POLICIES AND PROCEDURES

Sexual Harassment and Sexual Misconduct

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I. POLICY

Utica University is committed to providing a learning and working environment in which all interpersonal relationships are based upon respect and dignity. Therefore, in accordance with Title IX of the Education Amendments Act of 1972 (Title IX), the Clery Act, the Violence Against Women Act, and New York Education Law Article 129-B, Utica University will not tolerate sexual harassment or sexual misconduct, which are forms of discrimination on the basis of sex, that include any of the following when they impact or have the potential to impact the educational or employment environment of any members of the University community: sexual harassment; harassment based on gender identity, gender expression, or transgender status; sexual assault; domestic or dating violence; or stalking.

Utica University endeavors to provide a fair, impartial, and prompt response when sexual harassment and/or sexual misconduct is alleged to have occurred within the University community. Reports of sexual harassment or sexual misconduct will be promptly and thoroughly investigated either through a process based on Title IX regulations, if applicable, or through an alternative investigative process.

Individuals who are found to have been engaged in sexual harassment or sexual misconduct will be sanctioned following guidelines established in the applicable handbook, contract, or policy. More specifically, any individual who engages in such behavior will be subject to disciplinary action through the appropriate disciplinary process.

The University encourages any individuals covered by this policy who believe they are the victim of sexual harassment or sexual misconduct to report it and to take steps to preserve evidence, as it may be helpful in criminal and/or University disciplinary proceedings. Individuals who believe they are a victim of sexual harassment or sexual misconduct have the option of filing a report with the University, with local law enforcement, or with both. Those wishing to notify local law enforcement authorities will be assisted in doing so. Because the standards for finding a violation of criminal law are different from the standards in this policy, criminal investigations or reports will not determine whether or not a violation of this University policy has occurred.

For the purposes of this policy, the word “campus” refers to any property leased or owned by Utica University.

II. SCOPE

This policy and its procedures apply to all Utica University students, faculty, and staff members. In addition, independent contractors, vendors, visitors, volunteers, alumni, and other guests of the University are expected to comply with this policy. This policy covers all academic, educational, co-curricular, athletic, and other University programs, including those that may take place off campus. Conduct that occurs off campus and not in connection with University programs may violate this policy if the conduct creates a threatening or hostile environment on campus or within a University program or if the incident causes concern for the safety or security of the University’s campus. This policy also applies regardless of the reporting party’s or responding party’s race, creed, color, sex, pregnancy, ethnic or national origin, religion, marital status, age, sexual orientation, gender identity, gender expression, veteran status, disability, citizenship status, genetic predisposition, domestic violence victim status, or other protected status under applicable local, state, or federal law.

One or more of the University’s personnel policies or faculty and staff handbook policies may overlap with this policy in a particular situation. The processes described in this policy apply to any situation where a student is the reporting party or responding party (as defined below). In all other situations, the University reserves the right to apply this process or another applicable University policy or process. The University will apply this process to any situation where the University determines that Title IX requires the application of this process.

III. REASON FOR POLICY

Utica University has an ethical and legal obligation to create a working and learning environment free from all forms of discrimination and harassment, including sexual assault, dating violence, domestic violence, stalking, or any other form of sexual misconduct, and is committed to fostering a healthy and safe environment in which every member of the University community can realize their fullest potential. This policy has been developed to reaffirm these principles, to define community expectations, to establish a mechanism for determining when those expectations have been violated, and to provide recourse for those individuals whose rights have been violated.

The cost of sexual harassment and sexual misconduct to individuals is high and can include, but is not limited to, physical injury or illness, depression, feelings of helplessness, headaches, substance abuse, anxiety, sleep disturbances, and disordered eating. The cost of sexual harassment and sexual misconduct to the University can include, but is not limited to, decreased productivity, absenteeism, increased demand for services needed to address issues raised for the targets of harassing behavior, and eroded trust in the institution. Sexual harassment and sexual misconduct may also result in a decrease in morale, reduce participation in life-enriching student activities, and lower student success. Sexual harassment and sexual misconduct interfere with an employee's ability to perform their job duties and a student's ability to fully participate in the educational process.

All members of the Utica University community have a responsibility to cooperate in creating a climate where sexual harassment and sexual misconduct do not occur. In addition to ensuring legal compliance, this policy is designed to prepare members of the University community for that responsibility by creating an awareness of behavior that is considered to be sexual harassment or sexual misconduct, as well as fostering an understanding of the procedures Utica University will use to address such behavior in a way that protects reporting parties, witnesses, and responding parties.

Academic Freedom
Utica University is an academic institution at which academic freedom is necessary and valued. The University will not construe this policy to prevent or penalize a statement, opinion, theory, or idea offered within the bounds of legitimate, relevant, and responsible teaching, learning, working, or discussion.

IV. ROLES AND RESPONSIBILITIES

There are a number of individuals who have key roles and responsibilities throughout the reporting, investigatory and adjudication processes. These individuals are required to be free from conflicts of interest or bias for, or against, reporting parties and responding parties.

a. Title IX Coordinator

Utica University's Title IX Coordinator is responsible for receiving reports of sex discrimination, including sexual harassment and sexual misconduct. Reports to the Title IX Coordinator may be made at any time (including non-business hours) in person, by telephone, by e-mail, or by regular mail. The Title IX Coordinator and Deputy Title IX Coordinator typically work M-F, 8am-5pm, and will directly respond to reports during that time. For emergency assistance after hours or on weekends, please utilize campus safety by calling (315) 792-3046 or Local Police by calling 911. Digital reports can be submitted at any time via the reporting form, which can be found here. If a report is determined to meet the definition of a potential violation of this policy, the Title IX Coordinator will be responsible for overseeing the investigatory process and for providing all required disclosures and notifications to the reporting and responding parties. The Title IX Coordinator will also communicate any supportive measures to reporting and responding parties. All of this will be done in a prompt and fair manner.

The Title IX Coordinator works with others at Utica University to make sure policies and procedures are updated and communicated as needed.

Utica University's Title IX Coordinator is:
Kyle Wilson
Title IX Coordinator
Phone Number: 315-792-3063
Email address: klwilson@utica.edu
Office Location: 119 Addison Miller White Hall (Utica University Main Campus – 1600 Burrstone Road, Utica, NY 13502)

Utica University also has a Deputy Title IX Coordinator who can coordinate investigations in the absence of the Title IX Coordinator, or who is available to coordinate cases that involve employees. The Deputy Title IX Coordinator is:

Kristin St. Hilaire, Director of Athletics and Physical Education
Phone Number: 315-792-3051
Email Address: kmsthila@utica.edu
Office Location: Clark Athletic Center (Utica University Main Campus – 1600 Burrstone Road, Utica, NY 13502)

b. Title IX Investigators

Title IX investigators are Utica University employees who are trained to conduct fair and comprehensive investigations into complaints of sexual harassment and sexual misconduct. These individuals receive training specific to conducting impartial investigations with fairness to both parties and are also trained in trauma informed practices. Title IX investigators are assigned to investigate reports made to the Title IX Coordinator. They gather as much evidence as possible and prepare a report of that evidence to the Title IX Coordinator, who then provides it to the decision-maker (see below).

c. Decision-Maker

The decision-maker is a Utica University employee who is responsible for reading investigatory reports provided by the Title IX Coordinator, convening a live hearing when necessary, managing the live hearing process, and determining whether the responding party is responsible for alleged violations and, if applicable, appropriate sanctions, based on all of the information provided. Decision-makers receive specific training to prepare them for this responsibility.

