



**SEXUAL AND GENDER-BASED MISCONDUCT POLICY**

**RESOURCES AVAILABLE TO VICTIMS OF SEXUAL AND GENDER-BASED MISCONDUCT (BOTH IMMEDIATELY FOLLOWING AN INCIDENT AND ON AN ONGOING BASIS) ARE SET FORTH IN APPENDIX A & D ATTACHED TO THIS POLICY.**

**THE VAUGHN COLLEGE SECURITY DEPARTMENT IS AVAILABLE 24 HOURS**

BY PHONE:

718-429-6600

MAIN BUILDING EXT. 130

RESIDENCE HALL EXT. 300

LIBRARY EXT 301

ASTORIA EXT. 270

LOCATIONS:

MAIN BUILDING: 86-01 23<sup>rd</sup> Ave, Flushing 11369

RESIDENCE HALL 22-40 90<sup>th</sup> St, Flushing 11369

ASTORIA 43-05 20<sup>th</sup> Ave, Astoria 11105

**Revised: October 1, 2018**

## **Sexual and Gender-Based Misconduct Policy and Procedures**

### **SECTION I – INTRODUCTION**

Vaughn College of Aeronautics and Technology (“Vaughn College”) is a community dependent upon trust and respect among its members. The College is committed to promoting and maintaining a healthy and safe learning, residential and working environment that promotes responsibility and respect in all matters where no one is unlawfully excluded from participation in, denied the benefits of, or subjected to discrimination in any College program or activity on the basis of gender, sex, sexual orientation, sexual identity, gender identity, or gender expression (“sex discrimination”).

Sexual and Gender-Based Misconduct, as defined below is a form of sex discrimination prohibited by federal and state law, including Title IX of the Education Amendments of 1972 that may deny or limit an individual’s ability to participate in or benefit from College programs or activities. Sexual and Gender-Based Misconduct offenses within the College community are a violation of trust and respect, are prohibited and will not be tolerated by Vaughn College. This prohibition applies to Sexual and Gender-Based Misconduct incidents occurring between members of the College community (students, employees, and contractors, consultants, or vendors doing business or providing services to the College) on or off campus at any College academic, educational, co-curricular, athletic, study abroad, residential or other College sponsored program, as well as off-campus incidents not associated with College programs if the conduct has the effect of creating a hostile environment impacting members of the College community. This conduct and any retaliation or intimidation associated with it is prohibited by the College and may also violate federal and state law.

The College is dedicated to preventing Sexual and Gender-Based Misconduct offenses by providing:

- Education, prevention, and training programs that inform the community about the risks and myths that contribute to Sexual and Gender-Based Misconduct;
- Assistance and support, including procedures sensitive to a person who has been the victim of a Sexual and Gender-Based Misconduct offense; and
- A process for the prompt and equitable investigation and resolution of incidents of Sexual and Gender-Based Misconduct that includes appropriate disciplinary sanctions for those who commit Sexual and Gender-Based Misconduct offenses, as well as the imposition of remedial actions to address and remedy the effects of such offenses.

The College is committed to eliminating Sexual and Gender-Based Misconduct, preventing its recurrence, and addressing and remedying its effects and makes this Policy and accompanying information readily available to all students, employees and other members of the College community. Violations of this Policy may result in the imposition of sanctions up to and including termination, dismissal, suspension or expulsion.

### **SECTION II - SCOPE AND JURISDICTION**

#### **A. SCOPE OF POLICY**

This Policy addresses Vaughn College’s responsibilities under Title IX and the Violence Against Women Reauthorization Act of 2013 and the New York State Education law. Title IX prohibits discrimination on the basis of sex (gender) in educational programs and activities and programs that receive federal assistance. Similarly, Section 304 of the Violence Against Women Reauthorization Act of 2013 and state law require that colleges have procedures in place to respond to matters of Sexual Assault, Domestic Violence, Dating Violence and Stalking.

Vaughn College's Sexual and Gender-Based Misconduct Policy applies to any allegation of Sexual or Gender-Based Misconduct made by or against a student or an employee of the College or a Third Party regardless of the sex, sexual orientation, sexual identity, gender, gender expression, or gender identity ("gender-related status") of any party. The College's prohibition against Sexual and Gender-Based Misconduct applies not only in the educational, student residential and working environment, but also to all other academic, educational, athletic, residential life, extracurricular or work-related settings and activities, such as business trips and business-related social functions, as well as educational field trips, athletic trips, and internship placements. Moreover, the College's prohibition against Sexual and Gender-Based Misconduct applies not only to physical contact, but also to oral, written and electronic and other technology-assisted communications, such as e-mail, voicemail, Internet communications and searches.

There is no geographical limitation to invoking this Policy. The College's prohibition against Sexual and Gender-Based Misconduct applies whether or not the incident(s) occurs on a Vaughn College campus and whether or not the incident(s) occurs during educational or working hours. This means that students, employees (faculty and staff) and Third Parties affiliated with the College are protected under this Policy regardless of where the incident occurred and that the College will respond to incidents of Sexual and Gender-Based Misconduct that arise from events that initially occurred off College property or outside a College program or activity. In responding to off campus events, the College will consider the effects of the off-campus conduct on an individual's educational, working, or resident life experience, including the impact on the individual's ability to participate in College activities or programs. Although there is no geographical limitation to invoking this Policy, Sexual and Gender-Based Misconduct that is alleged to have occurred at a significant distance from the College and/or outside of College property may be more difficult for the College to investigate.

## **B. PERIOD OF LIMITATIONS**

There is no window of time after an incident of Sexual or Gender-Based Misconduct has occurred in which a report must be made. The College, however, strongly encourages early reporting in order to preserve evidence for a potential legal or College resolution proceeding. Delays in reporting, while permitted, may limit the College's ability to respond fully to the report.

If the alleged perpetrator is no longer a student or employee, the College may not be able to take disciplinary action against the individual, but it will still seek to meet its obligations by providing support for a victim and taking steps to end the misconduct, prevent its recurrence, and address its effects.

## **C. SUMMARY OF THE COLLEGE'S CONFIDENTIALITY POLICY**

Vaughn College encourages victims and witnesses of an incident of Sexual or Gender-Based Misconduct, Retaliation or Intimidation to talk to somebody about what happened – so victims can get the support they need, and so the College can respond appropriately.

Different College employees have different abilities to maintain a victim's confidentiality:

- Some College employees, such as the professional counselors in the **Office of Counseling and Wellness**, are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication."
- Other College employees, such as the non-professional staff members in the **Office of Counseling and Wellness**, may speak with a victim 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** necessarily trigger a College investigation into an incident against the victim's wishes.

- Thirdly, all other employees are required to report all the details of an incident (including the identities of both the victim and respondent) to the College’s Title
- IX Coordinators. A report to these employees (called “Responsible Employees”) constitutes a formal report to Vaughn College – and generally obligates the College to investigate the incident and take appropriate steps to address the situation.

The College encourages victims to talk to someone identified in one or more of these groups. Vaughn offices and employees who cannot guarantee confidentiality will maintain students’ privacy to the greatest extent possible.

For detailed information regarding the various options for reporting an incident of Sexual or Gender-Based Misconduct, including how one can maintain confidentiality see *Section VI –Reporting Sexual and Gender-Based Misconduct, Retaliation and Intimidation Incidents*.

**D. BYSTANDER INTERVENTION**

The College expects all community members to take reasonable and prudent actions to prevent or stop an act of Sexual or Gender-Based Misconduct or provide assistance if an act has occurred. Taking action or providing assistance may include direct intervention, calling law enforcement, or seeking assistance from a person in authority.

If someone suspects a friend, acquaintance, or stranger may be in a high risk situation for becoming a victim, is being victimized, or has been victimized in any form of Sexual or Gender-Based Misconduct, it is important to decide as a bystander whether there is a safe and reasonable way to intervene effectively.

Do’s:

- Remind friends that affirmative consent is required and is the difference between sex and sexual assault and that someone can be too intoxicated to consent;
- Take the initiative to help friends who aren’t thinking clearly from becoming targets of violence (or) take steps to stop a friend who chooses to use violence;
- When possible, prevent an intoxicated friend/person from going to a private location with an acquaintance or friend;
- Contact Vaughn College Security, Title IX Coordinators or another person of authority who can assist.

Don’ts:

- Let friends engage in activities, such as excessive alcohol/drug consumption, that impedes judgement and that therefore could lead to actions, including sexual advances, that are unwelcome and/or endanger the rights, safety, and well-being of others;
- Let friends walk / run alone in secluded areas or at night;
- Leave a friend or acquaintance alone at a party;
- Leave residence hall doors unlocked;
- Let friends drink to the point of impairment;
- Place yourself in a vulnerable situation where you are unable to voice consent.

**E. OTHER FORMS OF DISCRIMINATION AND HARASSMENT**

The College recognizes that harassment related to an individual’s gender-related status can occur in conjunction with misconduct related to an individual’s race, color, religion, age, national origin, ancestry, citizenship, disability, pregnancy, genetic disposition, veteran or military status, marital status, familial status or other legally protected characteristic (“protected characteristics”). Targeting individuals on the basis of these protected characteristics is also a violation of College policy. When misconduct relates to both a person’s gender-related status and other protected characteristics, the

College will coordinate the investigation and resolution efforts by following the process set forth in this Policy to address any and all harassment and discrimination.

### **SECTION III – NOTICE OF NON-DISCRIMINATION**

In compliance with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and other applicable laws, Vaughn College is an equal opportunity institution that does not discriminate on the basis of race, color, religion, sex, sexual orientation, sexual identity, gender, gender expression, or gender identity, age, national origin, ancestry, citizenship, disability, gender-related status, pregnancy, genetic disposition, veteran or military status, marital status, familial status or any other legally protected characteristic in accordance with federal and New York State law. It is therefore a violation of Vaughn College policy to discriminate in the provision of educational or employment opportunities, benefits, programs, activities, or privileges; to create discriminatory work or academic conditions; or to use discriminatory evaluative standards in employment or educational settings on the basis of, in whole or part, the person's race, color, religion, sex, sexual orientation, sexual identity, gender, gender expression, or gender identity, age, national origin, ancestry, citizenship, disability, gender-related status, pregnancy, genetic disposition, veteran or military status, marital status, familial status or any other protected characteristic as established by law.

The following persons have been designated to handle inquiries regarding the College's non-discrimination policies:

#### **Title IX Coordinator**

Kathy Deaner, Interim Vice President of Student Affairs  
718.429.6600 ext. 371 [Kathy.deaner@vaughn.edu](mailto:Kathy.deaner@vaughn.edu)

**Inquiries and/or reports of misconduct should be directed to either the Title IX Coordinator or the Deputy Title IX Coordinators.**

- **Mary Durkin, Deputy Title IX Coordinator** and Associate Vice President of Human Resources, whose office is located in the Main Building. Ms. Durkin may be contacted by phone at **718-429-6600, ext. 105** or by email at [mary.durkin@vaughn.edu](mailto:mary.durkin@vaughn.edu).
- **Elaine White, Deputy Title IX Coordinator** and Dean of Students, whose office is located in the Residence Hall. Ms. White may be contacted by phone at **718-429-6600, ext. 366** or by email at [elaine.white@vaughn.edu](mailto:elaine.white@vaughn.edu).

### **SECTION IV – TITLE IX AND THE TITLE IX COORDINATOR**

#### **A. TITLE IX**

Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity.

Title IX prohibits all forms of discrimination on the basis of sex (gender), including all forms of sexual violence, sexual assault and sexual harassment. This prohibition applies to all Vaughn College faculty, staff, students and third parties in both the educational and employment settings. If inappropriate sexual behavior occurred, the College will take prompt and effective steps to end the behavior, prevent its reoccurrence, and address its effects.

Inquiries concerning the application of Title IX and its implementation may be referred to the Title IX Coordinator or to the U.S. Department of Education or the Office for Civil Rights.

