



Policy & Procedures Addressing Sex Discrimination and Gender-Based Misconduct

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PREAMBLE

This Policy prohibits sex discrimination and gender-based misconduct at Webb Institute (“Webb”). This Policy:

- Defines what constitutes sex discrimination and gender-based misconduct;
- Identifies the resources available to those affected by sex discrimination and gender-based misconduct; and
- Details Webb’s procedures for responding to sex discrimination and gender-based misconduct.

This Policy and the procedures identified herein apply to all Webb students, faculty and employees, as well as third parties who engage with Webb’s education program and activity. This Policy and the procedures identified herein are based on federal, state, and local laws, including Title IX, the federal law that prohibits sex discrimination, and Article 129-B of the New York State Education Law.

Each time there is a change in the law, Webb must review and revise this Policy. In April 2024, the United States Department of Education (“USDOE”) issued revised Title IX regulations, effective August 1, 2024 (the “2024 Final Rule”). The 2024 Final Rule requires that institutions receiving federal funding implement specific grievance procedures to address complaints of sex discrimination and sex-based harassment involving students at post-secondary institutions. To achieve the twin goals of clarity and consistency, Webb will apply one grievance procedure to all complaints of sex discrimination, including sex-based harassment, gender-based misconduct, and other conduct prohibited by this Policy. In cases of sex-based harassment involving a student Complainant or Respondent, Webb will also follow the procedures for follow-up questioning set forth in Section X.E.

This Policy is effective August 1, 2024.

POLICY STATEMENT

Webb Institute (“Webb”) is proud of its Honor Code, traditions, workplace, and academic environment and will endeavor to maintain a pleasant and collegial environment for employees, students, guests, and visitors, all of whom are expected to treat each other with courtesy, consideration, and professionalism.

In accordance with Title IX of the Education Amendments of 1972 and its implementing regulations (“Title IX”), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”), as amended by the Violence Against Women Act/Campus Sexual Violence Act (“VAWA”/“Campus SaVE Act”), Title VII of the Civil Rights Act of 1964, Article 129-B of the New York State Education Law (“Article 129-B”), the New York State Human Rights Law (“NYSHRL”), and all other applicable law, Webb is committed to providing a safe

community, free from all forms of sex discrimination and gender-based misconduct. Webb Institute does not discriminate on the basis of sex and, as required by Title IX, prohibits sex discrimination in any education programs or activities that it operates, including admissions and employment.

Accordingly, Webb is committed to:

1. Providing a safe, non-discriminatory and harassment-free environment;
2. Clearly defining sex discrimination and other prohibited conduct, including gender-based misconduct and retaliation;
3. Identifying clear guidelines for reporting incidents of sex discrimination and gender-based misconduct and monitoring barriers to reporting;
4. Providing support and resources to all parties affected by sex discrimination and gender-based misconduct;
5. Responding promptly and effectively to reports of sex discrimination and gender-based misconduct;
6. Ensuring that students, employees and affiliates receive effective training on this Policy, including awareness and prevention information about sex discrimination and gender-based misconduct;
7. Ensuring that Webb officials responsible for responding to complaints of prohibited conduct under this Policy receive effective training on their response obligations and that all employees receive effective training on their duty to report prohibited conduct;
8. Widely disseminating this Policy and a “Students’ Bill of Rights” through Webb’s website, publications, student and employee orientations, employee training and other appropriate channels of communication.
9. Ensuring compliance with federal, state, and local law.

This Policy is not intended to regulate protected speech and will be interpreted in accordance with the principles of academic freedom. However, free speech principles and academic freedom are not limitless and do not protect speech or expressive conduct that violates this Policy or otherwise violates federal, state, or local anti-discrimination laws.

This Policy prohibits sex discrimination and gender-based misconduct. The Webb community should also be aware of the following Webb policies:

1. [Discrimination and Harassment Policy](#) (non-sex based) prohibits discriminatory practices or harassment in accordance with federal, state and local law.
2. Student Responsibility Policy addresses expectations for student compliance with state and federal laws and Webb and Student Organization policies.
3. Student Discipline Policy & Procedures sets forth policies and rules that govern student conduct, behavior, use of facilities, and activities.
4. Accessibility, Accommodations & Educational Opportunity Policy provides reasonable accommodations for students with appropriately diagnosed and

documented disabilities and identifies guidelines to document the need for an accommodation.

5. [Prohibition on Consensual Relationships](#) prohibits romantic and sexual relationships between Webb employees and students and between supervisors and employees.

SCOPE OF THIS POLICY

This Policy governs the conduct of all Webb students, faculty, and employees, as well as third parties who engage with Webb's education programs and activities. The ability of Webb to address third party conduct governed by this Policy will depend on the relationship of that third-party with Webb.

This Policy prohibits sex discrimination, gender-based misconduct, and other prohibited conduct that occurs within Webb's education program or activity, including conduct that occurs on campus and conduct that occurs off campus but has a reasonable connection to Webb, including but not limited to, Webb study abroad programs and conduct that is otherwise subject to Webb's disciplinary authority.

This Policy supersedes any information contained in any other Webb Policy, with respect to the definitions or procedures relating to sex discrimination, gender-based misconduct, or other conduct prohibited by this Policy. Any inquiries about which policy applies may be raised with the Title IX Coordinator.

PROHIBITED CONDUCT AND DEFINITIONS

The following conduct is prohibited by this Policy.

As used below, conduct that is "based on sex" includes conduct that is based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity or expression, or sexual and reproductive health decisions.

- **Prohibited Conduct:**

- **Sex Discrimination** is any discrimination based on sex, including but not limited to, sex-based harassment.
- **Sex-Based Harassment** is a form of sex discrimination and means sexual harassment and other harassment based on sex, including quid pro quo harassment, hostile environment harassment, sexual assault, domestic violence, dating violence, or stalking, as defined below:
 - **Quid Pro Quo Harassment** is when an employee, agent, or other person authorized by Webb to provide an aid, benefit, or service under Webb's education program or activity explicitly or impliedly conditions the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

- **Hostile Environment Harassment** is unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from Webb's education program or activity.
 - Webb will evaluate the totality of the circumstances when determining whether there is a sex-based hostile environment in its education program or activity, which may require that Webb consider allegations about conduct that occurred outside of its education program or activity that may be contributing to the alleged sex-based hostile environment. The factors which Webb will consider are:
 - (1) the degree to which the conduct affected the Complainant's ability to access Webb's education program or activity;
 - (2) the type, frequency and duration of the conduct;
 - (3) the parties' ages, roles within Webb's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - (4) the location of the conduct and the context in which the conduct occurred; and
 - (5) other sex-based harassment in Webb's education program or activity.
- **Sexual Assault** is any nonconsensual sexual act, including:
 - **Sexual Assault: Contact (Fondling)** is any sexual contact, including sexual touching for the purpose of sexual gratification of either party or degrading or abusing such person, without a person's consent. Sexual touching includes contact under or over clothing with another person's private body parts, including the anus, breasts, buttocks, genitals, groin or inner thigh; touching another person anywhere with any of those body parts; making another person touch any of those body parts under or over clothing; or the emission of ejaculate on the clothing or body of another person.
 - **Sexual Assault: Penetration** is any form of vaginal, anal, or oral penetration or attempted penetration, however slight, by a penis, object, tongue, or finger without a person's consent.
 - *Sexual Assault includes the crimes of incest or statutory rape.*
- **Domestic Violence** includes felony or misdemeanor crimes committed by a person who:
 - Is a current or former spouse or intimate partner of the victim, or a person similarly situated to a spouse of the victim;
 - Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - Shares a child in common with the victim; or

- Commits acts against a youth or adult victim who is protected from those acts under [New York Social Services Law Section 459-A](#).
- *Domestic violence can be a single act or a pattern of behavior, based on the frequency, nature, and severity of the conduct.*
- **Dating Violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
 - The existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.
 - *A relationship may be romantic or intimate regardless of whether the relationship was sexual in nature.*
 - *Dating violence can be a single act or a pattern of behavior, based on the frequency, nature and severity of the conduct.*
 - *Dating violence includes the threat of sexual assault or physical abuse.*
- **Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.
 - *This Policy addresses stalking that is based on sex. All other stalking will be addressed under other applicable policies.*
- **Gender-Based Misconduct** is an umbrella term that includes Sex-Based Harassment, as defined above, as well as:
 - **Sexual Harassment** is unwelcome conduct which is either of a sexual nature or which is directed at an individual because of that individual's sex. Conduct is considered unwelcome if the individual did not request or invite it and considered the conduct to be undesirable or offensive. This includes, but is not limited to situations when:
 - Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational experience;
 - Submission or rejection of such conduct is used as a basis for a decision regarding an employment, academic or other College-related activity affecting such individual; or
 - Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or participation in a College program, department or extra-curricular activity; or
 - Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working, learning, studying or school environment.
 - **Sexual Exploitation** is unwelcome surveillance or acts that violate a person's right to privacy in connection with their body and/or sexual activity, including, but not limited to:

