

## **Definition of Affirmative Consent**

**Affirmative Consent:** Affirmative consent is a clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity. Consent is active, not passive. Silence or lack of resistance cannot be interpreted as consent. Seeking and having consent accepted is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression. Consent may be initially given but withdrawn at any time. When consent is withdrawn or cannot be given, sexual activity must stop. Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness or being asleep, being involuntarily restrained, if any of the parties are under the age of 17, or if an individual otherwise cannot consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

## **Policy for Alcohol and/or Drug Use Amnesty in Sexual Violence Cases**

### **Drug Facilitated Sexual Assault**

The health and safety of every student at the State University of New York and its State-operated and community colleges is of utmost importance. Columbia-Greene Community College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time a sexual violence incident occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Columbia-Greene Community College strongly encourages students to report incidents of sexual violence to campus officials. A bystander reporting in good faith or a victim/survivor reporting sexual violence to Columbia-Greene Community College officials or law enforcement will not be subject to campus conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the sexual violence.

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 against 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 Violence Victim/Survivor Bill of Rights**

### **VAWA Statement of Victim/Survivor Bill of Rights**

The State University of New York and Columbia-Greene Community College are committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in College/University-wide and campus programs, activities, and employment. All victims/survivors of these crimes and violations, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad:

The right to:

- Have disclosures of sexual violence treated seriously.
- Make a decision about whether or not to disclose a crime or incident and participate in the conduct or criminal justice process free from outside pressures from college officials.
- Be treated with dignity and to receive from college officials courteous, fair, and respectful health care and counseling services.

- Be free from any suggestion that the victim/survivor is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such a crime.
- Describe the incident to as few individuals as practicable and not to be required to unnecessarily repeat a description of the incident.
- Be free from retaliation by the College, the accused, and/or their friends, family and acquaintances.
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of the College.

### **Options in Brief:**

Victims/survivors have many options that can be pursued simultaneously, including one or more of the following:

- Receive resources, such as counseling and medical attention
- Confidentially or anonymously disclose a crime or violation.
- Make a report to any one or more of the people or offices below:
  - An employee with the authority to address complaints, including the Title IX Coordinator, Registrar, or a Human Resources employee
  - Columbia-Greene Community College Security Office
  - Local law enforcement
  - Family Court or Civil Court

### **NOTE: *STATUTORY MANDATES***

- Nothing in this Statement of Principles and Rights shall be construed to preclude or in any way restrict the College from carrying out its duties under law to report suspected offenses to the appropriate law enforcement authorities. Except as required by law, the College will take care not to identify the victim/survivor.
- Nothing in this Statement of Principles and Rights shall be construed to preclude or in any way restrict the College from issuing a Community Notice when the College is aware of a reported sexual assault incident that potentially puts the campus community at risk. The College will take care not to identify the victim/survivor in such notices.

## **Sexual Violence Response Policy**

In accordance with the Victim/Survivor Bill of Rights, victims/survivors shall have the right to pursue more than one of the options below at the same time, or to choose not to participate in any of the options below:

### Reporting:

- To report *confidentially* the incident to one of the following College officials, who by law may maintain confidentiality, and can assist in obtaining services:
  - Student Health Center (518.828.4181 extension 3202)
  - Campus Security – (518.828.4181 extension 3208)
  
- To disclose *confidentially* the incident and obtain services from the New York State, New York City or county hotlines: <http://www.opdv.ny.gov/help/dvhotlines.html>. Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages: <http://www.opdv.ny.gov/help/index.html> (or by calling 1-800-942-6906), and assistance can also be obtained through:
  - SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints/>;
  - Legal Momentum: <https://www.legalmomentum.org/>;
  - NYSCASA: <http://nyscasa.org/responding>;
  - NYSADV: <http://www.nyscadv.org/>;
  - Pandora’s Project: <http://www.pandys.org/lgbtsurvivors.html>;
  - GLBTQ Domestic Violence Project: <http://www.glbtqdv.org/>; and
  - RAINN: <https://www.rainn.org/get-help>.
  - Safe Horizons: <http://www.safehorizon.org/>(note that these hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the campus. Victims/survivors are encouraged to additionally contact a coampus confidential or private resource so that the campus can take appropriate action in these cases).
  
