

VASSAR

INTERIM POLICY:¹

Interim Policy Against Discrimination, Harassment, and Sexual Misconduct (Hereinafter the “Policy”)

TABLE OF CONTENTS

[1.0 Policy Purpose](#)

[1.1 Notice of Nondiscrimination](#)

[1.2 Office of Equal Opportunity and Affirmative Action / Title IX](#)

[1.2.2 EOAA/Title IX Team](#)

[1.2.3 Independence and Conflict of Interest](#)

[2.0 Scope](#)

[2.1.1 Application and Scope of Policy](#)

[2.1.2 Relationship to Academic Responsibility and Respect for Persons](#)

[2.2 Jurisdiction](#)

[2.3 Confidentiality and Privacy](#)

[2.4 Standard of Proof](#)

[2.5 Prohibited Conduct](#)

[A. Discrimination and Harassment](#)

[2.5.1 Discrimination Based on Protected Characteristic](#)

[2.5.2 Discriminatory Harassment and Hostile Environment](#)

[2.5.3 Online Discriminatory Harassment](#)

[B. Other Prohibited Conduct Based on Protected Characteristic](#)

[C. Sexual Misconduct and Gender-Based Violence](#)

[2.5.4 Sex-based Harassment](#)

¹ The Interim Policy Against Discrimination, Harassment, and Sexual Misconduct and associated Resolution Procedures are implemented on an interim basis for renewable six-month intervals to comply with recent changes to federal or state laws, implementing regulations and enforcement guidance on nondiscrimination protections. This policy reflects the unification and revision to three separate policies and supersedes Vassar College’s: (1) Policy Against Discrimination and Harassment, (2) Title IX Grievance Policy, and (3) Sexual Misconduct and Gender-Based Violence Policy. The Interim Policy will remain in effect until a permanent version is adopted, after review by appropriate internal shared governance committees, discussion and vote by the faculty.

- [A. Sex-based Harassment: Under Title IX, Title VII, and the Fair Housing Act](#)
- [B. New York State Definition of Sexual Harassment in Employment Situations](#)
- [2.5.5 Sexual Misconduct and Sexual Violence,](#)
- [2.5.6 Definitions of Consent, Force, Coercion, and Incapacitation](#)
- [D. Retaliation](#)
- [E. Collateral Misconduct](#)
- [F. False Allegations and Evidence](#)
- [G. Unauthorized Disclosure under this Policy](#)
- [H. Failure to Comply/Process Interference under this Policy](#)
- [I. Sanction Ranges](#)
- [3.0 Obtaining Support and Assistance](#)
- [4.0 Options for Reporting](#)
 - [4.1.1 Report and Provide Notice to the College](#)
 - [A. EOAA/Title IX Office](#)
 - [B. Time Limits on Reporting](#)
 - [4.1.2 Report Confidentially](#)
 - [4.1.3 Disclose Sexual Misconduct or Sexual Violence Anonymously](#)
 - [4.1.4 Report Externally](#)
 - [A. Report to Law Enforcement](#)
 - [B. Report to External Agencies](#)
- [5.0 Supportive Measures](#)
- [6.0 Preservation of Evidence](#)
- [7.0 Student Amnesty Under This Policy](#)
- [8.0 Emergency Removal/Interim Actions/Leaves](#)
- [9.0 Mandated Reporting and Exceptions](#)
- [10.0 Students' Bill of Rights: Sexual Misconduct and Sexual Violence](#)
- [11.0 Retention of Records](#)
- [12.0 Training](#)
- [13.0 Relevant Documentation](#)
- [14.0 Responsible Department and Positions](#)
- [15.0 Review History](#)
- [16.0 Revision History](#)

Policy Against Discrimination, Harassment, and Sexual Misconduct (Interim Policy effective August 1, 2024)

1.0 POLICY PURPOSE

Vassar College is committed to providing an educational and employment environment that is free from discrimination and harassment based on protected characteristics, and retaliation. Vassar works to provide a diverse, equitable, accessible, and inclusive campus community where all members feel valued and are fully empowered to claim a place in—and responsibility for—working, living, and learning together in a safe environment.

This Policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the College community whose acts deny, deprive, unreasonably interfere with or limit the education or employment access, benefits, and/or opportunities of any member of the College community, guest, or visitor on the basis of that person’s actual or perceived protected characteristic(s), is in violation of this Policy. It is the responsibility of every member of the campus community to create an environment free from discrimination, harassment, and sexual misconduct.

To ensure compliance with federal, state, and local civil rights laws and regulations, including Title IX, Title VI, Title VII, ADA/Section 504 and other federal or state civil rights laws and regulations. The College affirms its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity.

1.1 NOTICE OF NONDISCRIMINATION

Vassar College seeks to comply with all federal, state, and local laws, regulations and ordinances prohibiting discrimination in employment and private higher education institutions. The College does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived:

- race
- color
- ethnicity
- national origin (including, shared ancestry or ethnic characteristics; or citizenship or residency in a country with a dominant religion or distinct religious identity)
- creed
- religion
- citizenship status
- sex/gender
- gender expression
- gender identity
- sexual orientation
- pregnancy or related conditions
- age (40 years and over in the employment context)
- disability (physical or mental)
- marital status
- familial or caregiver status

- domestic violence victim status
- genetic information (including family medical history)
- veteran or military status
- or any other protected characteristic as provided for under applicable local, state, or federal, law and any implementing regulations

1.2 OFFICE OF EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION / TITLE IX

1.2.1 Office of Equal Opportunity and Affirmative Action / Title IX

The College has appointed the Office of Equal Opportunity and Affirmative Action/Title IX to coordinate the College's compliance with federal, state, and local civil rights laws, regulations, and ordinances. Faculty, students, administrators and staff, and third parties may contact the Assistant Vice President (AVP) for Institutional Equity and Title IX Coordinator to inquire about their rights under College nondiscrimination policies, to request assistance and support, or to file a complaint. Faculty may also contact the Faculty Director of Affirmative Action.

1.2.2 EOAA/Title IX Team

The AVP for Institutional Equity and Title IX Coordinator and the Faculty Director of Affirmative Action are assisted by the EOAA/Title IX Team, which includes deputy coordinators, and investigators who serve in a neutral role. Members of the EOAA/Title IX Team are available to speak with parties about the resources for support, and options that are available on- and off-campus for response and resolution.

Office of Equal Opportunity and Affirmative Action / Title IX

Vassar College

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1.2.3 Independence and Conflict of Interest

The EOAA/Title IX Team is charged by the College to act independently with institution-wide authority, free from bias and conflicts of interest. The team members are vetted and trained to ensure they are not biased for or against any party in a specific Complaint or for or against a Complainant and/or Respondent generally. If at any point during the resolution process, the parties have concerns regarding bias or conflict of interest, they may bring it to the attention of the AVP for Institutional Equity and Title IX Coordinator

and/or the Faculty Director of Affirmative Action. They will assess whether the evidence supports the concern or objection. A perceived conflict of interest or bias alone is not grounds for dismissal. However, if a conflict of interest or bias is found to exist, the investigator, decision-maker, or informal resolution facilitator assigned to the case will be reassigned.