- Viewing another person’s sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person’s consent;
 - Recording images (e.g. video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness where that person would have a reasonable expectation of privacy, without that person’s consent;
 - Disseminating or explicitly threatening to disseminate images (e.g. video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness where that person would have a reasonable expectation of privacy, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure;
 - Using or installing, or permitting the use or installation of a device for the purpose of recording another person’s sexual activity, intimate body parts or nakedness in a place where the person would have a reasonable expectation of privacy, without that person’s consent;
 - Exposing one’s genitals in non-consensual circumstances; or
 - Inducing incapacitation for the purpose of making another person vulnerable to gender-based misconduct.
 - **Retaliation** includes intimidation, threats, coercion or discrimination against any person by Webb, a student (peer retaliation), or an employee or other person authorized by Webb to provide an aid, benefit, or service under Webb’s education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, including an informal resolution process.
 - **Knowingly submitting false statements or information** means knowingly making false statements or submitting false information in connection with any allegation of prohibited conduct under this Policy (as opposed to providing information which, even if erroneous, is provided in good faith). Anyone who knowingly files a false claim or knowingly provides false information during an investigation may be subject to appropriate disciplinary action.
- **Definitions**
 - **Affirmative Consent (“Consent”)** mean 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 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 expression. The following principles, along with the above definition, will be used as guidance for the Webb community:

- Consent to any sexual act or prior consensual 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 or alcohol;
- Consent may be initially given but withdrawn at any time;
- Consent cannot be given when a person is incapacitated (as hereafter described);
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm; and
- When Consent is withdrawn or can no longer be given, sexual activity must stop.
- ***Note on New York State Law:***
 - **The age of consent in New York State is 17 years old.** Children under 17 years of age cannot legally consent to sex or sexual contact with an adult (someone who is 17 years of age or older).
 - **Any sexual contact in New York between a child under 17 and an adult is a crime, and any such illegal behavior between a member of the Webb community who is under 17 and a member who is an adult will be reported to an appropriate law enforcement agency.** Other jurisdictions may have different standards, and any illegal behavior in such jurisdiction will also be reported to an appropriate law enforcement agency.
 - Other individuals who are legally incapable of Consent to sex or sexual contact in New York State include the mentally disabled, mentally incapacitated, physically helpless, and certain persons who are committed to the care and custody of a client or patient of a health care provider or certain governmental departments, offices or agencies (including the state department of correctional services, a hospital, the office of children and family services, the office of mental health, the office for people with developmental disabilities, or the office of alcoholism and substance abuse services), where the actor is an employee or volunteer of such department or health care provider.
- **Complaint** is any oral or written request to Webb that objectively can be understood as a request for Webb to investigate and make a determination about alleged sex discrimination, gender-based misconduct, or other conduct prohibited by this Policy.
- **Complainant** is a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, gender-based misconduct, or other conduct prohibited by this Policy or a person other than a student or employee who is alleged to have been subjected to sex discrimination, gender-based misconduct or other conduct prohibited by this Policy and who was participating or attempting to participate in Webb's education program or activity at the time of the alleged misconduct.

- **Confidentiality** is the commitment not to share any identifying information with others, except as required by law in emergency circumstances (such as risk of death or serious bodily harm). Confidentiality may only be offered by individuals who are not required to report known instances of prohibited conduct to the Title IX Coordinator. See additional discussion in Section VI-A.
- **Day** means a business day, unless otherwise specified.
- **Incapacitation** occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by a 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.
- **Party** is a Complainant or Respondent.
- **Preponderance of the Evidence** is a standard of evidence used during the investigation and determination of prohibited conduct under this Policy. A preponderance of the evidence means that it is more likely than not that prohibited conduct occurred.
- **Privacy** is the assurance that an individual or Webb will only reveal information about allegations of prohibited conduct to those that need to know the information in order to carry out their duties or responsibilities required by law and/or this Policy. Employees who are unable to offer confidentiality because they have a duty to report known prohibited conduct to Webb may offer privacy. See additional discussion in Section VI-A.
- **Relevant** means related to the allegations of prohibited conduct under investigation. Questions are relevant when they seek evidence that may aid in showing whether prohibited conduct occurred. Evidence is relevant when it may aid the decisionmaker in determining whether prohibited conduct occurred.
- **Report** is information conveyed to Webb about alleged sex discrimination, gender-based misconduct or other conduct prohibited by this Policy.
- **Respondent** is a person alleged to have violated this Policy.
- **Writing** Whenever this Policy requires a “writing,” electronic mail satisfies the writing requirement.

TITLE IX COORDINATOR

Reports or Complaints of sex discrimination, gender-based misconduct or other conduct prohibited by this Policy should be directed to the Title IX Coordinator.

Webb’s Title IX Coordinator is:

Alyssa Caliguri
 Title IX Coordinator
 Director of Admissions and Student Affairs

298 Crescent Beach Road
Glen Cove, NY 11542
acaliguri@webb.edu
Direct: 516-403-5950
Main: 516-671-2213 Ext. 1117

Inquiries about the application of Title IX and related issues of sex discrimination, gender-based misconduct, or other conduct prohibited by this Policy may be referred to Webb's Title IX Coordinator, the U.S. Department of Education's [Office for Civil Rights](#), or both.

Webb's Title IX Coordinator is responsible for coordinating Webb's compliance with its obligations under Title IX of the Education Amendments of 1972, New York State Education Law Article 129-B ("Enough is Enough") and other federal, state, and local laws pertaining to sex discrimination and gender-based misconduct.

The Title IX Coordinator has overall responsibility for implementation and compliance with this Policy, including overseeing Webb's response to complaints of sex discrimination and gender-based misconduct, providing education and training about this policy, and carrying out the other functions of the position as set forth in this Policy.

The Title IX Coordinator will monitor Webb's education program and activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX and take steps reasonably calculated to address such barriers.

The Title IX Coordinator will receive annual training as required by law.

Concerns involving bias or conflicts of interest, misconduct, or discrimination by the Title IX Coordinator may be reported to Dean Matthew Werner (mwerner@webb.edu). Any concerns of bias or a potential conflict of interest or discrimination by any other individual involved in the processes set forth in this Policy should be reported to the Title IX Coordinator.

RESOURCES AND INFORMATION FOR INDIVIDUALS AFFECTED BY SEX DISCRIMINATION AND GENDER-BASED MISCONDUCT

Webb is committed to providing assistance, support, and resources to individuals affected by sex discrimination and gender-based misconduct. There are a number of on-campus and off-campus resources available that can help after an incident of sex discrimination and/or gender-based misconduct.

Obtaining Immediate Medical Attention and Emotional Support

If you or someone you know is or may be the victim of any form of gender-based misconduct, Webb strongly urges you to seek immediate assistance. Seeking assistance promptly may be

important to ensure physical safety or to obtain appropriate medical care and emotional support. It may also be necessary to preserve evidence. Assistance is available from:

- Local Police and Emergency Assistance: Call 911 or (516) 676-1000
- Local Hospitals: Call 911 to obtain contact information
 - North Shore University Hospital (SAFE Designated Hospital): (516) 676-1000
- New York State Office of Victim Services Toll Free Number: (800) 247-8035
- New York State Domestic Violence Hotline: (800) 942-6906
- National Sexual Assault Telephone Hotline: (800) 656-HOPE (4673)
- New York State Police Non-Emergency: (631) 756-3300 (Troop L Headquarters)
- New York State Police Sexual Assault Hotline: (844) 845-7269
- The Safe Center LI - Rape/Dating, Domestic Violence Hotline: (516) 542-0404 (cost-free)
- Webb Psychologist, Dr. Michelle Stein: mstein@webb.edu (cost-free)

If desired, Webb can assist with accessing these resources.

Victims of sexual assault should receive immediate medical attention. Sexual Assault Forensic Examiners (“SAFE”) are specially equipped and trained to handle sexual assault and gather evidence. Students may seek assistance from SAFE at no cost. North Shore University Hospital (300 Community Drive, Manhasset, NY 11030, (516) 562-8730) is the closest SAFE Designated Hospital to Webb. To preserve evidence, do not shower, bathe, brush teeth, change clothing or drink liquids before going to the hospital or the police after experiencing sexual assault.

Confidential Resources

Webb encourages all members of the campus community to report incidents related to this Policy. However, students who are not ready or willing to make a Report or Complaint, but still wish to speak with someone, can utilize the following confidential resources:

Dr. Michelle Stein, Webb’s Psychologist

Direct: 516-403-5395
mstein@webb.edu (cost-free)

Minister Dave Collins '73

516-759-2840 or 516-509-2535
Dhcollins1@yahoo.com

Safe Center LI

516-542-0404
<https://thesafecenterli.org/>

Webb has a Memorandum of Understanding (MOU) in place with the Safe Center LI. This organization can provide counseling resources to both employees and students.

