more fully described below. A report that triggers supportive measures need not be a formal complaint, and it may be made by a third party (i.e., someone other than the Complainant). Once the Respondent is informed of a report or a formal complaint, the Respondent will be contacted by the Title IX Coordinator and offered individualized support as more fully described below.

Supportive Measures are intended to restore or preserve, to the extent practicable, equal access to the College's educational programs and activities and protect all parties' safety without unreasonably burdening the other party or parties. As federal regulation requires, these supportive measures must be non-disciplinary and non-punitive to the parties. Supportive measures may include, but are not limited to:

- Mutual No Contact orders and, possibly, in rare cases, one-way no-contact orders.
- Changes or adjustments in academics such as the extension of deadlines or other course-related adjustments or allowing a withdrawal from a course or to transfer sections (with the agreement of the appropriate faculty) without penalty.
- Rescheduling of exams and assignments (with the agreement of the appropriate faculty).
- Providing alternative course completion options (with the agreement of the appropriate faculty).
- Providing academic support services, such as tutoring.
- Changes to housing, transportation, and campus working situations if a party and reasonably available request those changes.
- Arranging to dissolve a Housing Contract and pro-rate a refund in accordance with campus housing policies.
- Access to campus escorts or other reasonable security or monitoring measures.
- Access to counseling services and assistance in setting up an initial appointment, both on and off-campus.
- Any other remedy that could be tailored to the involved parties to achieve the goals of this policy.

The Title IX Coordinator is responsible for coordinating the implementation of supportive measures, including coordinating with the various College departments and offices that may be involved. All supportive measures are offered free of charge.

Suppose a party's request for a supportive measure is denied. In that case, the party will be afforded an opportunity to have the denial promptly reviewed to assess whether the supportive measure is reasonable under the circumstances. In addition, each party will, upon request, be afforded the opportunity for a prompt review of the need for supportive measures that have been implemented, including the potential modification of these measures, to the extent that the party is affected by the measure(s) being reviewed. Each party will be allowed to submit evidence in support of, or in opposition to, the request to the extent that the supportive measures under review affect that party. Information about how to request a review will be included in written communication outlining the supportive measures offered and any that were requested by the party but denied. The Title IX Coordinator and the Sexual Misconduct Team will respond to such review requests as promptly as possible, but generally no later than three business days after the request and the parties submit any evidence. The Title IX Coordinator may modify the supportive measures on a temporary basis while the parties are submitting their information and responses.

Emergency Removal:

In some cases, the College may undertake an emergency removal of a student Respondent to protect the safety of the College community, which may include contacting local law enforcement to address imminent safety concerns. When a report of sexual misconduct poses a substantial and immediate

threat of harm to the physical safety or well-being of an individual or the campus community, the College may place a student or group on emergency removal. Emergency Removals also apply to Wells College employees.

Emergency removal is not a substitute for determining a Respondent's responsibility for sexual misconduct allegations; instead, emergency removal is to address imminent threats posed to any person's physical health or safety that may arise out of sexual misconduct allegations. Prior to removing an individual or group through the emergency removal process, the College will undertake an individualized safety and risk analysis. In such cases, the individual or organization may be denied access to campus, campus facilities, and/or all other College activities or privileges for which the student might otherwise be eligible, as the College deems appropriate. After determining a student Respondent is an immediate threat to an individual's physical health or safety, the Title IX Coordinator will provide written notice of the emergency removal to both the Complainant(s) and Respondent(s). This notice will contain:

- The date the removal is set to begin, and detail of the restrictions applied,
- The reason for the emergency removal,
- The consequences of non-compliance.

When the accused is not a student but a community member, they are subject to emergency removal and/or other measures per applicable collective bargaining agreements and College employment policies and procedures.

Disability Accommodation:

A Complainant or Respondent with a disability who requires an accommodation during an investigation, hearing, or any other phase of the process is responsible for disclosing the need for accommodation to the Title IX Coordinator. The Title IX Coordinator may consult with the Coordinator of Accessibility and Learning Support in deciding whether to grant a disability accommodation request.

Employees can contact Human Resources to request a reasonable accommodation.

