

Suny Complaint Procedure For Review Of Allegations Of Unlawful Discrimination /Harassment

NB: Columbia-Greene Community College adheres to the following SUNY Complaint Procedure for Review of Allegations of Unlawful Discrimination/Harassment. However, in the event of a violation of College policy or the College Code of Conduct, the matter would proceed as follows:

1. Referral to the Vice President and Dean of Students and Enrollment Management or Incident Report filed.
2. Fact-Finding Meeting with the Vice President and Dean of Students and Enrollment Management or designee.
3. Referral to the Vice President and Dean of Students and Enrollment Management or designee for an:
 - a. Informal Hearing

-or-

 - b. Administrative Hearing.
4. Upon conclusion of this hearing, **the Complainant** has the right to:
 - a. request to have the case referred to the Affirmative Action Officer, who would then proceed with the following

-or-

 - b. appeal to the President.

Overview

The State University of New York at Columbia- Greene Community College, in its continuing effort to seek equity in education and employment and in support of Federal and State anti-discrimination legislation, has adopted a complaint procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination on the basis of race, color, national origin, religion, age, sex, sexual orientation, disability, veteran status or marital status. Harassment is one form of unlawful discrimination on the basis of the above protected categories. Conduct that may constitute harassment is described in Appendix A. For more detailed information see the Vice President and Dean of Students and Enrollment Management or the Affirmative Action Officer. This procedure may be used by any State University of New York student or employee. Employee grievance procedures established through negotiated contracts, academic grievance review committees, student disciplinary grievance boards and any other procedures defined by contract will continue to operate as before. Neither does this procedure in any way deprive a Complainant of the right to file with outside enforcement agencies, such as the New York State Division of Human Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights of the United States Department of Education and the Office of Federal Contract Compliance of the United States Department of Labor. However, after filing with one of these outside enforcement agencies, or upon the initiation of litigation, the complaint will be referred to the Office of University Counsel for review and supervision. Contact information for these agencies is listed in Appendix B. More detailed information may be obtained from the Campus Affirmative Action Officer.

This SUNY Complaint Procedure for the Review of Allegations of Unlawful Discrimination provides a mechanism through which the University may identify, respond to and prevent and eliminate incidents of illegal discrimination. The University recognizes and accepts its responsibility in this regard and believes that the establishment of this internal, non-adversarial grievance process will benefit student, faculty, staff and administration, permitting investigation and resolution of problems without resorting to the frequently expensive and time consuming procedures of State and Federal and federal enforcement agencies or courts.

All campuses must use the *SUNY Complaint Procedure for the Review of Allegations of Unlawful Discrimination* unless the campus has made application for an exception. Requests for an exception, along with a copy of the requesting campus's discrimination complaint procedure must be filed with the State University of New York, Office of the University Counsel. The request for an exception will be acted upon by the Office of University Counsel after a review of the campus's complaint procedure.

The Vice President and Dean of Students and Enrollment Management or Affirmative Action Officer on campus shall receive any complaint of alleged discrimination, shall assist the Complainant in the use of the complaint form defining the charge and shall provide the Complainant with information about the various internal and external mechanisms through which the complaint may be filed, including applicable time limits for filing with each agency.

The Complainant is not required to pursue the SUNY internal procedure before filing a complaint with a State or Federal agency. In addition, if the Complainant chooses to pursue the SUNY internal procedure, the Complainant is free to file a complaint with the appropriate State or Federal agency at any point during the process. Upon filing with an external agency, however, the SUNY internal complaint procedure will be terminated and the matter referred to the Office of the University Counsel for review, defense or, if deemed appropriate by Counsel, involvement in mediation, conciliation or settlement with the external agency where the complaint was filed, or such other actions as may be in the interests of the University.

During any portion of the procedures detailed hereafter, the parties shall not employ audio or videotaping devices.

PART A: INFORMAL RESOLUTION

1. The Vice President and Dean of Students and Enrollment Management on an informal basis may receive initial inquiries, reports and requests for consultation and counseling. Assistance will be available whether or not a formal complaint is contemplated or even possible. It is the responsibility of the Vice President and Dean of Students and Enrollment Management and Affirmative Action Officer to respond to all such inquiries, reports and requests as promptly as possible and in a manner appropriate to the particular circumstances. An individual may refuse to reduce a complaint to writing. However, notwithstanding that refusal, there may be a continuing obligation on the part of the campus to investigate the verbal complaint to the best of its ability and proceed with any action that is warranted. Although in rare instances verbal complaints may be acted upon, the procedures set forth here rest upon the submission of a written complaint that will enable there to be a full and fair investigation of the facts.

IT IS THE COMPLAINANT'S RESPONSIBILITY TO BE CERTAIN THAT ANY COMPLAINT IS FILED WITHIN THE 90 DAY PERIOD THAT IS APPLICABLE UNDER THIS PARAGRAPH.

2. Complaints or concerns that are reported to an administrator, manager or supervisor concerning an act of discrimination or harassment shall be immediately referred to the Vice President and Dean of Students and Enrollment Management. Complaints may also be made directly to the Affirmative Action Officer.
3. Employees must file a written complaint with the Vice President and Dean of Students and Enrollment Management or Affirmative Action Officer within 90 calendar days following the alleged discriminatory act or the date on which the Complainant first knew or reasonably should have known of such act if that date is later. All such complaints must be submitted on the forms provided by the State University of New York (see The Vice President and Dean of Students and Enrollment Management or Affirmative Action Officer). This form will be used for both the initiation of complaints under the informal procedure and the movement of the complaint to the formal procedure. Students must file a complaint within 90 calendar days following the alleged discriminatory act or 90 calendar days after a final grade is received, for the semester during which the discriminatory acts occurred, if that date is later.
4. The complaint shall contain:
 - a) The name, local and permanent address(es), and telephone number(s) of the Complainant.
 - b) A statement of facts explaining what happened and what the Complainant believes constituted the unlawful discriminatory acts in sufficient detail to give each Respondent reasonable notice of what is claimed against him/her. The statement should include the date, approximate time and place where the alleged acts of unlawful discrimination or harassment occurred. If the acts occurred on more than one date, the statement should also include the last date on which the acts occurred as well as detailed information about the prior acts. The names of any potential witnesses should be provided, if appropriate.
 - c) The name(s), address(es) and telephone number(s) of the Respondent(s), i.e., the person(s) claimed to have committed the act(s) of unlawful discrimination.
 - d) Identification of the status of the persons charged whether faculty, staff, or student.
 - e) A statement indicating whether or not the Complainant has filed or reported information concerning the incidents referred to in the complaint with a non-college official or agency, under any other complaint or complaint procedure. If an external complaint has been filed, the statement should indicate the name of the person or department or agency with which the information was filed and its address or to which it was reported.
 - f) Such other or supplemental information as may be requested.
5. If the Complainant brings a complaint beyond the period in which the complaint may be addressed under these procedures, the Vice President and Dean of Students and Enrollment Management or the Affirmative Action Officer may terminate any further processing of the complaint, refer the complaint to University Counsel or direct the Complainant to the appropriate alternative forum (see Appendix B for a list of alternative forums).
6. If a Complainant elects to have the matter dealt with in an informal manner, the Vice President and Dean of Students and Enrollment Management will attempt to reasonably resolve the problem to the mutual satisfaction of the parties.