The resources provided by Dr. Stein or the Safe Center LI are completely confidential, meaning that they have an obligation to maintain an individual's confidentiality and will not share identifying information with Webb or others, except as required by law in emergency circumstances.

Reporting to Outside Law Enforcement

Students, employees, and other members of the Webb community have the right to report to local law enforcement and/or State Police ("outside law enforcement"). However, Webb will not require that a Complainant report to outside law enforcement, nor will Webb do so without the Complainant's agreement, except in exceptional circumstances. Webb may report gender-based misconduct to outside law enforcement without the Complainant's consent if Webb determines that the Respondent poses a serious continuing threat to the physical safety of the Complainant or any other person.

If a student, employee, or other community member chooses to report gender-based misconduct to outside law enforcement, Webb can provide assistance if desired.

Webb will cooperate with police investigations, but will not delay its investigation of a complaint in the absence of extenuating circumstances. The filing of a complaint or formal complaint of gender-based misconduct under this Policy is independent of any criminal investigation or proceeding. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus. Webb will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or to take any necessary interim measures to protect the Complainant and the Webb community, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence.

Not all gender-based misconduct under this Policy is a crime and the standard applied in criminal cases (beyond a reasonable doubt) is different than Webb's standard (preponderance of evidence) under this Policy. Criminal investigations or reports are not solely determinative of whether or not misconduct under this Policy has occurred. Questions about whether incidents violate criminal laws and how the criminal process works should be directed to law enforcement officials or the District Attorney.

A plain language explanation of distinctions between the New York State Penal Law and Webb's policy and processes for addressing gender-based misconduct is included in Appendix B.

Students' Bill of Rights

In accordance with New York State law, 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 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, Complainant, 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 conduct process of the institution.

EMPLOYEE REPORTING/RESPONSE OBLIGATIONS

Webb expects all members of the Webb community to take reasonable and prudent actions to prevent or stop an act of sex discrimination or gender-based misconduct and provide assistance if an act of prohibited conduct has occurred. As discussed below, taking action or providing assistance may include direct intervention, such as calling law enforcement, or seeking assistance from a person in authority.

To that end, all employees who are not confidential resources or serving in a privileged professional capacity (as set forth below), have a duty to report sex discrimination and gender-based misconduct to Webb.

Although all non-confidential employees have a duty to report, no employee is authorized to investigate or resolve a suspected violation of this Policy, unless specifically designated and directed to do so by the Title IX Coordinator.

Employee reporting/response obligations

Employees at Webb fall into two reporting/response categories:

Confidential Employees have an obligation to maintain an individual's confidentiality regarding allegations of sex discrimination and/or gender-based misconduct and will not share any identifying information with others, except as required by law in emergency circumstances.

➤ **This category includes:**

Dr. Michelle Stein, Psychologist
mstein@webb.edu
Direct: 516-403-5395

All other employees must report when the employee has information about conduct that reasonably may constitute sex discrimination, gender-based misconduct or other conduct prohibited by this Policy, but will otherwise protect an individual's privacy to the greatest extent possible and share information with other Webb staff only on a need-to-know basis.

An employee's duty to report is triggered when the employee has any knowledge or information, whether from firsthand observation, being directly informed or confided, or having heard about it in some other fashion, of a known or suspected instance of prohibited conduct.

When a duty to report is triggered, the employee *must immediately report* to the Title IX Coordinator, including all known information and details, even if the victim of the prohibited conduct does not wish to file a report or complaint. The reporting employee must identify themselves to the Title IX Coordinator, provide their contact information and cooperate with any follow-up inquiry by the Title IX Coordinator.

Employees who knowingly allow prohibited conduct to continue without reporting it will be disciplined.

Suspected Abuse or Maltreatment of Minors

Webb also is committed to the prevention of child abuse. Child abuse includes both the physical and sexual abuse of minors under the age of eighteen. All Webb employees are directed to bring all reasonable suspicions, beliefs, and allegations of child abuse immediately to the attention of the Title IX Coordinator, who will then make the appropriate report to the New York State Child Abuse Hotline (State Central Register). Reports can be made directly to the Child Abuse Hotline at (800) 342-3720. Additional information about reporting is available at

<http://ocfs.ny.gov/main/cps/>.

REPORTING SEX DISCRIMINATION AND GENDER-BASED MISCONDUCT TO WEBB

Webb strongly encourages individuals who experience, witness, or become aware of sex discrimination, gender-based misconduct, or other conduct prohibited by this Policy to promptly report allegations to Webb. Reporting enables Webb to respond promptly and effectively to sex discrimination and other prohibited conduct. However, there is no timeframe by which a complaint of prohibited conduct must be made.

Where to Report

Anyone who wishes to make a Report or file a Complaint regarding a violation of this Policy may do so at any time by contacting any of the individuals designated below. These designated officials are trained to receive allegations of sex discrimination and gender-based misconduct, to ensure such complaints are investigated in accordance with this Policy, and to help Complainants receive necessary assistance.

Students and employees are encouraged to report allegations to these designated officials, regardless of whether they have reported the incident to outside law enforcement authorities and regardless of where the incident took place.

Alyssa Caliguri

Title IX Coordinator / Director of Admissions and Student Affairs

298 Crescent Beach Road

Glen Cove, NY 11542

acaliguri@webb.edu

Direct: 516-403-5950

Main: 516-671-2213 Ext. 1117

Mr. John Ferrante

Director of Facilities

jferrante@webb.edu

Direct: 516-918-2787

Main: 516-671-2213 Ext. 1129

When a Report is Received

When any of the designated officials above are notified of any prohibited conduct under this Policy, they will provide a copy of this Policy to the Complainant (if the Complainant was the reporter) and will immediately notify the Title IX Coordinator. The Title IX Coordinator or their designee will address the matter in accordance with his Policy, including providing appropriate supportive measures (addressed in Section VIII, below).

When any of the designated officials above are notified of a report of sexual assault, domestic violence, dating violence or stalking, they will notify the reporting individual: “You have the right to make a report to Campus Security, local law enforcement, and/or state police or choose not to report; to report the incident to Webb; to be protected by Webb from retaliation for reporting an incident; and to receive assistance and resources from Webb.”

Information Shared at Public Awareness Events – When the Title IX Coordinator is notified of information about conduct that reasonably may constitute sex-based harassment or gender-based misconduct that was provided by a person during a public event to raise awareness about sex-based harassment that was held on Webb’s campus or through an online platform sponsored by Webb, Webb will not act in response to that information, unless it indicates an imminent and serious threat to the health and safety of a Complainant, any students, employees or other persons. Webb will, however, use this information to inform its efforts to prevent sex-based harassment and gender-based misconduct within its education program and activity, including providing tailored training, as necessary.

Confidentiality vs. Privacy After a Report is Received

After a report is received, Webb is not able to guarantee **confidentiality**, because doing so may limit Webb’s ability to respond promptly and effectively, to ensure a safe, non-discriminatory and harassment-free environment and to effectuate this Policy.

However, Webb will maintain the **privacy** of the Complainant, reporter, Respondent, and witnesses to the greatest extent possible. Information in connection with the allegations will be shared with only those College staff who have a legitimate need for the information, or as otherwise required by law or this Policy. Webb will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of its grievance procedures. See Section X.E.

Anonymous Reports

Individuals who wish to notify Webb of a violation of this Policy while remaining anonymous, may report through the Anonymous Report Form, available at <https://www.webb.edu/campus-safety-security/>.

Webb will investigate anonymous reports to the extent possible, although an anonymous report will likely affect Webb’s ability to investigate and respond effectively. To the extent there is a concern regarding retaliation, retaliation is strictly prohibited. Webb will take steps to prevent retaliation and will discipline those that commit retaliation.

Clery Act: Webb has an obligation to report certain crimes in its annual security report pursuant to the Clery Act. When reporting crimes for the purposes of Clery Act compliance, Webb will not release identifying information of the Complainant or Respondent. The Clery Act also requires

Webb to issue timely warnings to the Webb community about certain crimes that have been reported and may continue to pose a serious or continuing threat to the campus community, except in those circumstance where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual or Complainant. Consistent with the Clery Act, Webb will withhold the names and personally identifying information of the reporting individual when issuing such timely warnings.

FERPA: The Family Educational Rights and Privacy Act (FERPA) permits institutions to share information with parents when: (i) there is a health and safety emergency, or (ii) when the student is a dependent on either parent's prior year federal income tax return. Generally, Webb will not share information about prohibited conduct under this Policy with a parent without the permission of the student.