For cases involving students, the decision-maker is the Director of Student Conduct and Community Standards, or another party designated by the University (such as another trained member of the Student Affairs team). For cases involving employees, the decision-maker is a staff member in the Office of Human Resources.

d. Advisor

The reporting party and responding party have the opportunity to select someone to be with them throughout the investigatory and hearing processes. This individual, called the "advisor of choice" or "advisor", may or may not be an attorney. In cases where a student does not have access to an advisor, the University will provide an advisor of the University's choice. The advisor will be copied on correspondence that is presented throughout the investigatory process. The advisor will also have the ability to cross-examine the other party and any witnesses during live hearings, as long as the cross-examination questions are determined to be relevant by the decisionmaker and otherwise comply with the requirements of this policy as described below. The advisor will be copied on communications related to determination of the hearing process, and any associated disciplinary action.

e. Responsible Administrators

Responsible administrators are officials at Utica University with the authority to institute corrective measures on the University's behalf. This includes:

- Certain officers of the University (Provost and Senior Vice President for Academic Affairs, as an example)
- Title IX Coordinator
- Deputy Title IX Coordinator
- Dean of Students
- Student Living personnel
- Campus Safety personnel

When a report of sexual harassment or sexual misconduct is made to a responsible administrator, the University's responsibility to respond to the report is triggered.

f. Appeals Board

After a determination is made, or if a complaint or specific allegations in a complaint is/are dismissed as described below, the reporting party and responding party both have the right to appeal the outcome and associated disciplinary decision (or the dismissal). The appeals board of Utica University is comprised of three individuals who are trained in this responsibility, who will hear appeals and determine whether or not the matter needs to be reviewed as a result of one or more of the following: (1) there is a procedural irregularity that affected the determination or dismissal; (2) there is newly discovered information that could affect the determination or dismissal; (3) Title IX personnel had a conflict of interest, or bias against reporting parties/complainants or respondents generally or the reporting party or responding party in the case, that affected the determination or dismissal; or (4) a sanction is inconsistent with the severity of the violation or otherwise inappropriate. The appeals board will issue their decision on the appeal in writing to both the reporting and responding party within three business days after making their decision.

V. RESOURCES

a. Confidential Resources

All members of the Utica University community have a number of resources available to discuss sexual harassment or sexual misconduct concerns or questions. Individuals who have experienced sexual harassment or sexual misconduct are encouraged to seek support for their physical and emotional needs.

A student seeking confidential emotional or medical care may contact the following:

1. **Utica University Health & Wellness Center**
   Medical & Counseling Services
   Student Wellness Center, Room 204 Strebel Student Center
   (315) 792-3094
   HWC@utica.edu

   BetterMynd Virtual Counseling
   Register/Login: **http://bettermynd.com** (use Utica email address)

   -Free virtual counseling with licensed mental health providers
   -Flexible appointment times, including evenings and weekends
   -A diverse network of therapists so students can find a provider who best fills their needs

-24/7 emotional support through BetterMynd's Support Line, 844-287-6963

2. **YWCA Campus Advocate and Mohawk Valley 24-hour Hotline - Sexual Assault, Domestic Violence, Stalking***
   Patricia Fraizer
   (315) 982-8543
   pfraizer@ywcamv.org

   or

   Oneida County: Call or Text (315) 797-7740
   Herkimer County: Call or Text (315) 866-4120
   Chat with an Advocate: www.YWCAMV.org/chat
   **Note – these confidential sources are responsible for reporting non-identifiable statistics as required by the Clery Act*

The health and counseling services noted above are available to Utica University students free of charge.

An employee seeking confidential emotional support may contact the University's employee assistance program:
1-800-EAP-CALL (1-800-327-2255)
www.breehealth.com
Company ID: 9000 (Needed only to create an account on website)

These resources afford students and employees the opportunity to discuss a concern or situation and the available options. These resources also offer the opportunity to gain information about the University's formal complaint procedures under this policy. Reports made to these resources will **not** be reported to other University officials in any personally identifiable manner (reports made to some of these individuals may result in a report to University officials that an incident occurred, but will not result in the reporting of any personally identifiable information), and, as a result, any individual making a report solely to such confidential resources should not expect action to be taken by the University against any alleged perpetrator. Similarly, if a victim discloses actions constituting a violation of this policy through public awareness events, such as "Take Back the Night" or other event or forum, Utica University is not obligated to begin an investigation. Utica University may, however, use the information to inform the need for additional education and prevention efforts.

Confidential reports of any form of sexual misconduct can also be made to off-campus resources, including:

3. **YWCA Mohawk Valley 24-hour Hotline - Sexual Assault, Domestic Violence, Stalking***
   Oneida County: Call or Text (315) 797-7740
   Herkimer County: Call or Text (315) 866-4120
   Chat with an Advocate: www.YWCAMV.org/chat
   **Note – this confidential source is responsible for reporting non-identifiable statistics as required by the Clery Act*

4. **Suicide/Crisis Services**
   24 Hour Hotline: Call 988 or Text HOME to 741741
   Veterans Crisis Line: Call 988, Option 1 or Text 838255
   Trevor Project (LGBTQ Resource): Call (866) 488-7386 or Text START to 678678
   https://oneidacountyny.gov/departments/mental-health/crisis-services/

5. **NYS Office of Victim Services**
   Toll free Number: 1-800-247-8035
   https://ovs.ny.gov/
6. **National Domestic Violence Hotline**
   24-hour Hotline: 1-800-799-7233
   Text START to 88788
   Chat: https://www.thehotline.org/

7. **RAINN Hotline (National Sexual Assault Hotline)**
   24-hour Hotline: 1-800-656-4673
   Text HOPE to 66743
   Chat: https://rainn.org/help-and-healing/hotline/
   https://rainn.org/

8. Crisis Services for Students, Faculty, Staff, and Contract Staff at Latham, NY site:
   Equinox Inc.
   102 Hackett Blvd.
   Albany, NY 12209
   24-hour Hotline: (518) 432-7865
   Phone: (518) 434-6135
   https://www.equinoxinc.org/

9. Crisis Services for Students, Faculty, Staff, and Contract Staff at St. Petersburg, FL site:
   Suncoast Center, Inc.
   PO Box 10970
   St. Petersburg, FL 33733
   Phone (appointments): (727) 388-1220
   24-hour Hotline: (727) 530-7273
   https://www.suncoastcenter.org/

In addition to the resources listed above, Utica University shares a Memorandum of Understanding (MOU) with Mohawk Valley Health System, located in Utica, NY. This MOU ensures that any member of the University community who is a victim of sexual assault will have access to a sexual assault examination by a sexual assault nurse examiner or through a physician referral to a sexual assault nurse examiner.

When an individual shares information with a confidential resource (on or off campus) as a confidential communication in the course of a protected relationship, the confidential resource cannot disclose the information (including information about whether an individual has received services) to any third party without the individual's written permission or unless permitted or required consistent with ethical or legal obligations. Accordingly, a report to a confidential resource is not a report to the University and will not result in an investigation or disciplinary action.

b. Non-Confidential Resources: Responsible Administrators

Any person having a complaint of sexual harassment or sexual misconduct is encouraged to make a report to any one of the following non-confidential resources, who are considered "Responsible Administrators" for purposes of this policy:

1. **Title IX Coordinator**
   Kyle Wilson, Title IX Coordinator, (315) 792-3063, klwilson@utica.edu

2. **Deputy Title IX Coordinator**
   Kristin St. Hilaire, Director of Athletics and Physical Education, (315) 792-3051, kmsthila@utica.edu

3. **Director of Victim Advocacy & Violence Prevention Initiatives**
   Alicia Reed, (315) 792-3094, acreed@utica.edu

4. **Director of Campus Safety**
   Jay LaFayette, (315) 792-3046, jjlafaye@utica.edu

5. **Vice President for Enrollment Management**
   Jennifer Adams, 201A Deperno Hall, jradams1@utica.edu

6. **Program Manager, Institute for the Study of Integrative Healthcare /Campus Victims Advocate**
   Bethany VanBenschoten, 204 Deperno Hall, bavanben@utica.edu

Faculty, staff, students and contracted staff in Utica University's ABSN programs, or any other programs that exist in other physical Utica University locations, may also make a report to the site's assigned Success Coach. Success Coaches are also non-confidential resources who have been trained to alert a responsible administrator in order to assist others in reporting an incident.