7. In seeking an informal resolution, the Vice President and Dean of Students and Enrollment Management shall attempt to review all relevant information, interview pertinent witnesses, and bring together the Complainant and the Respondent, if desirable. If a resolution satisfactory to both the Complainant and the Respondent is reached within 24 calendar days from the filing of the complaint, through the efforts of the Affirmative Action Officer, the Officer shall close the case, sending a written notice to that effect to the Complainant and Respondent. The written notice, a copy of which shall be attached to the original complaint form in the Officer's file, shall contain the terms of any agreement reached by Complainant and Respondent, and shall be signed and dated by the Complainant, the Respondent and the Affirmative Action Officer and Vice President and Dean of Students and Enrollment Management.
8. If the Vice President and Dean of Students and Enrollment Management is unable to resolve the complaint to the mutual satisfaction of the Complainant and Respondent within 24 calendar days from the filing of the complaint, the Officer shall so notify the Complainant. The Affirmative Action Officer shall again advise the Complainant of his or her right to proceed to the next step internally and/or the right to separately file with appropriate external enforcement agencies. The time limitations set forth above in paragraphs 7 and 8, may be extended by mutual agreement of the Complainant and Respondent with the approval of the Vice President and Dean of Students and Enrollment Management. Such extension shall be confirmed in writing by the Complainant and Respondent.
9. At any time, subsequent to the filing of the complaint form, under Part A, the Complainant may elect to proceed as specified in Part B of this document and forego the informal resolution procedure.

PART B: THE FORMAL COMPLAINT PROCEDURE

1. The formal complaint proceeding is commenced by the filing of a complaint form as described in Part A (4). The 90 day time limit also applies to the filing of a formal complaint.
2. If the Complainant first pursued the informal process and subsequently wishes to pursue a formal complaint, he/she may do so by checking the appropriate box, and signing and dating the complaint form.
3. The complaint, together with a statement, if applicable, from the Affirmative Action Officer indicating that informal resolution was not possible, shall be forwarded to the Chairperson of the Campus A.W.A.R.E. Committee within 10 calendar days from the filing of the formal complaint.
4. If an informal resolution was not pursued, the Affirmative Action Officer shall forward the complaint to the Chairperson of the Campus A.W.A.R.E. Committee within 10 calendar days from the filing of the complaint.
5. Upon receipt of a complaint, the Affirmative Action Officer will provide an initialed, signed, date-stamped copy of the complaint to the Complainant. As soon as reasonably possible after the date of filing of the complaint, the Affirmative Action Officer will mail a notice of complaint and a copy of the complaint to the Respondent(s). Alternatively, such notice with a copy of the complaint may be given by personal delivery, provided such delivery is made by the Affirmative Action Officer (or designee) and, that proper proof of such delivery, including the date, time and place where such delivery occurred is entered in the records maintained by or for the Affirmative Action Officer.

6. Within 10 calendar days of receipt of the complaint, the Chairperson of the Campus A.W.A.R.E. Committee shall send notification to the Complainant, the Respondent and the Campus President that a review of the matter shall take place by a Tripartite Panel to be jointly selected by the Complainant and the Respondent from a pre-selected pool of eligible participants.
7. The Tripartite Panel shall consist of one member of the pre-selected pool chosen by the Complainant, one member chosen by the Respondent and a third chosen by the two designees. The panel members shall choose a Chair amongst themselves. Selection must be completed and written notification of designees submitted to the Chairperson of the Campus A.W.A.R.E. Committee no later than 10 calendar days after the Complainant, the Respondent and the President received notice under Paragraph 6 above. If the President is the Respondent, then the third member of the panel shall be elected by the Chancellor or designee in System Administration.
8. In the event that the procedural requirements governing the selection of the Tripartite Panel are not completed within 10 calendar days after notification, the Chairperson of the Campus A.W.A.R.E. Committee shall complete the selection process.
9. The Tripartite Panel shall review all relevant information, interview pertinent witnesses and, at their discretion, hear testimony from and bring together the Complainant and the Respondent, if desirable. Both the Complainant and the Respondent(s) shall be entitled to submit written statements or other relevant and material evidence and to provide rebuttal to the written record compiled by the Tripartite Panel.
10. Within 48 calendar days from the completion of selection of the Panel, the Chairperson of the Tripartite Panel shall submit a summary of its findings and the Panel's recommendation(s) for further action, on a form to be provided by the Affirmative Action Officer, to the President. If the President is the Respondent, the findings and recommendation shall be submitted to the Chancellor or his/her designee. When the Panel transmits the recommendation to the President, the Panel shall transmit concurrently, copies to the Complainant, Respondent and the Affirmative Action Officer.
11. Within 24 calendar days of receipt of the written summary, the President or designee shall issue a written statement to the Complainant and Respondent, indicating what action the President proposes to take. The action proposed by the President or designee, may consist of:
 - a) A determination that the complaint was not substantiated.
 - b) A determination that the complaint was substantiated.
 - i. For Employees (including student employees) not in a Collective Bargaining Unit – The President may take such administrative action as he/ she deems appropriate under his/her authority as the chief administrative officer of the college, including but not limited to termination, demotion, reassignment, suspension, reprimand, or training.
 - ii. For Students – The President may determine that sufficient information exists to refer the matter to the student judiciary or other appropriate disciplinary panel for review and appropriate action under the appropriate student conduct code.
 - iii. For Employees in Collective Bargaining Units – The President may determine that sufficient information exists to refer the matter to his/her designee for investigation and disciplinary action or other action as may be appropriate under the applicable collective bargaining agreement. The action of the President shall be final.