Concerns about the AVP for Institutional Equity and Title IX Coordinator should be raised with the Vice President for Technology & Human Resources Chief Information Officer, and concerns involving the Faculty Director of Affirmative Action should be brought to the Dean of the Faculty.

2.0 POLICY AGAINST DISCRIMINATION, HARASSMENT AND SEXUAL MISCONDUCT

2.0 SCOPE

2.1.1 Application and Scope of Policy

This Policy applies to all faculty, employees (administrators and staff), students, guests, contractors, and other individuals participating in or attempting to participate in Vassar College's programs or activities, including education and employment.

This Policy prohibits all forms of discrimination on the basis of the protected characteristic(s), and may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this Policy.

2.1.2 Relationship to Academic Responsibility and Respect for Persons

Nothing in this Policy is meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial, or sensitive subject matters protected by academic freedom. As articulated in the Vassar College Statement on Academic Freedom, Vassar College values freedom of expression and supports deep engagement in and equitable access to teaching, learning, scholarly research, and artistic endeavor.

The College recognizes the legal limits to academic freedom and free expression. Unlawful conduct, such as defamation and the incitement of violence, will not be tolerated. When speech or conduct is protected by academic freedom and/or freedom of expression as defined by the College, it will not be considered a violation of College Policy, though supportive and remedial measures will be offered to those impacted. All offense definitions encompass actual and/or attempted offenses.²

² Consistent with the College's Statement on Academic Responsibility and Respect for Persons, the First Amendment to the U.S. Constitution, and in compliance with Title VI of the Civil Rights Act of 1964, when an educational institution finds that offensive or demeaning speech protected by the First Amendment, an education institution still has a duty to take appropriate action(s) to support students and ensure that they can access the institution's educational programs and services in the safest and most supportive environment possible. Some of these actions may include public statements, provision of resources to support students affected by the protected speech creating a hostile environment, and educational programming on campus for students, staff and faculty even if the end result is that the speaker can keep speaking.

2.2 JURISDICTION

2.2.1 This Policy applies to the College's education programs and activities (defined as including locations, events, or circumstances in which the College exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where the College has disciplinary authority, and to misconduct occurring within any building owned or controlled by a College-recognized student organization. A Complainant does not have to be a member of the College community to file a report.

2.2.2 This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to College's education program or activities. The College may also extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial College interest.

A substantial College interest includes:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
2. Any situation which is determined to pose an imminent and serious threat to the health or safety of any student, employee, or other individual.
3. Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
4. Any situation that substantially interferes with the College's educational interests or mission.

2.2.3 Non-affiliates of the College

- a. The reporting party or Complainant does not need to be a member of the College community. However, the College's Resolution Process, as outlined in this policy, only applies if the Respondent is currently a faculty member, student, or employee and falls under the College's jurisdiction or control at the time of the alleged incident.
- b. If the Respondent is unknown or is not a member of the College community, the EOAA/Title IX Team will offer to assist the Complainant in accessing campus and local resources for support and assistance, and implement any necessary and appropriate supportive measures and/or remedial actions (e.g., accommodations, safety measures, trespassing a person from campus, etc.). The EOAA/Title IX Team can also assist the Complainant in contacting law enforcement if the individual would like to file a police report about criminal conduct.
- c. Vendors and contractors serving the College through third-party contracts must follow the policies and procedures of their employers and the College's policies, as agreed upon in their contracts. If the person who is the subject of a complaint is enrolled at or employed by another institution or employer, the EOAA/Title IX Team can help the person making the complaint to contact the appropriate individual at that institution or employer. It may be possible to take action under that institution's or employer's policies.
- d. When a Party participates in a dual enrollment program at the College, the College will coordinate with the Party's home institution to determine jurisdiction, coordinate the investigation, and supportive measures, and determine which institution's resolution procedures will apply.

2.3 CONFIDENTIALITY AND PRIVACY

The College is committed to protecting the privacy of all individuals involved in a Report under this Policy, and equally committed to providing support and assistance to help reporting parties make informed choices.

With any report under this Policy, the College will take affirmative steps to protect the privacy interests of the individuals involved, to the extent possible and permissible by law.

The College recognizes that allegations under this Policy may include multiple forms of discrimination and harassment as well as violations of other College policies; may involve various combinations of students, employees, and other members of the College community; and may require the simultaneous attention of multiple College departments. Accordingly, the EOAA/Title IX Team will share information with other College departments on a need-to-know basis to provide uniform, consistent, efficient, and effective responses to alleged protected characteristic discrimination, harassment, sexual misconduct, or retaliation.

2.4 STANDARD OF PROOF

The College presumes that a complaint brought forth by a Complainant has been made in good faith unless and until evidence supports a different conclusion.³ Furthermore, the College presumes a Respondent in a matter is not responsible for the reported misconduct unless and until an administrative or formal grievance process reaches a different determination.⁴ The College uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that the College will decide whether, based upon the available information at the time of the decision, it is more likely than not that the Respondent is in violation of the Policy.

2.5 PROHIBITED CONDUCT

The sections below describe the specific forms of legally prohibited discrimination, harassment, and retaliation that are prohibited under College Policy. All offense definitions below encompass actual and/or attempted offenses. Violation of any other College policies may constitute discrimination or harassment when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

A. DISCRIMINATION AND HARASSMENT

2.5.1 Discrimination Based on Protected Characteristic

Discrimination is different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived protected characteristic, also known as a protected class (see Section 1.1).

Illegal discrimination prohibited under this Policy ordinarily takes two primary forms:

- A. **Disparate Treatment Discrimination:** Any intentional differential treatment of a person or persons that is based on a person's actual or perceived protected characteristic and that (1) excludes a person from participation in; (b) denies the person benefits of; or (c) otherwise adversely affects a term or condition of a person's participation in a College program or activity or employment.

³ Not everyone who reports alleged discrimination, harassment, sexual misconduct, or retaliation will identify with the term "Complainant." The College uses "Complainant" to be as clear and objective as possible in the Resolution Process.

⁴ The College uses "Respondent" to define a person who is alleged to have engaged in conduct that could constitute violation under this Policy and Resolution Procedures.

- B. **Disparate Impact Discrimination:** Disparate impact occurs when College policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that (1) excludes a person from participation in; (2) denies the person benefits of; or (3) otherwise adversely affects a term or condition of a person's participation in a College program or activity or employment.

2.5.2 Discriminatory Harassment and Hostile Environment

Discriminatory harassment under Title VI and Title VII is defined as unwelcome conduct (e.g., physical, verbal, graphic, electronic, or written) on the basis of actual or perceived protected characteristic(s), based on the totality of the circumstances, that is subjectively and objectively offensive, severe. Harassing conduct need not be directed at a particular individual.