Emergency access to the Title IX Coordinator is made available through contact with the Office of Campus Safety.

These individuals have been trained to receive and respond to allegations of violations of this policy. Complaints can be made to any of the Responsible Administrators by those who have been the victim of a violation of this policy or by a third party on a victim's behalf. While all employees are strongly encouraged to report incidents of sexual harassment or sexual misconduct, and certain other employees may be required to report them, if a complaint is made to anyone other than the Responsible Administrators, the reporting party risks the possibility that it will not come to the attention of the proper University officials and may, therefore, not be acted upon. For this purpose, faculty and staff members are not Responsible Administrators unless they are named specifically, and one should not assume that information brought to the attention of a faculty or staff member not considered to be a Responsible Administrator will be reported to the University. On the other hand, unless a report is made to a confidential resource, one cannot be assured of confidentiality.

c. Non-Confidential External Resources: Law Enforcement

All persons covered by this policy have the right to involve state and/or local law enforcement in matters of sexual harassment or sexual misconduct. Following is contact information for those resources:

1. **New York State Campus Sexual Assault Victim's Unit NYSCSAVU)**
   New York State Police
   1-844-845-7269

2. **Utica Police Department (local police)**
   413 Oriskany Street West
   Utica, New York 13502
   Phone: (315) 735-3301
   https://www.cityofutica.com/departments/police-department/index

3. **New Hartford Police Department (local police)**
   8635 Clinton St.
   New Hartford, NY 13413
   Phone: (315) 724-7111
   https://www.townofnewhartfordny.gov/police-department

4. For Students, Faculty, Staff, and Contract Staff at Latham, NY site:
   Colonie Town Police Department
   312 Wolf Road
   Latham, NY 12110
   Phone: (518) 783-2744
   https://www.colonie.org/departments/police/

5. For Students, Faculty, Staff, and Contract Staff at St. Petersburg, FL site:
   St. Petersburg Police
   1301 First Avenue North
   St. Petersburg, FL 33705
   Phone: (727) 893-7521
   https://police.stpete.org/#gsc.tab=0

   Pinellas County Sheriff's Office
   Phone: (727) 582-6200
   https://www.pinellassheriff.gov/

A reporting party who is not satisfied with the attempts to resolve the sexual harassment or sexual misconduct may seek resolution through other sources, such as the New York State Division of Human Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights, or the U.S. Department of Education.

d. Third Party Reports

In cases where the sexual harassment or sexual misconduct is reported by a third party (e.g. a faculty member, Residence Life staff member, student organization advisor, etc.), the person identified as the target of the behavior will be notified by the Title IX Coordinator or, if appropriate, by the Deputy Title IX Coordinator, that a report has been received. Every effort will be made to meet with the individual to discuss their options and resources at the University and in the community.

VI. DEFINITIONS OF SPECIFIC VIOLATIONS

This policy applies to alleged conduct in violation of Title IX of the Education Amendments of 1972 ("Title IX Violations"), and also applies to a broader range of contexts and behaviors inconsistent with the University's commitment to equal opportunity and, in some cases, the University's obligations under other applicable laws such as New York Education Law Article 129-B (i.e., "Community Standards Violations").

The designation of conduct or allegations as either "Title IX Violations" or "Community Standards Violations" is not a function of the seriousness of the alleged conduct but rather a function of the scope and coverage of Title IX versus the University's broader obligations under New York Education Law Article 129-B and its discretion to prohibit and discipline a larger scope of inappropriate behavior.

a. Title IX Violations

Title IX of the Education Amendments of 1972 provides: "No person in the United States shall, on the basis of sex, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

In accordance with Title IX as interpreted by the United States Department of Education, the University recognizes the following as conduct violations within the meaning of Title IX, provided that the context and circumstances of the conduct fall within the scope of Title IX, including but not limited to that the reporting party/complainant was in the United States at the time of the alleged conduct, that the reporting party/complainant is participating in or seeking to participate in the University's education program or activity at the time of the complaint, and that the conduct is alleged to have occurred in the context of the University's education program or activity:

1. Sexual harassment. "Sexual harassment", as a Title IX Violation, means conduct on the basis of sex, including gender, sexual orientation, or gender identity or expression, that satisfies one or more of the following:

    - An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct (commonly referred to as a "quid pro quo"); or

    - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity (commonly referred to as a sexually or gender-based "hostile environment").

2. Sexual Assault. Consistent with federal law, the University defines sexual assault as including:

    - Non-Consensual Sexual Intercourse. Sexual assault of this type includes the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the other person.

    - Non-Consensual Sexual Contact. This form of sexual assault includes the intentional touching of another person's clothed or unclothed body parts without consent, or the forced touching by another person of the actor's clothed or unclothed body parts without consent, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This definition includes, without limitation, instances when the victim is incapable of giving consent due to age or incapacity due to mental or physical impairment (temporary or permanent).

    - Incest. Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

    - Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York is 17.

3. Dating Violence. Dating violence refers to violence (including but not limited to sexual or physical abuse or the threat of such abuse) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship shall be determined based on the statement of the reporting party with consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. Dating violence can include behavior such as coercion, isolation or other forms of emotional, verbal or economic abuse if it reflects a threat of sexual

or physical abuse as described above. Dating violence does not include acts covered under the definition of domestic violence.

4. Domestic Violence. Domestic violence refers to violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the University is located, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. To categorize an incident as Domestic Violence, the relationship between the responding party and the reporting party/complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship as described above.

5. Stalking. Stalking is engaging in a course of conduct directed at a specific person on the basis of sex that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition, (i) a "course of conduct" means two or more acts, including, but not limited to, acts in which the individual 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; (ii) "reasonable person" means a reasonable person under similar circumstances and with similar identities to the reporting party/complainant; and (iii) "substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling. Examples of behavior that may constitute stalking include repeated, intentional following, observing or lying in wait for another; using "spyware" or other electronic means to gain impermissible access to a person's private information; repeated, unwanted, intrusive, and frightening communications by phone, mail, email, text, etc.; making direct or indirect threats to harm an individual or the individual's relatives, friends, or pets; or damaging or threatening to damage the property of the targeted individual. Stalking that does not occur on the basis of sex may be addressed as a Community Standards Violation as described below.

b. Community Standards Violations

The University prohibits the following behavior under circumstances in which a University interest is implicated (such as an impact on individuals as members of the University community). For the purpose of Community Standards Violations, the below conduct is prohibited even if the conduct occurs off-campus, outside the United States, if the reporting party/complainant is not participating or seeking to participate in the University's education program or activity, or otherwise in circumstances over which the University does not have influence or control, including but not limited to during University academic breaks.

1. Sexual harassment. "Sexual harassment" means unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex or gender, sexual orientation, or gender identity or expression, when such conduct has the purpose or effect of unreasonably interfering with an individual's work, academic, or extracurricular performance, or creating an intimidating, hostile, or offensive work or learning environment, even if the reporting individual is not the intended target of the sexual harassment.

   Harassing conduct can occur in various forms, including:

   - Verbal – Conduct such as unwelcome sexually suggestive, demeaning, or graphic comments; unwelcome verbal sexual advances; using slurs to refer to a person; bullying, yelling or name-calling; refusing to use a person's preferred pronouns or name; or jokes or comments that demean a person on the basis of gender, sexual orientation, gender identity or gender expression.