## **B. TITLE IX COORDINATOR**

The Title IX Coordinator is responsible for monitoring the overall Title IX implementation for Vaughn College and coordinating compliance with all areas and departments covered under Title IX regulations. If a Complaint is filed, one of the Deputy Title IX Coordinator(s) will meet with the Complainant to explain the available options, the process used to investigate the Complaint, and any available support, resources, and protective measures. The Title IX Coordinator works in conjunction with the Deputy Title IX Coordinator(s) who will also be informed of all Title IX claims filed and their ultimate disposition.

### **Title IX Coordinator**

Kathy Deaner, Interim Vice President of Student Affairs  
718.429.6600 ext. 371 [Kathy.deaner@vaughn.edu](mailto:Kathy.deaner@vaughn.edu)

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- ❑ **Mary Durkin, Deputy Title IX Coordinator** and Associate Vice President of Human Resources, whose office is located in the Main Building. Ms. Durkin may be contacted by phone at **718-429-6600, ext. 105** or by email at [mary.durkin@vaughn.edu](mailto:mary.durkin@vaughn.edu).
- ❑ **Elaine White, Deputy Title IX Coordinator** and Dean of Students, whose office is located in the Residence Hall. Ms. White may be contacted by phone at **718-429-6600, ext. 366** or by email at [elaine.white@vaughn.edu](mailto:elaine.white@vaughn.edu).

Title IX Coordinator Responsibilities: The Title IX Coordinator is a neutral administrator in any Sexual or Gender-Based Misconduct investigatory and resolution proceedings, including any allegations pertaining to incidents of Retaliation and Intimidation in this Policy. The Title IX Coordinator is responsible for:

- ❑ Overseeing all Title IX complaints and investigations to provide prompt, fair, and equitable resolutions and working with all parties (the Title IX Coordinator does not, however, determine if a Sexual or Gender-Based Misconduct Policy violation has occurred);
- ❑ Identifying and addressing any patterns or systemic problems that may arise;
- ❑ Being available to meet with students and employees, provide support and answer questions;
- ❑ Working with other College officials;
- ❑ Coordinating training, education, and communication pertaining to Title IX, as well as periodic reviews of the College's climate and culture with regard to Sexual and Gender-Based Misconduct;
- ❑ Determining appropriate Interim Measures for a Complainant upon learning of a report or complaint of Sexual or Gender-Based Misconduct;
- ❑ Being available to assist with Vaughn College Security Department and local law enforcement if necessary;
- ❑ Ensuring that appropriate policies and procedures are in place for working with local law enforcement and coordinating services with local victim advocacy organizations and service providers, including rape crisis centers;

- Ensuring that the College carries out its Title IX responsibilities.
- The Title IX Coordinator also assists with:
  - Access to medical and mental health treatment;
  - Victim support and resources; and
  - Serving as someone to talk to.

In addition, the Title IX Coordinator maintains an annual report documenting: (1) the number of reports or Complaints received pursuant to the College’s Sexual and Gender-Based Misconduct Policy; (2) the categories of those involved in the allegations; (3) the number of Policy violations found; and (4) examples of sanctions imposed for each violation of this Policy.

**C. DEPUTY TITLE IX COORDINATOR(S)**

The Deputy Title IX Coordinator(s) works cooperatively with the Title IX Coordinator to assist with the handling of Title IX-related Complaints. The Deputy Title IX Coordinator(s) may serve as the Assigned Title IX Coordinator in connection with a given Complaint.

**Inquiries and/or reports of misconduct should be directed to either the Title IX Coordinator or the Deputy Title IX Coordinator(s).**

- **Mary Durkin, Deputy Title IX Coordinator** and Associate Vice President of Human Resources, whose office is located in the Main Building. Ms. Durkin may be contacted by phone at **718-429-6600, ext. 105** or by email at [mary.durkin@vaughn.edu](mailto:mary.durkin@vaughn.edu).
- **Elaine White, Deputy Title IX Coordinator** and Dean of Students, whose office is located in the Residence Hall. Ms. White may be contacted by phone at **718-429-6600, ext. 366** or by email at [elaine.white@vaughn.edu](mailto:elaine.white@vaughn.edu).

**D. OFFICE OF CIVIL RIGHTS**

In addition to the College’s Title IX Coordinator, inquiries regarding Title IX from members of the campus community may be directed to the United States Department of Education’s Office of Civil Rights (“OCR”). This agency may be contacted as follows:

The OCR regional office for New York is located at:

**United States Department of Education, Office for Civil Rights  
Region 2 – New York**  
 Jacob Javits Federal Building  
 26 Federal Plaza - Suite 3312  
 New York, NY 10278  
 Voice Phone (800) 368-1019  
 FAX (212) 264-3039  
 TDD (800) 537-7697

**E. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**U. S. Equal Employment Opportunity Commission - New York District Office**  
 33 Whitehall Street, 5th Floor  
 New York, NY 10004

1-800-669-4000  
TTY: 1-800-669-6820  
Fax: 212-336-3790

## **SECTION V – PROHIBITED CONDUCT AND DEFINITIONS**

### **A. PROHIBITED CONDUCT**

#### **1. Prohibition Against Sexual and Gender-Based Misconduct**

Vaughn College prohibits all forms of Sexual and Gender-Based Misconduct as defined in Section B below. Sexual and Gender-Based Misconduct is a broad term that includes Sexual Harassment, Sexual Violence (non-consensual sexual contact and non-consensual sexual intercourse), Sexual Assault, Sexual Exploitation, Domestic Violence, Dating Violence, Stalking, and aiding or facilitating the commission of a violation of this Policy.

The College also prohibits Hostile Environment Harassment, which includes acts of verbal, non-verbal, or physical aggression, intimidation, or hostility based on sex, gender identity, or gender expression, even if those acts do not involve conduct of a sexual nature.

Sexual and Gender-Based Misconduct can occur between people of different sex or gender or of the same sex or gender. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others.

#### **2. Anti-Retaliation and Intimidation**

In addition, the College strictly prohibits Retaliation against anyone who files a complaint, serves as a witness, or otherwise participates in the enforcement of this Policy. The College does not allow threats or other forms of Retaliation or Intimidation against any students, employees, or Third Party who files a complaint or participates in the enforcement of any Vaughn College Policy. Any form of Retaliation should be reported promptly to Vaughn College Security Department or the Title IX Coordinator or Deputy Coordinator(s). Violations of the Anti-Retaliation and Intimidation Policy may result in disciplinary action independent of the sanctions or Interim Measures imposed in response to the underlying allegations.

Initiating a complaint of Sexual or Gender-Based Misconduct will not affect a Complainant's employment, compensation or work assignments or, in the case of students, grades, class selection, or any other matter pertaining to student status.

Finally, these policies should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, gender identity, gender expression or any other legally protected characteristic, from participating in business, work-related, student or residential life social activities or discussions in order to avoid allegations of harassment. The law and the policies of Vaughn College prohibit disparate treatment on the basis of sex, gender identity, gender expression or any other legally protected characteristic, with regard to terms, conditions, privileges and perquisites of employment or admission as a student. The prohibitions against Sexual and Gender-Based Misconduct and Retaliation are intended to complement and further these policies, not to form the basis of an exception to them.

### **B. SEXUAL AND GENDER-BASED MISCONDUCT DEFINITIONS:**

For purposes of this Policy, **Sexual and Gender-Based Misconduct** is prohibited by the College and includes the following:

**Sexual Harassment:** For purposes of this Policy, Sexual Harassment is defined as unwelcome



sexual advances, requests for sexual favors, other verbal, visual or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence or other offensive behavior directed towards an individual because of or on account of the individual's sex, whether by a person of the opposite or same gender, when either:

- Submission to, rejection, or toleration of such conduct is made explicitly or implicitly a term or condition of an individual's employment, education (i.e., grades), living environment, or participation in a Vaughn College program or activity; or
- Submission to, rejection, or toleration of such conduct is used as a basis for or a factor in decisions affecting that individual's employment, education, living environment or participation in a Vaughn College program or activity; or
- Such conduct creates a Hostile Environment (see Hostile Environment Harassment).

**Hostile Environment Harassment:** For purposes of the Policy, Hostile Environment Harassment is defined as the unlawful harassment against an individual on the basis of his or her sex, or gender-related status when the conduct is either:

- Sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit the individual's ability to participate in or benefit from the College's programs or activities; or
- The conduct has the purpose or effect of unreasonably interfering with an individual's employment or education.

The determination of whether an environment is "hostile" must be based on all of the circumstances, giving consideration to whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Also, the following factors will be considered:

- The degree to which the conduct affected one or more students' education or individual's employment;
- The nature, scope, frequency, duration, severity, and location of incident or incidents; and
- The identity, number, and relationships of persons involved.

A single or isolated incident of Hostile Environment Harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to provide a hostile environment, particularly if the harassment is physical in nature.

**Forms of Sexual Harassment or Gender-Based Hostile Environment Harassment:** Sexual Harassment or Hostile Environment Harassment based on one's sex or gender-related status may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or gender-related status, even if the acts do not involve conduct of a sexual nature. In either type of harassment, the effect will be evaluated based on the standard of a reasonable person in the position of the Complainant. Sexual Harassment or Hostile Environment Harassment can take many forms:

- It may be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- It does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- It may be committed by anyone, regardless of gender, age, position, or authority. While there may be a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships (e.g., supervisor to subordinate, faculty member to student, coach to student-athlete, student leader

to first year student), harassment can occur in any context and between persons of equal power status (e.g., student to student, staff to staff, faculty member to faculty member, visitor/contracted employee to staff).

- It may be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship.
- It may be committed by or against an individual or may be a result of the actions of an organization or group.
- It may occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- It may occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting.
- It may be a direct proposition of a sexual nature.
- It may be a one-time event or part of a pattern of behavior.
- It may be committed in the presence of others or when the parties are alone.
- It may affect the complainant and/or third parties who witness or observe harassment.

**Examples of behavior that might be considered Sexual or Hostile Environment Harassment include, but are not limited to:**

- Threats, either directly or by implication, of adverse employment or academic action if sexual favors are not granted; or punishing, either directly or by implication, for refusing to tolerate harassment, for refusing to submit to sexual activity, or for reporting harassment;
- Promising favorable treatment or continued employment in return for sexual favors;
- Change of academic or employment responsibilities (increase in difficulty or decrease of responsibility) based on sex or gender-related status;
- Unwanted, unnecessary and objectively inappropriate physical contact or suggestive body language, such as touching, patting, pinching, hugging, kissing, or brushing against an individual's body;
- Sexual assault;
- Physical coercion or pressure of an individual to engage in sexual activity or punishment for a refusal to respond or comply with sexual advances;
- Display or distribution of pornographic material or sexual explicit drawings, pictures, or written materials;
- Sexual rumors or ratings of sexual activity/performance or the circulation, display, or creation of e-mails or websites of a sexual nature;
- Excessively offensive remarks, including unwelcome graphic or suggestive comments about an individual's body, appearance or dress,
- Jokes and humor about sex or gender-specific traits;
- Inappropriate use of sexually explicit or offensive language or derogatory language directed at another person's sexuality, gender, gender identity, sexual orientation or gender expression;
- Insults and threats based on sex, gender, gender identity, sexual orientation or gender expression;

- The display in the workplace of sexually suggestive objects or pictures which create an intimidating or hostile work environment;
  - The display or circulation of written materials or pictures degrading to an individual(s) or gender group where such display is not directly related to an educational/pedagogical, artistic, or work goal;
  - Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping. Harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex, or for failing to conform to stereotypical notions of masculinity and femininity, regardless of actual or perceived gender-related status of the harasser or her/his/their target;
  - Abusive, disruptive or harassing behavior, whether verbal or physical, which endangers another's mental or physical health, including but not limited to threats, acts of violence, or assault based on gender-related status and/or in the context of intimate partner violence;
  - Other unwelcome and unwanted conduct of a sexual nature, such as leering, name calling, suggestive comments and sexual propositions or innuendos and other oral, written or electronic communications of a sexual nature that an individual communicates is unwanted and unwelcome.