If the President is the Respondent, the Chancellor or his designee shall issue a written statement indicating what action the Chancellor proposes to take. The Chancellor's decision shall be final for purposes of this discrimination procedure.

12. No later than 10 calendar days following issuance of the statement by the President or the Chancellor, as the case may be, the Affirmative Action Officer shall issue a letter to the Complainant and to the Respondent(s) advising them that the matter, for purposes of this discrimination procedure, is closed.

THE TIME LIMITATIONS SET FORTH ABOVE IN PARAGRAPHS 6, 7, 8, 10, 11, AND 12, MAY BE EXTENDED BY MUTUAL AGREEMENT OF THE COMPLAINANT AND RESPONDENT WITH THE APPROVAL OF THE PANEL. SUCH EXTENSION SHALL BE CONFIRMED IN WRITING.

13. If the Complainant is dissatisfied with the President's or Chancellor's decision, the Complainant may elect to file a complaint with one or more State and Federal agencies. The Campus Affirmative Action Officer will provide general information on State and Federal guidelines and laws, as well as names and addresses of various enforcement agencies (see Appendix B).

Internal Discrimination/Grievance Procedure

PURPOSE

In its continuing effort to seek equity in education and employment and in support of federal and state anti-discrimination legislation, Columbia-Greene Community College established a grievance procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination on the basis of race, color, national origin, religion, age, gender, disability, marital status, or sexual orientation.

This grievance procedure for the review of allegations of discrimination provides a specific mechanism through which the College may identify and eliminate incidents of illegal discrimination. The College recognizes and accepts its responsibility in this area and establishes this internal, non-adversarial grievance process to benefit students, faculty, staff, and administration.

This procedure, which may be used by any Columbia-Greene Community College student, or employee, is not intended to supplant or duplicate any already existing grievance procedures. Employee grievance procedures established through negotiated contracts, academic grievance review committees, student disciplinary grievance boards, or any other procedure defined by contract or local by-laws will continue to operate as before.

Neither does this procedure deprive a complainant of the right to file with outside enforcement agencies, such as the New York State Division of Human Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights of the Department of Education, or the Wages and Hours Division of the Department of Labor.

COVERAGE

This procedure may not be used if the complainant has already filed a complaint about the same incident with a state or federal agency. Any investigation or review under way will terminate without conclusion at any time a formal complaint is filed with a state or federal agency, or a court action is indicated on the same grievance.

DISCRIMINATION COMPLAINT PROCEDURE

The College is committed to resolving affirmative action/equal opportunity grievances informally and internally whenever possible. The President and the Affirmative Action Officer (AAO) or Vice President and Dean of Students and Enrollment Management encourage employees and students to bring complaints to the AAO, who will assist the complainant in defining the charge and inform the complainant about both formal and informal procedures.

1. A statement describing the alleged discriminatory act must be submitted by the student or employee in writing within six months following the alleged discrimination knowledge of the alleged act, if that day is later.
2. The AAO or Vice President and Dean of Students and Enrollment Management will seek to resolve the complaint informally. If a resolution satisfactory to both complainant and respondent is reached within 21 working days, the officer will close the case, sending a written notice to that effect to the complainant and the respondent (if appropriate).
3. If the AAO or Vice President and Dean of Students and Enrollment Management is unable to resolve the complaint satisfactorily to both parties, the officer will notify the complainant of the right to proceed to the next formal step internally or to file with appropriate enforcement agencies (Division of Human Rights of New York State or Equal Employment Opportunity Commission, Washington, DC) immediately.
4. If the complainant chooses the internal grievance procedure, the complainant will notify the AAO or Vice President and Dean of Students and Enrollment Management in writing within 10 working days from the time of notification by the AAO that the issue cannot be resolved informally.
5. The AAO or Vice President and Dean of Students and Enrollment Management will also notify the AA committee chairperson and the President that an ad hoc tripartite committee shall be selected from the campus community. This committee shall be selected from the campus community. The committee shall consist of one member chosen by the respondent, one member chosen by the complainant, and a grievance chairperson selected from the A.W.A.R.E. committee by both ad hoc committee members. If no member of the A.W.A.R.E. committee is acceptable to the two ad hoc committee members, they will search for another candidate in the College community. The Title IX/504 Officer shall be an ex officio member of the committee.
6. The ad hoc committee shall conduct a hearing. At such a hearing, witnesses may be called by the complainant, the respondent, and the committee. A stenographic record or tape recording will be made of such a hearing. The ad hoc committee will submit a written statement to the President as to whether or not discrimination has occurred within 15 working days from the time the selection of the committee is completed.
7. Within 10 days of the receipt of the ad hoc committee's statement, the president shall communicate the ad hoc committee's statement verbatim to the complainant, the AAO, and to the respondent, with a statement indicating acceptance or rejection of the committee's recommendation. The President will communicate the redress and /or disciplinary action to the complainant and the AAO.

8. If a committee cannot be selected within 10 days, the A.W.A.R.E. committee chairperson will be notified. A request for extension will be submitted to the AAO and proper action taken.

Contact persons:

Dr. Joseph Watson, Vice President and Dean of Students and Enrollment Management

Phone: (518) 828-4181, ext. 3364

Melissa Fandozzi, Director of Human Resources

Phone: (518) 828-4181, ext. 3337

Off-Campus Resolution of Grievances

A complainant dissatisfied with any portion of the grievance procedure may file a formal complaint with the appropriate state or federal agency. The AAO or Vice President and Dean of Students and Enrollment Management will provide information on state and federal guidelines and laws and names and addresses of enforcement agencies.

Harassment, Sexual Harassment, Bias Crimes and Hate Crimes Prevention

It is the policy of C-GCC to follow this sequence in dealing with issues related to the following issues:

- Harassment
- Sexual Harassment
- Bias Crimes
- Hate Crimes

1. Harassment

Our community depends on trust and civility. A willingness to recognize the dignity and worth of each person at Columbia-Greene Community College is essential to our mission. The college celebrates the diversity of its community. We come from many different backgrounds and include different races, religions, and ethnic ancestry.