- Physical – Conduct such as unwanted sexual contact or physical sexual advances (e.g., unwanted touching, pinching, patting, kissing, hugging, grabbing, brushing against another person's body or poking another person's body); sexual intimidation through physical threats; or physical threats toward or intimidation of another on the basis of gender, sexual orientation, gender identity or gender expression.

- Visual – Conduct such as exposing another person to unwanted pornographic images; creating or displaying pictures, symbols, flags, cartoons, or graffiti that is/are sexually offensive or disparage(s) another person or group based on gender, sexual orientation, gender identity or gender expression.

- Communication-based – Conduct such as phone calls, e-mails, text messages, chats, blogs or online communications that offend, demean, or intimidate another on the basis of gender, sexual orientation, gender identity or gender expression. Members of the community are expected to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of, or group within, the University community.

- Sex stereotyping – Conduct in which another person's or group's conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

A determination as to whether sexual harassment occurred depends on the totality of the circumstances, including the context of a communication or incident, the relationship of the individuals involved in the communication or incident, whether an incident was an isolated incident or part of a broader pattern or course of offensive conduct, the seriousness or severity of the incident, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual or group and the learning community.

A "hostile environment" is created when the offensive behavior interferes with an individual's ability to participate in the University's programs (i.e., to work and to learn) when judged against a reasonable person standard. However, the University encourages individuals experiencing or witnessing offensive behavior to make a report as early as possible so as to have the situation corrected before it reaches the level of a hostile environment. Individuals with a concern need not worry about whether the behavior is sufficiently serious to constitute a hostile environment. The University reserves the right to remedy sexual harassment pursuant to this policy even if the behavior in question does not rise to the level of legally recognized or actionable harassment.

The fact that a person was personally offended by a statement or incident does not alone constitute a violation of this policy. The determination as to whether this policy has been violated takes into account the totality of the circumstances as described above. In all instances, a key factor is whether the complained-of behavior occurred because based on gender, sexual orientation, gender identity or gender expression or was sexual in nature. If it did not or was not, the behavior is not regulated by this policy. However, even if the conduct is not sexual in nature or based upon on gender, sexual orientation, gender identity or gender expression and/or does not otherwise constitute prohibited conduct under this policy, the University may respond by providing individual and community support and resources to those who have been impacted.

The University also prohibits "quid pro quo" sexual harassment, which means "this for that" harassment. It is a violation of this policy for any person to condition any benefit on submission to sexual activity. No

person should believe that any other person -- no matter their position of authority -- has a right to require sexual activity in exchange for any benefit or advantage; they do not.

2. Sexual Assault. "Sexual assault" includes any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will, without affirmative consent, or where the victim is incapable of giving affirmative consent, but that does not constitute sexual assault as a Title IX Violation as defined above because of the nature of the behavior or the context in which it occurs (for example because the reporting party/complainant was not in the United States at the time of the alleged conduct, because the reporting party/complainant was not participating in or seeking to participate in the University's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the University's education program or activity). Sexual assault consists of the following specific acts:

   - Non-Consensual Sexual Intercourse. Sexual assault of this type includes the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, forcibly or without affirmative consent or where the victim is incapable of affirmative consent due to mental or physical incapacity. This type of sexual assault also includes non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.

   - Non-Consensual Sexual Contact. This form of sexual assault includes the intentional touching of another person's clothed or unclothed body parts without consent, or the forced touching by another person of the actor's clothed or unclothed body parts without consent, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This definition includes, without limitation, instances when the victim is incapable of giving consent due to age or incapacity due to mental or physical impairment (temporary or permanent).

3. Sexual Exploitation. Taking nonconsensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited, if the conduct does not otherwise constitute another offense under this policy. Examples of sexual exploitation include (a) sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed); (b) taking pictures, video, or audio recording of another 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 or beyond the parameters of consent), including the making or posting of revenge pornography; (c) exposing one's genitals in non-consensual circumstances or nonconsensual disrobing of another person so as to expose the other person's private body parts; (d) prostituting another person; (e) engaging in sexual activity with another person while knowingly infected with a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the STD or STI; (f) 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; (g) misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections; (h) 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; or (i) knowingly soliciting a minor for sexual activity.

4. Dating Violence. Dating violence refers to violence (including but not limited to sexual or physical abuse or the threat of such abuse) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, but that does not constitute dating violence as a Title IX

Violation as defined above. This type of behavior would not be identified as a Title IX violation if the nature of the behavior or the context in which it occurs does not fall under Title IX regulations. Examples would be if the reporting party/complainant was not in the United States at the time of the alleged conduct, if the reporting party/complainant was not participating in or seeking to participate in the University's education program or activity at the time of the complaint, or if the conduct did not occur in the context of the University's education program or activity. The existence of such a relationship shall be determined based on the statement or the reporting party with consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. Dating violence can include behavior such as coercion, isolation or other forms of emotional, verbal or economic abuse if it reflects a threat of sexual or physical abuse as described above. Dating violence does not include acts covered under the definition of domestic violence.

5. Domestic Violence. Domestic violence refers to violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the University is located, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the act of violence occurs, that does not constitute domestic violence as a Title IX Violation as defined above because of the nature of the behavior or the context in which it occurs (for example because the reporting party/complainant was not in the United States at the time of the alleged conduct, because the reporting party/complainant was not participating in or seeking to participate in the University's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the University's education program or activity). To categorize an incident as Domestic Violence, the relationship between the responding party and the reporting party/complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship as described above.

6. Stalking. Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress, but that does not constitute stalking as a Title IX Violation as defined above because of the nature of the behavior, the basis on which it occurs, or the context in which it occurs (for example because the reporting party/complainant was not in the United States at the time of the alleged conduct, because the reporting party/complainant was not participating in or seeking to participate in the University's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the University's education program or activity). For the purposes of this definition, (i) a "course of conduct" means two or more acts, including, but not limited to, acts in which the individual 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; (ii) "reasonable person" means a reasonable person under similar circumstances and with similar identities to the reporting party/complainant; and (iii) "substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling. Stalking behavior may include but is not limited to repeated, intentional following, observing or lying in wait for another; using "spyware" or other electronic means to gain impermissible access to a person's private information; repeated, unwanted, intrusive, and frightening communications by phone, mail, email, text, etc.; making direct or indirect threats to harm an individual or the individual's relatives, friends, or pets; or damaging or threatening to damage the property of the targeted individual.

VII. RELATED DEFINITIONS

a. **Affirmative Consent** - In order for individuals to engage in sexual activity of any type with each other, there must be clear affirmative consent. Whenever the term consent is used in this policy, it should be understood to mean affirmative consent as defined here. Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of affirmative consent does not vary based on a participant's sex, sexual orientation, gender identity, or gender expression. Under this policy, "No" always means "No." At the same time, silence, or the absence of an explicit "no", cannot be assumed to indicate consent.