- a. **Hostile Environment** is one that is sufficiently severe, pervasive, or persistent as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or privileges provided by the College.⁵
- b. Generally, the less pervasive the harassing conduct, the more severe it must be to establish a hostile environment.⁶ For example, in most cases, a single isolated incident would not be sufficient to establish a violation of this Policy. However, in some cases, a hostile environment based on a protected characteristic may result from a single severe incident if the conduct is subjectively and objectively offensive and so severe that it limits or denies a student's or employee's access to the education program or activity or work environment.
- c. Whether harassing conduct creates a hostile environment on the basis of actual or perceived protected characteristic(s) is determined based on the totality of the circumstances and information known. Relevant factors for consideration may include, but are not limited to, the context, nature, scope, frequency, duration, and location of the harassment, as well as the identity, number, age, and relationships of the persons involved.

⁵ Examples of harassing conduct based on a perceived or actual protected characteristic, include but are not limited to:

- being subjected to "jokes," offensive or derogatory comments, or other verbal or physical conduct based on an individual's race, color, ethnicity or national origin, age, disability, or other protected characteristic;
- being ridiculed by someone showing offensive objects or images, based on their religion or citizenship/residency in a country with a dominant religion or distinct religious identity, or other protected characteristic;
- being racially profiled;
- being harassed for how one looks, dresses, or speak in ways linked to race, ethnicity or ancestry (e.g., skin color, religious attire, language spoken);
- being stereotyped based on race, perceived shared ancestral or ethnic characteristics, sexual orientation, age, disability, or other protected characteristic;
- being subjected to negative or offensive remarks about a person's disability or need for academic or workplace accommodations, and other verbal or physical conduct based on a person's disability.

⁶ The College under other College Regulations or employment policies reserves the right to address offensive conduct that (1) conduct that does not rise to the level of creating a discriminatory hostile environment, and (2) that is of a generic nature not based on a protected characteristic. Responses may include, but are not limited to, disciplinary action and implementation of other corrective measures and remedial actions, such as education, alternative or administrative resolution, and/or informal resolution.

- d. An assessment will be made as to whether the incident(s) on- or off-campus individually or collectively created or contributed to a hostile environment . In cases where it is determined that a hostile environment exists, the AVP for Institutional Equity and Title IX Coordinator and/or the Faculty Director of Affirmative Action will coordinate with others at the College to take necessary steps to end the hostile environment, remedy its effects, and prevent its recurrence.
- e. The AVP for Institutional Equity and Title IX Coordinator and the Faculty Director of Affirmative Action will review reports of alleged discrimination and harassment based on protected characteristic(s), at least annually, to see if patterns, recidivism, or collective incidents exist that may warrant additional inquiry, additional response campuswide, or targeted intervention in specific programs and activities to ensure no hostile environment is created.
- f. From time to time, the AVP for Institutional Equity and Title IX Coordinator or the Faculty Director of Affirmative Action may also recommend climate assessment be conducted for students and employees to assess allegations of a hostile environment.

2.5.3 Online Discriminatory Harassment

- a. College policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors are based on a protected characteristic that occur in or have an effect on the College’s education program and activities, or when they involve the use of College networks, technology, or equipment.
- b. Although the College may not control websites, social media, and other venues through which harassing communications based on protected characteristics are made, when such communications are reported to the College, it will engage in a variety of means to address and mitigate the effects when such online conduct can be shown to cause (or will likely cause) a substantial in-program disruption or infringement to the rights of others. These means may include, but are not limited to, investigation and resolution under this Policy, College Regulations and/or other College policies, sanctions or other forms of corrective action, remedial measures, and/or supportive measures.

B OTHER PROHIBITED CONDUCT BASED ON PROTECTED CHARACTERISTIC⁷

1. **Bullying:** repeated and/or severe conduct that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant, and which is not speech or conduct that is otherwise protected.
2. **Endangerment:** threatening or causing physical harm; extreme verbal, emotional, or psychological abuse; or other conduct which threatens or endangers the health or safety of any person.
3. **Hazing:** any act or action which does or is likely to endanger the mental or physical health or safety of any person as it relates to a person’s initiation, admission into, or affiliation with any College group or organization.⁸

⁷ Bullying conduct, hazing, and endangerment not on the basis of protected characteristics may be addressed under other College Regulations and employment policies.

⁸ For the purposes of this hazing definition: It is not necessary that a person’s initiation or continued membership be contingent upon participation in the activity, or that the activity was sanctioned or approved by the student group or student organization, for an allegation of hazing to be upheld. Additionally, it shall not constitute an excuse or defense to a hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the

2.5.4 Sex-based Harassment⁹

Under federal and state law sex-based harassment is an unlawful discriminatory practice. Sex-based harassment includes sexual harassment, including harassing conduct based on actual or perceived sex stereotypes, sex characteristics, sexual orientation, gender identity, gender expression.¹⁰ It also includes discrimination based on pregnancy or related conditions. Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

The College has adopted the following definitions of sex-based harassment in order to address the unique environment of a residential, academic community. Separate definitions are required by federal law and state law. While they overlap, they are not identical, and they apply as noted.

A. Sex-based Harassment: Under Title IX, Title VII, and the Fair Housing Act

a. Quid Pro Quo:

- an employee agent, or other person authorized by the College,
- to provide an aid, benefit, or service under the College's education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,
- on a person's participation in unwelcome sexual conduct.

b. Hostile Environment Harassment:¹¹

risks or hardship of the activity, or that no injury was suffered or sustained. Furthermore, hazing need not be not confined to the student group or student organization with which the person subjected to the hazing is associated. The actions of alumni, active, new, and/or prospective members of a student group or student organization may be considered hazing.

⁹ Sexual harassment is a form of sex discrimination prohibited by Title IX of Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Fair Housing Act, and the New York State Human Rights Act.

¹⁰ Throughout this Policy, "on the basis of sex" means conduct that is sexual in nature, or that is directed to the Complainant because of their actual or perceived sex, gender identity, or gender expression.

¹¹ Examples of incidents that may constitute sex-based harassment:

- A professor asks a student to have sex with him/her/them in exchange for a good grade. This is harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- An employee repeatedly sends sexually oriented jokes around on an email list she/he/they created, even when asked to stop, causing one employee to avoid the sender on campus and in the building in which they both work.
- A student posts explicit sexual pictures or comments in group assignment chat for a class project.
- Students frequently 'rate' students' bodies and sex appeal, commenting suggestively about their clothing and appearance as they pass by.
- A professor engages students in his/her/their class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. The professor probes for explicit details, and demands that students answer the questions, even though they are clearly uncomfortable and hesitant.
- A student grabs another student by the breast or buttocks. While this is sex-based harassment, it is also a form of non-consensual sexual contact (fondling).

- 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 the College’s education program or activity.

B. New York State Definition of Sexual Harassment in Employment Situations

Additionally, in the State of New York, the following definition of sexual harassment will be applied to employee misconduct when the definitions above (specific to Title IX) are not applicable, as determined by the AVP for Institutional Equity and Title IX Coordinator: Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful and can be any harassing conduct that consists of more than petty slights or trivial inconveniences.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

2.5.5 Sexual Misconduct and Sexual Violence^{12, 13}

Under Title IX, sex-based discrimination also includes sexual violence, such as rape, sexual assault, sexual battery, sexual coercion, and other forms of sexual misconduct, as defined below.