Learning to understand the differences among us, as well as the similarities, is an important dimension of education, one that continues for a lifetime. Tolerance alone, however, is not enough. Respect and understanding are also needed. We should delight in our differences, and should seek to appreciate the richness and personal growth which our diversity provides us as members of the community. It is, therefore, the intention of Columbia-Greene Community College to provide equal opportunity to qualified individuals in the operation of its program, in work and academic environments that are conducive to the achievement of work and academic goals, and free of any implicit or explicit forms of harassment. For the purposes of this policy, the term harassment refers to any behavior, verbal or physical, or electronic, that attacks, demeans, or offends individuals on the bases of race, ethnic or national origin, gender, handicap, religion or sexual orientation and that:

- Involves a stated or implicit threat to the victim's academic or employment status;
- Has the purpose or effect of interfering with an individual's academic or work performance; and/or creates an intimidating or offensive academic or work environment.

The college regards such behavior, whether verbal, physical, or electronic, as a violation of the standards of conduct required of all persons associated with the institution. The prohibition against harassment applies to all interaction on the college campus, in college facilities or within the context of college related activities. We expect members of our college community to demonstrate a basic generosity of spirit that precludes expressions of bigotry. Accordingly, those inflicting such behavior on others are subject to the full range of the college's disciplinary actions, including separation from the institution.

Not every act that might be offensive to an individual or a group necessarily will be considered as harassment and/or a violation of the college's standards of conduct. In determining whether an act constitutes harassment, the totality of the circumstances that pertain to any incident in its context must be carefully reviewed and due consideration must be given to the protection of individual rights, freedom of speech, academic freedom, and advocacy. Essential components of offenses include intent to hurt or harass, direct address to the people involved, and expression in words, pictures or symbols that are commonly understood to convey hatred or contempt for the people in question. To expedite the investigation and resolution of complaints, should they arise, the college has developed both informal and formal mechanisms for mediation, resolution, and adjudication. Those individuals who honestly believe they have been a victim of harassment should contact the college Affirmative Action Officer to obtain a copy of the Harassment Complaint Procedure.

2. Sexual Harassment

Sexual harassment is against the law and a violation of the non-discriminatory policy of Columbia-Greene Community College. Harassment on the basis of sex is a violation of federal law including Section 703 of Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. It is also a violation of New York State's human rights law. Sexual harassment, like harassment based on race, color, national origin, or religion, will not be condoned by Columbia-Greene Community College, whether it occurs in our educational programs or at our work place.

Contact person:

Dr. Joseph Watson, Vice President and Dean of Students and Enrollment Management

Phone: (518) 828-4181, ext. 3364

WHAT IS SEXUAL HARASSMENT?

Sexual harassment is any repeated and/or unwelcome verbal or physical sexual advance, requests for sexual favors, sexually explicit derogatory remarks, and sexually discriminatory remarks that are offensive or objectionable to the person at whom they are directed or that cause a person discomfort or humiliation. Sexual harassment in an academic environment may involve the use of authority to emphasize the sexuality of a student in a manner that prevents a student from achieving full benefit from educational opportunities.

IT MAY INCLUDE:

- Verbal harassment or abuse
- Subtle pressure for sexual activities
- Touching, patting or pinching
- Leering at a person's body
- Constant brushing against a person's body
- Demands for sexual favors accompanied by implied or overt threats concerning one's job performance, evaluation, promotion, or course grades
- Physical assault

WHAT CAN YOU DO ABOUT SEXUAL HARASSMENT?

1. **DO NOTHING:** This is not a good idea, because in most cases, ignoring the harassment only leads to a continuation of the problem. Also, ignoring the harasser may cause him or her to punish the victim in some way. Finally, sexual harassers tend to be repeaters; even if you solve your own problem by ignoring it, the harasser is likely to move on to another victim.
2. **SAY NO:** Say it firmly without smiling or apologizing. At the same time keep a record of any harassment incidents, including dates, times, places, and witnesses. Write down directly the phrases the harasser says to you. Save any notes or letters from the harasser. Also be sure to keep all information in a safe place.
3. **TALK TO THE HARASSER:** Make it clear what it is that offends you, how these actions make you feel, and what you want done about the problem. If you are uncomfortable with direct confrontation, write the harasser a letter. Keep a copy of the letter.
4. **COMPLAIN TO SOMEONE:** Talk to your supervisor (If the harasser is your supervisor, talk to his/her supervisor), to a teacher, counselor, or administrator you trust, or to the Affirmative Action Officer (AAO).

WHAT HAPPENS WHEN YOU COMPLAIN ABOUT SEXUAL HARASSMENT?

All complaints will be investigated. Your complaint will be kept confidential, to the extent possible. Whether you complain directly to the AAO or Vice President and Dean of Students and Enrollment Management or to someone else, your complaint will remain private, unless you wish it otherwise. Your complaint will be referred to the AAO or Vice President and Dean of Students and Enrollment Management, if you want it to be. The AAO or Vice President and Dean of Students and Enrollment Management will hear your complaint and attempt to solve the problem informally. If the informal resolution fails, you can file a formal grievance under the procedure referred to below.

If you do not want your identity revealed to the Affirmative Action Officer (AAO) or Vice President and Dean of Students and Enrollment Management, the person you complain to will report to the AAO or Vice President and Dean of Students and Enrollment Management that a complaint has been made. A complaint will not be written down by the AAO or Vice President and Dean of Students and Enrollment Management, unless the complainant speaks to him/her directly. When it is written down, the complaint should be shared with the respondent. Remember, telling someone about your problem does not mean you have to file a grievance. Sharing your experience is the first step in the process. You decide if the complaint should be pursued further. Filing a grievance is serious business, and any charge should be made responsibly.

WHAT IS THE GRIEVANCE PROCEDURE?

1. A statement describing the alleged sexual harassment must be submitted by the student or employee in writing within six months following the alleged sexual harassment or knowledge of the alleged sexual harassment, if that day is later.
2. The AAO or Vice President and Dean of Students and Enrollment Management will seek to resolve the complaint informally. If a resolution satisfactory to both complainant and respondent is reached within 21 working days, the officer will close the case, sending a written notice to that effect to the complainant and respondent (if appropriate).
3. If the Vice President and Dean of Students and Enrollment Management is unable to resolve the complaint satisfactorily to both parties, the Vice President and Dean of Students and Enrollment Management will notify the complainant of the right to proceed to the next formal step internally or to file with appropriate enforcement agencies (Division of Human Rights of New York State or Equal Employment Opportunity Commission, Washington, DC) immediately.
4. If the complainant chooses the internal grievance procedure, the complainant will notify the AAO or Vice President and Dean of Students and Enrollment Management in writing within 10 working days that the issue cannot be resolved informally.
5. The AAO will also notify the A.W.A.R.E. Committee chairperson and the President that an ad-hoc tripartite committee is being selected from the campus community. This committee shall consist of one member chosen by the complainant, one chosen by the respondent, and a chairperson selected from the A.W.A.R.E. by both ad hoc committee members. If no member of the A.W.A.R.E. Committee is acceptable to the two ad hoc committee members, they will search for another candidate in the College community. The Title IX/504 Officer shall be an ex-officio member.