**Sexual Violence:** Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because of an intellectual or another disability that prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including **Rape**, **Sexual Assault**, **Sexual Battery**, **Sexual Abuse** and **Sexual Coercion**. All such acts of Sexual Violence are forms of sex discrimination prohibited by Title IX and other federal and state laws.

**Sexual Assault:** Sexual Assault is any nonconsensual sexual act proscribed by law including when the victim lacks capacity to consent. Sexual assault includes:

***Non-Consensual Sexual Contact:*** Any intentional sexual touching, however slight and with any object or body part, that is without consent (as defined in this Policy) and/or by threat, intimidation, coercion, duress, violence, or by causing a reasonable fear of harm. This includes intentional contact with breasts, buttocks, groin, mouth, or genitals, as well as any other intentional bodily contact that occurs in a sexual manner.

***Non-Consensual Sexual Intercourse (Rape):*** the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, forcibly or without affirmative consent or where the victim is incapable of affirmative consent due to mental or physical incapacity.

***Statutory rape*** is non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.

**Sexual Coercion:** Sexual Coercion is the improper use of unreasonable and persistent pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. Coercion may be emotional, intellectual, psychological or moral. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity.

**Force:** Force is the use or threat of physical violence or intimidation to overcome an

individual's will to choose whether or not to participate in sexual activity.

*Note: The above definitions consistent with federal law will be utilized in determining whether an incident of Sexual Violence in violation of this Policy by the preponderance of the evidence standard has occurred. The above definitions will also be utilized by the College for Clery Act Reporting purposes.*

**Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person similarly situated to a spouse of the victim or by any other person against an adult or youth victim who is protected from that person's acts.

**Dating Violence:** Is violence committed by a person who is or has been in a romantic or intimate relationship with the victim. The existence of such a relationship will be determined based on a consideration of the length of the relationship, the type of relationship, the frequency of interaction between the persons involved in the relationship.

**Stalking:** Is defined as a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. Stalking may include contact through a third party, the monitoring of an individual online or involve the use of social media, email or other technology.

Examples of stalking include:

- Unwelcome and repeated visual or physical proximity to a person;
- Repeated oral or written threats;
- Extortion of money or valuables;
- Unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on on-line bulletin boards;
- Unwelcome/unsolicited communications about a person, their family, friends, or co-workers;
- Sending/posting unwelcome and/or unsolicited messages with another username;
- Implicitly threatening physical conduct or any combination of these behaviors directed toward an individual person.

**Sexual Exploitation:** Sexual exploitation is an act or omission to act that involves a member of the Vaughn College community taking non-consensual, unjust, humiliating, or abusive sexual advantage of another, either for the individual's own advantage or to benefit anyone other than the one being exploited. Examples of sexual exploitation include but are not limited to the following:

- Creating pictures, movies, web cam, tape recording, graphic written narrative or other means of memorializing sexual behavior or a state of undress of another person without the other's knowledge and consent;
- Sharing items described in the paragraph above, beyond the boundaries of consent where consent was given. For example, showing a picture to friends where consent to view it was given for oneself only;
- Observing or facilitating observation by others of sexual behavior or a state of undress of another person without the knowledge and consent of that person;
- "Peeping Tom"/Voyeuristic behaviors;
- Engaging in sexual behavior with knowledge of an illness or disease (HIV or STD) that could

be transmitted by the behavior;

- Engaging in or attempting to engage others in illegal “escort services” or illegal “dating services” which include or encourage in any way sexual behavior in exchange for money;
- Surreptitiously providing drugs or alcohol to a person for the purpose of sexual exploitation; and
- Causing another person to be exposed to pornographic material without the person’s advance knowledge or consent.

**Retaliation:** Retaliation is defined as taking adverse action against an individual making a complaint under this Policy or against any person cooperating or participating in the investigation of a complaint or the enforcement of any interim measures or sanctions under this Policy. Retaliation includes intimidation, threats, harassment, and other adverse action including adverse job action and adverse academic action against any such complainant or third party.

**Intimidation:** Intimidation is defined as implied threats or acts that cause an individual to fear harm or ill-treatment to oneself or others.

**Aiding or Facilitating Sexual or Gender-Based Misconduct:** Promoting, aiding, facilitating or encouraging the commission of any behavior prohibited under this Policy.

### C. OTHER DEFINITIONS

**Assigned Title IX Coordinator:** “Assigned Title IX Coordinator” means either the Title IX Coordinator or the Deputy Title IX Coordinator assigned by the Title IX Coordinator to handle a given Complaint.

**Complainant:** A “Complainant” is an alleged victim of Sexual or Gender-Based Misconduct who files a Complaint, or on whose behalf a Complaint is filed.

**Complaint:** A “Complaint” is an allegation of Sexual or Gender-Based Misconduct asserted against another party.

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

- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Intoxication (being drunk/high) is not an excuse for non-consensual sexual contact.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn, or can no longer be given, sexual activity must stop.

**Note: Alcohol and Other Drugs:** In general, sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual misconduct and does not diminish one's responsibility to obtain affirmative consent.

- See **Appendix B** for the College's **Alcohol and Drug Use Amnesty** policy.

**Incapacitation:** occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's:

- Decision-making ability;
- Awareness of consequences;
- Ability to make informed judgments;
- Capacity to appreciate the nature and the quality of the act; or
- Level of consciousness.

An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of making a knowing, reasonable decision about whether to engage in sexual activity is in violation of this Policy.

**Personally Identifiable Information:** "Personally Identifiable Information" (as that term is defined by FERPA, <http://ptac.ed.gov/glossary/personally-identifiable-information-pii>) includes, but is not limited to:

- A student's name;
- The name of a student's parent(s) or other family members;
- The address of a student or a student's family;
- A personal identifier, such as a student's social security number, student number, or biometric record;
- Other indirect identifiers, such as a student's date of birth, place of birth, or mother's maiden name;
- Other information that, alone or in combination, is linked or linkable to a specific student and that would allow a reasonable person in the College community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- Information requested by a person whom the College reasonably believes knows the identity of the student to whom the Education Record relates.

**Respondent.** A "Respondent" is an individual who has been accused in a Complaint of committing Sexual or Gender-Based Misconduct.

**Responsible Employee:** A “Responsible Employee” is a College employee who has the authority to redress Sexual or Gender-Based Misconduct, who has the duty to report incidents of Sexual or Gender-Based Misconduct or other student misconduct, or who a student could reasonably believe has this authority or duty. The College will designate Responsible Employees.

**Student:** A “Student of the College” includes all persons taking courses at the College both full and part-time, pursuing undergraduate, graduate or professional studies; and those who attend post-secondary education institutions other than Vaughn College and who reside in College residence halls. Persons who are not officially enrolled for a term, but who have a continuing relationship with the College are considered students for the purpose of this policy. Solely for purposes of this definition, the term “employee of the College” does not include students who are employed by the College through a work-study or similar program.

**Third Party:** A “Third Party” is any contractor, consultant, or vendor doing business or providing services to Vaughn College.

## **SECTION VI – REPORTING SEXUAL AND GENDER-BASED MISCONDUCT, RETALIATION OR INTIMIDATION INCIDENTS**

All individuals may report alleged incidents of Sexual or Gender-Based Misconduct, Retaliation or Intimidation to the College, to outside resources, and/or to law enforcement.

### **A. REPORTING OPTIONS WITHIN THE COLLEGE**

Victims and witnesses do not need to determine whether incidents of Sexual or Gender-Based Misconduct qualify as misconduct before reporting in good faith to the College.

The various confidential and non-confidential disclosure options available to members of the Vaughn College community are set forth below:

#### **1. Professional, Licensed College Counselors (Confidential Resource)**

Individuals have the option to report alleged Sexual and Gender-Based Misconduct to the Confidential Sources on campus listed below. Individuals may choose this option if they want to discuss the incident in a confidential setting but do not want any action to be taken. Confidential Sources can provide individuals with both immediate and long-term help. They will listen and help access additional assistance, and explain options for making a non-confidential report to the College and reporting to the police.

The professional or non-professional counselor or advocate listed below will preserve an individual’s privacy to the extent possible by the law. This means that Personally Identifiable Information shared with these professionals is not part of students’ or employees’ College education or personnel records and will not be reported to other College personnel (including the Title IX Coordinator), to the Respondent, or to others unless the disclosing individual gives his or her consent to the disclosure or the law requires it (as may be the case with alleged Sexual or Gender-Based Misconduct involving a minor or under conditions involving imminent harm to one or more members of the College community.) Therefore, disclosures to these employees generally will not trigger a College investigation into an incident against the victim’s wishes.

A victim who speaks to one of the professional or non-professional counselors or advocates listed below must understand that, if he or she wants to maintain confidentiality, the College will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the Respondent. Even so, these counselors and advocates will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules.

Moreover, a victim who at first requests confidentiality may later file a Complaint with the College and/or report the incident to local law enforcement.

**a. Office of Counseling and Wellness (Confidential Source)**

Individuals can make a confidential report of Sexual or Gender-Based Misconduct by contacting a professional, licensed counselor at the **Office of Counseling and Wellness** during posted business hours.

**Office of Counseling and Wellness**

Director of Counseling and Wellness Main Building -  
Room 106  
718-429-6600, ext. 350

The licensed professional(s) in the **Office of Counseling and Wellness** may also be visited in person during the normal business hours.

**b. Non-professional Counselors and Advocates in the Office of Counseling and Wellness (Limited-Confidential Resource)**

Non-professional individuals who work or volunteer at the **Office of Counseling and Wellness**, including front desk staff and student employees, can generally talk to a victim of Sexual or Gender-Based Misconduct without revealing any personally identifying information about an incident to the College.

Without revealing the victim's identity, these individuals are required to report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no Personally Identifiable Information that would directly or indirectly identify the victim – helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the victim.

**2. Responsible Employees (Formal, Non-Confidential Reporting to the College)**

Individuals who believe that they have been the subject of or have witnessed an incident of Sexual or Gender-Based Misconduct, Retaliation or Intimidation are encouraged to report the conduct to the College so that it can take immediate and appropriate steps to investigate or otherwise determine what occurred (subject to the confidentiality provisions), and, if it is determined that Sexual or Gender-Based Misconduct has occurred, take appropriate steps to address the situation.

There are several ways to formally report Sexual or Gender-Based Misconduct, Retaliation or Intimidation incidents to the College:

**a. Title IX Coordinator or a Deputy Title IX Coordinator(s)**

**Title IX Coordinator, Kathy Deaner, Deputy Title IX Coordinator** and Interim Vice President of Student Affairs, whose office is located in the Main Building. Ms. Deaner may be contacted by phone at 718 429-6600, ext. 371 or by email at [Kathy.deaner@vaughn.edu](mailto:Kathy.deaner@vaughn.edu)



**Inquiries and/or reports of misconduct should be directed to either the Title IX Coordinator or the Deputy Title IX Coordinator(s).**

**Mary Durkin, Deputy Title IX Coordinator** and Associate Vice President of Human Resources whose office is located in the Main Building. Ms. Durkin may be contacted by phone at **718- 429-6600, ext. 105** or by email at [mary.durkin@vaughn.edu](mailto:mary.durkin@vaughn.edu).

**Elaine White, Deputy Title IX Coordinator** and Dean of Students, whose office is located in the Residence Hall. Ms. White may be contacted by phone at **718-429-6600, ext. 366** or by email at [elaine.white@vaughn.edu](mailto:elaine.white@vaughn.edu).

**b. Vaughn College Security Department**

Sexual and Gender-Based Misconduct, Retaliation or Intimidation may be reported to the Vaughn College Security Department.

The Vaughn College Security Department is located at:

**MAIN BUILDING: 86-01 23<sup>rd</sup> Ave, Flushing 11369**  
**RESIDENCE HALL 22-40 90<sup>th</sup> St, Flushing 11369**  
**ASTORIA 43-05 20<sup>th</sup> Ave, Astoria 11105**

The Vaughn College Security Department is also available by phone at **718-429-6600**:

**MAIN BUILDING - EXT. 130**  
**MAIN BUILDING - LIBRARY - EXT 301**  
**RESIDENCE HALL - EXT. 300**  
**ASTORIA - EXT. 270**

Vaughn College Security Officers are **available 24 hours a day, seven days a week**.