A. Sexual Assault

1. Rape¹⁴

- Penetration, no matter how slight,
- of the vagina or anus,
- with any body part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the Complainant.

¹² The College has substituted “Complainant” for “victim,” and has removed references to his/her throughout, and has defined “private body parts.”

¹³ This set of regulatory definitions comply with Title IX and the Clery Act.

¹⁴ For the purpose of College policy, sexual assault is further defined as non-consensual sexual intercourse that includes vaginal penetration by a penis, object, tongue, or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

2. **Fondling**¹⁵
 - The touching of the private body parts of the Complainant (buttocks, groin, breasts),
 - for the purpose of sexual gratification,
 - without the consent of the Complainant,
 - including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental incapacity.
3. **Incest**: Sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by New York State law.
4. **Statutory Rape**: Sexual intercourse with a person who is under the statutory age of consent of 17 years of age, even if the sexual activity was consensual (as defined by New York State law, but this varies by state).

B. Dating Violence (Intimate Partner Violence), defined as: violence, on the basis of sex, committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.¹⁶ The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition—

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.¹⁷
- Dating violence does not include acts covered under the definition of domestic violence.

C. Domestic Violence, defined as: violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of New York State, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of New York State.

¹⁵ For the purpose of College policy, sexual assault is further defined as non-consensual sexual contact includes intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

¹⁶ To be considered intimate, a relationship must include (or have included) some romantic, sexual, and/or domestic element. Common intimate partner relationships are: (a) Married Partners – individuals who are legally married; (b) Domestic Partners – individuals who live together AND who are romantically interested in one another (not simply roommates, regardless of state law); can be married or unmarried; can include a sexual component, but does not have to; (c) Dating Partners – individuals who are romantically interested in one another; can be a couple (dating each other exclusively) or dating casually (concurrently dating other people); can include a sexual component, but does not have to; (d) Sexual Partners – individuals who have engaged in at least one sexual act with one another.

¹⁷ Dating or intimate partner and domestic violence may also include emotional/verbal abuse, psychological abuse, economic abuse, physical and/or sexual abuse.

- D. Stalking**, defined as: engaging in a course of conduct, on the basis of sex, directed at the Complainant, that would cause a reasonable person to fear for the person's safety, or the safety of others; or suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Note: Conduct that does not meet one or more of these criteria may still be prohibited under the Vassar College Regulations.

E. Other Forms of Prohibited Sexual Misconduct

Sexual Exploitation: a person taking non-consensual or abusive sexual advantage of another, that does not constitute Sex-based harassment as defined above, for their own benefit or for the benefit of anyone other than the person being exploited. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing, using the bathroom, or engaging in sexual acts, without the consent of the person being observed);
- Invasion of sexual privacy (e.g., doxxing);
- Knowingly making an unwelcome disclosure of (or threatening to disclose) a person's sexual orientation, gender identity, or gender expression;
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography;
- Prostituting another person;
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection;
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity;
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing);
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity;

- Knowingly soliciting a minor for sexual activity;
- Engaging in sex trafficking;
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings; and
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes).

2.5.6 Definitions of Consent, Force, Coercion, and Incapacitation

As used in this Policy, the following definitions and understandings apply:

A. Consent¹⁸

“Affirmative consent” is defined as:

- Knowing, voluntary, and mutual decision among all participants to engage in sexual activity.
- Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity.
- Silence or lack of resistance, in and of itself, does not demonstrate consent.

The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.

Individuals may perceive and experience the same interaction in different ways. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to be kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, sexual activity should cease within a reasonably immediate time. Silence or the absence of resistance alone should not be interpreted as consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent

¹⁸ NYS Educ. Law Article 129-B, Section 6441.

(e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Proof of consent or non-consent is not a burden placed on either party involved in a Complaint. Instead, the burden remains on the College to determine whether its Policy has been violated.

The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Going beyond the boundaries of consent is prohibited.¹⁹

B. Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

C. Coercion

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

D. Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction).

- A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.
- This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.
- Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.
- If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. “Should have

¹⁹ Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism, kink, etc) or other forms of sexual activity consensually, non-consent may be shown, for example, by the use of a safe word or other explicit agreements.

known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

D. RETALIATION

The College prohibits retaliation under this policy. Retaliation, as defined by the College, means any materially adverse action threatened or taken against a person because that individual has filed a complaint of discrimination and/or sexual misconduct, supported someone who filed a complaint, or provided information in connection with a complaint in good faith. This includes, but is not limited to, direct and indirect intimidation, harassment, or threats of such action.

If you have concerns about potential or actual retaliation, promptly report it to the AVP for Institutional Equity & Title IX Coordinator or Faculty Director of Affirmative Action. Reports can also be made to the Office of Community Expectations (students), to a supervisor or Human Resources (employees), and to the Dean of the Faculty (faculty). The College will conduct a thorough and fair investigation into all allegations of retaliation, ensuring the safety and security of all involved. A determination of whether an action is materially adverse will be made on a case-by-case basis. Individuals who take retaliatory actions will be subject to corrective action, up to and including suspension, expulsion, or termination. False accusations made with the intent of harming or retaliating against another person may subject the accuser to disciplinary action.

E. COLLATERAL MISCONDUCT

Collateral misconduct is defined to include potential violations of other College policies not incorporated into the Discrimination, Harassment and Sexual Misconduct Policy but that occur in conjunction with alleged violations of the Policy, or that are uncovered through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the AVP for Institutional Equity and Title IX Coordinator, or designee, may consult with College officials who typically oversee matters of student and employee conduct to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of AVP for Institutional Equity and Title IX Coordinator, or designee. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and employee handbooks.

F. FALSE ALLEGATIONS AND EVIDENCE

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation. Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under appropriate College policies.

G. UNAUTHORIZED DISCLOSURE UNDER THIS POLICY²⁰

It is a violation of College Policy to publicly disclose a Vassar College *work product* that contains a party's or witness's personally identifiable information without authorization or consent. This includes distributing or otherwise publicizing materials created or produced during a College investigation or Resolution Process except as required by law or as expressly permitted by the College. Alleged violations of Sections 4.4.8 will be forwarded to the Community Expectations Office (students), Dean of the Faculty Office (faculty), or Human Resources (administrators/staff) for appropriate response and resolution.

H. FAILURE TO COMPLY/PROCESS INTERFERENCE UNDER THIS POLICY

1. Intentional failure to comply with the reasonable directives of a College official in the performance of their official duties, including with the terms of a no contact directive;
2. Intentional failure to comply with emergency removal or interim suspension terms;
3. Intentional failure to comply with sanctions;
4. Intentional failure to adhere to the terms of an Informal Resolution agreement or Administrative Resolution agreement;
5. Intentional interference with the Resolution Process as defined by this Policy, including, but not limited to:
 - a. destruction or concealing of evidence;
 - b. actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence; and/or
 - c. intimidating or bribing a witness or party; and
6. Intentional failure to comply with Mandated Reporting duties as defined in this Policy.

Alleged violations of Sections 4.4.9 will be forwarded to the Community Expectations Office (students), Dean of the Faculty Office (faculty), or Human Resources (administrators/staff) for appropriate response and resolution.