OPTIONS FOR RESOLUTION

Upon receipt of a report, the College's Title IX Coordinator or designee will discuss with the Complaint(s), the option for filing a formal complaint with the College. The Title IX Coordinator and the Sexual Misconduct Team will also conduct an initial assessment of the report. The goal of this assessment is to provide an integrated and coordinated response to reports of sexual misconduct. The assessment will consider the nature of the report, the safety of the individual and of the campus community, and the expressed preference for resolution.

After the assessment, if the Complainant files a formal complaint, the College may choose to offer an informal resolution or refer the matter for investigation and adjudication in consultation with the parties. When a Complainant declines to sign a formal complaint or does not wish to participate in the investigation and adjudication process, or the Complainant's identity is unknown, and the Title IX Coordinator determines there is sufficient cause to file a formal complaint, the Title IX Coordinator may file a formal complaint. In such cases, the Title IX Coordinator, or designee is considered the Complainant under this policy. The initial steps for the resolution of a report made to the College will involve the same stages: an initial assessment, investigation, and either informal resolution or a formal adjudication process.

Filing a Complaint:

A formal complaint is necessary to initiate the College's grievance process, meaning an investigation and adjudication process. A formal complaint must be in written form and must be signed by the Complainant.

The Title IX Coordinator will consider the wishes of the Complainant not to proceed with the investigation and adjudication process. However, the Title IX Coordinator may file a formal complaint if the Title IX Coordinator determines that the allegations are such that it is important for the campus community that a complaint proceed despite the wishes of the Complainant. In making this determination, the Title IX Coordinator and the Sexual Misconduct Team will consider, among other factors:

- the risk that the alleged perpetrator will commit additional acts of sexual misconduct or other violence, which may be assessed by evaluating;
- whether there have been other complaints about the same alleged perpetrator;
- whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
- whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
- whether multiple perpetrators committed the sexual violence, whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether the college possesses other means to obtain relevant evidence of the prohibited conduct (e.g., security cameras or personnel, physical evidence);
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

Additionally, where the Respondent is not enrolled at the College and is not employed by the College, the College may decline to process the complaint through the Grievance Process. The College will take the steps it deems appropriate under these circumstances.

Mandatory Dismissal of Title IX Category Charges:

The Title IX Coordinator and the Sexual Misconduct Team will review a formal complaint filed by a Complainant. To comply with Title IX regulations, the Title IX Coordinator must “dismiss” the Title IX Category violation(s) if it is apparent that the allegations are not within the scope of Title IX. This may occur when the conduct alleged would not constitute sexual harassment as defined in Title IX Category violations, even if proved, and/or did not occur in the College’s education program or activity.

- Notice of dismissal of the Title IX Category violation(s) will be in writing and issued the Complainant and Respondent simultaneously. The Title IX Coordinator may determine at any point in the process that facts have emerged that require the dismissal of a Title IX Category violation.
- A decision to dismiss a Title IX Category violation is immediately appealable by the Complainant, pursuant to the appeal process set forth in this policy. Even if Title IX Category violations are subject to dismissal, the College may continue to process the allegations as College Category violations, assuming that the allegations, if true, would constitute College Category violations.

Discretionary Dismissal of Title IX Category Charges:

- The Title IX Coordinator may, but is not required to, dismiss formal complaints in the following circumstances:
- When the Complainant withdraws a formal complaint.
- When the Respondent is no longer enrolled in or employed by the College.
- Where specific circumstances prevent the College from gathering evidence (such as where a Complainant refuses to cooperate but does not withdraw a formal complaint).
- The decision to dismiss or not to dismiss a charge under these circumstances will depend on the totality of the situation.

Informal Resolution:

In some cases, an informal resolution may be appropriate. An Informal Resolution is a voluntary process in which a trained facilitator assists the parties in resolving the allegations made by a Complainant. Informal resolution is a remedies-based, non-judicial approach designed to eliminate any hostile environment without taking formal disciplinary action against a Respondent. The Informal Resolution process is not available if the Respondent in a sexual misconduct complaint is a faculty or staff member of the College and the Complainant is a student. Where the Title IX Coordinator concludes that informal resolution may be appropriate, the Title IX Coordinator will offer the Informal Resolution to the parties after a Complainant files a formal complaint. Both parties must consent to use the Informal Resolution process. Either party participating in an Informal Resolution may terminate the process at any time, and the complaint may then be considered to be adjudicated under a formal grievance and hearing process.