6. The ad hoc committee shall conduct a hearing. At such a hearing, witnesses may be called by the complainant, the respondent, and the committee. A stenographic record or tape recording will be made at such a hearing. The ad-hoc committee will submit a written statement to the President as to whether or not harassment has occurred within 15 working days from the time the selection of the committee is completed.
7. Within 10 days of the receipt of the ad hoc committee's statement, the President shall communicate the ad hoc committee's statement verbatim to the complainant, the AAO, and to the respondent, with a statement indicating acceptance or rejection of the committee's recommendation. The President will communicate the redress and/or disciplinary action to the complainant and the AAO.
8. If a committee cannot be selected within 10 days, the A.W.A.R.E committee chairperson will be notified. A request for extension will be submitted to the AAO and proper action taken.

Sexual Assault Prevention

SEXUAL ASSAULT AND THE LAW

The State University of New York has programs in place to protect all members of Columbia-Greene Community College community from sexual assault, including programs for prevention and prosecution of these crimes that occur within the jurisdiction of SUNY at Columbia-Greene Community College.

NYS Law contains the following legal provisions defining the crimes related to sexual assault:

Section 130.20 – Sexual Misconduct.

This offense includes sexual intercourse without consent and deviate sexual intercourse without consent. The penalty for violation of this section includes imprisonment for a definite period to be fixed by the court up to one year.

Section 130.25/30/35 – Rape.

This series of offenses includes sexual intercourse with a person incapable of consent because of the use of forcible compulsion or because the person is incapable of consent due to a mental defect, mental incapacity, or physical helplessness. This series of offenses further includes sexual intercourse with a person under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed four years up to imprisonment for a period not to exceed 25 years.

Section 130.40/45/50 – Criminal Sexual

Act. This series of offenses includes oral or anal sexual conduct with a person incapable of consent because of the use of forcible compulsion or because the person is incapable of consent due to a mental defect, mental incapacity, or physical helplessness. This series of offenses further includes oral or anal sexual conduct with a person under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed four years up to imprisonment for a period not to exceed 25 years.

Section 130.52 - Forcible Touching.

This offense involves the forcible touching of the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. Forcible touching includes the squeezing, grabbing, or pinching of such other person's sexual or other intimate parts. The penalty for violation of this section includes imprisonment for a period of up to one year in jail.

Section 130.55/.60/.65 – Sexual Abuse.

This series of offenses includes sexual contact with a person by forcible compulsion, or with a person who is incapable of consent due to physical helplessness, or due to the person being under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed three months up to imprisonment for a period not to exceed seven years.

Section 130.65-a/.66/.67/.70 – Aggravated Sexual Abuse.

This series of offenses occurs when a person inserts a finger or a foreign object in the vagina, urethra, penis or rectum of another person by forcible compulsion, when the other person is incapable of consent by reason of being physically helpless, or when the other person is under the age of consent. The level of this offense is enhanced if the insertion of a finger or foreign object causes injury to the other person. The penalties for violation of these sections range from imprisonment for a period not to exceed seven years up to imprisonment for a period not to exceed 25 years.

If you are sexually or otherwise assaulted on campus:

- Get to a safe place as soon as you can.
- Try to preserve all physical evidence; do not bathe, douche, or change your clothes.
- Contact the campus security immediately (call 911 in an emergency, or use a campus emergency phone).

Remember, assaults – sexual or otherwise – are crimes; they are not the victims' fault. Victims have the right to pursue adjudication of crimes that occur at Columbia-Greene Community College through criminal courts and/or through the college's internal disciplinary process (under the Campus Code of Conduct). Columbia-Greene Community College Security Director is trained to assist with prosecution in both systems.

DISCIPLINARY ACTION

Where there is probable cause to believe the college's regulations prohibiting sexual misconduct have been violated, the college will pursue strong disciplinary action through its own channels. This discipline includes the possibility of suspension or dismissal from the college.

An individual charged with sexual misconduct will be subject to college disciplinary procedures, whether or not prosecution under New York State Criminal Statutes is pending.

The college will make every effort to be responsive and sensitive to the victims of these serious crimes. Protection of the victim and prevention of continued trauma is the college's priority.

When the victim and the accused attend the same class, an immediate hearing with the Vice President and Dean of Students and Enrollment

Management will be held to determine the need for modifying the class arrangements. Assistance for any other personal or academic concerns will be reviewed and options provided.

During the disciplinary process, the victim's rights are:

- To have a person or persons of the victim's choice accompany the victim throughout the disciplinary hearing.
- To remain present during the entire proceeding.
- As established in state criminal codes, to be assured that his/her irrelevant past sexual history will not be discussed during the hearing.
- To make a "victim impact statement" and accused is found in violation of the code.
- To be informed immediately of the outcome of the hearing.
- During the disciplinary process, the rights of the "accused" are as described under the due process procedure of the college judicial system.

INFORMATION AND SUPPORT

If you are the victim of sexual assault or sexual misconduct, you may seek support services as well as the assistance described above from the REACH Center College Advocate.

EDUCATIONAL PROGRAMS

Educational programs to promote awareness of rape, acquaintance rape, and sex offenses are presented to the campus community. Student Services staff provides programs throughout the year.