- To report the incident to one of the following College officials who can offer *privacy* and can assist in obtaining resources (note that an official who can offer privacy may still be required by law and College policy to inform one or more College officials about the incident, including but not limited to the Title IX Coordinator):
  - Title IX Coordinator, 518-828-4181 extension 3337;
  - Campus Security, 518-828-4181 extension 3208;
  - Registrar, 518-828-4181 extension 3361;
  - Student Health Center, 518-828-4181 extension 3202;
  - Director of Athletics, 518-828-4181 extension 3556.

- To file a criminal complaint with Campus Security and/or local law enforcement:
  - a. Campus Security (518.828.4181 extension 3208)
  - b. Columbia County Deputy Sheriff (518.828.3344)
  - c. Greene County Sheriff (518.943.3300)
  - d. State Police (518.851.2001)
  
- To file a report of sexual assault, domestic violence, dating violence, and/or stalking, and/or talk to the Title IX Coordinator for information and assistance:
  - Title IX Coordinator, Room 205 (518.828.4181 extension 3337)
  
- When the accused is an employee, a victim/survivor may also report the incident to the College Human Resources Office or may request that one of the above referenced confidential or private employees assist in reporting to the Human Resources Office. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the college, college officials will, at the request of the victim/survivor, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a *persona non grata* letter, subject to legal requirements and college policy.
  - a. Student Discipline  
Dr. George Timmons, Interim Vice President of Student Services  
(518.828.4181 extension 3351)
  - b. Employee Discipline  
Melissa Fandozzi, Director of Human Resources  
(518.828-4181 extension 3337)

A student may file a complaint with one or more Offices, and each Office is prepared to assist the student with deciding on where complaints may be filed, if any, and the processes associated with each Office's complaint procedures. In addition, each Office is able to refer a student for academic accommodations, and health care services.

- You may withdraw your complaint or involvement from the College process at any time.

## **Resources Available for Support**

- To obtain effective intervention services after an allegation that an act of sexual violence has occurred, including any act of dating violence, domestic violence, sexual assault, or stalking, the college offers students a range of protective measures.

***I. Privileged and Confidential Resources***

Individuals who are confidential resources will not report crimes to law enforcement or College officials without your permission, except for extreme circumstances, such as a health and/or safety emergency. At Columbia-Greene Community College, this includes:

- Columbia-Greene Community College’s Counseling Services
- Columbia-Greene Community College’s Health Services Center

The information below provides contacts for trained on-and off-campus advocates who can provide an immediate confidential response in a crisis situation. Also provided are emergency numbers for on- and off- campus safety, law enforcement, and other first responders.

*Confidential Resources:* The College encourages all members of the community to report any incidents of sexual misconduct; however, several confidential resources are available to students, faculty, and staff who are not yet ready to report an incident. These individuals can help a victim/survivor obtain needed resources, explain reporting options, and assist in navigating the reporting process. These resources are required by law to keep all communications confidential without an individual’s express consent to release information.

On-Campus	Off-Campus
<i>Student Health Services 518.828.4181 extension 3202</i>	<i>REACH Centers Columbia County 518.828.4619 Greene County 518.943.4482</i>

*Campus Resources:* These are resources provided by the College community offering intervention services, academic support, and medical services. These resources are not bound by confidentiality, but will work together to maintain individual privacy.

On-Campus
<i>Title IX Coordinator Melissa Fandozzi 518.828.4181 extension 3337</i>

Within 96 hours of an assault, a victim can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. Let hospital personnel know if the insurance policyholder should not be notified about access to these services. The New York State Office of Victim services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found here: [http://www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf), or by calling 1-800-247-8035. Options are explained here: <http://www.ovs.ny.gov/helpforcrimevictims.html>.

Community Resources: These are resources located off-campus in the local community offering intervention services and counseling.

Off-Campus
<i>REACH Center (518-828-5556)</i>
<i>Albany County Mental Health Center (518-447-4555)</i>
<i>Columbia County Mental Health Center (518-828-9446)</i>
<i>Greene County Mental Health Services (518-622-9163)</i>
<i>Ulster County Mental Health Center (845-340-4000)</i>
<i>Mental Hygiene Services in Dutchess County (845-485-9700)</i>
<i>Mental Health Association: Catskill Office (518-943-0184) and Hudson Office (518-828-4619)</i>
<i>Columbia Memorial Hospital (518-828-7601)</i>
<i>Benedictine Hospital (845-338-2500)</i>
<i>Kingston Hospital (845-331-3131)</i>
<i>Northern Dutchess (845-876-3001)</i>
<i>Vassar Brothers Medical Center (845-454-8500)</i>
<i>Saint Francis Hospital and Medical Center (845-483-5000)</i>
<i>Albany Medical Center (518-262-3125)</i>
<i>St. Peter's Hospital (518-525-1550)</i>