Filing External Complaints

In addition to reporting prohibited conduct to Webb, individuals have the right to avail themselves of any and all of their rights under the law, including but not limited to filing complaints with one or more of the external agencies listed below:

- [U.S. Department of Education, Office for Civil Rights](#)
- [U.S. Equal Employment Opportunity Commission](#)
- [New York State Division of Human Rights](#)
- [New York City Commission on Human Rights](#)

SUPPORTIVE MEASURES, ACCOMMODATIONS, AND INTERIM PROTECTIVE MEASURES

Supportive Measures

Supportive Measures are non-disciplinary and non-punitive individualized measures offered as appropriate and as reasonably available, without unreasonably burdening a Complainant or Respondent, and without fee or charge to the Complainant or Respondent, designed to:

- Restore or preserve the individual's access to Webb's education program or activity, including measures that are designed to protect the safety of the parties or Webb's educational environment; or
- Provide support during Webb's grievance procedures or during the informal resolution process.

Webb will offer and coordinate supportive measures as appropriate for the Complainant, Respondent, reporter and all third-party witnesses. The Title IX Coordinator is responsible for coordinating and ensuring the effective implementation of supportive measures and accommodations. The Title IX Coordinator may designate other individuals to offer and coordinate supportive measures, as necessary and appropriate.

Supportive measures are available when Webb becomes aware of allegations of prohibited conduct under this Policy, whether or not a Complainant chooses to move forward with an investigation and/or resolution. Supportive measures may be provided on an interim or continuing basis.

Webb will maintain as confidential any supportive measures provided to the Parties, to the extent that maintaining such confidentiality would not impair the ability of Webb to provide the supportive measures. The Title IX Coordinator will work with the Complainant to determine their requests for supportive measures and confirm that such requests are considered.

The determination of appropriate supportive measures must be based on the facts and circumstances of that situation. Supportive measures may include, but are not limited to:

- Counseling;
- Extensions of deadlines and other course-related adjustments;
- Campus escort services;
- Increased security and monitoring of certain areas of the campus;
- Restrictions on contact applied to one or more Parties (No-Contact Orders);
- Leaves of absences;
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether or not there is a comparable alternative;
- Training and education programs related to sex-based harassment; and/or
- Other similar measures as determined by the Title IX Coordinator.

Individuals are encouraged to discuss their options for any supportive measures or accommodations with the Title IX Coordinator who may assist with identifying and obtaining reasonably available accommodations.

No-Contact Orders

A No-Contact Order is a directive issued by Webb prohibiting continued, intentional contact or communication between specific parties.

If parties subject to a No-Contact Order observe each other in a public place, it is the responsibility of the Respondent to leave the area immediately and without directly contacting the Complainant. Webb may establish an appropriate schedule for the Respondent to access applicable Webb buildings and property at a time when such locations are not being accessed by the Complainant.

Intentional violation of a No-Contact Order is a violation of Webb's Code of Conduct and may result in additional disciplinary action, including penalties up to and including suspension and expulsion for students and termination of employment for employees.

Interim Protective Measures

Webb may also take reasonable measures to ensure the safety of Webb community at large, including:

- ***Administrative Leave*** - Non-student employees may be placed on administrative leave during the pendency of the grievance process with or without pay and in accordance with any applicable policy providing for administrative leave and federal and state laws.
- ***Emergency Removal*** - Respondents may be subject to emergency removal from Webb's education program or activity if, after conducting an individualized safety and risk analysis, Webb determines that doing so is necessary to prevent an imminent and serious threat to the health or safety of a Complainant or any students, employees or other persons arising from the allegations of sex discrimination or gender-based misconduct. If a Respondent is subject to emergency removal, Webb will provide the individual with notice and an opportunity to challenge the decision immediately following the removal as set forth in Section VIII-D. In determining whether emergency removal is appropriate, Webb will consider certain factors including, but not limited to, the following:
 - Whether there have been other sex discrimination or gender-based misconduct reports or complaints about the same Respondent;
 - Whether the incident involves a weapon or violence;
 - Whether the Respondent has a history of arrests or disciplinary records;
 - Whether the incident represents an escalation in previously noted behavior of the Respondent; and
 - Whether there is an increased risk that the Respondent will commit additional acts of violence.

Process for Modification of Supportive Measures and Interim Protective Measures

A Complainant or Respondent may seek modification or reversal of Webb's decision to provide, deny, modify, or terminate supportive measures or interim protective measures applicable to them. Requests for such modification will be reviewed by Dean Werner and must be made in writing and received within five (5) business days of the decision under review or, if applicable, within five (5) business days of a material change in circumstances. The party seeking modification may submit evidence in support of their request. If Dean Werner or other designated reviewer determines that the decision to provide, deny, modify, or terminate supportive measures or interim protective measures was unreasonable or inconsistent with the definition of supportive measures or interim protective measures included within this Policy, Dean Werner or other designated reviewer will have the authority to modify or reverse the original decision under review. Dean Werner or other designated reviewer will notify the party seeking modification, in writing, within seven (7) business days of receipt of their written request for modification.

Accommodations

Webb will provide reasonable accommodations to students and employees participating in any process within this Policy

Individuals seeking a reasonable accommodation related to the processes described in this Policy, should notify the Title IX Coordinator.

INITIAL EVALUATION OF REPORTS

Upon receipt, the Title IX Coordinator will evaluate all Reports of conduct that purportedly violates this Policy. When the alleged behavior, if true, would constitute prohibited conduct under this Policy, the Title IX Coordinator will evaluate whether the Report constitutes a Complaint, triggering Webb’s grievance procedures outlined below in Section X.

When the alleged behavior, if true, would not constitute prohibited conduct under this Policy, the Title IX Coordinator will refer the report to the appropriate office or official within Webb for response and resolution.

The Title IX Coordinator will conduct this initial evaluation of a report within ten (10) business days of receipt.

RESPONDING TO SEX DISCRIMINATION AND GENDER-BASED MISCONDUCT

Webb has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by this Policy.

A Complaint is any oral or written request to Webb that objectively can be understood as a request for Webb to investigate and make a determination about alleged sex discrimination, gender-based misconduct, or other conduct prohibited by this Policy.

The following individuals may file a Complaint:

Complaints of sex discrimination (including sex-based harassment), gender-based misconduct, and other prohibited conduct under this Policy		
A Complainant, defined as:	A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, gender-based misconduct or other	A person other than a student or employee of Webb that has been subjected to conduct that could constitute sex discrimination, gender-based misconduct, or other prohibited conduct under this

	prohibited conduct under this Policy;	Policy at a time when that individual was participating or attempting to participate in Webb’s education program or activity;
A parent, guardian, or other authorized representative with the legal right to act on behalf of a Complainant; or		
Webb’s Title IX Coordinator.		

Complaints of sex discrimination (other than sex-based harassment)
The individuals listed above;
Any student or employee of Webb; or
Any person other than a student or employee who was participating in Webb’s education program or activity at the time of the alleged sex discrimination.

Request That Webb Maintain a Complainant’s Anonymity or Not Conduct an Investigation:
Webb will make every effort, consistent with its duty to provide a safe and non-discriminatory learning and working environment, to respect a Complainant’s request that Webb maintain their anonymity and/or not conduct an investigation. If the Complainant notifies the Title IX Coordinator in writing that they wish to withdraw the Complaint, typically, a Complaint will not be pursued (See Section X.C, Withdrawing or Dismissing a Complaint). However, Webb may nevertheless pursue a complaint when, in the Title IX Coordinator’s judgment, the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or another person, or that the conduct as alleged prevents Webb from ensuring equal access on the basis of sex to its education program or activity.

When considering whether to initiate a Complaint, the Title IX Coordinator will make a fact-specific determination and will consider the following factors:

- The Complainant’s request not to proceed with initiation of a Complaint;
- The Complainant’s reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the parties, including whether the Respondent is an employee of Webb;
- The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals,

- The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- Whether Webb could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

If the Title IX Coordinator initiates a Complaint, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures as discussed in Section VIII.A.

Webb at all times reserves the right to proceed with a Complaint as necessary to protect the safety of the campus community and workplace and to maintain compliance with all applicable laws and regulations.

Rights of Parties

Parties will have the following rights when Webb becomes aware of a Complaint of sex discrimination, gender-based misconduct, or any other conduct prohibited by this policy.

- ***Equitable Treatment:*** Complainants and Respondents will be treated equitably.
- ***Respondent is presumed not responsible:*** The Respondent is presumed not responsible for the alleged prohibited conduct until a determination is made at the conclusion of the grievance procedures.
- ***Conflict of Interest and Bias:*** Webb requires that any Title IX Coordinator, investigator, facilitator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. See Section XII.
- ***Timeframes for the Major Stages of the Grievance Process:*** Webb has established the following timeframes for the major stages of the grievance procedures:
 - **Initial Evaluation of Reports:** 10 business days from receipt by the Title IX Coordinator
 - **Investigation:** 45 business days from receipt of the Complaint
 - **Evidence Review and Follow-Up Questioning:** 30 business days from initial sharing of the evidence file
 - **Determination:** 30 business days from conclusion of the evidence review process
 - **Sanctioning:** 30 business days from the written determination.
 - **Appeal:** 30 business days from receipt of the appeal
- ***Reasonable Extension of Established Timeframes:*** Webb has established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay:
 - Webb will exercise due diligence to comply with the timeframes established for the major stages of the grievance procedures. However, the stated time frames may be

extended for good cause depending on the nature of the allegations, the time of year, and any other unforeseen or extenuating circumstances.

- Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.
- All parties will be notified in writing of any delay or extensions and the reason therefore.
- A party may request an extension of any deadline by submitting a written request to the Title IX Coordinator detailing the reason for the request and the amount of additional time requested. The Title IX Coordinator will have the sole discretion to grant or deny any such request.
- **Privacy:** Webb will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures.
- **Non-Retaliation:** Webb strictly prohibits retaliation, including against witnesses.
- **Objective Evaluation of Evidence:** Webb will objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
- **Impermissible Evidence:** Certain types of evidence, and questions seeking that evidence (see Section X.E.i below), are impermissible (i.e., will not be accessed or considered, except by Webb to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant.

When a Complaint is Filed

When the Title IX Coordinator receives a Complaint, the Complainant will be immediately advised in writing of Webb's policies and procedures, as described herein, including their rights (Section X.A) and resolution options, including informal resolution (Sections X.D), the availability of interim supportive measures and accommodations (Section VIII), and next steps in the grievance process (Section X.E).

Notice of Allegations: After a Complaint is filed, and upon initiation of the grievance process, Webb will provide written notice to the parties who are known, with sufficient time for the parties to prepare a response before any initial interview. The Notice of Allegations will include the following information:

- Webb's grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including:
 - the identities of the parties involved in the incident(s);

- the conduct alleged to constitute prohibited conduct with reference to applicable provisions in this Policy; and
- the date(s), time, location(s), and factual allegations concerning the incident(s).
- Retaliation is prohibited;
- The Respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- Possible sanctions;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence;
- A reference to Webb’s prohibition on knowingly making false statements or knowingly submitting false information during the grievance process.

Consolidation of Complaints: Webb may, but is not required to, consolidate Complaints of prohibited conduct under this Policy against more than one respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations of prohibited conduct arise out of the same facts or circumstances. Webb may, but is not required to, consolidate Complaints of conduct prohibited by other policies concerning the Complainant and Respondent arising under the same facts and circumstances and reserves the right to apply the grievance procedures of this Policy to those allegations.

Updated Notices of Allegations: If, in the course of an investigation, Webb decides to investigate additional allegations of prohibited conduct under this or other Webb policies by the Respondent toward the Complainant that are not included in the written notice or that are included in a consolidated Complaint, it will provide written notice of the additional allegations to the parties.

Withdrawing or Dismissing a Complaint

Webb may dismiss a Complaint if:

- Webb is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in Webb’s education program or activity and is not employed by Webb;
- The Complainant voluntarily withdraws any or all of the allegations in the complaint in writing, the Title IX Coordinator declines to initiate a complaint, and Webb determines that, without the Complainant’s withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute prohibited conduct under this Policy, if proven; or

- Webb determines the conduct alleged in the Complaint, even if proven, would not constitute prohibited conduct under this Policy. Before dismissing the Complaint, Webb will make reasonable efforts to clarify the allegations with the Complainant.

Webb will promptly send notice of the dismissal and the reason(s) for such dismissal to the Complainant and, if the Respondent has already been notified of the allegations, to the Respondent. Webb will include a notification that a dismissal may be appealed within 5 business days of the date of notice of dismissal and will provide an opportunity to appeal the dismissal of a Complaint, pursuant to the procedures identified in Section X.H.

When a Complaint is dismissed, any investigation, resolution, or grievance process will be suspended. Webb will, at a minimum:

- Offer supportive measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that the prohibited conduct does not continue or recur within Webb's education program or activity.

Informal Resolution

Informal resolution is one method to resolve a Complaint and provides an alternative to resolving a Complaint through Webb's formal grievance procedures, outlined below in Section X.E. In some cases, informal resolution may offer a beneficial outcome for both parties. Informal resolution can take different forms, informed by the preferences and goals of the parties. For example, informal resolution may include one or several of the following strategies:

- ***Administrative Resolution***, such as a mutual agreement to abide by a No- Contact Order and/or additional training or education for the area or Department where the Complaint originated;
- ***Acceptance of Responsibility***, with or without acceptance of penalty;
- ***Facilitated Discussion*** between the parties in the presence of the Title IX Coordinator;
- ***Restorative Justice Resolution***;
- ***Mediation***; or
- ***Other Alternative Dispute Resolution***

Participation in an informal resolution is voluntary. Both parties must agree to engage in an informal resolution process and provide voluntary consent before it begins. Informal resolution may take place at any point prior to a determination of responsibility. All Complaints made under this Policy are eligible for informal resolution, although the Title IX Coordinator has the ultimate discretion to determine whether informal resolution will be available in a particular matter.

Before initiation of an informal resolution process, the Title IX Coordinator will provide the parties with written notice that an informal resolution is being offered to resolve the allegations. The written notice will include:

- A description of the allegations;
- The requirements of the informal resolution process, including the circumstances under which an informal resolution will preclude the parties from resuming an investigation and formal resolution arising from the same allegations;
- Notice that prior to entering into an informal resolution agreement, either party has the right to withdraw from the informal resolution process and resume an investigation and formal resolution process at any time;
- Notice that the parties' informal resolution agreement at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information Webb will maintain and whether and how Webb could disclose such information for use in grievance procedures if a grievance procedure were initiated or resumed.

If both parties agree to begin an informal resolution process, the Title IX Coordinator will appoint a neutral informal resolution facilitator (the "facilitator"). The facilitator will not be the same person as the investigator/decisionmaker and will not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. In addition, the facilitator may not participate as a witness or in any other capacity during any resumed or subsequent investigation or disciplinary action. The facilitator will receive all training required by this Policy and applicable law and regulation.

Either party has the right to end the informal resolution process at any time prior to finalizing an informal resolution agreement, and instead proceed with a formal grievance process, by notifying the Title IX Coordinator in writing of their desire to do so.

The time frame for investigations will be tolled while the parties engage in the informal resolution process. The Title IX Coordinator will reevaluate the parties' progress toward informal resolution every thirty (30) days and has discretion to terminate the informal resolution process and resume the investigation at any time.

Informal Resolution Agreements: Any agreement reached through informal resolution must be acceptable to both parties and Webb. Terms of an informal resolution agreement might include continuation of a No-Contact Order, an agreement to engage in volunteer hours, training, reflection papers, and/or sanctions agreed to by the parties and Webb.

If a resolution is reached, the facilitator will notify the parties in writing and a written memorandum will memorialize the agreement (the “informal resolution agreement”). Both parties and the Title IX Coordinator must sign the informal resolution agreement before it is finalized. Once finalized, the obligations in the agreement will be binding on the parties and the allegations of prohibited conduct under this Policy will be considered resolved. Violations of an informal resolution agreement will be referred for discipline or other appropriate action, as deemed appropriate by the Title IX Coordinator.

Finalized informal resolution agreements will be maintained for seven (7) years, in compliance with recordkeeping requirements outlined in Section XII.

Information Shared During an Informal Resolution Process: Any information shared or learned during the informal resolution process will not be documented or referenced in a resumed or subsequent investigation or disciplinary process. However, information gathered from another source during a resumed or subsequent investigation will not be excluded from an investigatory report or subsequent adjudication merely because it was shared by a party during an informal resolution process.

Formal Grievance Procedures – Investigation, Evidence Review and Determination

When a Complaint is not otherwise withdrawn, dismissed, or resolved through informal resolution, Webb will conduct a fair, prompt and impartial investigation and issue a determination in accordance with these procedures.

Investigation – Evidence Gathering

The Title IX Coordinator will designate a trained, competent, neutral investigator (the “investigator”) to conduct an adequate, reliable, and impartial investigation. The Title IX Coordinator may also serve as the investigator. The investigator will also serve as the decisionmaker. Depending on the nature of the allegations, the investigation may include interviews with the parties and witnesses, collection of evidence (including, for example, email and other communications relevant to the Complaint), review of documentation, and/or any other steps deemed necessary by the investigator to thoroughly and fairly conduct the investigation. To the extent credibility is both in dispute and relevant to evaluating one or more allegations of prohibited conduct, the investigator must interview parties and witnesses in a manner that permits the investigator to adequately assess that party’s or witness’s credibility. Audio recordings will be made of all party and witness interviews.

At all times, the burden is on Webb – not on the parties – to conduct an investigation that gathers sufficient evidence to determine whether prohibited conduct occurred.