SEXUAL ASSAULT AND AWARENESS

- Be aware of your surroundings, whenever possible stay in well-lighted areas, walk where there are clusters of people, know the location of public phones, vary travel routes, and walk facing traffic.
- Avoid playing music or using headphones, especially when walking after dark or in isolated areas.
- If you think someone in a car is following you, cross the street and walk on the opposite side. If the person persists, record the license number and report it to the security or police department.
- If someone persists in following you, walk toward a classroom building, lighted or busy area, or into a store. Do not walk directly to your car; it could lead the attacker to you. Do call campus security or the police or ask someone in a classroom building or store to do so for you.
- If you are carrying packages, books, and bags, you should be prepared to drop them. Nothing you are carrying is as valuable as you are. Do not hitchhike or take rides from strangers.
- Avoid walking alone at night. If you need an escort, call campus security, and they will accompany you to your car.
- Have your keys in your hand when you approach your car and check the back seat before you get in. As soon as you get in, lock the doors. Always lock your parked car.
- Always carry enough money for an emergency phone call.
- If you think someone is following you or if someone is bothering you, say in a loud voice, "Leave me alone!" Others around you will become aware of the problem, and the attacker may leave.
- Always report an on-campus incident or suspected incident to campus security, the Vice President and Dean of Students and Enrollment Management, or any other College official. Adapted from: AVOIDING RAPE ON AND OFF CAMPUS, Carol Andrews Pritchard, M.A. State College Publishing Co., 1988

Contact persons:

Dr. Joseph Watson, Vice President and Dean of Students and Enrollment Management

Phone: (518) 828-4181 Ext 3364

Catherine M. Tretheway: Registrar

Phone: (518) 828-4181 Ext 3361

SELF PROTECTION:

- Know you have the right to set sexual limits: You may have different limits with different people. Your limits may change. It is a good idea to know what you want or don't want before you end up in the back seat of a car.
- Communicate those limits. Get them across to the other person. E.S.P. doesn't work.
- Trust your feelings. If you feel you are being pressured into unwanted sex, you're right.
- Pay attention to behavior that doesn't seem right, such as: someone sitting too close to you, someone who blocks your way, someone who grabs or pushes you to get his way, someone who disregards what you are saying, and someone who gives power stares.
- Be assertive. Don't be afraid to get angry when someone does something to you that you don't want. Act immediately with some kind of negative response. Stand up for yourself.

NINE WARNING SIGNS OF DATING VIOLENCE AND DATE RAPE

- Poor communication or problem solving skills. Failure to communicate expectations, constant misunderstandings, making assumption, lack of assertiveness, not knowing how to negotiate differences.
- Constant Arguments. Arguments that get out of hand, are frequent or constant, and have escalating verbal aggression.
- Excessive or compulsive use of alcohol or drugs (especially in combination with any other factors).
- Stress. Economic, academic, family pressures, loneliness, jealousy.
- Low self-esteem. Tendency to defer to others' feelings or opinions because of feeling inadequate.
- Abusive family background.
- High degree of interdependence. Partners who physically, socially, emotionally, economically rely on each other to the exclusion of others.
- Large power differential. One partner is perceived to be stronger physically and emotionally.
- Incidence of violence in a previous relationship.

WHAT TO DO IF YOU ARE SEXUALLY ASSAULTED:

- Get to a safe place and call a supportive friend and/or The REACH Center at (518) 828-5556.
- Don't wash, douche, gargle or change clothes before going to the hospital or police.
- If you would like police involvement, call 911 or the local police.
- It is important to go to a hospital for treatment of external and internal injuries, tests for AIDS and pregnancy and gathering of medical evidence. A rape crisis counselor is on call 24 hours a day and will meet you at the emergency room if you call the hot-line at 828-5556. Bring a complete change of clothing with you, including shoes. The hospital does not release medical evidence to the police without your written consent.
- The REACH Center does not report the crime to the police. Reporting is your choice.
- If you decide not to go to the police immediately, write down all the details of the assault and save them in case you change your mind.

REPORTING AGENCIES

Campus Security:	Extension 3208
Greenport Police:	828-6121
Columbia County Sheriff:	828-3344
New York State Police:	851-3111

CONFIDENTIAL ASSISTANCE AND REFERRAL

VP and Dean of Students and Enrollment Management:	Extension 3320
Director of Special Services:	Extension 3437
Counseling Office:	Extension 3396
REACH Center – On-Campus	Extension 3179
REACH Center – Off Campus	(518) 828-5556
Columbia County Mental Health Center	(518) 828-9446
Greene County Mental Health Services	(518) 622-9163
AIDS hotline	445-AIDS

DRUG FACILITATED SEXUAL ASSAULT

Facilitating a sex offense with a controlled substance:

The SARA Act creates a new offense in Penal Law & 130.90 A person is guilty of facilitating a sex offense with a controlled substance when he or she: 1) knowingly and unlawfully possesses a controlled substance and administers such substance to another person without such person's consent and with intent to commit again such person conduct constituting a felony defined in [Penal Law article 130]; and 2) commits or attempts to commit such conduct (D Felony). Consecutive Sentence Permissible: SARA adds a new subdivision 2-f to Penal Law & 70.25, which provides that a court may impose consecutive sentences for facilitating a sex offense with a controlled substance and the Article 130 substantive offense arising from the same criminal transaction.

Penalty Enhancement For Committing Sex Crime Upon Victim Who is "Mentally Incapacitated" Upgrades offenses committed against a "mentally incapacitated" victim to "D" felony, Rape in the Second Degree, P.L. & 130.30 (2); Sodomy in the Second Degree, P.L. & 130.45 (2).

Aggravated Sexual Abuse 3rd degree: Expands Penal Law & 130.66 by adding a new subdivision (2) to cover instances where this crime is committed upon a "mentally incapacitated" victim. (D Felony)

Rape 3rd degree: [Penal Law & 130.25 (1)] and Sodomy 3rd degree: [Penal Law & 130.40(1)], are unchanged and may be charged additionally or in the alternative, in cases where the victim is incapable of consent by reason of some factor other than being less than 17 years old. (E Felonies)

Note: *People v. DiNoia*, 105 A.D.2d 799, 481 NYS 2d 738 (2d Dept 1984), prosecution under "mentally incapacitated" theory need not specify precise substance utilized or whether defendant administered the substance; see also, *Rapetti v. James*, 784 F.2d 85 (2nd Cir. 1986).

GHB Gamma Hydroxybutyric Acid: Amends New York's schedule of controlled substances, making its possession and sale illegal by adding a new paragraph 4 to make GHB a schedule I drug. The Legislature will provide the weight (amount) it will take to be a schedule I via amendment to be added later. GHB is listed separately in Public Health Law & 3306, Schedule I (e), P 4 and Schedule III (c), P 12. Unless amended, this dual listing may cancel legislative intent to make GHB illegal.