Academic Accommodations: The College is committed to ensuring the safety and well-being of the victim/survivor. A student who has been a victim/survivor of sexual misconduct may request an academic accommodation or change in residence after a report of sexual misconduct. Any individual who makes a request will receive appropriate and reasonable accommodation. Possible requests include the ability to change academic schedules or work schedules, withdraw from or retake a class without penalty, and access academic support such as tutoring services.

Interim Measures: In situations where it is necessary, the College will take immediate steps to protect victims/survivors pending the final outcome of an investigation. These steps include the accommodations listed above in addition to issuing no contact orders. Pending resolution of the complaint, the accused may be prohibited from contacting the victim/survivor and may be placed on suspension or denied access to campus. Also, the College may change the course schedule of the accused. Please refer to the *Student Code of Conduct* for disciplinary procedures related to acts of sexual misconduct.

## ***II. Protection and Accommodations***

- When the accused is a student, to have the college issue a “no Contact Order”, meaning that continuing to contact the protected individual is a violation of College policy subject to additional conduct charges; if the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person.

- To have assistance from Columbia-Greene Community College Campus Security or other College officials in obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.
- To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a College official who can explain the order and answer questions about it, including information from the Order about the accused's responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s).
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- To have assistance from Columbia-Greene Community College Campus Security or, if outside of the jurisdiction or to call on and assist local law enforcement in effecting an arrest for violating such an order.
- When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subject to interim suspension pending the outcome of a conduct process.
- When the accused is not a member of the College community, to have assistance from Columbia-Greene Community College Campus Security or other College officials in obtaining a *persona non grata* letter, subject to legal requirements and College policy.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment.

### ***III. Student Conduct Process***

- To file student conduct charges against the accused. Conduct proceedings are governed by the procedures set forth in the Columbia-Greene Community College handbook ([www.sunycgcc.edu](http://www.sunycgcc.edu)) as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.
- Throughout conduct proceedings, the accused and the victim/survivor will have:
  - The same opportunity to have access to an advisor. Participation of the advisor in any proceeding is governed by federal law and the *Student Code of Conduct*.
  - The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, and other issues related to sexual assault, domestic violence, dating violence, and stalking.

- The right to an investigation and process conducted in a manner that recognized the legal and policy requirements of due process and is not conducted by individuals with a conflict of interest.
- The right to receive written or electronic notice of any meeting or hearing required to or eligible to attend.
- The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
- The right to review available evidence in the case file.
- The right to a range of options for providing testimony via alternative arrangements, including telephone/video conferencing or testifying with a room partition.
- The right to exclude prior sexual history or past mental health history from admittance in College disciplinary stage that determines responsibility. Past sexual violence findings may be admissible in the disciplinary state that determines sanction.
- The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present.
- The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the sanction(s).
- The right to know the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding and the reason for the actual sanction imposed. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
- The right to choose whether to disclose or discuss the outcome of a conduct hearing.

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

The State University of New York and Columbia-Greene Community College want individuals to receive the information and support they need regardless of whether the decision is made to move forward with a report of sexual violence to campus officials or to police. Individuals may want to talk with someone about something observed or experienced, even if unsure that the behavior constitutes sexual violence. A conversation where questions can be answered is far superior to keeping something to oneself. Confidentiality varies, and this document details how confidentiality applies to different resources that may be available.

### **In this Policy:**

- Privileged and Confidential Resources
- Non-Professional Counselors and Advocates
- Privacy versus Confidentiality
- Requesting Confidentiality: How the College will weigh the Request and Respond
- Public Awareness/Advocacy Events
- Institutional Crime Reporting

Off-campus options to disclose sexual violence *confidentially* include (note that these outside options do not provide any information to the campus);

- Off-campus counselors and advocates: Crisis services offices will generally maintain confidentially unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency (see off-campus community resources).
- Off-campus healthcare providers:
  - Note that medical office and insurance billing practices may reveal information to the insurance policy holder, including medication and/or examinations paid for or administered. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. More information may be found here: [http://www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf), or by calling 1-800-247-8035. Options are explained here: <http://www.ovs.ny.gov/helpforcrimevictims.html>.