Vaughn College Security Department personnel will immediately report to the Title IX Coordinator all relevant details about the alleged Sexual or Gender-Based Misconduct that the College will need to determine what happened – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

**c. Human Resources**

In addition to the Deputy Title IX Coordinator(s), incident of Sexual and Gender-Based Misconduct, Retaliation or Intimidation may also be reported to the Human Resource Office if the Complainant or witness is an employee, or Third Party. Human Resource Office is located in the Main Building. Human Resource staff members are available during business hours (9:00 a.m. to 5:00 p.m., Monday through Friday) by phone at **718-429-6600, Extensions -105, 224 and 115**.

**d. Other Responsible Employees**

A Responsible Employee is a College employee who either has the authority to redress Sexual or Gender-Based Misconduct, has the duty to report incidents of Sexual or Gender-Based Misconduct or other student misconduct, or is an individual who a student could reasonably believe has this authority or duty.

The following positions have been designated by the College to be “Responsible Employees”:

The President; the Vice Presidents; the Title IX Coordinator and Deputy Title IX Coordinator(s); all

Student Affairs staff, including resident assistants and professional residence life staff; all Athletic Department Staff, including coaches; and all Security Department officers. Faculty and staff are also required to report Sexual and Gender-Based Misconduct offenses to the Title IX Coordinators.

The College will exercise sensitivity with respect to the privacy of the reporting person. However, privacy concerns will be balanced with the College's obligations with regard to individual and community safety as well as requirements of federal and state law.

When a member of the College community tells a Responsible Employee about an incident of Sexual or Gender-Based Misconduct, Retaliation or Intimidation, the College will take immediate and appropriate steps to investigate what happened and to resolve the matter thoroughly, promptly and impartially.

If someone discloses an incident to a College employee who is responsible for responding to or reporting misconduct covered by this policy, but wishes to maintain confidentiality, or does not consent to the institution's request to initiate an investigation, the College will weigh that against the College's obligation to provide a safe, non-discriminatory environment. Factors the College will consider when weighing whether to move forward with an investigation without the complainant's consent include:

- Whether the accused has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation in unlawful conduct from previously noted behavior;
- The risk that the accused will commit additional acts of violence;
- Whether there was a single perpetrator or multiple;
- Whether the accused used a weapon or force;
- Whether the circumstances otherwise reveal a pattern of conduct at given location or by a particular group or organization;
- Whether the reporting individual is a minor;
- Whether the circumstances otherwise suggest an ongoing or future risk to the campus community or the complainant, and similar considerations.

The decision whether or not to proceed will be shared with the Complainant. Ultimately, the College retains the right to act upon any information that comes to its attention.

Before a victim reveals any information to a Responsible Employee, the Responsible Employee will make reasonable efforts in light of the circumstances to ensure that the victim understands the employee's reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources.

## **B. REPORTING OPTIONS OUTSIDE THE COLLEGE**

### **1. Privileged and Confidential Communications to Community Resources**

Off-campus counselors, advocates, and health care providers will generally maintain confidentiality and not share information with the College unless the victim requests the disclosure and signs a consent or waiver form. Confidential community resources are set forth in the Resource Table of Appendix D.

Note: While off-campus community counselors and advocates may maintain a victim's confidentiality vis-à-vis the College, they may have reporting or other obligations under state law.

### **2. Law Enforcement**

Any member of the College community who has experienced an incident of Sexual and Gender-Based Misconduct may also report the conduct to local law enforcement. Victims of Sexual and Gender-Based Misconduct are not required to report to local law enforcement. The College's investigation and resolution of a case of Sexual and Gender-Based Misconduct is not contingent upon a party's decision to report or not report to local law enforcement. Reports to the police may be made at the same time and in addition to reports to the College. In some circumstances, the College, however, may be obligated to report the matter to local law enforcement, such as in the case of violent felonies or missing persons.

Victim support and resources are available even if a student, employee or Third Party elects not to pursue criminal charges or file a report or Complaint with the College.

The College will assist individuals in making a report to local law enforcement.

A criminal investigation into the matter does not preclude the College from conducting its own investigation. If a report is filed with both the College and law enforcement, the College will proceed with its normal investigation process. The College, however, may need to temporarily delay its fact-finding portion of the investigation while law enforcement is gathering initial evidence.

Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate the matter is determinative of whether Sexual or Gender-Based Misconduct, for purposes of this Policy, has occurred.

Individuals can file a police report 24 hours a day by contacting the Vaughn College Security Department at **718-429-6600: Main Building - Ext. 130; Library – Ext 301; Residence Hall - Ext. 300; Astoria - Ext. 270.**

If the incident occurred off campus in the East Elmhurst and or Astoria NY area, individuals can file a report with the **NY Police Department:**

**Emergency: Dial 911**

**Non-Emergency Contact:**

115<sup>th</sup> Precinct, 92-15 Northern Blvd., Jackson Heights, NY 11372; (718) 533-2002

114<sup>th</sup> Precinct, 34-16 Astoria Blvd., Astoria, NY 11103; (718) 626-9311

If a victim chooses to file a police report, those on and off-campus resources listed in the Resources Table of **Appendix A** can provide assistance in contacting local law enforcement.

### **3. Protective Orders**

Orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence. The College can assist such individuals in obtaining judicial protective orders. For more information on how to obtain an order of protection from the courts, **contact Title IX Coordinator, Title IX Deputy Coordinator(s) or the Office of Wellness and Counseling** who can explain and support you through the process.

The College will provide a copy of any order of protection that it receives to the parties affected by it, explain the order of protection and the consequences for violating it, call upon and assist local law enforcement in effecting an arrest for violation of the order of protection or similar document, and follow legally issued orders of protection or similar documents, including denying the restricted person access to the College's property, if necessary.

### **4. Preservation of Evidence/Emergency Medical Attention**

Preservation of evidence is critical, especially in cases of possible violence and sexual violence, and

it must be done properly and promptly. In sexual assault cases, it is important not to shower, change clothes or brush one's hair, as physical evidence may be lost, although having showered or changed does not mean that a sexual assault forensic exam (rape kit) cannot be completed. In cases of violence or physical abuse, it is important to document injuries, including by taking photographs.

For more information about support services and resources see **Appendix A**.

For more information for local, non-College affiliated confidential hotlines and crisis centers see **Appendix D**.

## **SECTION VII - GENERAL PROVISIONS APPLICABLE TO ALL ALLEGATIONS OF SEXUAL AND GENDER-BASED MISCONDUCT**

### **A. TIME FRAME FOR RESOLUTION**

The College will endeavor to investigate and resolve all reports of Sexual and Gender-Based Misconduct within 60 days. The complexity and severity of a Complaint, holiday or semester breaks and availability of witnesses, for example, may extend the process beyond 60 days. In general, a Complainant and Respondent can expect to receive periodic updates from the Title IX Coordinators and/or Investigator.

If an investigation cannot be completed within sixty days, the Title IX Coordinators will notify the Complainant and Respondent(s) of that fact and provide an updated timeframe for completing the investigation.

### **B. PUBLIC AWARENESS EVENTS**

Public awareness events such as candlelight vigils, protests, or other forums in which students disclose incidents of Sexual Misconduct, are not considered notice to the College of Sexual or Gender-Based Misconduct for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about students' Title IX rights at these events.

### **C. FALSE INFORMATION AND MALICIOUS ACCUSATIONS**

Any individual who knowingly files a false report or Complaint under this Policy, who knowingly provides false information to College officials, or who intentionally misleads College officials who are involved in the investigation or resolution of a report of Sexual or Gender-Based Misconduct, Retaliation, and/or Intimidation may be subject to disciplinary action up to and including termination or dismissal.

### **D. CLERY ACT STATISTICAL AND TIMELY WARNING REPORTING OBLIGATIONS**

Statistical Reporting: The Clery Act is a federal law requiring institutions of higher education to collect and report statistics on certain crimes in an annual Security Report. Campus Security Authorities at the College have a duty to provide the College's Security Department with information regarding certain crimes when they are reported to them. All personally identifiable information is kept confidential, but statistical information regarding Clery reportable crimes must be shared, including the date and location of the incident (but not the specific address) and information about the reported crime to allow for proper classification. This report provides the College community with information about the extent and nature of crime on the College's campus and helps ensure greater

community safety.

The following individuals are considered to be Campus Security Authorities and are required to inform the Vaughn College Security Department of crimes reported to them: Vice Presidents, Department Chairs, Directors and Athletic Coaches; Any employee in a supervisory or management role; Any faculty member responsible for supervising any activities or programs that include direct contact with students outside of classroom (including faculty advisors to recognized student organizations); Vaughn College Security Department personnel; Any staff member whose primary job description includes providing academic advice to students; Residence Hall staff; and Student Affairs staff; and any other staff with significant responsibility for student and campus activities. These individuals can keep the victim's identity anonymous in their report to Campus Safety and Security if they are not also a "Responsible Employee."

Timely Warning Notifications: If a report of Sexual or Gender-Based Misconduct reveals that there is an immediate threat to the health or safety of students or employees on campus, or that an ongoing serious or continuing threat to the campus community exists, an emergency Timely Warning notification will be issued. The purpose of the Timely Warning notification is to enable individuals to protect themselves and to increase safety awareness, as well as seek information that will lead to the arrest and conviction of the perpetrator. The victim's names and other personally identifiable information will not be included in any emergency notification or public safety advisory.

#### **E. INDIVIDUALS WITH DISABILITIES AND INTERNATIONAL STUDENTS**

This Policy is accessible to students, employees and third parties with disabilities. The College will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations as needed to participate in the steps and procedures outlined in this Policy.

Requests for accommodations by students must be made to Vaughn College's ADA (Americans with Disabilities Act) Coordinators. All other members of the campus community should contact the Human Resource Office. The ADA Coordinators or the Human Resource Office as applicable will review the supporting disability-related documentation, make a decision about the request, notify the individual about approved accommodations and make arrangements for the accommodations. Accommodations may include, but are not limited to, providing interpreters for the deaf, providing recordings of materials for the blind, and assuring a barrier-free location for any proceedings.

In addition, this Policy is accessible to students who are English language learners and is distributed on campus in such a way that all students are aware of their rights under Title IX and the Violence Against Women Act.

#### **F. COOPERATION WITH LOCAL LAW ENFORCEMENT**

Vaughn College will cooperate with local law enforcement investigations.

### **SECTION VIII – INITIATING A FORMAL COMPLAINT OF SEXUAL OR GENDER-BASED MISCONDUCT**

#### **A. INITIATION OF A FORMAL COMPLAINT**

A report of Sexual and Gender-Based Misconduct becomes a formal Complaint in one of the following ways:

1. An alleged victim may file a written Complaint with the College or a Third Party may file a written Complaint on his or her behalf. An alleged victim may submit a written statement in his or her own words to the Title IX Coordinator providing sufficient information for the College to investigate the allegations contained therein;

2. An alleged victim can meet in person with the Title IX Coordinator, Deputy Title IX Coordinator(s) or another designated Responsible Employee to report alleged Sexual or Gender-Based Misconduct. Reports made to a Responsible Employee will be referred to the Title IX Coordinator, who will ask the alleged victim to submit a written statement in his or her own words.
3. Pursuant to Title IX, the College has an obligation to address all incidents of Sexual and Gender-Based Misconduct of which it becomes aware. If the Title IX Coordinator decides to proceed with a formal Complaint under these circumstances, a College administrator will serve as the “Complainant.”

Once a formal Complaint is initiated, an alleged victim will be referred to as a “Complainant” and an alleged perpetrator will be referred to as a “Respondent.”