During an Informal Resolution process, Supportive Measures are available to both parties in the same manner as they would if the formal complaint were proceeding under the formal grievance and hearing process. A written notice will be given to both parties before entering an Informal Resolution process, and both parties must consent to the process in writing. No party should feel intimidated, coerced, or threatened to participate in an Informal Resolution process or to withdraw from an Informal Resolution process. The facilitator of the process will be screened to ensure they are free from conflicts of interest and bias. The facilitator's role is to conduct the Informal Resolution process in an impartial way that does not favor one party over the other.

The facilitator will schedule one or more meetings with the parties. The facilitator will assist the parties in communicating information and opinions to the facilitator and each other regarding the allegations to find common ground and a resolution of the allegation(s) that is satisfactory to both parties. The facilitator may meet separately with each party to explore the party's views about the allegations and desired outcome of the process. Either party can elect to have any meeting occur so that the parties are in different rooms and the facilitator "shuttles" between the parties.

For the Informal Resolution process to have the best chance for success, the parties should be free to express themselves. As a result, the facilitator will keep the information received from both parties during the Informal Resolution private. In addition, the facilitator will not be available as a witness in any hearing that may occur should either party terminate the Informal Resolution process before a resolution. This is in keeping with the concept that the facilitator is impartial and only facilitates the interaction between the two parties and is not listening or taking notes for any purpose other than assisting the parties. In addition, the parties may not disclose information shared by the other party during the process of the hearing. This privacy protection does not apply to information learned outside the Informal Resolution process through the investigation or otherwise.

The College will not compel a Complainant or Respondent to engage in informal resolution or to directly confront the other party during the informal resolution process. The decision to pursue an informal resolution will be made when the College has sufficient information about the nature and scope of the conduct, which may occur at any time. An Advisor may assist both Complainants and Respondents during an informal resolution.

A resolution is reached only if both parties agree. The College encourages terms of resolution that meet the parties' needs. The facilitator will not impose an outcome, although they may assist the parties in suggesting resolutions that appear to meet their needs. If there is no agreement on a resolution, the complaint may be returned to the formal grievance and hearing process outlined in this policy. Any investigation of the allegations in the formal complaint will resume/begin, and the formal grievance process will proceed from there.

A party may terminate the informal process at any time before the final written resolution is signed. If the parties reach a resolution, the facilitator will draft a document reflecting the agreement between the parties that becomes final once both parties sign it. This written and signed resolution indicates that the complaint has been resolved under this policy without requiring further investigation or pursuing the formal grievance and hearing process. After a written resolution has been finalized, the College will keep a record of the parties' written consent to the Informal Resolution process and the written resolution for at least seven (7) years.

Investigation:

Where a formal complaint has been filed, and in the absence of an informal resolution, the College will appoint an investigator to investigate the allegations in the formal complaint.

The College may appoint any qualified investigator, who may be a person internal or external to the College. The College also may appoint more than one investigator. The investigation is an impartial fact-finding process. Any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest. The Complainant and Respondent will be provided with notice of the appointed investigator's name and an opportunity not more than three (3) business days after the notice to raise an objection to the investigator based on any alleged conflict of interest. If an objection is raised, the Title IX Coordinator will determine whether a conflict of interest exists and necessitates the replacement of the investigator.

The Complainant and Respondent will receive a Notice of Investigation referencing the violation(s) of this policy alleged to have been committed and the range of possible disciplinary sanctions and remedies following any determination of responsibility. The notice of investigation will also include, to the extent known:

- The identities of the involved parties.
- The date, time, location, and factual allegations concerning the alleged violation.
- The policy provisions that were allegedly violated.
- A description of the investigation and adjudication process.
- Potential sanctions.
- The right to an advisor of their choice, who may be, but is not required to be, an attorney.
- Their right to inspect and review evidence in accordance with this policy.
- Notice that knowingly making false statements or knowingly submitting false information is prohibited under the Code of Student Conduct and faculty and staff handbook.
- Notice that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the process.