The parties will have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible. The investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Impermissible evidence: The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by Webb to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Webb obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Expert witnesses: The Title IX Coordinator will retain discretion of whether the presentation of an expert witness is permitted in any given case, based on the specific circumstances of the allegations and policy violations alleged, and the subject matter of the expert testimony sought to be presented.

Participation: Students are encouraged, but not required to cooperate with investigations under this Policy. Employees are required to cooperate with investigations under this Policy. Any party who is invited or expected to participate in any investigative interview or other meeting will be provided written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

Advisors: Parties may be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. Webb will provide a non-attorney advisor upon request of a party.

Advisors must sign an Advisor Conduct Agreement prior to participating in Webb’s grievance process. Webb will not limit the choice or presence of the advisor for a party in any meeting or proceeding, however, advisors must comply with the Advisor Conduct Agreement or they may be restricted from participation in Webb’s grievance process. If an advisor violates the Advisor Conduct Agreement and is prohibited from participating in Webb’s grievance process, the party will be permitted to select another advisor of choice.

Investigation Time Frame: The investigator will seek to conclude the investigation as promptly as practicable, and in any event generally within 45 business days from receipt of the Complaint. The facts and circumstances of each case may make it necessary for a reasonable extension of this established time frame for good cause.

Investigation - Evidence Review and Follow-Up Questioning

After the initial phase of the investigation is completed, each party and the party’s advisor, if any, will be given an equal opportunity to access the evidence that is relevant to the allegations of prohibited conduct and not otherwise impermissible (the “evidence file”). The evidence file will include the recordings of all party and witness interviews conducted during the investigation.

The parties and their advisors must sign an Agreement Not to Disseminate the evidence file or any other information obtained solely through the grievance process, for any purpose unrelated to the grievance process itself.

The parties may submit a written response, due within ten (10) business days after the evidence file is provided. The investigator will include the parties’ written responses in the evidence file and will consider the parties’ written responses prior to making a determination.

Follow-Up Questioning (applies only to Complaints of sex-based harassment involving student Complainants or Respondents): In applicable cases, within ten (10) business days after the evidence file is provided, in addition to submitting a written response, the parties may also submit proposed follow-up questions for any party or witness. The investigator will review the proposed follow-up questions as follows:

The investigator will schedule follow-up meetings with parties and witnesses, as soon as practicable and as needed, to conduct follow-up questioning. All follow-up interviews will be recorded in the same manner as initial interviews. Prior to conducting a follow-up meeting, the investigator will first determine whether a proposed follow-up question directed at the party or witness is relevant and not otherwise impermissible. If a question is relevant and not otherwise impermissible, the investigator will ask the question in a follow-up meeting with a party or witness. If the investigator determines that a question is not relevant or otherwise impermissible, it will be excluded, and the investigator will provide the party who proposed the question with a written explanation of the decision to exclude it. If a question is unclear or harassing, the investigator will give a party an opportunity to clarify or revise the question. If the party sufficiently clarifies or revises the question, and the question is deemed permissible, it will be asked.

Once all follow-up meetings are completed, the investigator will share the recordings of all party and witness follow-up meetings with the parties. Parties may submit a second round of follow-up questions for any party or witness who answered a follow-up question posed by that party, due within five (5) business days after the recordings of the follow-up meetings are provided. In the same manner as described above, the investigator will review a party's second round of follow-up questions and schedule second follow-up meetings with parties and witnesses, as soon as practicable and as needed. Second follow-up meetings will be recorded in the same manner as initial interviews.

Once any second follow-up meetings are completed, the investigator will share the recordings with the parties. Parties may submit a final written response, due within five (5) business days after the recordings of the second follow-up meetings are provided. After second follow-up meetings are completed, any further follow-up questioning will be conducted in the sole discretion of the investigator, in consultation with the Title IX Coordinator.

Party or Witness Refusal to Respond to Questioning: The investigator may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. However, the investigator will not draw an inference about whether prohibited conduct occurred based solely on a party's or witness's refusal to respond to such questions.

Evidence Review and Follow-Up Questioning Time Frame: The investigator will seek to conclude the evidence review and follow-up questioning phase as promptly as practicable, and in any event generally within 30 business days from the initial sharing of the evidence file. The facts and circumstances of each case may make it necessary for a reasonable extension of this established time frame for good cause.

Reasonable Steps to Prevent Unauthorized Disclosure of Evidence File: Webb will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through this grievance process, including:

- The evidence file will be provided through a secured access file sharing platform;
- To the extent practicable, materials within the evidence file will be labeled with a watermark unique to the party with whom it is shared;
- As appropriate, materials within the evidence file will be de-identified and a key of party and witness names will be provided;
- The parties and their advisors must sign an Agreement Not to Disseminate the evidence file or any other information obtained solely through the grievance process, for any purpose unrelated to the grievance process itself.
- Intentional and unauthorized disclosure of information and evidence obtained solely through this grievance process will be referred for discipline or other appropriate action, as deemed appropriate by the Title IX Coordinator.

Determination

After the evidence review and follow-up questioning is completed, the investigator will make a determination of responsibility by evaluating all relevant and not otherwise impermissible evidence.

Burden of Proof: The investigator will use the preponderance of the evidence standard of proof to determine whether prohibited conduct occurred (i.e., whether it is more likely than not that the prohibited conduct occurred). The standard of proof requires the investigator to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the investigator is not persuaded by a preponderance of the evidence that the prohibited conduct occurred, whatever the quantity of the evidence is, the investigator will not determine that prohibited conduct occurred.

Written Determination and Notification: The Title IX Coordinator will notify the parties simultaneously in writing of the determination whether prohibited conduct occurred. This written determination will include the following:

- A description of the alleged prohibited conduct;
- Information about the policies and procedures that Webb used to evaluate the allegations;
- A description of the procedural steps taken and notifications to the parties and witnesses;
- The investigator's evaluation of the relevant and not otherwise impermissible evidence and determination whether prohibited conduct occurred as to each allegation;
- When the investigator finds that prohibited conduct occurred, a referral to the appropriate College office or official for appropriate disciplinary action (See Section X.F below) and a notification that the parties may submit a written impact statement to the Title IX Coordinator within ten (10) business days of receipt of the written determination, for consideration by the Dean when evaluating sanctioning;
- When the investigator finds that prohibited conduct occurred, a statement that remedies other than the imposition of disciplinary sanctions will be provided by Webb to the Complainant, and, to the extent appropriate, other students identified by Webb to be experiencing the effects of the sex-based harassment (See Section X.G below); and
- Webb's procedures and permissible bases for the parties to appeal.

Determination Time Frame: The investigator will seek to issue the determination as promptly as practicable, and in any event generally within 30 business days from conclusion of the evidence review and follow-up questioning phase. The facts and circumstances of each case may make it necessary for a reasonable extension of this established time frame for good cause.

Referral for Discipline

Webb will not impose discipline on a Respondent for prohibited conduct unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited conduct. Following a finding of responsibility under this Policy, Webb has the discretion to issue any disciplinary action it deems appropriate up to and including expulsion or termination.

The Title IX Coordinator will promptly refer a finding of responsibility to the Dean for consideration of appropriate disciplinary action. Parties will be given an opportunity to submit an impact statement to the Title IX Coordinator, which will be provided to the Dean. The impact statement may be no longer than five (5) single-spaced typed pages, using size 12 Times New Roman font and 1-inch margins. The impact statement may not seek to introduce new evidence. The Dean will consider the investigator's written determination and the parties' impact statements, and may also request to review the evidence file when evaluating the appropriate sanction. The Dean may also consult with the Title IX Coordinator and the designated investigator as needed.

The Title IX Coordinator will simultaneously notify the parties as soon as practicable of the sanctions to be imposed, except that the Complainant will only be notified of the sanctions that directly relate to said Complainant. The notice may also include any other remedial or preventative action being taken or provided by Webb.

i. Range of Sanctions for Students and Employees

The Dean may impose any of the following disciplinary sanctions that are determined to be fair and proportionate to the violation of this Policy:

- Reprimand or warning;
- Modifications to schedules;
- Reassignment of housing, office, and/or transportation;
- Forfeiture of a benefit, honor, leadership position, or other privilege enjoyed by virtue of the person's membership as full- or part-time faculty, adjunct faculty, staff, administrator, or student;
- Demotion or forfeiture of promotion or salary increase;
- Reassignment of Webb employment;
- Restitution;
- Disciplinary probation;
- Revocation of honors or awards;
- Restriction of Respondent's access to Webb facilities or activities;
- Community service;
- Issuance of a No-Contact Order to the Respondent or requirement that such an order remain in place;
- Dismissal from or limitation on Webb employment;

- Suspension (limited time or indefinite, with or without pay (for employees));
- Expulsion;
- Training; and/or
- Revocation of degree

In addition, Webb reserves the right to withhold a student's diploma where a report of sex discrimination, gender-based misconduct, or retaliation is pending. It may also revoke any degree awarded for an individual who is found to have engaged in prohibited conduct prior to conferral of a degree.