- Consent to some form of sexual activity between or with any party cannot be automatically taken as consent to any other sexual activity.
- Past consent to sexual activity cannot be presumed to be consent to engage in the same sexual activity in the future.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent can be withdrawn at any time by expressing in words or actions that the individual no longer wants the sexual activity to continue and, if that happens, the other person must stop immediately.
- Affirmative consent cannot be obtained by use of force, compelling threats, intimidating behavior, or coercion. Consent cannot be given when a person is incapacitated, as defined below. 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.

b. **Incapacitation**- This occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness, mental disability, being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. In order to give affirmative consent, one must be of legal age, which is 17 in the state of New York. Use of alcohol or other drugs does not, in and of itself, negate a person's ability to give affirmative consent. However, depending on the degree of intoxication, someone who is under the influence of alcohol or drugs or other intoxicants may be incapacitated and therefore unable to consent. A person who has been drinking or using drugs is still responsible for ensuring that the other person provides affirmative consent to engage in sexual activity. An individual's incapacity may also be caused by consuming "date rape" drugs. Possession, use, and/or distribution of any of these substances (including Rohypnol, Ketamine, GHB, Burundanga, and others) is prohibited, and administering any of these drugs to another person for the purpose of inducing one to consent to sexual activity is a violation of this policy.

c. **Coercion** - Coercion is a threat, undue pressure, or intimidation to engage in sexual activity. Coercion is more than an effort to persuade, seduce, entice, or attract another person to engage in sexual activity. A person's words or conduct are sufficient to constitute coercion if they deprive another individual of the ability to freely choose whether or not to engage in sexual activity.

d. **Force -** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance or produce consent.

e. **Reporting Party or Complainant -** The reporting party or complainant is the person who is alleged to be the victim of conduct that could constitute sexual harassment or sexual misconduct. A person who files a report on behalf of another person is referred to more specifically as a third-

party reporter. The person who is directly affected by the reported behavior, whether reported by them or a third party, will be referred to as the reporting party or complainant.

f. **Responding Party or Respondent -** The responding party is the person who is alleged to have engaged in behavior that violates this policy and, if a process is commenced, is responding to the allegations. The responding party may also be referred to as the respondent.

g. **Supportive Measures -** Supportive measures are designed to restore or preserve equal access and ensure the safety of all involved parties. They are non-disciplinary, non-punitive individualized services offered, as appropriate and as available, and without fee or charge to the reporting party or responding party, before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures can be offered for any reason within the Title IX process, and a formal complaint is not required for supportive measures to be offered. Examples of supportive measures include, but are not limited to:
   - counseling services;
   - extensions of deadlines or other course-related adjustments;
   - modification of work or class schedules;
   - safety escorts;
   - mutual no-contact restrictions and, in certain cases, one-way no contact orders,
   - changes in work or housing locations;
   - leaves of absence;
   - increased security and monitoring of certain areas of the campus; and other similar measures.

h. **Preponderance of Evidence Standard -** This is the standard of evidence that is used to determine whether or not a violation of this Utica University policy has occurred. This standard states that based on the collected evidence, it is "more likely than not" that a violation occurred. The burden of proof lies with the institution, and it applies to students, faculty and staff.

i. **Inculpatory Evidence -** This is evidence that tends to reflect a responding party's responsibility for an alleged violation.

j. **Exculpatory Evidence -** This is evidence that tends to reflect that a responding party is not responsible for an alleged violation.

VIII. INFORMAL RESOLUTION

Informal resolutions may occur in the place of a formal grievance process only with voluntary, informed and written consent by both parties. Examples of informal resolution include mediation or restorative justice.

In cases where a formal complaint has been filed, but where the Title IX Coordinator determines that informal resolution may be appropriate, the Title IX Coordinator will first consult with the reporting party/complainant about the option to pursue informal resolution. If the reporting party/complainant is agreeable, then the Title IX Coordinator will consult with the responding party to discuss the process. If both parties are agreeable, the informal resolution process will be coordinated by the Title IX Coordinator. Informal resolutions should only be handled by an individual who is trained in facilitation. Either party who enters into an informal resolution process may decide to withdraw from the process prior to agreeing to a resolution. Informal resolution cannot be used in cases where a student alleges sexual harassment by an employee of Utica University.

There may be instances when, for the safety of others who may be affected by the alleged action, an investigation may need to be conducted despite the willingness of the parties to engage in an informal resolution process. Should this type of situation arise, the investigators will communicate the need to transition to a formal resolution process to the reporting party and responding party.

In implementing an informal resolution process, the University will:

- Provide to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the formal resolution process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and

- Obtain the parties' voluntary, written consent to the informal resolution process.

More information regarding our Informal Resolution process can be found here.

IX. FORMAL GRIEVANCE PROCESS

Any Utica University community member who has been the victim of sexual harassment or sexual misconduct has the right to make a report to the University, local law enforcement, and/or the state police, or choose not to report. If reported to the University under this policy, a reporting individual will be protected from retaliation and will receive appropriate assistance and resources from Utica University. Please see the Students' Bill of Rights (https://www.utica.edu/hr/titleiv/Student_Bill_Of_Rights-2016_R2%20(1).pdf) for cases involving sexual assault, domestic violence, dating violence, or stalking.

The grievance process treats all reporting parties and responding parties equitably and is designed to preserve or restore equal access to all of the University's programs and activities (including the workplace/work environment).

a. Making a report

Those who wish to file a report of sexual harassment or sexual misconduct may do so by submitting a written, signed complaint to the Title IX Coordinator.

Kyle Wilson
Title IX Coordinator
Phone Number: 315-792-3063
Email address: klwilson@utica.edu
Office Location: 119 Addison Miller White Hall (Utica University Main Campus – 1600 Burrstone Road, Utica, NY 13502)

The person making the report, or the reporting party, may also make a report verbally to the Title IX Coordinator. A reporting party may also make a report to a person identified as a "responsible administrator" (see definitions), who will then direct the reporting party to the Title IX Coordinator.

b. Reporting Party Request for Confidentiality:

Reporting parties may make a request that the University maintain the report as confidential. This type of request may be made if reporting parties do not want their identity known to the responding party and witnesses or wish that the University not conduct an investigation or that action not be taken against an alleged perpetrator.

In situations where a reporting party makes such a request, the University's ability to investigate and respond to the allegations may be limited. If at any point the reporting party requests confidentiality, the University will make all reasonable attempts to comply with this request, but it is not required to honor these requests. The University may, in appropriate circumstances, decide it must move forward with an investigation and/or disciplinary process.

The University is required by Title IX and New York State law to weigh the reporting party's request for confidentiality with the University's commitment to provide a reasonably safe and non-discriminatory environment. In evaluating a request for confidentiality, the Title IX Coordinator will consider a range of factors, including, but not limited to:

- Whether the reporting party wants to participate in a formal investigation process;
- The severity and impact of the alleged sexual harassment or sexual misconduct;
- The respective ages of the parties;
- Whether the reporting party is a minor under the age of 18;
- Whether the responding party has admitted to the sexual harassment or sexual misconduct;
- Whether there have been other sexual harassment or sexual misconduct complaints about the responding party;
- Whether the reported incident represents escalation in unlawful conduct on behalf of the responding party from previously noted behavior;
- Whether the responding party has a history of arrests or records from a prior school indicating a history of violence;
- Whether the responding party threatened further sexual violence against the victim or others;
- Whether the sexual harassment or sexual misconduct was committed by multiple responding parties;
- Whether the sexual harassment or sexual misconduct was perpetrated with a weapon or force;
- Whether the sexual harassment or sexual misconduct was committed by multiple perpetrators;
- Whether the information provided suggests that the act is part of a larger pattern at a specific location or by a particular group;
- Whether information can be obtained by means other than from the impacted individual (e.g., by personnel or security cameras, witnesses, or through physical evidence); and/or
- The overall safety of the campus community (including the reporting party).