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

### **Filing a Complaint with a State and/or Federal Agency:**

A student who is not satisfied with the College's handling of a complaint, also may file a complaint with federal and state agencies. Below is a list of agencies and their respective contact information.

#### ***New York State Division of Criminal Justice Services***

4 Tower Place  
Albany, NY 12203

#### ***Office on Violence Against Women (OVW)***

145 N Street, NE, Suite 10W.121  
Washington, D.C. 20530  
Office of Civil Rights  
(202)307-6026

Correspondence by e-mail may be sent to [ovw.info@usdoj.gov](mailto:ovw.info@usdoj.gov)

#### ***Office for Civil Rights***

OCR National Headquarters/U. S. Department of Education Office of Civil Rights  
Lyndon Baines Johnson Dept. of Education Building  
400 Maryland Ave, S.W.  
Washington, D. C. 20202-1100  
**Telephone:** (800) 421-3481

#### ***Office for Civil Rights***

New York Office – US Department of Education  
32 Old Slip, 26th Floor  
New York, New York 10005-2500  
**Telephone:** (646)428-3700

#### ***New York State Domestic Violence Hotline at 1-800-942-6906***

### **Dual Filing a Complaint with the College and a State and/or Federal Agency:**

In addition, the Complainant may file a complaint with the appropriate State or Federal agency at any point during the process.

### ***Role of the Title IX Coordinator in the Complaint Process:***

*The Title IX Coordinator shall be notified of all sexual misconduct complaints by the College employee who took the complaint in order for the Title IX Coordinator to oversee the complaint processes and accommodations for the student.*

#### ***A. Investigatory Procedures***

1. ***Criminal complaints:*** the NYS and/or federal penal codes will apply, and the matter will follow the criminal processes through a police investigation, a referral to the District Attorney's Office for prosecution and the criminal court system for resolution.
2. ***Institutional complaints:*** the complaint will be handled through the College's Policy and Procedures Against Sexual Harassment. Please see the *Student Handbook*.

3. ***Student Disciplinary complaints:*** the complaint will be handled through the College's Student Disciplinary Code. Please see the *Student Handbook*.
4. ***Employee Disciplinary complaints:*** the complaint will be handled through the Office of Human Resources, in accordance with its procedures for complaints against management confidential employees, or for complaints against an employee who is a member of a union, in accordance with the disciplinary procedures set forth in the applicable NYS Collective Bargaining Agreements negotiated statewide through the NYS Governor's Office of Employee Relations.

### ***B. Evidentiary Standard in Institutional, Student Disciplinary, and Employee Disciplinary Complaints***

The burden of proof in all cases is “the *preponderance of the evidence*” – whether it is “more likely than not” that the sex discrimination, dating violence, domestic violence, sexual assault, or stalking occurred.

### ***C. Potential Outcomes under the Procedures***

1. ***Criminal Complaints:*** *The complaint may result in criminal penalties, such as fine, community service, probation, jail sentence, registration as a sex offender with the NYS or federal data bases.*
2. ***Institutional Complaints:***
  - a. Under the ***sexual harassment policy***, if there is a finding that a sexual assault may have occurred ***and the alleged perpetrator is***
    - A ***student***, then the matter is referred to the Student Discipline process for student discipline, and the penalties may be disciplinary probation, suspension or expulsion from the College.
    - An ***employee***, then the matter is referred to the Office of Human Resources for employee discipline and the penalties may include fines, formal counseling, probation, suspension with or without pay, or termination from employment.
  - b. Under the ***Student Discipline process***, the penalties may be disciplinary probation, suspension, expulsion or banned from the College campus.
  - c. Under the ***Employee Disciplinary process***, the penalties may be fines, formal counseling, probation, suspension with or without pay, termination from employment, or banned from the College campus.

### ***D. Retaliation***

The College is firmly committed to a policy that encourages timely disclosure of sexual misconduct. No member of the College community shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against a person who files a Title IX complaint, serves as a witness, or assists or participates in a Title IX proceeding in any manner. Participants who experience retaliation should report the incident to the Title IX Coordinator (518.828.4181 extension 3337).