In the course of the investigation, the College may decide to investigate allegations not included in the notice initially provided to the parties. In that case, the Title IX Coordinator or designee will notify the parties of the additional allegations.

The investigator(s) will investigate in a manner appropriate in light of the circumstances of the case and usually begins with an interview with the Complainant, relevant witnesses, and the Respondent. The interviews will be supplemented by gathering any physical, documentary, or other evidence. As part of the investigation, the College will provide an opportunity for the parties to present witnesses and other evidence. The investigation is designed to provide a fair and reliable gathering of the facts. The investigation must be thorough, impartial, and equitable, and all individuals will be treated with appropriate sensitivity and respect. As described in the Privacy and Confidentiality sections, the investigation will be conducted in a manner that is respectful of individual privacy concerns to the extent possible. The Complainant and Respondent will be provided with advance written notice of the date, time, location, participants, and purpose of any meeting or interview in which they are invited to or expected to participate. The Complainant and the Respondent will be given an equal opportunity to present information. This includes the opportunity to present facts or expert witnesses, and other evidence that the party believes tends to prove or disprove the allegations. However, at all times, the burden of gathering evidence remains with the College. The investigator may decline to interview any witness or to gather information the investigator finds to be not relevant or otherwise excludable (e.g., sexual history of the Complainant with a person other than the Respondent, materials subject to a recognized privilege, medical records in the absence of a release by the subject of the records, etc.). The investigator will determine the order and method of investigation.

The Complainant and Respondent may be accompanied by an advisor of their choice, who may be an attorney, and at their own expense, if the advisor is a paid advisor. The Complainant and Respondent are expected to speak for themselves, and advisors must not obstruct the process or otherwise be disruptive to the interview or meeting. The College does not appoint an advisor for a party during the investigation phase of the process but will highly recommend that the parties do identify an advisor or to have a Wells College appointed advisor. In addition, any unauthorized audio or video recording is prohibited during investigation meetings or interviews.

The Title IX Coordinator may determine that cases where the allegations arise out of the same facts, should be consolidated for the investigation and/or adjudication. Instances where complaints may be consolidated including but are not limited to cross-complaints filed by the parties against each other, multiple complaints by a single Complainant against a Respondent, or multiple complaints by a single Complainant against multiple Respondents.

Opportunity for Inspection and Review of Evidence:

The Complainant and Respondent will be provided an equal opportunity to inspect and review any evidence obtained in the investigation directly related to the allegations gathered in the investigation, regardless of whether the information will be relied on in reaching a determination. Prior to the conclusion of the investigative report, the Complainant and Respondent and each party's advisor of

choice, if any, will be provided a copy (which may be sent in hard copy or electronic format or made available through an electronic file sharing platform) of the evidence, some of which may be subject to redaction as required by law. The Complainant and Respondent will be provided with at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. The investigator will determine if additional investigation is necessary and, if so, will complete any further investigative steps.

Evidence pertaining to Title IX is kept by the Title IX Coordinator for seven (7) years as required by law. All other evidence pertaining to other forms of sexual misconduct is required by law to be kept for five (5) years.

Investigative Report:

At the conclusion of the investigation, the investigator(s) will prepare a written report summarizing the investigation. The investigator(s) need not include information in the investigative report that the investigator determines is not relevant or otherwise excludable. The investigator will submit the investigative report to the Title IX Coordinator. At least ten (10) days prior to a hearing to determine whether there is responsibility for the allegations, the Complainant and Respondent and each party’s advisor, if any, will be provided a copy of the investigative report (which may be sent in hard copy or electronic format or made available through an electronic file sharing platform), subject to redaction as required by law.

Investigation Timeframe:

The College will seek to complete the investigation within sixty (60) calendar days of receiving a formal complaint. Still, this time frame may be extended depending on the complexity of the circumstances of each case, College breaks, and availability of parties to participate, among other factors that may place the completion of the investigation outside of the timeframe.