Transcript Notations: In accordance with Article 129-B of the New York State Education Law, if a student is found responsible through Webb’s conduct process for Sexual Assault, Stalking, Domestic Violence, Dating Violence or a violent crime as defined by the Clery Act, Webb will make one of the following notations on the transcript of such student: “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.” If a student withdraws from Webb while such conduct charge(s) is pending and declines to complete the disciplinary process, Webb will note on the student’s transcript that they “withdrew with conduct charges pending.” The academic records of students that have been found to have violated this Policy will be handled in accordance with Webb’s [Policy and Procedure for Transcript Notation](#).

ii. Action against Third Parties

Webb’s disciplinary authority may not extend to third parties (employees of contracted service providers, interns, volunteers, visitors, and other third-parties conducting business with Webb), and Webb’s ability to take action against a third party is usually limited. However, Webb will take appropriate actions within its control, including but not limited to, removing that individual’s access to campus or limiting their involvement with Webb business.

Remedies for Complainants and Other Remedial Action

If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will coordinate the provision and implementation of remedies to a Complainant and any other people Webb identifies as having had equal access to Webb’s education program or activity limited or denied by prohibited conduct.

The Title IX Coordinator will also take other appropriate, prompt, and effective steps to ensure that prohibited conduct does not continue or recur within Webb’s education program or activity. Such efforts may include additional training and awareness programs for the Webb community.

Appeals

Both parties have the right to appeal from a determination regarding responsibility and from a dismissal of a Complaint or any allegations therein.

The appeal must be submitted to the Title IX Coordinator within five (5) business days of the dismissal of the Complaint, the date of the written determination, or in cases of a finding of responsibility, the notification of sanctioning decision.. The request for an appeal must clearly identify the grounds for the appeal. The possible grounds for an appeal are:

- There was a procedural irregularity that affected the outcome;
- There is new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that would affect the outcome of the matter; and
- The Title IX Coordinator or investigator/decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome.

Upon receipt of an appeal, the Title IX Coordinator will promptly notify the other party in writing that an appeal was filed and provide a copy of the appeal.

Appeal Panel: The appeal will be referred to an Appeal Panel consisting of three (3) trained members of Webb. The Appeal Panel will not include the Title IX Coordinator, the investigator, or any informal resolution facilitator who worked on the case pending appeal. The parties will receive simultaneous notification of the appointment of the Appeal Panel.

Written Submissions to the Appeal Panel: Within ten (10) business days after receiving notice of the appointment of the Appeal Panel, the parties may submit a written statement supporting or challenging the grounds for appeal.

Appeal Panel Procedures: The appeal will be conducted in a fair and impartial manner. The appeal is not an evaluation of whether the determination or dismissal was against the weight of the evidence, but will instead be focused on the specific grounds for appeal provided by this Policy and identified in the appealing party's request for an appeal. The Appeal Panel will review the written determination and supporting documents and may consult with both parties. The Appeal Panel will reach a decision by majority vote of the panelists, or by unanimous decision if less than three panelists.

For appeals from a determination of responsibility, the Appeal Panel may affirm the original determination of responsibility, alter the determination of responsibility in whole or in part, and/or alter the sanctions, depending on the circumstances. The Appeal Panel, in its discretion, may also refer the matter back for further investigation or consideration if appropriate.

For appeals from a dismissal of a Complaint, the Appeal Panel may affirm or overturn the dismissal. If dismissal of a Complaint is overturned, the matter will be referred back to the Title IX Coordinator for continuation of the grievance process.

The Appeal Panel will issue a written decision on the appeal within ten (10) business days of receipt of the parties' written submissions. The decision on appeal will describe the result of the appeal and the rationale for the result. The Title IX Coordinator will simultaneously provide the parties, as soon as practicable, with the Appeal Panel's written decision on appeal.

Decisions of the Appeal Panel are final.

Appeal Time Frame: The Appeal Panel will seek to issue the decision on appeal as promptly as practicable, and in any event generally within 30 business days from receipt of the request for appeal. The facts and circumstances of each case may make it necessary for a reasonable extension of this established time frame for good cause.

CONFLICT/BIAS

If any party believes that an individual involved in the investigation, resolution, or appeals process has a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent, either party may make a request to have that conflicted or biased individual removed from the process. Requests for removal must be made in writing to the Title IX Coordinator within five (5) days of the notification that the individual is to be involved or revelation of their conflict of interest or bias, whichever is later, and include a detailed description of the alleged conflict or bias. If the Title IX Coordinator is the individual with the alleged conflict or bias, the request for removal must be made in writing to the Dean.

The individual with the alleged conflict or bias will be asked to provide a short, written response to the party's request for removal, which will be considered before a determination is made. If a conflict or bias exists, immediate steps will be taken to replace the individual at issue to ensure an impartial and fair process.

If any administrator designated by this Policy to participate in the investigation or resolution of prohibited conduct is the Respondent, the President will appoint another administrator to perform such person's duties under this Policy.

RECORDKEEPING

The Title IX Coordinator will maintain the following records for seven years following the conclusion:

- All Reports and Complaints relating to allegations of prohibited conduct;

- For all Reports of prohibited conduct, records documenting the actions Webb took to respond promptly and effectively to address sex discrimination and other prohibited conduct within its education program and activity;
- For all Complaints, records documenting the informal resolution process or grievance process and the resulting outcome, including records regarding dismissals and appeals, if applicable;
- All materials used to provide training required by this Policy.

WEBB OBLIGATIONS UNDER THIS POLICY

In compliance with state, federal and local laws, Webb has the following obligations under this Policy:

Dissemination of Policies, Procedures and Notices

The Title IX Coordinator is responsible for the wide dissemination of the following to the Webb community: (i) this Policy; (ii) Webb’s Notice of Non-Discrimination; (iii) the Title IX Coordinator’s name, phone number, office location, and email address; and (iv) contact information for the campus Security Office. This information shall be disseminated widely to the Webb community through publications, websites, student orientations, new employee orientations, current employee training, and other appropriate channels of communication.

Training and Educational Programming

Webb provides a comprehensive student onboarding and ongoing education campaign to promote awareness, encourage a safe and respectful College environment, and educate members of the Webb community about prohibited conduct under this Policy, including domestic violence, dating violence, stalking and sexual assault, in compliance with applicable law.

All Webb employees will be trained in accordance with applicable law and regulations. Employees will be trained upon hiring or change of position that alters any training requirement, and annually thereafter.

Investigators, decisionmakers, and other persons who are responsible for implementing Webb’s grievance procedures or have the authority to modify or terminate supportive measures will also be trained on the following topics to the extent it is related to their responsibilities:

- Webb’s obligations under 34 CFR § 106.44;
- Webb’s grievance procedures under 34 CFR §§ 106.45 and 106.46, as outlined in this Policy;
- How to serve impartially, including by avoiding any prejudgment of the facts at issue, conflicts of interest, and bias; and

- The meaning and application of the term ‘relevant’ in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under 34 CFR §§ 106.45 and 106.46.

Informal resolution facilitators will also be trained on the rules and practices associated with Webb’s informal resolution procedures outlined in Section X.D, and on how to serve impartially, including by avoiding conflicts of interest and bias.

The Title IX Coordinator and any designees will be trained on all of the topics outlined above, as well as their specific responsibilities under 34 CFR §§ 106.8(a), 106.40(b)(3), 106.44(f) and (g), Webb’s recordkeeping system, the requirements of 34 CFR § 106.8(f), and any other training necessary to coordinate Webb’s compliance with Title IX and other applicable laws and regulations.

PROHIBITION ON CONSENSUAL RELATIONSHIPS

The nature of the academic experience at Webb requires faculty members to develop close, supportive working relationships with students. Personal bonds should not be permitted to interfere with the professor/student relationship. All employees are, therefore, prohibited from having sexual relations and/or romantically intimate or amorous relationships with any Webb students.

Similarly, any administrator or employee in a supervisory role may not have sexual relations and/or romantically intimate or amorous relationships with any student or employee they supervise directly or indirectly. If, after the commencement of a consensual sexual, amorous, or romantically intimate relationship that is not prohibited by this Policy, the individuals learn that due to a change in their duties, responsibilities, assignments or positions, their relationship will now be prohibited, both individuals are required to notify the Title IX Coordinator as soon as possible in order to determine how to proceed. notification is required regardless of whether the consensual relationship still exists.

Persons involved in consensual sexual, amorous, or romantically intimate relationships outside of the employee/student, supervisor/subordinate, or others previously noted, must exercise caution to prevent the development of harassing behavior or use of authority inappropriately. Consensual relationships can change and conduct once welcomed by both, may become unwelcome to one. The fact that there is initial consent to forming a romantic relationship or a specific sexual encounter does not preclude a charge of harassment in the future. Webb will respond to all reports of prohibited or inappropriate sexual, amorous, or romantically intimate behavior in accordance with grievance procedures set forth in the Employee Handbook. Webb maintains discretion to determine consequences for violating this policy on consensual relationships, which may include but is not limited to termination from employment.