### ***E. Confidentiality and Reporting Protocol***

If a crime of sexual misconduct has occurred, including dating violence, domestic violence, sexual assault, or stalking, the college encourages accurate and prompt reporting of these crimes to the campus police or State and local police agencies. However, it can be difficult for a victim/survivor to come forward after such an event, and there are several options available for students who wish to maintain confidentiality while getting the support they need. Different employees on campus have different abilities to maintain a victim's/survivor's confidentiality:

1. **No Personally Identifying Information**: Other employees may talk to a victim/survivor in confidence, and generally only report to the College that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger a College investigation into an incident against the victim's/survivor's wishes.
2. **Responsible Employees**: These employees are required to report all the details of an incident (including the identities of both the victim/survivor and accused) to the Title IX coordinator. A report to these employees (called "responsible employees") constitutes a report to the College—and generally obligates the College to investigate the incident and take appropriate steps to address the situation.

Non-professional counselors and advocates also can assist without sharing information that could identify a victim. At Columbia-Greene Community College, this includes members of on-campus Health Services and the Office of Security. These individuals will report the nature, date, time, and general location of an incident to Columbia-Greene Community College's Title IX Coordinator, and will ensure no personally identifying details are shared without consent.

#### **Policy versus confidentiality:**

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

#### **Requesting Confidentiality: How Columbia-Greene Community College will weigh the request and respond:**

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

The College will assist with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of the reporting choices. While victims/survivors may request accommodations through several College offices, the Title IX Coordinator is a primary point of contact to assist with these measures (518.828.4181 extension 3337). The College also may take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify the victim or the situation disclosed.

An individual may decline to consent to an investigation, and that determination will be honored unless Columbia-Greene Community College’s failure to act may result in harm to the person involved or other members of the Columbia-Greene Community College community. Honoring the request may limit the ability to meaningfully investigate and pursue conduct action against an accused individual. If the College determines that an investigation is required, the Title IX Coordinator will provide notification and take immediate action as necessary to protect and assist.

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

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

Requests for Confidentiality	
<i>Melissa Fandozzi</i> <i>Title IX Coordinator</i>	<i>518.828.4181</i> <i>Extension 3337</i>
<i>Ann Bruno</i> <i>Registrar</i>	<i>518.828.4181</i> <i>Extension 3361</i>

**Public Awareness/Advocacy Events:**

If a person discloses a situation through a public awareness initiative such as “Take Back the Night”, candlelight vigils, protests, or other public event, the College is not obligated to begin an investigation. Columbia-Greene Community College may use the information provided to inform the need for additional education and prevention efforts.

## **Anonymous Reporting**

A student may call the Title IX Coordinator, 518.828.4181 extension 3337, to talk about the situation and learn about options. The student should indicate a preference to remain anonymous. The student may speak confidentially and disclose as much or as little information as desired. The student may also complete a Sexual Assault Anonymous Report.

## **Off-Campus Counselors and Advocates**

Crisis Services and off-campus healthcare providers will generally maintain confidentiality unless a student signs a consent or waiver form.

## **Institutional Response to Reports of VAWA Crimes**

The institution has programs to prevent domestic violence, dating violence, sexual assault, and stalking. When an incident of domestic violence, dating violence, sexual assault, or stalking is reported, the College will provide victims/survivors of a written notice of available options, remedies, and services. If the accused individual is a student, the standard of evidence used in an institutional disciplinary hearing will be preponderance of the evidence.

## **Who is a Bystander**

Bystanders are individuals who observe or witness violence or the conditions that perpetuate violence. They are not directly involved in the situation, but have the opportunity to discourage, prevent, or interrupt an incident.

## **How to Help as a Bystander**

The college expects all members of the campus community to take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Educating and engaging bystanders are effective ways to help prevent acts of sexual misconduct. Bystanders can help in several different ways, including direct intervention, seeking assistance from an authority figure, notifying campus security, or calling State or local law enforcement.

If you see an act of sexual misconduct: It is important to understand that no individual has the right to be violent, even if two people are in a relationship. Recognizing when acts of sexual misconduct are occurring is the first step to intervening. Required campus education and training programs give a full synopsis on recognizing when sexual misconduct is taking place. If you make the decision to intervene, do so safely—violence does not stop violence, and, if you cannot stop the act with your words, call law enforcement. Do not be afraid to ask other students for help.

If a victim/survivor confides in you: It is important to let the victim/survivor tell their story. Listen respectfully, and help them explain and identify what has happened to them. Help the victim/survivor identify others in their network who they can confide in. Ask the victim/survivor what they need to feel safe, encourage them to seek medical attention and counseling, and encourage them to report the act if they feel comfortable doing so.