HEARING PROCEDURES

The formal disciplinary procedures applied in a particular case may depend on whether the accused is a student, employee, or other campus community member. A report by anyone against a visitor, vendor, etc., will be investigated, but no formal hearing policy or procedure applies. The College may opt to ban them from College property or take other appropriate responsive measures.

A hearing before a three-member Hearing Panel designated by the Title IX Coordinator will be convened no less than ten business days after the parties have been provided access to the final investigative report. The purpose of a hearing is to determine whether the Respondent is found responsible or not for the charge(s). The Hearing Panel members may be members of the campus community or may be external to the College, as determined by the Title IX Coordinator. The Title IX Coordinator designates the chair of the Hearing Panel from among the three-member Hearing Panel.

The Title IX Coordinator or designee will notify the parties in writing of the date, time, and location of the hearing, the names of the Hearing Panel members, and how to challenge participation by any Hearing Panel member for bias or conflict of interest. Bias or conflict of interest will be judged by an objective standard (whether a reasonable person would conclude the decision-maker is biased).

Participants in the hearing will include the members of the Hearing Panel, the Complainant and the Respondent, their respective advisors, the investigator(s) who conducted the investigation, and witnesses (solely during their own testimony). Hearings are private. Observers or additional support personnel other than the parties' advisors are not allowed unless the Title IX Coordinator deems it necessary for purposes such as an accommodation of a disability. Mobile phones and recording devices are not permitted by the parties or their advisors during the hearing. Hearings may be conducted with all parties physically present in the same location or, at the Title IX Coordinator's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling the Hearing Panel and the parties to simultaneously see and hear any party or witness providing information or answering questions. If either party requests, the hearing will be conducted with the parties located in separate rooms using technology as described in the preceding sentence. The Title IX Coordinator may postpone the hearing for good cause and at their discretion. Good cause may include the unavailability of one or more participants due to unanticipated events or circumstances, the timing of academic breaks or holidays, or other extenuating circumstances.

All parties are notified prior to a hearing and at the beginning of the hearing that the hearing is recorded.

The Chair of the Hearing Panel organizes the presentation of information to be considered at the hearing. Generally, the hearing will proceed in the following order:

- Opportunity for Opening Statement by the Complainant
- Opportunity for Opening Statement by the Respondent
- Summary of the results of the investigation by the investigator(s)
- Questions for the investigator(s) by the Hearing Panel and, if desired, on behalf of the Complainant and the Respondent (as described below)]
- Questions for the Complainant by the Hearing Panel and, if desired, on behalf of the Respondent (as described below)
- Questions for the Respondent by the Hearing Panel and, if desired, on behalf of the Complainant (as described below)
- Questions for each witness by the Hearing Panel and, if desired, on behalf of the Complainant and the Respondent (as described below)
- Opportunity for Closing Statement by the Respondent
- Opportunity for Closing Statement by the Complainant

Generally, new evidence is not permissible to present during a hearing. All evidence previously made available to the parties for inspection and review prior to completion of the investigative report as described above will be made available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of questioning. Absent extraordinary circumstances as determined by the Chair of the Hearing Panel, no party may seek to introduce at the hearing any evidence not previously made available, other than the investigative report itself and any responses to the investigative report submitted by the parties pursuant to the investigation.

The Chair of the Hearing Panel will address any concerns regarding the consideration of information prior to and/or during the hearing and may exclude irrelevant information. Subject to the terms of this policy, the Chair will have discretionary authority to determine all questions of procedure, to determine whether questions, evidence, or information will be accepted or considered, to call breaks or temporary adjournments, and/or to recall parties or witnesses for additional questions as the Chair deems necessary or appropriate. The Chair may impose additional ground rules that they deem necessary or appropriate for the orderly and efficient conduct of the hearing.

Advisors:

The Complainant and the Respondent may each have present with them during the hearing an advisor of their choice. The Complainant and/or Respondent may choose as an advisor an individual, who is or is not a member of the college community, including an attorney at the party's own expense. If a party does not have an advisor present at the hearing, the College will provide, without fee or charge to that party, an Institution Advisor of the College's choice. Except with respect to questioning as described below, the advisor's role is limited to consulting with their advisee, and the advisor may not present evidence, object to any aspect of the proceeding, or disrupt the hearing in any way. Institution Advisors must receive training before advising a party during a hearing.