The Title IX Coordinator will notify the reporting party if the University cannot honor the reporting party's request for confidentiality. Even Utica University officials who cannot guarantee confidentiality will maintain privacy to the greatest extent possible. Information reported to a nonconfidential resource will be relayed only as necessary for the Title IX Coordinator, and those acting under this policy, to investigate and/or seek a resolution. The reporting party's identity will only be revealed to those individuals who need to know the name of the reporting party in order for an investigation and/or resolution to occur. In fact, the University will make all reasonable efforts to maintain the privacy of all parties involved in investigations under this policy and to restrict information to those with a legitimate need to know. Individuals participating in an investigation, proceeding, or hearing will be encouraged to maintain the privacy of the process in order to assist the University in conducting a thorough, fair, and accurate investigation; provided that this will not restrict a reporting party/complainant or responding party from discussing the allegations under investigation or gathering and presenting relevant evidence.

c. Notifications to Reporting Party and Formal Complaint Process

Once a report is received, the Title IX Coordinator will promptly contact the reporting party confidentially to discuss any available supportive measures. If a formal complaint has not yet been received, the Title IX Coordinator will contact the potential reporting party, inform them of the process for filing a formal complaint, and engage in a discussion about supportive measures (with or without a

formal complaint). The reporting party will be informed that although emergency removal may be an option (only if a threat of immediate safety is present), no disciplinary sanctions against the responding party will occur until the grievance process is completed and a determination is reached. The reporting party will also be informed that while the University will make every effort to honor their wishes with regard to whether or not an investigation takes place, if the Title IX Coordinator decides to sign the complaint because of known circumstances, an investigation may still occur.

A formal complaint is necessary to initiate a disciplinary resolution or informal resolution under this policy. A formal complaint must be in written form and must be signed by the reporting party/complainant or (as provided in this policy) the Title IX Coordinator. A third party or anyone other than the victim of the misconduct may report an incident as described above but may not file a formal complaint. However, a formal complaint may be filed by a parent or guardian on behalf of a minor person.

A formal complaint is a document filed by a reporting party/complainant or signed by the Title IX Coordinator alleging one or more violations committed by a responding party and requesting that the University investigate the allegation. A formal complaint may be filed with the Title IX Coordinator in person, by telephone, by mail, or by electronic mail to:

Kyle Wilson
Title IX Coordinator
1600 Burrstone Rd.
Utica, NY 13502
klwilson@utica.edu

In order to qualify as a formal complaint, the document must contain the reporting party/complainant's physical or electronic signature or otherwise indicate that the reporting party/complainant is the person filing the formal complaint.

If a reporting party/complainant declines to sign a formal complaint or does not wish to participate in the complaint and adjudication process, or the reporting party/complainant's identity is unknown, and the Title IX Coordinator determines there is sufficient cause to file a formal complaint, the Title IX Coordinator may file a formal complaint. In such cases, the Title IX Coordinator is not considered to be a reporting party/complainant or other party under this policy.

In order to comply with Title IX regulations, the Title IX Coordinator must "dismiss" allegations of Title IX Violation(s) alleged in a complaint if, at any time following receipt of the complaint, it is apparent that the allegations are not within the scope of Title IX, including that the conduct alleged (1) would not constitute sexual harassment, sexual assault, dating violence, domestic violence or stalking as defined as Title IX Violations, even if proved, (2) did not occur in the University's education program or activity, or (3) did not occur against a person in the United States. Even if allegations of Title IX Violations are subject to dismissal, the University may continue to process the allegations as Community Standards Violations if the allegations, if true, would constitute Community Standards Violations.

In addition, the Title IX Coordinator may dismiss a complaint if the reporting party/complainant informs the Title IX Coordinator in writing that they would like to withdraw the report, if the responding party is no longer enrolled or employed by the University, or if specific circumstances prevent the University from gathering sufficient evidence to reach a determination.

Any decision to dismiss a complaint or allegation pursuant to this section is immediately appealable pursuant to the appeal procedures set forth in this policy.

d. Supportive Measures

Once a report is made under this policy, the reporting party will be contacted by the Title IX Coordinator and offered supportive measures, as defined above in Section VII.g. A report that triggers supportive measures need not be a formal complaint, and it may be made by a third party (i.e., someone other than the person allegedly subjected to misconduct). Once the responding party is informed of a report or a formal complaint, the responding party will be contacted by the Title IX Coordinator and offered supportive measures. Supportive measures are intended to restore or preserve, to the extent practicable, equal access to the University's educational programs and activities and protect the safety of all parties without unreasonably burdening any other party or parties. As required by federal regulation, these supportive measures must be non-disciplinary and non-punitive to the parties. The Title IX Coordinator is responsible for coordinating the implementation of supportive measures, including coordinating with the various University departments and offices that may be involved. Supportive measures will be offered free of charge.

If a party's request for a supportive measure is denied, the party will be afforded an opportunity to have the denial promptly reviewed to assess whether the supportive measure is reasonable under the circumstances. In addition, each party will, upon request, be afforded the opportunity for a prompt review of the need for supportive measures, including the potential modification of these measures, to the extent that the party is affected by the measure(s) being reviewed. The request for review of the denial of, or the need for or details of, supportive measures should be made to the Title IX Coordinator and may be made at any time. Each party will be allowed to submit evidence in support of, or in opposition to, the request to the extent the supportive measures under review affect that party. The Title IX Coordinator will advise the parties of the result of the review. This determination is not subject to further review absent changed circumstances.

e. Emergency Removal

The University may need to undertake emergency removal of a student in order to protect the safety of its community, which may include contacting local law enforcement to address imminent safety concerns. Emergency removal is not a substitute for reaching a determination as to a student responding party's responsibility for misconduct allegations; rather, emergency removal is for the purpose of addressing imminent threats posed to any person's physical health or safety, which may arise out of alleged misconduct or the allegations of misconduct. Emergency removal may be total (i.e., the student is suspended from the University) or partial (e.g., the student is suspended from being present on campus) at the discretion of the University based on the circumstances.

Prior to removing a student responding party through the emergency removal process, the University will undertake an individualized safety and risk analysis. If the individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the alleged misconduct or the allegations of misconduct justifies removal, then a student responding party will be removed. This is the case regardless of the severity of the allegations and regardless of whether a formal complaint was filed.

In the event a determination is made that a student responding party is an immediate threat to the physical health or safety of an individual, the Title IX Coordinator will provide written notice of the emergency removal to both the reporting party/complainant (if any) and responding party. This notice will contain: (1) the date the removal is set to begin, (2) the reason for the emergency removal, (3) the consequences of non-compliance, and (4) how to appeal the decision. If a student responding party disagrees with the decision to be removed from campus, they may appeal the decision in writing to the Associate Director of Campus Safety within ten (10) days of receiving the notice of removal. The

burden of proof is on the student responding party to show that the removal decision was incorrect. The emergency removal will remain in effect while the appeal is considered.

The emergency removal process applies only to student responding parties. Employee responding parties are not subject to this process and may be placed on administrative leave pursuant to the University's applicable policies and/or collective bargaining agreements during any process under this policy.

f. Investigations

If an investigation is to be conducted pursuant to this policy, the Title IX Coordinator will send a written notice of complaint to both the reporting party and the responding party that will include, to the extent known, (1) the identities of the involved parties; (2) the date, time, location and factual allegations concerning the alleged violation(s); (3) the policy provisions allegedly violated; (4) a description of the investigation and adjudication process; (5) potential sanctions; (6) the right to an advisor of choice (as defined above); (7) the right to inspect and review evidence in accordance with this policy; (8) notice that knowingly making false statements or knowingly submitting false information is prohibited under University policies; (9) notice that the responding party is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the process; and (10) a statement about the University's policy on retaliation. If, in the course of the investigation, the University decides to investigate allegations that are not included in the notice initially provided to the parties, the Title IX Coordinator will provide notice of the additional allegations to the parties.

Involved parties will be urged to retain any evidence that is relevant to the investigatory process. Any other meetings or interviews will also be preceded by a written notice to all involved parties.

The assigned investigators will conduct their investigation of reports/complaints under this policy expeditiously. To the extent possible, the investigation will begin promptly upon receipt of the complaint. The University endeavors to complete the investigatory phase within 60 days, but this timeframe may be extended if necessary, depending upon the circumstances.