I. SANCTION RANGES

The following sanction ranges apply for Prohibited Conduct under this Policy as further defined in the College Regulations. Sanction considerations are wholly independent from, and are made subsequent to, a Decision-maker's analysis of whether a policy violation occurred. Sanctions under this Policy typically result in a primary sanction(s) combined with additional sanctions that are educational, preventative, restorative, and/ or rehabilitative in nature, as appropriate.

²⁰ Nothing in this section (Section 4.4, E) restricts the ability of the Parties to: obtain and present evidence, including by speaking to witnesses (as long as it does not constitute retaliation under this Policy), consult with their family members, confidential resources, support persons or Advisors; or otherwise prepare for or participate in the Resolution Process.

Sanctions can be assigned outside of the specified ranges based on aggravating or mitigating circumstances, or the Respondent's cumulative conduct record.^{21 22} The Decision-maker will issue a written determination that includes a Policy finding as to each allegation and rationale for the result, any disciplinary sanctions imposed by the College against the Respondent, and whether remedies will be provided by the College to the Complainant.

A. Protected Characteristic Discrimination and Harassment

1. Discrimination: warning through expulsion or termination
2. Discriminatory Harassment: warning through expulsion or termination
3. Quid Pro Quo Harassment: warning through expulsion or termination
4. Hostile Environment Harassment: warning through expulsion or termination

B. Sexual Misconduct^{23 24}

1. Rape: suspension through expulsion or termination
2. Fondling: warning through suspension or termination
3. Incest: warning through through expulsion or termination
4. Statutory Rape: warning through expulsion or termination for employees
5. Stalking: warning/probation through expulsion or termination
6. Dating/Domestic Violence: probation through expulsion or termination
7. Sexual Exploitation: warning through expulsion or termination

C. Other Prohibited Conduct Based on Protected Characteristic

1. Bullying: warning/probation through suspension
2. Endangerment: warning/probation through expulsion or termination
3. Hazing: warning/probation through expulsion or termination

D. Other Prohibited Conduct Under This Policy

1. Retaliation: warning/probation through expulsion or termination
2. Unauthorized Disclosure: warning/probation through expulsion or termination
3. Failure to Comply/Process Interference: warning/probation through expulsion or termination

²¹ Sanction ranges under this Policy:

- Terms of a formal warning or probation will be articulated and may include denial of specified privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate. Regular probationary meetings may also be imposed.
- Warning, probation and suspension can be durational/conditional and can be implemented for a period of time, and/or delimited by certain conditions being met.
- Permanent separation from the College (expulsion or termination) under this Policy includes a permanent ban from institutional property and future College programs, events, and activities. This action may be enforced with a trespass action, as necessary.

²² Aggravating factors can have a "compounding" effect on sanctioning, in that they render the sanctioning range for a particular violation insufficient to properly address the totality of the circumstances. Conversely, mitigating factors may support sanctioning at the lower end of the range and/or influence decisions about additional sanctions or remedies.

²³ 20 U.S.C. 1092(f)(8)(B)(ii)

²⁴ 34 CFR §106.45(l)(2)

3.0 OBTAINING SUPPORT AND ASSISTANCE

The College offers many resources that are available to provide both immediate and ongoing support and options for resolution. Support looks different for each person. The College has various offices available to address mental, physical, emotional, academic and work-related needs. It is important for reporting parties to be aware of what resources and options are available on- and off-campus, and to choose the support and assistance that meets their needs. In addition, members of the campus community may speak with individuals unaffiliated with College without concern that the Policy will require them to disclose information to the institution without permission, including licensed professional counselors and other medical providers, local rape crisis counselors, domestic violence resources, local or state assistance agencies, clergy/chaplains, and attorneys.

A. Resources for Students

This resource page: [Student Resources](#) provides information regarding resources available to students, including confidential and non-confidential on-campus resources, counseling services, community-based resources, and web resources.

B. Resources for Faculty, Administrators and Staff

This resource page: [Faculty/Administrators/Staff Resources](#) provides information for support services available to faculty and staff, including the confidential employee assistance program, off-campus resources, and community-based resources, and web resources.

C. Sexual Violence Resources

This resource page: [Sexual Violence Resources](#) provides information on steps one could take after a sexual assault or other form of sexual violence, including domestic violence, dating/intimate partner violence, and stalking, including accessing emergency medical assistance, evidence preservation, obtaining restraining/protective orders, reporting to law enforcement, and accessing confidential and non-confidential advocacy support services on- and off-campus.

4.0 OPTIONS FOR REPORTING

Deciding whether to make a report on- or off-campus and knowing how to proceed are personal decisions, and the College recognizes that the process can take time. When making a report, an individual does not have to decide on any specific course of action, nor do they have to label what happened (e.g., bias incident, discrimination, harassment, sexual harassment, sexual assault, stalking, retaliation, etc.). The College is committed to working with a Reporting Party or Complainant in a manner that respects their autonomy and privacy. Furthermore, a Complainant has the right to report, or decline to report, potential criminal conduct to law enforcement. Under limited circumstances, posing a threat to health or safety of any individual, or to comply with applicable law, the College may independently notify law enforcement.

4.1.1 Report and Provide Notice to the College

If you or someone you know has experienced discrimination, harassment, sexual misconduct, or retaliation at the college, you should report it to the Office of Equal Opportunity and Affirmative Action/Title IX (EOAA/Title IX). The EOAA/Title IX Team will reach out to the person making the report and offer supportive measures. These measures are available at no cost and may include academic assistance, changes in housing, workplace adjustments, counseling, and other reasonable accommodations to ensure equal access to the College's programs and activities. It's important to note that meeting with the EOAA/Title IX Team does not require the person to file a formal complaint or participate in an investigation. They can choose to

file a formal complaint later on, or not at all. Notifying law enforcement may be another choice, and the EOAA/Title IX Team can assist in connecting the Complainant with the proper agency.

Reporting to EOAA/Title IX Office carries no obligation to initiate a Complaint, and in most situations, the College is able to respect a Complainant's request to not initiate an investigation or resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, a hostile environment, or a compelling threat to health and/or safety, where the College may need to initiate a resolution process. If a Complainant does not wish to file a Complaint or participate in an investigation, the College will maintain their privacy to the extent possible and honor their decision.

A. EOAA/Title IX Office

File a Complaint with, or give verbal Notice directly to, the AVP for Institutional Equity and Title IX Coordinator, Faculty Director of Affirmative Action or to any member of the EOAA/Title IX Team. Such a report may be made at any time (including during non-business hours). Someone from the EOAA/Title IX Team will contact the reporting party or Complainant ordinarily within 24 - 36 business hours.

1. Submit online at go.vassar.edu/titleixreport
2. To schedule an appointment with someone from the EOAA/Title IX Team, call (845) 437-7924 or send an email to titleix@vassar.edu.
 - For concerns involving **students, faculty, administrators, or staff**, one may contact: Belinda Guthrie, AVP for Institutional Equity & Title IX Coordinator, guthrie@vassar.edu, (845) 437-5334.
 - For concerns involving **faculty**, one may also contact: Jeffrey Schneider, Faculty Director of Affirmative Action and Professor of German Studies, jeschneider@vassar.edu, (845) 437-7666.