Any advisor's consultation with their advisee while the hearing is in progress must be done in a quiet non-disruptive manner or in writing. The advisor may consult with the advisee verbally outside the hearing during breaks when the Chair of the Hearing Panel grants such breaks.

An advisor's questioning of the other party and any witnesses must be conducted respectfully, be non-intimidating, and be non-abusive. If the Chair determines that an advisor is not adhering to these or other ground rules, the advisor may be required to leave the hearing, and the hearing will proceed without an opportunity for the party to obtain a replacement advisor; provided, however, that the College will assign an Institution Advisor of the College's choosing, without charge, to conduct questioning on behalf of the party. Witnesses are not permitted to bring an advisor or other person to the hearing absent an approved disability or other accommodation deemed permissible by the Chair. The Hearing Panel may be advised by and/or consult with the College's legal counsel as the Chair of the Hearing Panel deems necessary or appropriate.

Questioning Procedures:

The Hearing Panel will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Questions that seek disclosure of information protected under a legally recognized privilege will not be permitted unless the person or entity holding the privilege has waived the privilege.

Questioning must be conducted by the party's advisor in a respectful and non-abusive manner.

A party's advisor may ask only relevant questions to a party or witness. Before the party or witness answers a question posed by an advisor, the Chair of the Hearing Panel will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Such decisions by the Chair are final and not subject to objection or reconsideration during the hearing.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, other than questions and evidence about the Complainant's prior sexual behavior that (a) are offered to prove that someone other than the Respondent committed the alleged misconduct or (b) concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Hearing Determinations:

Following the conclusion of the hearing, the Hearing Panel will deliberate and render a determination by majority vote as to whether the Respondent is responsible or not responsible for the alleged violation(s). The Hearing Panel will use "preponderance of the evidence" as the standard of proof to determine whether each alleged policy violation occurred. "Preponderance of the evidence" means that the Hearing Panel must determine whether, based on the evidence presented, the Respondent is more likely than not to have engaged in the conduct charged.

If, after the conclusion of the Hearing Panel's deliberation, the Respondent is found responsible for one or more charges, the following are the sanctions that may be imposed:

- The nature and severity of, and circumstances surrounding, the violation(s).
- The Respondent's state of mind at the time of the violation(s) (intentional, knowing, bias-motivated, reckless, negligent, etc.).
- The Respondent's previous disciplinary history, including past findings of the College's policies prohibiting sexual harassment, domestic violence, dating violence, stalking, or sexual assault.
- The need for sanctions to bring an end to the conduct; and/or to prevent the future recurrence of similar conduct.
- The need to remedy the effects of the conduct on the Complainant and/or the community.
- The impact of potential sanctions on the Respondent.
- Sanctions imposed by the College in other matters involving comparable conduct.

- Any other lawful factors deemed relevant by the Hearing Panel.

Determining Sanction(s) and Submitting Impact Statements:

If, after the conclusion of the Hearing Panel's deliberation, the Respondent is found responsible for one or more charges, both parties will be permitted to compose and send an impact statement to the Title IX Coordinator. The Title IX Coordinator will provide the Hearing Panel with the statements. The Hearing Panel will consider the impact statements, among other factors, in determining sanction(s).

Impact Statements should not contain argumentative information or discussion of the facts of the final investigative report. Additionally, they are not to reiterate or wage accusations against the other party. Impact statements are meant to be a reflection on the experience or impact of experiencing sexual misconduct, being accused of committing sexual misconduct, and going through the investigation and adjudication process.

Other factors considered when determining sanctions include but are not limited by:

- The nature and severity of, and circumstances surrounding, the violation(s).
- The Respondent's state of mind at the time of the violation(s) (intentional, knowing, bias-motivated, reckless, negligent, etc.).
- The Respondent's previous disciplinary history, including past findings of the College's policies prohibiting sexual harassment, domestic violence, dating violence, stalking, or sexual assault.
- The need for sanctions to bring an end to the conduct; and/or to prevent the future recurrence of similar conduct.
- The need to remedy the effects of the conduct on the Complainant and/or the community.
- The impact of potential sanctions on the Respondent.
- Sanctions imposed by the College in other matters involving comparable conduct.
- Any other lawful factors deemed relevant by the Hearing Panel.