## **B. INTERIM PROTECTIVE AND DISCIPLINARY MEASURES**

Once a Complaint has been initiated, the Title IX Coordinator, in consultation with the appropriate Deputy Title IX Coordinator(s) and other appropriate administrators as necessary, will determine whether any Interim Measures and Interim Disciplinary Sanctions are needed, and assess the parties’ requests for Interim Measures, to support the Complainant and Respondent and to protect the campus community.

### **1. Examples of Interim Measures**

The Title IX Coordinator may implement one or more of the following Interim Measures, if appropriate and/or reasonably available. Interim Measures are available even if a party chooses not to report an offense to local law enforcement:

- Issuing of mutual “no-contact” orders to prevent any contact between the Complainant, the Respondent, witnesses, and/or third parties. If the Respondent is a student, the Title IX Coordinator will issue a “no contact” order to the Respondent. Continued intentional contact with the Complainant is a violation of this policy and may result in additional conduct charges. Both the Complainant and Respondent may request review of the “no contact” order and explain why they think that the order should be modified;
- Providing the Complainant an escort to ensure that he or she can move safely between classes, work, and/or activities;
- Changing a Complainant’s or a Respondent’s on-campus housing, if any, to a different room and/or floor and providing assistance from College support staff in completing the relocation;
- Rescheduling classwork, assignments, and examinations;
- Changing work arrangements or schedules;
- Providing academic support services such as: alternative course completion options, dropping a course without penalty in some cases, or transferring to a different class section (with the agreement of the appropriate faculty);
- Limiting access to College facilities or activities, including participating in collegiate sports, pending resolution of the matter. Temporary (interim) suspension/removal from campus.

Note: Failure to comply with the terms of Interim Measures may be considered a separate violation of this Policy.

The specific Interim Measures will vary depending on the facts of each case. The Title IX Coordinator will consider a number of factors in determining what Interim Measures to take,

including, for example, the specific needs expressed by the Complainant and Respondent; the age of the parties involved; the severity of the allegations; whether the allegations were part of a pattern of conduct; whether a weapon was involved; whether the Complainant and Respondent share the same residence hall, dining hall, class, transportation, or job location; and whether other judicial measures have been taken to protect the Complainant and Respondent (e.g., civil protection orders).

Throughout the College's investigation and resolution process, the Title IX Coordinator will periodically check with the Complainant and Respondent to ensure interim measures are effective and, if not, identify alternatives.

## **C. INITIAL MEETINGS**

### **1. Meeting with the Complainant**

The Title IX Coordinator or deputy will contact the Complainant in writing to schedule an initial meeting. (If the person who reported the alleged Sexual or Gender-Based Misconduct is a Third-Party Reporter, the Title IX Coordinator will attempt to meet with him or her as soon as possible to gather information.) At this initial meeting, the Title IX Coordinator or deputy will, as applicable:

- Provide the Complainant a copy of this Policy, and review his or her rights under the Policy (see **Appendix C**);
- Provide the Complainant information about on and off-campus resources, such as the Office of Counseling and Wellness;
- Explain the avenues for formal and, if applicable, informal resolution of the Complaint;
- Explain the steps involved in a Formal Title IX investigation;
- Advise the Complainant that he or she may have an advisor of his or her choice present throughout the Title IX investigation and resolution process. The advisor may be an attorney, retained at the Complainant's own expense. Any advisor will function as a silent observer in any meeting or proceeding related to the investigation or resolution process. If the Complainant is a member of the Vaughn College community and does not have an advisor, the College will provide him or her with a list of faculty or staff who have volunteered to act as an advisor to parties involved in the Title IX investigative and resolution process;
- Discuss confidentiality standards and concerns;
- Discuss the importance of preserving relevant evidence or documentation in the case (e.g., texts, emails, notes, photographs (etc.);
- Discuss protection from, and reporting of, Retaliation and Intimidation; and
- Discuss with the Complainant, as appropriate, possible Interim Measures that can be provided to him or her during the pendency of the investigative and resolution processes. (If Interim Protective Measures have already been implemented, the Title IX Coordinator will evaluate whether they should continue to be provided and whether other Interim Measures should also be implemented.) The College may implement such measures regardless of whether a formal Complaint has been filed (with either campus officials or law enforcement agencies) or whether an investigation has commenced (by either campus officials or law enforcement agencies). These Interim Measures may include the protective measures listed in paragraph B.1 above.

The Title IX Coordinator will promptly inform the Complainant (no later than it is communicated to the Respondent) of the imposition of any Interim Measures and, to the extent that it affects him or her, the Respondent.

## 2. Meeting with Respondent

If the Complainant wishes to pursue resolution through the College or if the College otherwise deems that further investigation is warranted, the Title IX Coordinator will contact the Respondent in writing to schedule an initial meeting. During the initial meeting with the Respondent, the Title IX Coordinator will, as applicable:

- Provide the Respondent, in writing notice of charges, information consistent with state and federal privacy laws and, if applicable, the alleged victim's request for confidentiality, that is sufficient to allow him or her to respond to the substance of the allegation, including, if possible, the name of the Complainant and the date, location, and nature of the alleged Sexual or Gender-Based Misconduct;
- Provide the Respondent a copy of this Policy, including a review of his or her rights under the Policy (see **Appendix C**);
- Explain the College's procedures for resolution of the Complaint;
- Explain the steps involved in a Formal Title IX investigation;
- Advise the Respondent that he or she may have an advisor of his or her choice present throughout the Title IX investigation and resolution process. The advisor may be an attorney, retained at the Respondent's own expense. Any advisor will function as a silent observer in any meeting or proceeding related to the investigation or resolution process. If the Respondent is a member of the Vaughn College community and does not have an advisor, the College will provide the Respondent with a list of faculty or staff who have volunteered to act as an advisor to parties involved in the Title IX investigative and resolution process;
- Discuss confidentiality standards and concerns with the Respondent;
- Discuss non-Retaliation and Intimidation requirements with the Respondent;
- Inform the Respondent of any Interim Measures to be provided to the Complainant that directly affect the Respondent (e.g., changing the Respondent's class schedule, or moving the Respondent to an alternate residence hall);
- Discuss the importance of preserving relevant evidence or documentation in the case (e.g., texts, emails, notes, photographs (etc.);
- Refer the Respondent to the **Office of Counseling and Wellness** or other resources, as appropriate; and
- Discuss with the Respondent, as appropriate, possible Interim Measures that can be provided to the Respondent during the pendency of the investigative and resolution processes. The College may implement such measures if requested and/or appropriate, and reasonably available, whether a formal Complaint has been filed (with either campus officials or law enforcement agencies) or whether an investigation has commenced (by either campus officials or law enforcement agencies). Such determination will promptly be communicated to the Respondent (no later than it is communicated to the Complainant) and, to the extent that it affects him or her, the Complainant.

## D. TITLE IX COORDINATOR'S INITIAL ASSESSMENT

After meeting with the Complainant and the Respondent, the Title IX Coordinator will make a determination as to whether (a) a Formal Title IX Investigation is warranted to resolve the case; (b) the case can possibly be resolved through Informal Resolution; or (c) there is insufficient evidence to pursue charges of alleged Sexual or Gender-Based Misconduct.



In the event that the Title IX Coordinator determines there insufficient evidence to pursue charges of the alleged Sexual or Gender-Based Misconduct as defined by this Policy, the Title IX Coordinator will determine (in separate consultation with the Complainant, the Respondent, and other College administrators) and document the appropriate resolution of the Complaint, will promptly notify the parties of the resolution and will close the Complaint. Either party may appeal the Title IX Coordinator's decision according to the procedures for appeal below.

### **SECTION IX - INFORMAL RESOLUTION**

In appropriate instances where it is deemed possible and safe, the Title IX Coordinator may choose to attempt to resolve certain Complaints of Sexual and Gender-Based Misconduct through Informal Resolution means. If, based on the facts of the case, it is determined that an Informal Resolution may be appropriate, the Title IX Coordinator will discuss this option with the Complainant during the initial meeting. If the Complainant agrees, the Title IX Coordinator will discuss Informal Resolution with the Respondent during the initial meeting. Consent from both parties is required to proceed further in the Informal Resolution process.

*The College will not use the Informal Resolution process to address complaints of Sexual Assault, Dating Violence, Domestic Violence, Stalking or any matters involving physical touching or violence of any kind, as well as other cases of serious violations of the Sexual and Gender-Based Misconduct Policy as determined by the Title IX Coordinator.*

It is not necessary to pursue Informal Resolution first in order to make a Formal Resolution Complaint. Moreover, either party may terminate the Informal Resolution process at any time and proceed with Formal Resolution. The Title IX Coordinator may also terminate Informal Resolution at any time and order that the parties proceed with Formal Resolution instead. In such cases, statements or disclosures made by the parties in the course of the Informal Resolution process may be considered in the subsequent Formal Resolution proceedings.

If Informal Resolution is determined to be appropriate and the parties agree to proceed, the Title IX Coordinator or a trained designee will meet separately with both parties to present and discuss a resolution based on the information available. If both the Complainant and Respondent are satisfied with a proposed resolution and the Title IX Coordinator believes the resolution satisfies the College's obligation to provide a safe and non-discriminatory environment for the entire College community, the resolution will be implemented, and the matter will be closed. If these efforts are unsuccessful, the Formal Resolution process will commence.

### **SECTION X – FORMAL TITLE IX INVESTIGATION AND RESOLUTION PROCEDURES**

If the Title IX Coordinator determines that a Formal Resolution is warranted to resolve the Complaint or Informal Resolution efforts are not successful, the Title IX Coordinator will refer the matter for Formal Resolution, which includes a thorough and prompt investigation and provides for a fair and impartial evaluation and resolution.

#### **A. FORMAL RESOLUTION PROCEDURES FOR SEXUAL OR GENDER-BASED MISCONDUCT COMPLAINTS**

##### **1. Assignment of an Investigator**

If the Title IX Coordinator determines that a Formal Title IX Investigation is warranted to resolve a Complaint of Sexual or Gender-Based Misconduct or Informal Resolution efforts were not

successful, the Title IX Coordinator will appoint an investigator or an investigative team (“investigator”) who has specific training and experience investigating allegations of Sexual and Gender-Based Misconduct. The Title IX Coordinator will notify both the Complainant and the Respondent in writing of the Formal Title IX Investigation and the name of the investigator(s). The investigator(s) may be an employee(s) of the College or an external investigator(s) engaged to assist the College in its fact gathering.

The Respondent and the Complainant may protest the appointment of the investigator(s) by identifying a possible conflict of interest in writing to the Title IX Coordinator within twenty four (24) hours after the appointment of the Investigator(s). The Title IX Coordinator will carefully consider such statements and will assign a different investigator(s) if it is determined that a material conflict of interest exists.

## **2. The Investigator’s Activities**

The Title IX investigation will be conducted in a manner appropriate in light of the circumstances of the case. The formal investigation may include, but is not limited to, conducting interviews of the Complainant, the Respondent(s), and any witnesses (witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual’s character); reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; and gathering, examining, and preserving other relevant documents and physical, written (including medical records), and electronic evidence (including social media, security camera footage, etc.). The parties will have an equal opportunity to present relevant witnesses and evidence to the investigator, as well as identify witnesses who may have relevant information. Moreover, both the Complainant and Respondent(s) may have an advisor accompany (but not actively participate) him or her through the investigation process.

The investigation will be discreet and only disclosed only to those who “need to know.” In cases where the Complainant, Respondent, and witnesses are students, the College will take reasonable care to protect the students’ privacy by using an assigned number in incident reports and in publicly available recordkeeping.

## **3. The Investigator’s Report**

The Investigator will complete, generally within 30 days after the investigation begins, a preliminary written report that is a neutral summary of the facts.

The Complainant and Respondent will be given the opportunity to review the Investigator’s Report. Consistent with FERPA or safety concerns, identifying information about a party or third parties may be redacted at the discretion of the Title IX Coordinator. A Complainant and Respondent may request an opportunity to submit any additional comments or evidence to the investigator within five (5) business days of the opportunity to review the report.