B. Time Limits on Reporting

There is no time limitation on reporting, providing Notice to the College, or filing a Complaint. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible. Acting on Notice/Complaints may also be impacted by the passage of time (including, but not limited to, the rescission or revision of a College policy, federal or state law). The College, however, will work with the Complainant to identify appropriate supportive measures and/or available remedies.

4.1.2 Report Confidentially

A. Confidential Resources

Confidential resources are available on- and off-campus and should be accessed when an individual is only looking for support and guidance at that time, needs additional time to consider their next steps, including whether to report incidents to the College or law enforcement. Individuals who are confidential resources will not report crimes to law enforcement or college officials without your permission, except for extreme circumstances, such as a health and/or safety emergency.

There are three categories of Confidential Resources:

1. Those with confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and counselors. To be able to respect confidentiality, those in Category 1 must be in a confidential relationship with the person reporting, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of receiving the Notice. These individuals will maintain confidentiality except in extreme cases of immediate threat or danger or abuse of a minor, elder, or individual with a disability, or when required to disclose by law or court order.
2. Those whom College has specifically designated as confidential for purposes of providing support and resources (see, below Section 7.1.2. B and C).
3. Those conducting human subjects research as part of a study approved by the College's Institutional Review Board (IRB).

B. On-Campus Confidential Resources

On-campus confidential employees and resources will provide the reporting party with the EOAA/Title IX Office's contact information, specifically the AVP for Institutional Equity and Title IX Coordinator and/or the Faculty Director of Affirmative Action. They can also assist the reporting with connecting with other resources on- and off-campus, including reporting to the EOAA/Title IX Office.

1. Counseling Service (*for students*): Metcalf House, (845) 437-5700, counseling@vassar.edu. If you are experiencing an immediate emergency and need to speak with a counselor after normal business hours, you may reach the Counselor On Call by calling the Campus Response Center at (845) 437-7333.
2. Health Service (*students*): Baldwin Hall, (845) 437-5800, health@vassar.edu.
3. On-campus members of the clergy/chaplains working within the scope of their licensure or ordination.
4. Employees of Vassar College may also contact the Employee Assistance Program (EAP). EAP is a confidential resource available to help free of charge and may be consulted on an emergency basis during normal business hours by faculty, administrators and staff. www.offices.vassar.edu/human-resources/benefits-and-wellness/employee-assistance-program/.

C. College-Designated Confidential Resources (previously called "Private Resources")

The following employees and departments have been designated as confidential, private resources. They are not required to report to the EOAA/Title Office, law enforcement or College officials, unless there is imminent danger or community safety concerns. Confidential, private resources are required to submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to the person they are advising or supporting.

1. Support, Advocacy, & Violence Prevention (SAVP) Director and Program Coordinator, Main Building, S-185, (845) 437-7863, <https://offices.vassar.edu/savp/>
 - To contact a confidential SAVP Advocate, Call Campus Safety Campus Response Center (CRC) at (845) 437-7333 and ask for an SAVP Advocate.

2. CARE (Care Coordination, Advocacy, Resources, and Education) Office, Director of Care Coordination and Residential Care Coordinator, Main Building, S-180, (845) 437-7825, <https://offices.vassar.edu/care/>
3. Health Promotion & Education, Director, Main Building, S-180, (845) 437-7769, <https://offices.vassar.edu/health-promotion-and-education/>
4. Office of Restorative Practices for Engaged Pluralism, Director, College Center, Room 333, (845) 437-5606, <https://offices.vassar.edu/restorative-practices/>
5. Student Fellows & House Student Advisors (HSAs), <https://offices.vassar.edu/residential-life/office-and-structure/residential-education/>

4.1.3 Disclose Sexual Misconduct or Sexual Violence Anonymously

The **Support, Advocacy, and Violence Prevention (SAVP) Office** provides confidential, individualized support and advocacy to survivors of sexual violence, intimate partner violence, relationship abuse, dating violence, or sexual harassment, past or present. The SAVP Office also provides support to friends, family, or other direct supporters of someone impacted by interpersonal violence. SAVP does not let anyone know that a reporting party came forward for support or help, unless there is imminent danger or community safety concerns.²⁵ <https://offices.vassar.edu/savp/reporting/form/>

Note: Anonymous Notice typically limits the College's ability to investigate, respond, and provide remedies, depending on what information is shared. Supportive measures intended to protect the community or redress or mitigate harm may be enacted, however, it also may not be possible to provide supportive measures to Complainants who are the subject of anonymous reports without further identifying information to SAVP.

4.1.4 Report Externally

A. Report to Law Enforcement

To report a crime, including hate crimes and incidents of sexual violence, including sexual assault, dating or domestic violence, and stalking, contact the local law enforcement agency. Campus Safety, EOAA/Title IX, and/or SAVP staff can assist a reporting party in contacting the police or you can contact them directly to file a police report or obtain a protective order.

There may be circumstances where the College is obliged to report incidents of violent crimes, hate crimes, sexual assault or other forms of sexual violence immediately, or as soon as practicably possible, to local law enforcement. The College has a Memorandum of Understanding (MOU) with the Poughkeepsie Police Department. The Purpose of this MOU is to enhance communication, coordination, collaboration, and respect the reporting party's privacy and requests for confidentiality.

The College reserves the right to reach its own determination on violations of this Policy and other College Regulations without being affected by the outcome of any civil or criminal action.

²⁵ Anonymous disclosures to SAVP are used to gather aggregate data about incidents of sexual assault, relationship abuse, stalking, and sexual harassment at Vassar College.

B. Report to External Agencies

Concerns about the College's application of this Policy may be addressed with federal and state agencies who enforce civil rights laws that prohibit discrimination.

- US Office of Civil Rights, Assistant Secretary of Education within the Office for Civil Rights (OCR), Office for Civil Rights (OCR), U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202-1100, Customer Service Hotline #: (800) 421-3481, Facsimile: (202) 453-6012, TDD#: (877) 521-2172, OCR@ed.gov, www.ed.gov/ocr.
- Equal Employment Opportunity Commission (EEOC), (800) 669-4000, TTY: (800) 669-6820, info@eoc.gov, www.eoc.gov.
- U.S. Department of Justice, Civil Rights Division: <https://civilrights.justice.gov/>
- New York State Division of Human Rights (DHR)²⁶, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400. To file a complaint: <https://dhr.ny.gov/complaint>

5.0 SUPPORTIVE MEASURES

The College provides confidential, free supportive measures for students, faculty, administrators, and staff who have been affected by alleged discrimination, harassment, sexual harassment, sexual violence, or other prohibited conduct under this Policy. Supportive measures are also available and provided to campus community members alleged to have engaged in conduct prohibited by the Policy. These measures are available anytime and do not require a formal complaint to be filed. They aim to address barriers to campus life, and are customized to meet individual needs and circumstances. They are designed to ensure equal access, while not being punitive in nature or unreasonably burdening any Party. Supportive measures may also include measures designed to protect the safety of all parties or the College's educational environment, or to deter future discrimination, harassment, sexual misconduct, or retaliation.