SEXUAL ASSAULT REFORM SYNOPSIS

Programmatic elements

- Crime Victims Board reimbursement – Allows documentation of a hospital visit where a medical/forensic exam occurred to establish eligibility for CVB compensation. The survivor will have to follow the regular procedure and file a claim. This means that many hospitals are not reimbursed for care.
- Statutory funding for rape crisis programs – The bill puts into law that funding for rape crisis programs must exist. It defines what constitutes a rape crisis program.
- Designation of Sexual Assault Examiner Programs – The legislation states that the Commissioner of Health will designate sexual assault examiner programs throughout the state. Criteria are given by which to determine eligibility for the sites of these programs.

New Crimes

- Creates new crime of forcible touching – When a person “intentionally and for no legitimate purpose” forcibly touches the sexual or other intimate parts of another person – Class A misdemeanor.
- Healthcare and mental health provider – Makes it illegal for a health care or mental health provider as defined in the law to have sexual intercourse with a patient during a treatment session. However, there is a defense that if the provider can show that he/she informed the client that intercourse was not a part of the treatment, and the client consented, then a crime has not occurred Class E felony.
- Workers in Office of Children and Family Services facilities – prohibited from having sexual contact with residents of those facilities. This amends an earlier law which established such protection for incarcerated adults.
- Facilitating a sex offense with a controlled substance – GHB was “scheduled” so that it’s illegal use is criminal. In addition, committing a sex crime by using GHB is now a D level felony.
- Creates the crime of persistent sexual abuse for repeat sexual offenders – E level felony.
- Creates the crime of Aggravated Sex Abuse IV that broadens conditions under which aggravated sexual abuse can be charged -E level felony.

New Provisions

- Creates a new condition for an E level felony for consent, that of expressing by word or act non-consent to intercourse – an alternative “no means no” provision which creates a middle crime between a B level felony (the highest sexual assault category) and an A level misdemeanor.
- Age changes
 1. Rape I and Sodomy I can be charged to anyone over the age of 18 who engages in sexual intercourse with someone under the age of 13 (Current law is under age 11).
 2. Rape II and Sodomy II can be charged to anyone 18 or older when the victim is less than 15 years old. (Current law is less than 14 years old.)
 3. Age of “swearability” – the new law lowers the age of “swearability” from 12 to 9, eliminating a separate hearing to determine whether children between the ages of 9 and 12 can provide testimony in a court of law.
 4. Promotion of sexual performances by a child or obscene sexual performances by a child is now prosecutable for victims under the age of 17 (current law is 16).

- A provision for prosecutors who failed in discovery to reveal some non-essential document to the defense that this failure cannot result in a vacated conviction of the case.
- Provisions in the Course of Sexual Conduct against a child in the 1st degree and 2nd degree which stipulate that someone 18 years of age or older who engages in two or more acts of sexual conduct with a child less than 13 years of age over a three month period will receive specific charges.

Contact persons:

Dr. Joseph Watson, Vice President and Dean of Students and Enrollment Management

Phone: (518) 828-4181, ext. 3364

Catherine M. Tretheway, Registrar

Phone: (518) 828-4181, ext. 3361

OFFENDERS/BAIL/SENTENCING PROVISIONS

1. Convicted sex offender changes
 - Mandated probation and parole conditions are added for released convicted child molesters to keep them away from child settings, such as playgrounds and schoolyards.
 - Harsher penalties and determinate sentences for repeat sex offenders and longer periods of probation and parole for persistent child molesters. This includes 10 years of probation for any felony sexual assault and 6 years for a misdemeanor sexual assault charge.
 - No bail for those convicted of B or C level violent felonies, even on appeal.
 - Whereby internet accounts and screen names must be added to aliases of registered sex offenders.
 1. Five years will be added to the maximum sentence of a defendant who engaged in sex with a child after contacting his/ her victim through the Internet.
 2. The “900” number used to receive information about convicted sexual offenders will notify callers about the charge (lowered from \$5.00 to \$.50) and provide basic information about the packet of materials that is available.

3. Bias Crimes

It is a State University of New York at Columbia-Greene Community College mandate to protect all members of the Columbia-Greene Community College community by preventing and prosecuting bias or hate crimes that occur within the campus's jurisdiction.

Hate crimes, also called bias crimes or bias-related crimes, are criminal activity motivated by the perpetrator's bias or attitude against an individual victim or group based on perceived or actual personal characteristics, such as their race, religion, ethnicity, gender, sexual orientation, or disability. Hate/bias crimes have received renewed attention in recent years, particularly since the passage of the federal Hate/ Bias Crime Reporting Act of 1990 and the New York State Hate Crimes Act of 2000 (Penal Law Article 485). Copies of the New York law are available from The Vice President and Dean of Students and Enrollment Management Office and The Office of Human Resources.

Penalties for bias-related crimes are very serious and range from fines to imprisonment for lengthy periods, depending on the nature of the underlying criminal offense, the use of violence or previous convictions of the offender. Perpetrators who are students will also be subject to campus disciplinary procedures where sanctions including dismissal are possible.

In addition to preventing and prosecuting hate/ bias crimes, Columbia-Greene Community College Security also assist in addressing bias-related activities that do not rise to the level of a crime. These activities, referred to as bias incidents and defined by the University as acts of bigotry, harassment, or intimidation directed at a member or group within the Columbia-Greene Community College community based on national origin, ethnicity, race, age, religion, gender, sexual orientation, disability, veteran status, color, creed, or marital status, may be addressed through the State University's Discrimination Complaint Procedure or the campus conduct code. Bias incidents can be reported to Security as well as to Vice President and Dean of Students and Enrollment Management.

If you are a victim of, or witness to, a hate/bias crime on campus, report it to a Security Officer or Vice President and Dean of Students and Enrollment Management by calling the switchboard operator at extension 0 or by stopping by the Security or Vice President and Dean of Students and Enrollment Management offices. The Office of Safety and Security and the Vice President and Dean of Students and Enrollment Management will investigate and follow the appropriate adjudication procedures.

Victims of bias crime or bias incidents can avail themselves of counseling and support services from the campus as follows: REACH Center Campus Advocate, Counseling, Career and Transfer Services, Vice President and Dean of Students and Enrollment Management, Health Services and Special Services Offices.

For general information on Columbia-Greene Community College security procedures, see p. 17 of the Student Handbook, or call 518-8284181 ext.3364. More information about bias-related and bias crimes, including up-to-date statistics on bias crimes is available from Vice President and Dean of Students and Enrollment Management Office.