The Title IX Coordinator will assign investigators (usually no more than two) to interview involved parties for the purposes of gathering facts and evidence. An investigator assigned to the investigation will provide written notice of investigation to any individual who is asked to participate in an investigatory interview, including the reporting party and the responding party. The investigator will communicate the date, time and location of the interview in the notice. The investigator will also let the reporting party and responding party know that they may bring an advisor of choice (who may or may not be an attorney) to the investigatory interview, but only for supportive purposes. The advisor in this part of the process (the investigation) will not be allowed to interject without permission from both the investigator and the interviewee.

If either party chooses not to participate in the investigation interview in person and instead wishes to submit written material and evidence (in lieu of an interview), that party will not be allowed to submit additional evidence once the hearing begins absent extraordinary circumstances as determined by the decision-maker. A party who chooses not to participate in the investigation interview will still have a right to review evidence (see below) as outlined in this policy.

g. Evidence Review

Both the reporting party and responding party have the right to present fact, expert witnesses, and other inculpatory and exculpatory evidence (see Section VII.i and VII.j). Each party also has the right to discuss allegations and gather evidence; however, at all times, the burden of gathering evidence

remains with the University. The investigator(s) may decline to interview any witness or to gather information the investigators find to be not relevant or otherwise excludable (e.g., sexual history of the reporting party with a person other than the responding party, materials subject to a recognized privilege, medical records in the absence of a release by the subject of the records, etc.). The investigators will determine the order and method of investigation.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or interviews. If the investigators elect to audio and/or video record interviews, all parties involved in the meeting or interview will be made aware that audio and/or video recording is occurring.

Investigators will provide the reporting party, responding party, and their advisors evidence an equal opportunity to inspect and review any evidence directly related to the allegations that is gathered in the investigation, regardless of whether the information will be relied on in reaching a determination. The evidence will be sent in electronic format or hard copy, or made available through an electronic file sharing platform, subject to redaction permitted and/or required by law. The parties will be provided with at least 10 calendar days to inspect, review, and respond to the evidence and submit a written response, which the investigators will consider prior to completion of the investigative report. Based on the parties' written responses the investigators will determine if additional investigation is necessary (and, if so, will complete any additional investigative steps), and will incorporate relevant elements of the responses and any additional relevant evidence into the report (if no new evidence is presented within 10 calendar days, the investigators will begin preparing the investigatory report).

h. Investigatory Reports

Once the evidence is gathered and made available for review as described above, the investigators will prepare an investigative report that fairly summarizes relevant evidence. The report will be provided to the reporting party, the responding party, their respective advisors in electronic format or hard copy, or made available through an electronic file sharing platform, and to the Title IX Coordinator. The reporting party and responding party (and their advisors) will have 10 calendar days to review and, if desired, to respond to the report. After 10 days have passed, or after having heard from both parties, whichever comes first, the Title IX Coordinator will provide the report to the decision-maker (see definitions) to begin the hearing process.

In any case where a student is a reporting party or responding party, both the reporting party and responding party will be permitted to submit a written impact statement to the Title IX Coordinator for consideration after a finding of responsibility for violation of this policy and prior to the determination of an appropriate sanction(s). The Title IX Coordinator will provide copies of any such written impact statements to the official responsible for making a determination regarding appropriate sanctions.

i. Hearings

Once the decision-maker(s) receives the investigatory report, a live hearing will be scheduled not less than 10 days after the parties have been provided access to the report, for the purpose of determining whether the responding party is responsible or not responsible for the charge(s).

The decision-maker will send notice of the hearing to the reporting party/complainant and responding party, and their advisors, with the date, time and location of the hearing, and how to challenge participation by any decisionmaker for bias or conflict of interest. Bias or conflict of interest will be judged by an objective standard (whether a reasonable person would conclude the decision maker is biased). The decision-maker will work with each party to ensure they have sufficient time to prepare for the hearing.

Participants in the hearing will include the decision-maker, the reporting party/complainant and the responding party, their respective advisors, the investigator(s) who conducted the investigation, and witnesses (solely during their own testimony). Hearings are private. Observers or additional support personnel, other than the parties' advisors, are not allowed unless deemed necessary by the Title IX Coordinator for purposes such as accommodation of a disability. Cell phones and recording devices may not be used by the parties or their advisors in the hearing room(s).

Hearings may be conducted with all parties physically present in the same location or, at the Title IX Coordinator's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling the decision-maker and the parties to simultaneously see and hear any party or witness providing information or answering questions. If either party so requests, the hearing will be conducted with the parties located in separate rooms using technology as described in the preceding sentence.

The Title IX Coordinator may postpone the hearing for good cause as determined by the Title IX Coordinator. Good cause may include, without limitation, unavailability of one or more participants due to unanticipated events or circumstances, the timing of academic breaks or holidays, or other extenuating circumstances.

Procedural Matters
The decision-maker is in charge of organizing the presentation of information to be considered at the hearing. Generally, the hearing will proceed in the following order:

1. Opportunity for opening statement by the reporting party/complainant

2. Opportunity for opening statement by the responding party

3. If requested by the decision-maker, a summary of the results of the investigation by the investigators

4. Questions for the investigator(s) by the decision-maker and, if desired, on behalf of the reporting party/complainant and the responding party (as described below)

5. Questions for the reporting party/complainant by the decision-maker and, if desired, on behalf of the responding party (as described below)

6. Questions for the responding party by the decision-maker and, if desired, on behalf of the reporting party/complainant (as described below)

7. Questions for each witness by the decision-maker and, if desired, on behalf of the reporting party/complainant and the responding party (as described below)

8. Opportunity for closing statement by the reporting party/complainant

9. Opportunity for closing statement by the responding party

Formal rules of evidence will not apply. Except as otherwise expressly prohibited by this policy, any information that the decision-maker determines is relevant may be considered, including hearsay, history and information indicating a pattern of behavior, and character evidence. All evidence previously made available to the parties for inspection and review prior to completion of the investigative report as described above will be made available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of questioning. Absent extraordinary circumstances as determined by the decision-maker, no party may seek to introduce at the hearing any

evidence not previously made available in accordance with the preceding sentence, other than the investigative report itself and any responses to the investigative report submitted by the parties.

The decision-maker will address any concerns regarding the consideration of information prior to and/or during the hearing and may exclude irrelevant information. Subject to the terms of this policy, the decision-maker will have discretionary authority to determine all questions of procedure, to determine whether particular questions, evidence or information will be accepted or considered, to call breaks or temporary adjournments of the hearing, to alter the order of the proceedings from that described above, and/or to recall parties or witnesses for additional questions as the decision-maker deems necessary or appropriate. The decision-maker may impose additional ground rules as decision-maker may deem necessary or appropriate for the orderly and efficient conduct of the hearing, which will apply equally to both parties.

Advisors

The reporting party/complainant and the responding party may each have present with them during the hearing an advisor of their choice (at the party's expense, if the advisor is a paid advisor). If a party does not have an advisor present at the hearing, the University will provide, without fee or charge to that party, an advisor of the University's choice.

Except with respect to questioning as described below, the advisor's role is limited to consulting with their advisee, and the advisor may not present evidence, address the decision-maker during the hearing, object to any aspect of the proceeding, or disrupt the hearing in any way, and any consultation with the advisee while the hearing is in progress must be done in a quiet non-disruptive manner or in writing. The advisor may consult with the advisee verbally outside the hearing during breaks, when such breaks are granted by the decision-maker. An advisor's questioning of the other party and any witnesses must be conducted in a respectful, non-intimidating and non-abusive manner. If the decision-maker determines that an advisor is not adhering to these or other ground rules, the advisor may be required to leave the hearing, and the hearing will proceed without an opportunity for the party to obtain a replacement advisor; provided, however, that the University will assign an advisor of the University's choosing, without charge, for the limited purpose of conducting questioning on behalf of the party as provided below.