Supportive measures will be offered to impacted parties upon report of Notice, and can be arranged through various campus offices, including the Office of Equal Opportunity and Affirmative Action/Title IX (for complainants and respondents), CARE Office (for student complainants and student respondents), or SAVP (for persons reporting harm). These offices will work with campus partners to determine which measures may be appropriate and to provide ongoing support, as needed and necessary.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)

²⁶ The NYS Human Rights law prohibits discrimination in employment, apprenticeship and training, purchase and rental of housing and commercial space, places of public accommodation, educational institutions, and all credit transactions.

- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact restrictions (no contact directives) between the Parties²⁷
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Orders of Protection^{28,29}
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the AVP for Institutional Equity & Title IX Coordinator and/or the Faculty Director of Affirmative Action

The College will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the College's ability to provide those supportive measures. The College will act to ensure as minimal an academic/occupational impact on the Parties as possible. The College will implement measures

²⁷ No Contact Directive (NCD): A No Contact Directive is an administrative measure taken to ensure an identified party (Complainant or Respondent) has no contact, directly or indirectly, with another identified party following a report of Prohibited Conduct under this Policy (non-punitive) or a finding of a violation of College Regulations or other employment policies. NCDs may also be implemented when requested as a supportive measure. Under this Policy:

1. A NCD is not noted on an individual's student conduct or employee record and is not a form of disciplinary action unless the individual has been found to be in violation of a College Regulation or other College policy,
2. A NCD may be issued by the Community Expectations Office (students), Dean of Faculty Office (faculty), or Human Resources (administrators and staff). Both parties will receive a copy of any NCD involving them.
3. The terms of an NCD will be reasonably tailored to the particular risks of harm and the needs of the parties. Prohibited contact may include physical contact, proximity restrictions, as well as communication restrictions, including but not limited to, in-person contact, telephone calls, email, texts and other forms of electronic communication, social media-based messages or postings, and third party communications. The appropriate College official will consider all facts and circumstances that may be relevant to whether a NCD should be issued, including, but not limited to, the following factors:
 - a. Whether the alleged prohibited conduct indicates an act of physical violence or threatened act of physical violence.
 - b. Whether the alleged prohibited conduct indicates any threat to the safety, health, or property of an individual or harassment or intimidation of either of the parties.
 - c. Whether there is a substantial, objective risk of emotional harm to either of the parties based on continued contact.
 - d. Whether continued contact between the parties may negatively impact the College's investigation.
 - e. Whether either party has made a good faith request for a NCD.
4. Violations of no contact directives or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

²⁸ Complainants may request assistance from Campus Safety or SAVP to connect them with community agencies who can help with initiating legal proceedings in family court or civil court, including but not limited to obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.

²⁹ The College shall comply and assist with enforcement of all known Orders of Protection. If requested by the Complainant or by law enforcement, the College will provide any relevant information regarding an alleged order of protection violation. When requested by the Complainant, SAVP will work with them to develop a plan to increase safety on campus.

in a way that does not unreasonably burden any party. The College will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change. Parties are encouraged to speak with a member of the EOAA/Title IX Team about the availability of supportive measures at any point in the resolution process.³⁰

6.0 PRESERVATION OF EVIDENCE

The College recognizes that making the decision to report discrimination, harassment, sex or gender-based harassment, sexual harassment, sexual assault, domestic and dating violence, stalking, sexual exploitation, or other forms of sexual misconduct often takes time. Nevertheless, pending the decision to report, individuals are strongly encouraged to take immediate steps to preserve all evidence that might support a future report or an investigation by the College, law enforcement or both.

A. General Preservation. How to preserve evidence depends on circumstances, but in all cases, documentation is important.

- Document dates, times, witnesses, and descriptions of incidents in a journal or log.
- Save electronic exchanges (e.g., text messages, phone call logs, emails, and Facebook, Instagram, Snapchat or other social media posts, to the extent that they can be captured or preserved).
- Photographs (including photographs stored on smartphones and other devices)
- Voice-mail messages and other physical, documentary and/or electronic data that might be helpful or relevant in an investigation.
- Electronic and photographic evidence that may be lost through the upgrade or replacement of equipment (including smartphones), software and/or accounts or may simply be lost to the passage of time.

B. Following a Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement)
- Seeking medical treatment can be essential, even if it is not for the purpose of collecting forensic evidence.

C. Stalking, Dating Violence (Intimate Partner violence), and/or Domestic Violence or other forms of Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.

³⁰ The AVP for Institutional Equity and Title IX Coordinator, or designee, has the authority to modify or reverse a supportive measure that is inconsistent with the Title IX regulatory definition of supportive measures or other federal and state laws.

- Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
- Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take time-stamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

7.0 STUDENT AMNESTY UNDER THIS POLICY

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

8.0 EMERGENCY REMOVAL/INTERIM ACTIONS/LEAVES

8.1.1 Students. The College can act to remove a student Respondent accused of a violation of this Policy from its education program or activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an imminent and serious threat to the health or safety of any student or other individual justifies removal. This risk analysis is performed by the Behavioral Intervention Team using its standard objective violence risk assessment procedures.

8.1.2 Employees. Faculty, administrators, and staff are subject to existing employment policies and procedures for interim actions and leaves handled by Human Resources or the Dean of the Faculty Office, as appropriate. The Behavioral Intervention Team will be consulted, as necessary.

9.0 MANDATED REPORTING AND EXCEPTIONS

9.1.1 Mandated Reporting by Employees

All other non-confidential College faculty, administrators, and staff are “Mandated Reporters” to the Office of Equal Opportunity and Affirmative Action/Title IX. Non-confidential employees have a duty to report if they have been told or reasonably suspect any community member has experienced or engaged in discrimination or harassment based on a protected characteristic, sex-based harassment, sexual assault, dating violence, domestic violence, stalking, other forms of sexual misconduct, or retaliation for having made a report to the College. When in doubt about Mandatory Reporting responsibilities, employees should contact the AVP for Institutional Equity and Title IX Coordinator or Faculty Director of Affirmative Action to discuss reporting requirements.

Reporting Instructions:

1. The report must include all information known and shared with the employee, including date and time the incident was reported to them, the names and contact information of all parties involved, if known, even where the person has requested anonymity.
2. Reports must be made within 24-36 hours of receiving a report and be filed online with the EOAA/TIX Office. Report Online: go.vassar.edu/titleixreport

9.1.2 Mandated Reporting Exceptions

1. Disclosures at Public Awareness Events. During public awareness events such as "Take Back the Night" marches, speak-outs, and other forums aimed at raising awareness about sexual violence, disclosures of sexual assault, relationship violence, or domestic violence are often made. Such disclosures will not necessitate Mandated Reporting for non-confidential College employees. However, the information shared at these events can help the College in its efforts to prevent sex-based harassment, sexual violence, and other forms of sexual misconduct.
2. Human Subjects Research. Typically, an exception to mandatory reporting applies when disclosures are made in the context of human subjects research under the oversight of the Vassar College Institutional Review Board (IRB). Enforcing mandatory reporting could discourage participants from disclosing sensitive information in research, potentially hindering the accuracy and depth of the research. If the study is centered on topics like sexual or gender-based bullying, discrimination, harassment, and sexual violence, researchers will be required to include specific language in the consent form and provide participants with additional information about reporting and support resources (refer to the Office of Equal Opportunity and Affirmative Action / Title IX). Disclosures to research personnel outside the research protocols (e.g., to faculty during office hours or while providing academic advising) are NOT exempt from reporting requirements.