Timeframe for Deliberation, Outcome, and Determining Sanctions:

Hearing panels should complete their deliberation and determination of sanctions within ten (10) business days of the conclusion of the hearing.

Sanctions:

Sanctions include but are not limited to the following:

- Withholding Degree and/or Diploma: The College may withhold a student's degree and/or diploma for a specified period of time and/or deny a student participation in commencement activities.

- Other Actions: In addition to or in place of the above sanctions, the Hearing Panel may assign any other sanctions as deemed appropriate, including but not limited to the following:
 - Mandated counseling, so the Respondent has the opportunity to gain more insight into his/her/their behavior.
- A No-Contact Order (including but not limited to continuation of a no-contact directive imposed as a supportive measure) prohibiting contact with one or more identified persons, in person or through telephonic, electronic, written, or other means. A No-Contact Order may include additional restrictions and terms.
- Requiring the Respondent to write a letter of apology.
- Restitution for damage to or misappropriation of property, personal injury, and other related costs.
- Ban from certain areas/events on campus or the campus as a whole.
- Loss, revocation, or restriction of housing privileges (e.g., exclusion from specified locations or alteration of status in the housing lottery or other selection system).
- Monetary fines.

Transcript Notation: For those crimes of violence that Wells College is required by federal law to include in its Annual Security Report, the transcripts of students found responsible after an investigation and appeal, if any, shall include the following notation:

- Suspended after a finding of responsibility for a code of conduct violation;
- Expelled after a finding of responsibility for a code of conduct violation; or
- Withdrew with conduct charges pending.

Transcript notations for suspensions may be removed at the discretion of the College, but no earlier than one (1) year after the conclusion of the suspension. Transcript notations for expulsion will not be removed.

The transcript of any Respondent who withdraws from the College while such conduct charges are pending, and declines to complete the disciplinary process, will include the notation: “Withdrew with conduct charges pending.”

Notice of Outcome:

The Complainant and Respondent will be notified simultaneously and in writing of the factual findings supporting the determination, the decision as to responsibility, and the sanction(s), if any, as well as a rationale for the decision and sanction(s). The Hearing Panel will issue a written determination including the following information:

- A description of the charges that were adjudicated.
- A description of the procedural steps taken from the submission of the formal complaint through the determination, including notifications to the parties, interviews

with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.

- Findings of fact supporting the determination.
- Conclusions regarding the application of the policy to the facts.
- A statement of and rationale for the result of each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the College's educational programs or activities will be provided to the Complainant.
- The procedures and permissible bases for the Complainant and Respondent to appeal.

APPEALS

A Complainant or Respondent may appeal: (1) a determination regarding responsibility and (2) the College's dismissal of a formal complaint or any allegations therein.

A party who wishes to appeal a determination regarding responsibility or the dismissal of a formal complaint must submit a written notice to the Title IX Coordinator of the party's intent to appeal within five (5) business days of receiving the written notification of the appealable decision. The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal. A Complainant or Respondent may appeal the outcome of the Hearing on the following grounds:

- A procedural irregularity affected the determination regarding responsibility or dismissal of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the determination regarding responsibility or dismissal of the matter;
- The Title IX Coordinator, an investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the determination regarding responsibility or dismissal of the matter. An individual's professional experience need not disqualify the person from the ability to serve impartially. Furthermore, bias is not demonstrated by working in Complainants' or Respondents' rights organizations; and
- The sanction is grossly out of line with the violation, either because the sanction is too severe or too lenient.

In addition to the four bases for appeal, the College reserves the right to add additional bases for appeal that will be available equally to both parties. Any additional bases of appeal that are added will not be applied retroactively to previous determinations and dismissals.