4. Hate Crimes

SECTION 485.00 LEGISLATIVE FINDINGS OF NYS HATE CRIMES ACT OF 2000

The legislature finds and determines as follows: criminal acts involving violence, intimidation and destruction of property based upon bias and prejudice have become more prevalent in New York State in recent years. The intolerable truth is that in these crimes, commonly and justly referred to as “hate crimes”, victims are intentionally selected, in whole or in part, because of their race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation. Hate crimes do more than threaten the safety and welfare of all citizens. They inflict on victims incalculable physical and emotional damage and tear at the very fabric of free society.

Crimes motivated by invidious hatred toward particular groups not only harm individual victims but send a powerful message of intolerance and discrimination to all members of the group to which the victim belongs. Hate crimes can and do intimidate and disrupt entire communities and vitiate the civility that is essential to healthy democratic processes.

In a democratic society, citizens cannot be required to approve of the beliefs and practices of others, but must never commit criminal acts on account of them. Current law does not adequately recognize the harm to public order and individual safety that hate crimes cause. Therefore, our laws must be strengthened to provide clear recognition of the gravity of hate crimes and the compelling importance of preventing their recurrence.

Accordingly, the legislature finds and declares that hate crimes should be prosecuted and punished with appropriate severity.

SECTION A7 485.05 HATE CRIMES

1. A person commits a hate crime when he or she commits a specified offense and either:
 - a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or
 - b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.
2. Proof of race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the people’s burden under paragraph (a) or (b) of subdivision one of this section.

3. A “specified offense” is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); subdivision one of section 130.35 (rape in the first degree); subdivision one of section 130.50 (sodomy in the first degree); subdivision one of section 130.65 (sexual abuse in the first degree); paragraph (a) of subdivision one of section 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of subdivision one of section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 kidnapping in the first degree); section 135.60 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); or any attempt or conspiracy to commit any of the foregoing offenses.
4. For purposes of this section:
 - a) the term “age” means sixty years old or more;
 - b) the term “disability” means a physical or mental impairment that substantially limits a major life activity.

SECTION A7 485.10 SENTENCING

1. When a person is convicted of a hate crime pursuant to this article, and the specified offense is a violent felony offense, as defined in section 70.02 of this chapter, the hate crime shall be deemed a violent felony offense.
2. When a person is convicted of a hate crime pursuant to this article and the specified offense is a misdemeanor or a class C, D or E felony, the hate crime shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit a specified offense, whichever is applicable.
3. Not with standing any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class B felony:
 - a) the maximum term of the indeterminate sentence must be at least six years if the defendant is sentenced pursuant to section 70.00 of this chapter;
 - b) the term of the determinate sentence must be at least eight years if the defendant is sentenced pursuant to section 70.02 of this chapter;
 - c) the term of the determinate sentence must be at least twelve years if the defendant is sentenced pursuant to section 70.04 of this chapter;
 - d) the maximum term of the indeterminate sentence must be at least four years if the defendant is sentenced pursuant to section 70.05 of this chapter; and
 - e) the maximum term of the indeterminate sentence or the term of the determinate sentence must be at least ten years if the defendant is sentenced pursuant to section 70.06 of this chapter.
4. Not with standing any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class A-1 felony, the minimum period of the indeterminate sentence shall be not less than twenty years.

Section A7 3. Subdivision 3 of section 240.30 of the penal law, as amended by chapter 345 of the laws of 1992, is amended to read as follows:

Strikes, shoves, kicks, or otherwise subjects another person to physical contact, or attempts or threatens to do the same because of [the] a belief or perception regarding such person's race, color, [religion or] national origin [of such person], ancestry, gender, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct; or

A7 4. The opening paragraph of section 240.31 of the penal law, as amended by chapter 958 of the laws of 1983, is amended to read as follows:

A person is guilty of aggravated harassment in the first degree when with intent to harass, annoy, threaten or alarm another person, because of [the] a belief or perception regarding such person's race, color, [religion or] national origin [of such person], ancestry, gender, religion, religious practice, age, disability or sexual orientation, regard less of whether the belief or perception is correct, he or she:

A7 5. Section 240.00 of the penal law is amended by adding two new subdivisions 5 and 6 to read as follows:

1. "Age" means sixty years old or more.
2. "Disability" means a physical or mental impairment that substantially limits a major life activity.

A7 6. (Intentionally Omitted.)

A7 7. Subdivisions 4 and 7 of section 200.50 of the criminal procedure law, subdivision 4 as amended by chapter 467 of the laws of 1974 and subdivision 7 as amended by chapter 481 of the laws of 1978, are amended to read as follows:

A statement in each count that the grand jury, or, where the accusatory instrument is a superior court information, the district attorney, accuses the defendant or defendants of a designated offense, provided that in any prosecution under article four hundred eighty-five of the penal law, the designated offense shall be the specified offense, as defined in subdivision three of section 485.05 of the penal law, followed by the phrase "as a hate crime"; and

A plain and concise factual statement in each count which, without allegations of an evidentiary nature, (a) asserts facts supporting every element of the offense charged and the defendant's or defendants' commission thereof with sufficient precision to clearly apprise the defendant or defendants of the conduct which is the subject of the accusation; and (b) in the case of any armed felony, as defined in subdivision forty-one of section 1.20, states that such offense is an armed felony and specifies the particular implement the defendant or defendants possessed, were armed with, used or displayed or, in the case of an implement displayed, specifies what the implement appeared to be; and (c) in the case of any hate crime, as defined in section 485.05 of the penal law, specifies, as applicable, that the defendant or defendants intentionally selected the person against whom the offense was committed or intended to be committed; or intentionally committed the act or acts constituting the offense, in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person; and in cooperation with the chief administrator of the courts as well as any other public or private agency, including law enforcement agencies, collect and analyze statistical and all other information and data with respect to the number of hate crimes reported to or investigated by the division of state police, and all other police or peace officers, the number of persons arrested for the commission of such crimes, the offense for which the person was arrested, the county within which the arrest was made and the accusatory instrument filed, the disposition of the accusatory instrument filed, including, but not limited to, as the case may be, dismissal, acquittal, the offense to which the defendant pled guilty, the offense the defendant was convicted of after trial, and the sentence imposed. The division shall include the statistics and other information required by this subdivision in the annual report submitted to the governor and legislature pursuant to subdivision twelve of this section.

Contact persons:

Dr. Joseph Watson, Vice President and Dean of Students and Enrollment Management

Phone: (518) 828-4181, ext. 3364

Earl Tretheway, Assistant Dean of Students

Phone: (518) 828-4181, ext. 3362