9.1.3 Federal Timely Warning Obligations

The College must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the College community. The College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

9.1.4 Federal Statistical Reporting Obligations

Certain College officials (those deemed Campus Security Authorities) have a duty to report the following for federal statistical reporting purposes (Clery Act):

1. All "primary crimes," which include criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
2. Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
3. Violence Against Women Act (VAWA-based crimes), which include sexual assault, domestic violence, dating violence, and stalking; and
4. Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations.

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) must be shared with Campus Safety for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include student affairs/student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

10.0 STUDENTS' BILL OF RIGHTS: SEXUAL MISCONDUCT AND SEXUAL VIOLENCE

In accordance with New York State Education Law, Article 129-B, also known as Enough is Enough, the following is the list of rights students can expect from the College when reporting or responding to sexual misconduct, including sexual assault, relationship violence and gender-based stalking.

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

11.0 RETENTION OF RECORDS

- A. Case Records: For a period of at least seven (7) years following graduation of a student or employee's end of employment, the Office of Equal Opportunity and Affirmative Action / Title IX will maintain records of:
 1. Notice or Complaint of alleged discrimination, harassment, sexual misconduct, or retaliation and the College's response;
 2. Outcomes of a resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation;

3. Any Informal Resolution and the result therefrom;
 4. Any disciplinary sanctions imposed on the Respondent;
 5. Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the College's education program or activity;
 6. Any appeal and the result therefrom;
 7. All materials used to provide training to the AVP for Institutional Equity and Title IX Coordinator, or designee, Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitators, and any person who is responsible for implementing the College's Resolution Process, or whoever has the authority to modify or terminate supportive measures. The College will make these training materials available for review upon request; and
 8. All materials used to train all employees, consistent federal or state laws and regulations.
- B. Working Files: Preliminary drafts and "working files" are not considered records that the College must maintain, and these are typically destroyed during the course of an investigation or at the conclusion of the Resolution Process. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their author and/or the Administrator. An example of a "working file" would be the Investigator's notes made during an interview on topics that they want to revisit in subsequent interviews. Sole possession records maintained as such in accordance with FERPA are also included in this category. All drafts of investigation reports shared with the Parties are maintained.
- C. Attorney Work-Product: Communications from the Office of the General Counsel or its designees with the College's legal counsel may be work product protected by attorney-client privilege. These privileged communications are not considered records to be maintained by the Office of Equal Opportunity and Affirmative Action / Title IX or accessible under this Policy unless the AVP for Institutional Equity and Title IX Coordinator, in consultation with legal counsel as necessary, determines that these communications should be included as accessible records.
- D. Record Storage: Records may be created and maintained in different media formats; this Policy applies to all records, irrespective of format. All records created pursuant to the Policy, as defined above, must be stored in digital format and maintained by the Office of Equal Opportunity and Affirmative Action/Title IX. A copy of records showing compliance with any applicable Clery Act/Violence Against Women Act (VAWA) requirements will be maintained along with the Complaint file by the Office of Equal Opportunity and Affirmative Action/Title IX.

12.0 TRAINING

The College is dedicated to offering continuous education and training to its students, faculty, administrators, and staff on how to recognize and report potential discrimination, harassment, sexual violence, and other forms of sexual misconduct. These training programs are designed to increase awareness

about rights and responsibilities, enhance shared accountability, and promote personal and community safety, including through bystander intervention.

Employees responsible for enforcing the College's Policy Against Discrimination, Harassment, and Sexual Misconduct and its Resolution Procedures will undergo additional training related to their responsibilities under this Policy and compliance with Title IX, Title VI, and Title VII, and other related federal and state laws and regulations prohibiting discrimination. Training is provided upon hire, when a change of position affects an employee's responsibilities under this Policy, and annually thereafter.

Furthermore, the EOAA/Title IX Team, including investigators, decision-makers, and informal resolution facilitators, receive specialized annual training on impartiality, bias mitigation, avoiding conflicts of interest, stereotypes, and prejudgment of the facts, understanding the effects of trauma, conducting trauma-informed meetings and interviews, analyzing and evaluating evidence, assessing the existence of a hostile environment, providing supportive measures, and identifying and addressing acts of retaliation.

13.0 RELEVANT DOCUMENTATION

A. Vassar College

- College Regulations
- Governance of the College
- Administrative Handbook
- Faculty Handbook

B. Higher Education Federal and State Laws & Regulations

- Age Discrimination in Employment Act of 1967
- Age Discrimination Act of 1975
- Americans with Disabilities Act of 1990, as amended
- Civil Rights Act of 1991
- Equal Pay Act of 1962
- Fair Housing Act
- Gender Expression Non-Discrimination Act (GENDA) of 2019
- Genetic Information Nondiscrimination Act (GINA) of 2008
- Executive Order 11246, as amended
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (34 CFR 668.46)
- New York Education Law Article 129-A and Article 129-B
- New York State Human Rights Law
- New York State Sexual Orientation Non-Discrimination Act (SONDA)
- The Rehabilitation Act of 1973, as amended (Sections 503; 504; 508)
- Title IV of the Civil Rights Act of 1964
- Title VI of the Civil Rights Act of 1964, as amended
- Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972
- Title IX of the Education Amendments of 1972 (34 CFR Part 106)
 - 2020 Final Rule of Title IX of the Education Amendments of 1972 (May 19, 2020)
 - 2024 Final Rule of Title IX of the Education Amendments of 1972 (unofficial version published April 19, 2024)
- Uniformed Services Employment and Reemployment Rights Act (USERRA)

- Vietnam-Era Veterans Readjustment Assistance Act (VEVRAA)
- Violence Against Women Act (VAWA)

14.0 RESPONSIBLE DEPARTMENT AND POSITIONS

- Office of Equal Opportunity and Affirmative Action / Title IX
 - Assistant Vice President for Institutional Equity and Title IX Coordinator
 - Faculty Director of Affirmative Action

15.0 REVIEW HISTORY

- These procedures are effective August 1, 2024.³¹
- This Policy succeeds previous policies addressing alleged incidents of discrimination or harassment based on a protected characteristic.
- The Office of Equal Opportunity and Affirmative Action and Title IX, in consultation with the Committee on College Life, the Faculty Policy and Conference Committee, and Human Resources, reviews and updates these policies and procedures regularly.
- The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect. If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings.
- This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

16.0 REVISION HISTORY

³¹ Based on the ATIXA 2024 One Policy, One Procedure (1P1P) Model. ©2024 ATIXA. Used with permission.