## **4. Adjudication**

Upon receipt of any additional information by the Complainant or Respondent, if any, or after the five (5) day comment period has lapsed without comment, the investigator(s), in consultation with the Title IX Coordinator, will issue a final Report to the Hearing Officer who will review the Investigative Report and make a Determination in consultation with the Title IX Coordinator as to whether the Respondent, by the preponderance of the evidence, violated any provision of the College’s Sexual and Gender-Based Misconduct Policy. (*See Notice of Outcome section below*)

### **a. Determination Not to Proceed to Disciplinary Action**

If the Hearing Officer, in consultation with the Title IX Coordinator, determines that the Respondent did not violate any provision of the College’s Sexual and Gender-Based Misconduct Policy, the final outcome letter to both parties will inform them of this determination and the parties’ right to appeal that decision.

**b. Determination to Proceed to Disciplinary Action**

If the Hearing Officer, in consultation with the Title IX Coordinator, determines that there is sufficient information to find, by a preponderance of the evidence, that the Respondent violated the College's Sexual and Gender-based Misconduct Policy, the final written report to both parties will inform them that the matter will be referred to the appropriate Administrative Officer to determine what disciplinary sanction, if any, may be appropriate.

**5. Disciplinary Sanctions and Remedial Actions**

The Administrative Officer is responsible for determining the appropriate disciplinary sanction.

**a. Assignment of the Administrative Officer**

- For Complaints against **Students**, the Administrative Officer is typically the Vice President of Student Affairs or designee.
- For Complaints against **Staff**, the Administrative Officer is typically the Functional Vice President of the department or a designee.
- For Complaints against **Faculty**, the Administrative Officer is typically the Vice President of Academic Affairs or designee.
- For a Complaint against a **Student Employee** who is acting solely within the scope of his/her College employment at the time of the incident the Administrative Officer is typically the Vice President of Student Affairs or designee.
- For complaints against a **Third Party**, the Administrative Officer is typically the Vice President of Finance and College Services or designee.

The Administrative Officer must be a neutral and impartial decision-maker. Any Administrative Officer who has reason to believe s/he cannot make an objective decision regarding the appropriate sanction must recuse him/herself from the process.

**b. Imposition of Disciplinary Sanctions**

Both the Complainant and Respondent will be provided five (5) days from the date they are provided the Hearing Officer determination to submit a written impact statement for the Administrative Officer's consideration. The Administrative Officer, in reaching a final decision on an appropriate sanction, will review the Investigative Report, the Hearing Officer written determination on responsibility and impact statements, as well as consult with the Title IX Coordinator.

The Administrative Officer may impose any sanction deemed appropriate after a consideration of all of the relevant information.

- For **Students**, the sanction may include warnings, behavioral contracts, community service, referrals to professional counseling, social probation, probation, suspension from the College, expulsion, and the withholding or revocation of a degree.
  - **Transcript Notations.** Students suspended or expelled for committing an act of sexual assault, domestic violence, dating violence, stalking or a "violent crime," as defined by the Clery Act,<sup>1</sup> will have a notation placed on their transcript as follows: "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." The College will consider requests to remove transcript notations. A transcript notation will not be removed prior to one year after conclusion of the suspension. Expulsion notations will

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<sup>1</sup> "Violent crimes" defined by the Clery Act are murder, sexual offenses (forcible and non-forcible), robbery, aggravated assault, burglary, motor vehicle theft, manslaughter, and arson.

not be removed in any case. Appeals seeking removal of a transcript notation should be addressed to the Title IX Coordinator. If an accused student withdraws from the College while charges are pending and declines to complete the disciplinary process the following notation will be placed on his/her transcript: “withdrew with conduct charges pending.”

- For **Staff and Employees (non-Faculty)**, the sanction may include any form of discipline or termination as set forth in the Employee Handbook, including disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay or termination, as well as possible training and/or referral to counseling.
- For **Faculty**, the sanction may include any form of discipline or termination as set forth in the Faculty Handbook, including disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay or termination, as well as possible training and/or referral to counseling.

Both parties will be notified in writing, and in a simultaneous manner, of the College’s determination on the charges.

**c. Remedial Actions**

In addition to the imposition of disciplinary sanctions, the Title IX Coordinator may take remedial action to remedy the hostile environment created by the Policy violation. These remedies may be imposed to protect the parties and the College community and are considered separate from, and in addition to, any disciplinary sanction or interim measure that may have been provided prior to the conclusion of the College’s investigation.

i. Examples of Remedial Action for the Complainant/Respondent Following a Determination:

Remedies for the Complainant and Respondent, as determined by the Title IX Coordinator to be appropriate may include:

- Providing an escort to ensure that the parties can move safely between classes and activities;
- Ensuring the Complainant and Respondent do not share classes or extracurricular activities;
- Moving the Respondent or Complainant (if the Complainant requests to be moved) to a different room and/or floor in the residence hall);
- Providing comprehensive, holistic support services including medical, counseling and academic support services, such as tutoring.

ii. Examples of Remedial Action for the Broader College Community:

Remedies for the broader College community, as determined by the Title IX Coordinator to be appropriate may include:

- Designating an individual from the **Office of Counseling and Wellness** who is specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist students whenever needed.
- Training or retraining employees on the College’s responsibilities to address allegations of Sexual and Gender-Based Misconduct and how to conduct Title IX investigations;
- Developing materials on Sexual and Gender-Based Misconduct;

- Conducting bystander intervention and Sexual and Gender-Based Misconduct prevention programs with students;
- Issuing policy statements or taking other steps that clearly communicate that the College does not tolerate Sexual and Gender-Based Misconduct and will respond to all reported and known incidents;
- Conducting a campus climate check to assess the effectiveness of efforts to ensure that the College is free from Sexual or Gender-Based Misconduct, and using that information to inform future proactive steps that the school will take;
- Targeted training for a group of students if, for example, the Sexual or Gender-Based Misconduct created a hostile environment in a residence hall or on an athletic team.

## **6. Final Outcome Letters**

Both parties will be notified concurrently, in writing, of the administrator's determination on the charges and proposed sanction. These outcome letters will contain findings of fact, the decision, and sanction, if any, as well as a rationale for the decision and sanction. The notice of outcome letters will also provide each party with their appeal options.

## **7. Appeals**

The Complainant and the Respondent may appeal the determination of the final outcome letter. Appeals are decided by an Appeal Panel

There are three grounds for appeal:

- The original conduct review meeting was inconsistent with the established procedures;
- Evidence is now available that could not have been obtained at the time of the conduct review meeting; or
- The sanction is excessive, inconsistent or insufficient with the nature of the offense.

The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for the appeal. The appeal must be submitted within 5 days of the date of the final outcome letter to the Appeal Panel.

Upon receipt of the appeal, the Title IX Coordinator (or designee) will provide the other party notice of the appeal and the opportunity to respond in writing to the appeal. Any response to the appeal must be submitted within five (5) business days from receipt of notice of the appeal. In the event that both parties initially appeal the findings, each party will be provided notice and a copy of the other party's appeal.

The appeal will be conducted in an impartial manner by a panel (or designee). In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The appeal is not a new review of the underlying matter. (The Panel will review the written investigation report and all supporting documents and may consult with both parties independently.)

The panel can affirm the original determination of responsibility, alter the determination of responsibility, and/or alter the sanctions, depending on the circumstances. The matter can also be referred back for further investigation or consideration if appropriate.

The panel will communicate the results of the appeal to the Complainant and Respondent in writing generally within fifteen (15) business days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

## **B. QUESTIONS AND ANSWERS REGARDING INVESTIGATIONS**

### What Standard of Proof is used in allegations of Sexual or Gender-Based Misconduct?

The Respondent will not be presumed responsible. Instead, responsibility must be established by a preponderance of the evidence standard. "Preponderance" means more than half or "more likely than not." If, for example, the investigator concludes that the totality of the evidence weighs equally on both sides, the preponderance standard has not been met and the charges have not been proven.

### Are Complainants and Respondents allowed to question each other?

Respondents and Complainants will **NOT** be allowed to personally question or cross-examine each other, but are instead encouraged to submit questions to the investigator who may then ask the other party on the student's behalf. Questions submitted by either party will be utilized at the investigator's discretion.

### May the Respondent's Prior Conduct History be considered?

While previous conduct violations of the Respondent(s) are generally not admissible as information about the present alleged violations, the investigator and Administrative Officer may consider the Respondent's prior conduct history in the sanction stage if:

- The Respondent(s) was previously found to be responsible;
- The previous incident was substantially similar to the present allegation; and/or
- The information indicates a pattern of behavior by the Respondent(s).

### What information must be provided to the Complainant in the notice of outcome?

Title IX requires both parties to be notified, in writing, about the outcome of the investigation and any appeal. This notification will be provided concurrently in writing. The College must inform the Complainant as to whether or not it found that the alleged conduct occurred, any individual remedies offered or provided to the Complainant or any sanctions imposed on the Respondent that directly relate to the Complainant, or other steps the College will take to eliminate the hostile environment, if the College finds one to exist, and prevent its recurrence.

### What sanctions imposed on the Respondent may "directly relate" to the Complainant?

Sanctions that directly relate to the Complainant include, but are not limited to, requiring that the Respondent stay-away from the Complainant until both parties graduate (No-Contact Orders), suspensions, removal from residential housing or being moved to another residence hall, alteration of class schedule, or expulsion.

### What type of Disciplinary Sanctions may be used?

In light of the facts and circumstances of each case, the sanctions, or combination of sanctions (with or without appropriate modifications) outlined above may be applied.

### May a Complainant or Respondent appeal the College's Determination of Responsibility?

Yes. Complainants and Respondents may appeal the sanction. The appeal must be submitted within 5 days of the date of the final outcome letter to Office.

The three grounds for appeal are:

- The original conduct review meeting was inconsistent with the established procedures;
- Evidence is now available that could not have been obtained at the time of the conduct review meeting; or

- The sanction is excessive, inconsistent or insufficient with the nature of the offense.

The appeal will be conducted in an impartial manner by the Panel. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The appeal is not a new review of the underlying matter. The Panel shall consider the merits of an appeal only on the basis of the grounds for appeal. The Panel will review the written investigation report and all supporting documents and may consult with both parties independently.

**What happens if it is discovered that the Complainant purposely filed a false Complaint?**

Knowingly and maliciously making false allegations of sexual or gender-based misconduct is a serious violation of College policy and will be addressed through the College's disciplinary procedures.

**SECTION XI – PREVENTION AND EDUCATION**

**A. Educational Programs**

Vaughn College provides resources for education about and prevention of Sexual and Gender-Based Misconduct. They include:

- Alcohol and Drug Workshops
- Sex Signals
- Life Reality Skit Demonstration
- Meeting of Minds Workshop; Understanding the Differences
- Self Defense Training
- Know Your Campus
- The Do's and Don'ts of Dating
- Sexuality, Sexual Preference and Anatomy
- Title IX Awareness and Understanding
- Women's Health Fair
- Adjusting to College Life

**B. Training**

Sexual and Gender-Based Misconduct prevention training, which includes training with respect to sexual offenses, is required for members of the College campus community according to the following schedule:

- All students on an annual basis;
- Student athletes;
- Student organization leaders;
- New faculty and staff;
- All faculty and staff- biennially;
- Key students, camp counselors and program leaders prior to performing the duties or participating in the qualifying activity; the College's training includes, but is not limited to, information on (a) Title IX and a review of the College's prohibition against Dating

Violence, Sexual Assault, Domestic Violence and Stalking, (b) how to file a formal Title IX Complaint with the College, (c) resources available to Sexual and Gender-Based Misconduct victims such as counseling, health services and interim measures, (d) Bystander Intervention Training; and (e) options for reporting an incident of Sexual or Gender-Based Misconduct to campus or local law enforcement. In addition, all incoming students are educated regarding the legal definitions for dating violence, sexual assault, domestic violence, stalking and affirmative consent in the State of New York.

## **SECTION XII – ANNUAL REPORTING**

The Title IX Coordinator maintains an annual report documenting: (1) the number of reports or Complaints received pursuant to this Policy; (2) the categories of those involved in the allegations; (3) the number of Policy violations found; and (4) examples of sanctions imposed for Policy violations.