IMPLEMENTATION

This Policy is effective August 1, 2024 and will apply to sex discrimination, gender-based misconduct, and other prohibited conduct that allegedly occurred on or after August 1, 2024.

Prohibited conduct that allegedly occurred before the effective date of this Policy, regardless of when it is reported, will be handled in accordance with the applicable College Policy that was in effect at the time the behavior occurred.

Appendices:

Appendix A: Complaint Form for Reporting Sex Discrimination or Gender-Based Misconduct

Appendix B: Webb Institute Alcohol and Other Drugs (AOD) Policy -Amnesty Guidance

Appendix C: A Plain Language Explanation of Distinctions between the New York State Penal Law and Webb Disciplinary Processes

Appendix A: Complaint Form for Reporting Sex Discrimination or Gender-Based Misconduct

Sexual Misconduct Complaint Form

COMPLAINANT:

Name: _____

Address: _____

Work Telephone: _____ Personal Telephone: _____

Preferred Email Address: _____

NATURE OF COMPLAINT:

PERSON/GROUP WHOM COMPLAINT IS BE MADE AGAINST:

Name: _____

Position: _____

DESCRIPTION OF COMPLAINT:

Describe the complaint in detail. Provided dates(s), times(s), and place(s) the incident(s) occurred.

Additional pages of description may be attached to this form.

Attachments: Y / N

PREVIOUS ACTIONS:

Have you brought this matter to the attention to anyone else at Webb Institute? Please provide the names of anyone that you discussed this matter with. To your knowledge, what actions if any were taken?

COMPLAINT DOCUMENTATION:

Describe any documentation being submitted to support your complaint.

Attachments: Y / N

WITNESSES: Name	Title/Relationship	Contact Info

CORRECTIVE ACTION SOUGHT:

Attachments: Y / N

DECLARATION:

I declare that the foregoing is true and correct.

Signature Print Name Date

RECORDER:

To be completed if form completed by a party other than the complainant.

Signature Print Name Date

Appendix B: Webb Institute Alcohol and Other Drugs (AOD) Policy - Amnesty Guidance

Excerpt from Webb's Webb Institute Alcohol and Other Drugs (AOD) Policy:

MEDICAL AMNESTY

A growing body of evidence suggests that among the factors that may contribute to a reduction of students' willingness to call of help in a medical emergency is the belief that doing so would result in disciplinary action for either the caller, the individual in need of help, and/or any groups associated with the incident. The inclusion of the medical amnesty clause is an effort to ensure that students' safety takes priority in the implementation of Webb's AODP.

When a student experiences a physical and/or psychological crisis while under the influence of AOD and help is solicited, **neither the student in crisis nor any student calling for help will be subject to disciplinary action by Webb Institute for personal possession or use of illicit substances, including consumption of alcohol by minors.** However, the Director of Admissions and Student Affairs will in most cases require the student in crisis be evaluated by the Webb Institute psychologist and/or a community provider specializing in AOD, to follow subsequent treatment recommendations, and to provide documentation thereof to the Director.

Misuse of the Medical Amnesty Policy

The Medical Amnesty Policy should not be abused. This policy does not protect students who are found to be in violation of other Webb policies from disciplinary action. Cases in which the individual in need of help is found to be guilty of sexual abuse/assault; physical assault; vandalism; theft; destruction of property; distribution, possession of distributable quantities; or intention to distribute scheduled substances will in most cases result in formal disciplinary action as described in applicable Webb Institute policies.

Appendix C: A Plain Language Explanation of Distinctions between the New York State Penal Law and Webb Disciplinary Processes

A Plain Language Explanation of Distinctions Between the New York State Penal Law and the College Disciplinary Processes

Published: October 28, 2015 Criminal Justice System	College/University Disciplinary System	
Goals.	Public safety, deterrence, and punishment.	Education; safety; safe and supportive campus environment.
Governing Law.	New York State Penal Code; New York State Rules of Criminal Procedure (or another state’s rules if the crime took place there), Federal Criminal Law, and Rules of Evidence.	Title IX; The Clery Act as amended by the Violence Against Women Act; NYS Education Law sections 129-A and 129-B. More specific rules govern particular colleges and universities.
How to report and whether there must be action once a report is made.	Crimes involving sexual violence may be reported to campus police (if the campus has police officers), the local police agency, or to the New York State Police. Certain crimes may also be reported to federal law enforcement agents. Once a report is made, the decision whether to investigate is made by the police/law enforcement agency, often in consultation with a District Attorney or other prosecuting agency. An investigation may be conducted without the consent or participation of a reporting individual. The ultimate decision of whether to initiate a criminal prosecution is initially made by a prosecutor. In cases involving felony charges, the final charging decision is made by a Grand Jury.	Victims may disclose sexual violence to various college employees who are designated confidential resources or to others who will try to ensure privacy to the extent consistent with the institution’s obligation to provide a safe educational environment. Disclosures made to a confidential resource will not trigger an investigation. When a report is made to the Title IX Coordinator (TIXC) or another Non-Confidential resource, the TIXC will determine whether an investigation is necessary by weighing a request for confidentiality by the reporting individual against the continuing safety of that person and the safety and best interests of the campus community.
Who investigates?	Police or other law enforcement officials.	Investigators employed or retained by the college or university; these individuals may work for different departments within the institution, including, but not limited to, the police/public safety department, student affairs and academic affairs.
Procedures	See Governing Law. Procedures established by police departments, prosecutors’ offices, etc.	College/University policies and Bylaws, which generally incorporate requirements of Governing Law. Collective bargaining agreements may impact some procedures.

Standard of Evidence.	Crimes must be proven “Beyond a Reasonable Doubt”	A violation of disciplinary rules must be found by a “Preponderance of the Evidence” (more likely than not)
Confidentiality.	Law enforcement agencies offer some confidential assistance, but a criminal charge and trial must be public.	Colleges and universities offer confidential resources, but a disciplinary proceeding requires that relevant information be shared with those involved.
Privacy.	Criminal trials must be public.	Disciplinary proceedings are kept as private as possible, but information must be shared with certain individuals within the college, the parties, and pursuant to law.
Who are the parties?	The prosecution and defendant. The victim/survivor is not a party, but often the critical witness for the prosecution.	Varies by school—some consider the institution and the respondent to be parties, and confer on the reporting individual certain rights to participate, as the law provides. Otherwise, reporting individual and accused/respondent.
Participation in the process.	In limited circumstances, a criminal prosecution can proceed without the participation or cooperation of the reporting individual, but without a reporting individual’s participation, it is generally more difficult to prove a crime beyond a reasonable doubt.	Reporting students cannot be required to participate in the college process. However, a college will be limited in its ability to respond if a reporting individual does not participate.
Who initiates the proceedings?	A prosecutor, acting on behalf of the state (or the United States in federal cases).	The college or university initiates proceedings. While rules vary from school to school, they most provide an active role for the reporting individual.
Testimony.	In a court, testimony is generally public. Other parties are, through counsel, entitled to cross-examine witnesses.	The rules are established by individual colleges and universities, but some institutions provide for alternative approaches that permit students to testify without having other parties in the room and/or to ask cross-examination questions only through the disciplinary panel, investigator, or representative of the reporting individual and/or respondent.
Role of attorneys.	Both the state and the defendant are represented by counsel; counsel may question witnesses.	Varies by school. Many permit the parties to be advised by attorneys but some limit the attorney's' roles to quietly speaking with their clients or passing notes.
Mental Health and Sexual History.	In New York, a reporting individual’s prior sexual and mental health history is generally, but not always, inadmissible in a criminal case. There are limited circumstances under which	Generally not admissible, but subject to quite limited exceptions. Education Law 129-b permits parties to exclude information about their prior sexual history with persons other than the

	directly relevant evidence of that kind may be admitted.	other party and also to exclude evidence of their own mental health history in the fact finding phase of the disciplinary process.
Possible Results.	<p>If a prosecution takes place, the defendant may</p> <ul style="list-style-type: none"> <input type="checkbox"/> plead guilty or “no contest” <input type="checkbox"/> have the case dismissed by the judge (on legal grounds) <input type="checkbox"/> be found “guilty” or “not guilty” by a judge or jury 	<p>In cases that do not involve sexual assault, some schools permit mediation or similar procedures if parties agree. If there is a formal proceeding, the respondent may be found “responsible” or “not responsible” for violations of the institution’s rules. Respondents may also accept responsibility before a finding by an adjudicator.</p>
Sanctions.	An individual found guilty may be fined, imprisoned, or both. In some courts, alternative sanctions are sometimes used.	An individual found responsible for violating college policy may be given a range of sanctions (depending on the severity of the conduct and other factors, such as prior judicial history), ranging from a warning to