Appeals involving a student Respondent will be submitted to a three-member hearing panel. Appeals involving a faculty or staff Respondent will be submitted to a single appeal officer. The Title IX Coordinator will designate the appeal panel/appeal officer. In the event of an appeal, the panel/appeal officer may:

- Affirm the finding of responsibility and sanction;
- Affirm the finding of responsibility but modify the sanction, either by increasing or reducing it;
- Affirm the finding of no responsibility;
- Reverse the finding of no responsibility and assign a sanction;
- Reverse the finding of responsibility and eliminate any sanction; and
- Take other action deemed appropriate.

When a party submits a written notice of its intent to appeal to the Title IX Coordinator within five business days of the appealable decision, the College will notify the other party in writing and implement appeal procedures equally for both parties. Sanctions imposed by the Hearing Panel are implemented immediately unless the Title IX coordinator stays implementation in extraordinary circumstances, pending the outcome of the appeal. Suppose no written notice of either party's intent to appeal is submitted. In that case, the written determination becomes final after the time period to file an appeal (five business days) has expired.

During an appeal, each party will be given a reasonable, equal opportunity to submit a written statement in support of, or challenging, the ground(s) for appeal. Each party will have at least three business days to submit its written statement. If a party needs additional time, it can request such additional time from the decisionmaker for the appeal. Such requests will be granted on a case-by-case basis. If the decision-maker for the appeal grants a request for additional time to submit a written statement, all parties will be granted the additional time. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. Appeals are not intended to be a full reinvestigation of the complaint. Appeals are generally confined to a review of the written documentation collected in the investigation and pertinent documentation regarding the grounds for appeal.

The decision-maker for the appeal will not be the same individuals that reached the determination regarding responsibility or dismissal, including the investigator(s), the Title IX Coordinator, advisors, and the Hearing Panel members

The decision-maker for the appeal will issue a written decision describing the result of the appeal and the rationale for the result. This decision will be provided to both parties simultaneously and in writing. Once the appeal decision has been sent to the parties, the appeal decision is final.

APPLICATION TO FACULTY & STAFF

One or more of the College's personnel policies or faculty and staff handbook policies may overlap with this Policy, including collective bargaining agreements.

This Policy applies to any situation when a Respondent is a faculty or staff member. In all other situations, the College reserves the right to apply this policy or another applicable College policy or process.

CLERY ACT COMPLIANCE

The College must include, for statistical reporting purposes, the occurrence of certain incidents in its Annual Security Report (ASR). Neither the names of individuals involved in incidents nor the specific details of the incidents are reported or disclosed in ASRs. In the case of an emergency or ongoing dangerous situation, the College will issue a campus-wide timely warning to the campus (which can take the form of an email to campus), except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. In such circumstances, the name of the alleged perpetrator may be disclosed to the community, but the name of the Complainant will not be disclosed.

At no time will Wells College release the name(s) of the Complainant(s) to the general public without the express written consent of the Complainant(s). The release of the Respondent's name to the general public is guided by the Family Educational Rights and Privacy Act (FERPA) and the Clery, and by law enforcement. Act. All College proceedings are conducted in compliance with the requirements of FERPA, the Clery Act, Title IX, NYS Education Law 129A and 129B, and other state and federal laws. No information shall be released from such proceedings except as required or permitted by law.

COORDINATION WITH OTHER POLICIES

A particular situation may potentially invoke one or more College policies or processes. The College reserves the right to determine the most applicable policy or process and to utilize that policy or process consistent with applicable law.

DESIGNATION OF AUTHORITY

Any College administrator or official empowered by this policy may delegate their authority to any other appropriate College official. Delegation of authority may be necessary to avoid conflicts of interest or where time constraints or other obligations prevent a College official named in this policy from fulfilling their designated role.

STUDENT 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 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 and 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 any retaliation by the institution, any student, the accused and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution.
9. Access to at least one level of appeal of a determination.
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or Respondent throughout the judicial or conduct process, including during all meetings and hearings related to such process.
11. Exercise civil rights and practice of religion without undue interference by the investigative, criminal justice, or judicial or conduct process of the institution.

Upon a report to the College, all parties are informed, “You have the right to make a report to Campus Safety, Local Law Enforcement, and/or State Police or choose not to report; to report the incident to Wells; to be protected by Wells from retaliation for reporting the incident, and to receive assistance and resources from Wells.”

Policy updated on 8/12/22