## APPENDIX A

### IMMEDIATE ASSISTANCE FOLLOWING A SEXUAL OR GENDER-BASED MISCONDUCT INCIDENT

Vaughn College recognizes that deciding how to respond to an incident of Sexual or Gender-Based Misconduct can be difficult and encourages all individuals to seek the immediate support of and use all available resources on- and off-campus, regardless of when or where the incident occurred. Confidential and non-confidential care and support resources, which are listed below, are available both on and off campus on an immediate and ongoing basis.

#### **A. IMMEDIATE ASSISTANCE AND RESOURCES**

It is the College's goal to empower individuals who believe they have experienced an incident of Sexual or Gender-Based Misconduct to make the decisions that are best for them. Various campus and community advocates, counselors, and emergency first responders are available to offer assistance in this regard. Moreover, seeking assistance and advice promptly from one of these resources may also be important to ensure one's physical safety or to obtain medical care or other support. It may also be necessary to preserve evidence, which can assist the College and/or law enforcement in responding effectively. Assistance is available 24 hours a day, 7 days a week. The Resource Table below provides contact information for the various campus and community advocates, counselors, and emergency first responders available to provide assistance.

**Get to a Safe Place:** First and foremost, an individual who is the victim of Sexual Assault (non-consensual sexual contact and non-consensual sexual intercourse), Domestic Violence, Dating Violence, Stalking or other violent actions is urged to get to a safe place away from the perpetrator or from any other potential danger as soon as possible. Individuals on campus that are not in a safe place should contact Vaughn College Security Department at **718-429-6600: Main Building - Ext. 130; Library – Ext 301; Residence Hall - Ext. 300; Astoria- Ext. 270** (24 hours) or Local Law Enforcement at 911 immediately (24 hours). Individuals off campus should contact Local Law Enforcement at 911 immediately (24 hours).

**Preserve Evidence:** Collecting evidence does not obligate an individual to any particular course of action but can assist law enforcement should criminal charges ultimately be pursued. For evidence collection purposes, it is important that, if possible, victims do not shower, bathe, wash, comb their hair, use the toilet, smoke, brush their teeth, eat or drink, and wash clothes, sheets, blankets or other items. Anything of evidentiary value should be placed in a paper bag (plastic bags are discouraged). Also, victims are urged to photograph visible injuries. Pictures should be taken zoomed in and panned out to show location. A credit card, coin, or dollar bill should be used for reference of size.

**Confidential Counselor or Healthcare Providers:** Individuals who believe that they or someone they know has been a victim of Sexual or Gender-Based Misconduct may seek medical, counseling, support and reporting information from any of the College or off-campus confidential resources listed in the Resources Table below. Discussing a matter with these offices or individuals is not considered a report to the College or a request that any action be taken by the College in response to a Sexual or Gender-Based Misconduct incident, unless specifically requested by the victim. Conversations with these resources are confidential, except as described in the Resources Table below.

The confidential counselors and healthcare members listed in the Resources Table can provide individuals with both immediate and long-term help. They will listen and help access additional assistance, and explain options for obtaining additional support from the College and others. They can also arrange for medical care and accompany victims, or arrange for someone to accompany individuals, to seek such care. In addition, they can provide assistance in filing a complaint with local law enforcement. These resources may be used regardless of whether the victim wants to file an official report or participate in College investigation and resolution proceedings or the criminal

process. They are familiar with the College's investigation and resolution process, can explain what to expect, and provide support while College or legal processes are pending, all on a confidential basis.

**College Resources (Non-Confidential):** In addition to confidential resources, any individual who has experienced or witnessed an incident of Sexual or Gender-Based Misconduct has the option and is encouraged to contact any of the *non-confidential* College resources listed in the Resource Table below for immediate assistance.

Upon the receipt of the initial report, the victim's immediate health and safety needs will be assessed by the First Responder (usually a Vaughn College Security Department Officer). The First Responder will outline all of the options for the Complainant, including but not limited to medical treatment, access to an on-campus safe room, the importance of preserving relevant evidence or documentation, and filing a report with the appropriate law enforcement authority. Additionally, the First Responder will advise the Complainant that the College has a duty to investigate the report in order to remedy the effects of any hostile environment created for the Complainant and the campus community.

**Local Law Enforcement (Non-Confidential):** Any member of the College community who has experienced an incident of Sexual or Gender-Based Misconduct involving potential criminal conduct has the option to report the conduct to local law enforcement. If the conduct is reported to the College, a victim will be informed of his or her option to also report any potential criminal activity to local law enforcement. A criminal complaint and a report with the College may be filed at the same time, however, individuals may pursue a Complaint with the College without pursuing criminal charges and vice versa. Because the standards for finding a violation of criminal law are different from the standards in this Policy, criminal investigations or reports are not determinative of whether or not Sexual or Gender-Based Misconduct under this Policy has occurred. Any of the College resources listed in the Resource Table can provide assistance in filing a complaint with local law enforcement and obtaining an order of protection.

**Health Care Options:** Whether a member of the College community who has experienced an incident of Sexual Assault (non-consensual sexual contact and non-consensual sexual intercourse), Domestic Violence, Dating Violence, or other violent actions, elects to report the incident or not, it is important that medical attention be sought as soon as possible. This will allow the individual to get care for any injuries that may have resulted from the assault, receive medications in order to prevent sexually transmitted infections in the event of a Sexual Assault and to properly collect and preserve evidence, if the patient consents to do so. A medical examination as soon as possible (ideally within 72 hours) is critical in preserving evidence of Sexual Assault and proving a criminal or civil case against a perpetrator.

A listing of local hospitals that have rape kits and/or Sexual Assault Nurse Examiners (SANE), which will assist law enforcement should criminal charges ultimately be pursued by the victim, are set forth in the Resources Table.

**Getting to the Hospital:** For victims with injuries that require emergency medical care, it is imperative that Vaughn College Security Department be called at **718-429-6600: Main Building - Ext. 130; Library - Ext 301; Residence Hall - Ext. 300; Astoria- Ext. 270** or that Emergency Medical Services be contacted at 911 to request emergency transport.

**Transportation Assistance:** If there are no pressing medical needs, the individual may make arrangements for travel to the hospital or contact any of the College or off-campus resources listed in the Resource Table for assistance in seeking medical attention off campus.

## **B. ONGOING ASSISTANCE**

### **1. Counseling, Advocacy and Support**

The counseling and support programs listed in the Resource Table are available for victims of Sexual or Gender-Based Misconduct at any time, whether or not the victim chooses to make an official report or participate in a College disciplinary or criminal process.

### **2. Interim Measures & “No Contact” Orders**

Upon learning of an incident of Sexual or Gender-Based Misconduct involving a member of the College community, the Title IX Coordinator will take immediate steps and interim measures to ensure the safety and well-being of the victim, such as the ability to move dorm room, change work schedules, alter academic schedules, withdraw from/retake a class without penalty, and access academic support (e.g., tutoring).

An additional Interim Measures that will be implemented if the accused is a student is the issuance of a “no contact” order. Continued intentional contact with the reporting individual is a violation of institution policy and may be subject to additional conduct charges. It is the accused’s responsibility to leave the area if the reporting individual and the accused observe each other in a public place. Both the accused and the reporting individual may request a review and modification of a “no contact” orders.

## **APPENDIX B**

### **Student Alcohol and Drug Use Amnesty Policy**

The health and safety of every student at the College is of utmost importance. The College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to a College official or law enforcement will not be subject to a code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

It is the College's intention to partner with students in promoting health and safety. The College will provide students with the assistance needed to respond to high risk drinking and other drug abuse.

In a crisis, students are encouraged to seek such assistance by contacting:

Campus Security Department at 718-429-6600

Main Building - Ext. 130

Library – Ext. 301

Residence Hall - Ext. 300

Astoria- Ext. 270

## APPENDIX C

### STUDENTS' BILL OF RIGHTS

All students have the right to:

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

**Confidential College reporting options:**

- Director of the Office of Counseling and Wellness at Vaughn College 718 429-6600, Ext. 350

## **APPENDIX D**

### **Resource Table**

- **Advanced Center for Psychotherapy** 103-26 68th Road Forest Hills NY 11375  
Contact (718)261-3330 to schedule an appointment
- **Elmhurst Hospital Center** – Open 24 hours (<http://www.nychealthandhospitals.org/elmhurst/>)  
General Info: 718.334.4000  
Adult Appointments: **718.334.2424**  
Adult Services: Mon-Thurs 8a-8p; Friday 8a-5p; Sat 8a-12p  
Elmhurst Hospital provides behavioral and mental health services. Services provided: emergency services for adults & children/adolescents, acute care hospitalization for adults & children/adolescents, ambulatory behavioral health services for adults & children/adolescents community oriented services for adults & children/adolescents. The multidisciplinary staff includes psychiatrists, psychiatric nurses & nurse practitioners, social workers, psychologists, activity therapists, caseworkers, and therapy aides. The aim of treatment by the multidisciplinary psychiatry team is the focused resolution of acute symptoms and community reintegration for the patient.  
**List of participating insurance companies** - <http://www.nychealthandhospitals.org/wp-content/uploads/2017/01/contracted-plans-elmhurst.pdf>
- **Family Justice Centers** <http://www1.nyc.gov/site/ocdv/domestic-violence/introduction-to-domestic-violence.page>  
**Domestic Violence.** In the United States it is against the law to intentionally injure someone, force them to participate in a sexual act or put someone in fear of physical injury.  
New York City has one-stop domestic violence service centers called Family Justice Centers in every borough. Help is FREE and CONFIDENTIAL and available in all languages, regardless of a person's immigration status.  
**Locations**  
**NYC Family Justice Center, Bronx** 198 East 161st Street, 2nd Floor  
718-508-1220  
**NYC Family Justice Center, Brooklyn** 350 Jay Street  
718-250-5111  
**NYC Family Justice Center, Manhattan** 80 Centre Street  
212-602-2800  
**NYC Family Justice Center, Queens** 126-02 82nd Avenue  
718-575-4545
- **Glendale Mental Health Clinic** 67-29 Myrtle Avenue Glendale, NY 11385  
718-456-7001  
Mon-Fri 9a-5p  
<https://www.ccbq.org/what-we-do/taxonomy/term/9/glendale-mental-health-clinic>
- **GET HELP NOW** Call 24 hours a day, 7 days a week, 365 days a year.  
**Call NYC Well** English: 1-888-NYC-WELL (1-888-692-9355), Press 2; Español:1-888-692-9355,Press3  
**Texting counseling Services Text NYC Well** Text WELL to 65173  
A service for NYC residents, available 24/7/365. Text anytime!

**Chat with a Counselor Now** If you need support and prefer to chat, NYC Well Chat is here 24 hours a day, 7 days a week, 365 days a year. **Click link to chat with counselor:**  
<https://nycwell.cityofnewyork.us/en/get-help-now/chat-with-a-counselor-now/>

- **Long Island Jewish Medical Center/**  
Behavioral Health College Partnership Program – Open 24 hours  
Dr. Laura Braider (Director)/Dr. Lalima – **718.470.8894**  
Early Episode/Young Adult Unit. Emergency transport and assessment for college students 24/7.  
Provides an environment for the care of patients with first and early episode major psychiatric illnesses (psychotic and affective disorders), as well as patients who present with complex diagnostic and/or treatment issues early in the course of the illness. By incorporating the expertise and resources of the Division of Research at Zucker Hillside Hospital, we provide comprehensive evidence-based systematic and innovative assessment and treatment of our patients. This unit also serves patients for the Behavioral Health College Partnership, an innovative program that provides a collaborative approach for treatment to regional college students. **List of participating insurance companies** -  
<https://www.northwell.edu/manage-your-care/insurance?location=20691>
- **Military Family Clinic** 855-698-4677  
One Park Ave, 8th Fl, NY, NY  
Short term psychotherapy for veterans and their families
- **National Sexual Assault Hotline** 24/7: 800.656.4673  
<https://www.rainn.org/>
- **National Suicide Prevention Lifeline – 24/7 1-800-273-8255**  
We can all help prevent suicide. The Lifeline provides 24/7, free and confidential support for people in distress, prevention and crisis resources for you or your loved ones, and best practices for professionals. <https://suicidepreventionlifeline.org/>
- **NYC Anti-Violence Project** 24hr hotline 212.714.1141  
AVP empowers lesbian, gay, bisexual, transgender, queer, and HIV-affected communities and allies to end all forms of violence through organizing and education, and supports survivors through counseling and advocacy. <https://avp.org/>
- **NYS Coalition Against Sexual Assault** 24/7: 800.942.6906  
<http://nyscasa.org/>
- **NYS Division of Veteran Affairs, Military Sexual Trauma**  
VA Crisis Line: 800.273.8255, press 1  
<https://veterans.ny.gov/content/military-sexual-trauma>
- **Plaza Del Sol Family Center** <https://www.urbanhealthplan.org/plaza-del-sol-family-health-center/>  
718.561-4000  
Monday-Friday: 8 am – 7 pm; Saturday: 8 am – 5 pm  
Plaza del Sol provides the community with essential and cost-effective primary health care.
- **Queens Hospital Center** – Open 24 hours (<http://www.nychealthandhospitals.org/queens/>)

**Comprehensive Psychiatric Emergency Services Program (CPEP)** CPEP offers 24-hour services in the Psychiatric Emergency Department. Individuals are assessed first by a nurse, then a physician and treatment decisions are made regarding care. Based on each individual's needs, treatment is initiated and a referral for additional outpatient services is made, or the patient is admitted to one of the inpatient behavioral health units. The CPEP also offers an extended observation unit for patients who need crisis stabilization without requiring inpatient admission, Pastoral care and specialized care for those who are mentally and physically disabled is also available, Patients who need urgent care but not admission can walk in for an evaluation. Family members and patients are treated with kindness and respect and are counseled and connected with services. Emergency services can be reached at **(718) 883-3575**.

**Comprehensive services and treatment for sexual assault, domestic violence, child abuse, child neglect,** and elder abuse. Social workers are onsite to provide services Monday through Friday from 9 a.m. to 8:30 p.m. and on weekends from 9 a.m. to 5 p.m. The Social Work Director and Associate Director are on call 24 hours a day, seven days a week for consultation.

**Costs: Prescription Assistance:** Prescription Assistance Program at Queens Hospital Center Patients without prescription coverage are asked to pay a \$10 administrative fee for each prescription. Patients will not be asked to pay more than \$40 at any single visit, no matter how many prescriptions they receive. If a patient is unable to afford the fee, a Financial Counselor is available to discuss payment options. Medicare Part D Medicare prescription drug coverage is insurance. **Financial Aid** Financial concerns should not keep you from seeking the health care you and your family need. At NYC Health + Hospitals/Queens, we are committed to helping patients who are not insured get affordable healthcare, whether through a low- or no-cost insurance program or through a reduced fee arrangement. **List of participating insurance companies** - <http://www.nychealthandhospitals.org/wp-content/uploads/2017/01/contracted-plans-queens.pdf>

- **QUEENS RAPE COUNSELING CENTER**

Address: 71-49 Loubet Street Forest Hills NY 11375

Telephone(s): 718-263-2013

Hours: Mon - Thurs, 10:00 a.m.-10:00 p.m.; Fri - Sat, 12:00 p.m.- 5:00 p.m.

- **Safe Horizon**

Three 24-hour hotlines operate seven days a week, 365 days a year.

For help with domestic violence, please call our domestic violence hotline: [800-621-HOPE \(4673\)](tel:800-621-HOPE).

For help with all crimes, including support for family members of homicide victims, please call: [866-689-HELP \(4357\)](tel:866-689-HELP).

For help with rape and sexual assault, please call: [212-227-3000](tel:212-227-3000).

Or call NYC's 311

**Safe Horizon Stalking Hotline** 24/7: [1-866-689-HELP \(4357\)](tel:1-866-689-HELP)

**Domestic Violence Hotline** is Available 24/7: [1-800-621-HOPE \(4673\)](tel:1-800-621-HOPE) – support, shelter or services – FREE and confidential

<https://www.safehorizon.org/>

- **Service Women's Action Network (SWAN)** 646.569.5200

SWAN supports, defends and empowers today's servicemen and women veterans of all eras, through groundbreaking advocacy initiatives and innovative, healing community programs.

<http://www.servicewomen.org/>



- **VictimConnect**  
National Hotline for Crime Victims  
1-855-4-VICTIM (1-855-484-2846)\_  
<https://victimconnect.org/>

## **APPENDIX E**

### **New York Crime Definitions**

The Violence Against Women Act (VAWA) and its proposed regulations require the College to include certain New York State definitions in their Annual Security Report and also require that these definitions be provided in other materials disseminated by the College. Relevant New York definitions are set forth below.<sup>2</sup>

**CONSENT:**<sup>3</sup> Lack of consent results from: forcible compulsion; or incapacity to consent; or where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct. Where the offense charged is rape in the third degree, a criminal sexual act in the third degree, or forcible compulsion in circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances. A person is incapable of consent when he or she is: less than 17 years old; or mentally disabled; or mentally incapacitated; or physically helpless; or committed to the care and custody of the state department of correctional services, a hospital, the office of children and family services and is in residential care, or the other person is a resident or inpatient of a residential facility operated by the office of mental health, the office for people with development disabilities, or the office of alcoholism and substance abuse services, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital.

**CONSENT, ABBREVIATED:** Clear, unambiguous, and voluntary agreement between the participating to engage in specific sexual activity.

**DATING VIOLENCE:** New York State does not specifically define "dating violence." However, under New York Law, intimate relationships are covered by the definition of domestic violence when the crime is committed by a person in an "intimate relationship" with the victim. See "Family or Household Member" for definition of "intimate relationship."

**DOMESTIC VIOLENCE:** An act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted murder, criminal obstruction or breaching or blood circulation, or strangulation; and such acts have created a substantial risk of physical or emotional harm to a person or a person's child. Such acts are alleged to have been committed by a family member. The victim can be anyone over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of the act.

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<sup>2</sup> For purposes of enforcing the expectations and requirements of this Policy, Sexual and Gender-Based Misconduct is defined in the body of this Policy.

<sup>3</sup> For the purposes of this Policy, the College defines consent as *affirmative consent* as defined in Section V, which is consistent with N.Y. Educ. Law § 6441.

**FAMILY OR HOUSEHOLD MEMBER:** Person's related by consanguinity or affinity; persons legally married to one another; person formerly married to one another regardless of whether they still reside in the same household; persons who have a child in common regardless of whether such persons are married or have lived together at any time; unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation. Intimate relationship status shall be applied to teens, lesbian/gay/bisexual/transgender, and elderly individuals, current and formerly married and/or dating heterosexual individuals who were, or are in an intimate relationship.

**PARENT:** means natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.

**SEXUAL ASSAULT:** New York State does not specifically define sexual assault. However, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape.

**SEX OFFENSES; LACK OF CONSENT:** Whether or not specifically stated, it is an element of every sexual act committed without consent of the victim.

**SEXUAL MISCONDUCT:** When a person (1) engages in sexual intercourse with another person without such person's consent; or (2) engages in oral sexual conduct or anal sexual conduct without such person's consent; or (3) engages in sexual conduct with an animal or a dead human body.

**RAPE IN THE THIRD DEGREE:** When a person (1) engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) Being 21 years old or more, engages in sexual intercourse with another person less than 17 years old; or (3) engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

**RAPE IN THE SECOND DEGREE:** When a person (1) being 18 years old or more, engages in sexual intercourse with another person less than 15 years old; or (2) engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense to the crime of rape in the second degree the defendant was less than four years older than the victim at the time of the act.

**RAPE IN THE FIRST DEGREE:** When a person engages in sexual intercourse with another person (1) by forcible compulsion; or (2) who is incapable of consent by reason of being physically helpless; or (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

**CRIMINAL SEXUAL ACT IN THE THIRD DEGREE:** When a person engages in oral or anal sexual conduct (1) with a person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) being 21 years old or more, with a person less than 17 years old; (3) with another person without such persons consent where such lack of consent is by reason of some factor other than incapacity to consent.

**CRIMINAL SEXUAL ACT IN THE SECOND DEGREE:** When a person engages in oral or anal sexual conduct with another person (1) and is 18 years or more and the other person is less than 15 years old; or (2) who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense that the defendant was less than four years older than the victim at the time of the act.

**CRIMINAL SEXUAL ACT IN THE FIRST DEGREE:** When a person engages in oral or anal sexual conduct with another person (1) by forcible compulsion; (2) who is incapable of consent by reason of being physically helpless; (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

**FORCIBLE TOUCHING:** When a person intentionally, and for no legitimate purpose, forcibly touches 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. It includes squeezing, grabbing, or pinching.

**PERSISTENT SEXUAL ABUSE:** When a person commits a crime of forcible touching, or second or third degree sexual abuse within the previous ten year period, has been convicted two or more times, in separate criminal transactions for which a sentence was imposed on separate occasions of one of one of the above mentioned crimes or any offense defined in this article, of which the commission or attempted commissions thereof is a felony.

**SEXUAL ABUSE IN THE THIRD DEGREE:** When a person subjects another person to sexual contact without the latter's consent. For any prosecution under this section, it is an affirmative defense that (1) such other person's lack of consent was due solely to incapacity to consent by reason of being less than 17 years old; and (2) such other person was more than 14 years old and (3) the defendant was less than five years older than such other person.

**SEXUAL ABUSE IN THE SECOND DEGREE:** When a person subjects another person to sexual contact and when such other person is (1) incapable of consent by reason of some factor other than being less than 17 years old; or (2) less than 14 years old.

**SEXUAL ABUSE IN THE FIRST DEGREE:** When a person subjects another person to sexual contact (1) by forcible compulsion; (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old; or (4) when the other person is less than 13 years old.

**AGGRAVATED SEXUAL ABUSE:** For the purposes of this section, conduct performed for a valid medical purpose does not violate the provisions of this section.

**AGGRAVATED SEXUAL ABUSE IN THE FOURTH DEGREE:** When a person inserts a (1) foreign object in the vagina, urethra, penis or rectum of another person and the other person is incapable of consent by reason of some factor other than being less than 17 years old; or (2) finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to

such person and such person is incapable of consent by reason of some factor other than being less than 17 years old.

**AGGRAVATED SEXUAL ABUSE IN THE THIRD DEGREE:** When a person inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person (1)(a) by forcible compulsion; (b) when the other person is incapable of consent by reason of being physically helpless; or (c) when the other person is less than 11 years old; or (2) causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.

**AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE:** When a person inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person by (1) forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old.

**AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE:** When a person subjects another person to sexual contact: (1) By forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than eleven years old; or (4) when the other person is less than thirteen years old and the actor is twenty-one years old or older.

**STALKING IN THE FOURTH DEGREE:** When a person intentionally, and for not legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or (3) is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

**STALKING IN THE THIRD DEGREE:** When a person (1) commits the crime of stalking in the fourth degree against any person in three or more separate transactions, for which the actor has not been previously convicted; or (2) commits the crime of stalking in the fourth degree against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) with an intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or (4) commits the crime or stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

**STALKING IN THE SECOND DEGREE:** When a person: (1) commits the crime of stalking in the third degree and in the course of and furtherance of the commission of such offense: (a) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, sword, billy,

blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, sligshot, slungshot, shirken, "Kung Fu Star," dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapons; or (b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or (2) commits the crime of stalking in the third against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree; or (4) being 21 years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or (5) commits the crime of stalking in the third degree, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

**STALKING IN THE FIRST DEGREE:** When a person commits the crime of stalking in the third degree or stalking in the second degree and, in the course and furtherance thereof, he or she intentionally or recklessly causes physical injury to the victim of such crime.