Witnesses are not permitted to bring an advisor or other person to the hearing, absent an approved disability accommodation. The decision-maker may be advised by and/or consult with the University's legal counsel as the decision-maker deems necessary or appropriate.

Questioning Procedures

The decision-maker will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility; provided that questions that seek disclosure of information protected under a legally recognized privilege will not be permitted unless the person or entity holding the privilege has waived the privilege in writing. Questioning must be conducted by the party's advisor in a respectful, non-intimidating and non-abusive manner, and never by a party personally. If a party does not have an advisor present at the hearing, the Title IX Coordinator will arrange for the University to provide without fee or charge to that party, an advisor of the University's choice to conduct questioning on behalf of that party.

Only relevant questions may be asked by a party's advisor to a party or witness. Before the party or witness answers a question posed by an advisor, the decision-maker will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The advisor posing the question may request that the decision-maker reconsider any decision to exclude a question and the decision-maker, after soliciting the other party's advisor's opinion, will render a final determination.

Such decisions by the decision-maker are final and not subject to further objection or reconsideration during the hearing.

Questions and evidence about the reporting party/complainant's sexual predisposition or prior sexual behavior are not relevant, other than questions and evidence about the reporting party/complainant's prior sexual behavior that (a) are offered to prove that someone other than the responding party committed the alleged misconduct, or (b) concern specific incidents of the reporting party/complainant's prior sexual behavior with respect to the responding party and are offered to prove consent.

If a party or witness does not submit to questioning by a party's advisor at the hearing, the hearing panel may nevertheless rely on statements of that party or witness, during the hearing or otherwise, in reaching a determination regarding responsibility, but may also determine what (if any) significance to afford those statements in view of the lack of cross examination (for example, the hearing panel may determine whether the statements are sufficiently reliable in the absence of cross examination). The hearing panel will not, however, draw an inference as to responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions posed by the other party's advisor.

Hearing Determinations

Following conclusion of the hearing, the decision-maker will deliberate and render a determination as to whether the responding party is responsible or not responsible for the alleged violation(s). The decision-maker will use "preponderance of the evidence" as the standard of proof to determine whether each alleged violation of the policy occurred.

If the decision-maker determines that the responding party is responsible for one or more violations, any personal impact statements submitted by the parties will be made available to the decision-maker for purposes of determining sanctions. In addition to the impact statement(s), if any, factors considered when determining sanctions may include:

1. the nature and severity of, and circumstances surrounding, the violation(s);

2. the responding party's state of mind at the time of the violation(s) (intentional, knowing, bias-motivated, reckless, negligent, etc.);

3. the responding party's previous disciplinary history;

4. the need for sanctions to bring an end to the conduct; and/or to prevent the future recurrence of similar conduct;

5. the need to remedy the effects of the conduct on the reporting party/complainant and/or the community;

6. the impact of potential sanctions on the responding party;

7. sanctions imposed by the University in other matters involving comparable conduct; and

8. any other lawful factors deemed relevant by the decision-maker.

Students who are found responsible will be issued disciplinary action in accordance with Utica University's Code of Student Conduct. More information regarding the point system, and possible sanctions, can be found here. Faculty and other collective bargaining unit members who are found responsible will be issued disciplinary action in accordance with the current Collective Bargaining

Agreement between Utica University and AAUP-UC. Staff who are found responsible will be issued discipline in accordance with the current Utica University Employee Handbook.

Notice of Outcome
The decision-maker will issue a written determination including the following information:

1. A description of the charges that were adjudicated;

2. A description of the procedural steps taken from the submission of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;

3. Findings of fact supporting the determination;

4. Conclusions regarding the application of the policy to the facts;

5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the responding party, and whether remedies designed to restore or preserve equal access to the University's educational programs or activities will be provided to the reporting party/complainant; and

6. The procedures and permissible bases for the reporting party/complainant and responding party to appeal.

The decision-maker will provide the written determination to the parties simultaneously.

X. APPEALS

In all cases (except when a vendor, visitor, or other non-community member does not have a right to appeal), either party may appeal (1) the decision-maker's decision; and/or (2) the University's dismissal of a complaint or any allegations therein by filing an appeal within three (3) business days of the decision or dismissal. Where the responding party is a student, the appeal will go to an appeals panel comprised of three individuals from the University community who are appointed to serve as an appeals board. Where the responding party is a faculty member, the appeal should be made to the Provost. Where the responding party is a staff member, the appeal should be made to the staff member's area vice president.

The grounds for appeal are limited to the following:

1. A procedural irregularity that affected the determination or dismissal;

2. Newly discovered evidence that was not reasonably available at the time the determination or dismissal was made that could affect the determination or dismissal; or

3. The Title IX Coordinator, investigator(s), or decision-maker had a conflict of interest or bias for or against reporting parties/complainants or respondents generally or the individual reporting party/complainant or respondent in the case that affected the determination regarding responsibility or dismissal; or

4. A sanction is inconsistent with the severity of the violation or otherwise inappropriate.

In the event that an appeal is submitted, both parties will be notified. Sanctions are stayed pending the outcome of the appeal.

The individual or body considering an appeal may take any of the following actions:

1. Deny the appeal;

2. Approve the appeal;

3. Approve the appeal in part (which may result in a modification of the findings and/or sanction(s) (if applicable)); or

4. Remand the case for further investigation or other process, with guidance.

The appeal decision will be provided to both parties in writing, at or about the same time, and will be final, except to the extent that one or more parties seek review of proceedings ordered on remand.

XI. RECORDS REVIEW

The parties, upon submission of a written request to the Title IX Coordinator, may be permitted to review information in the case file, subject to redaction permitted and/or required by law and consistent with University policy and applicable federal and state law, including the Family Educational Rights and Privacy Act.

XII. VENDOR, VISITOR, OR OTHER NON-COMMUNITY MEMBER (NON-TITLE IX)

In cases involving allegations against a non-community member (e.g., a vendor, visitor, contractor, parent, etc.), the case will be referred to the Office of Human Resources. The Office of Human Resources will work with the appropriate parties (such as the Associate Director of Campus Safety) and make a final determination regarding remedies, including, if appropriate, the imposition of action such as banning the non-community member from University property or other appropriate responsive measures.

A non-community member may make a report that a University community member has violated this policy. A non-community member's complaint will be processed in accordance with the applicable disciplinary procedures listed above.

XIII. TRAINING EFFORTS

The Title IX Coordinator, Deputy Title IX Coordinator, Responsible Administrators, investigators, decision makers and persons hearing appeals will receive annual training on relevant topics, including the definitions of sexual harassment, sexual assault, stalking, domestic violence, dating violence, and other forms of sexual misconduct; the scope of the University's education programs and activities; how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; the effects of trauma; the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until a finding of responsibility is made pursuant to this policy; and how to conduct investigations and disciplinary proceedings that protect the safety of all parties and promote accountability to the University community.

The Title IX Coordinator will also arrange annual training sessions for all members of the Utica University community about prevention of sexual harassment and sexual misconduct. The intent of this training is to maintain an academic and work environment free from sexual harassment and sexual misconduct. An environment that is free from sexual harassment and sexual misconduct provides the opportunity for all individuals to reach their potential in the performance of their educational pursuits or assigned position.

Educational efforts are essential to sustain a University environment that is as free as possible of sexual harassment and sexual misconduct; that fosters respect for all individuals; and that observes high standards of conduct in consensual relationships. The primary goals to be achieved through education include:

- Ensuring that individuals are aware of their rights and all of the resources available to them;
- Notifying individuals of prohibited behaviors;
- Informing parties of the proper way to address complaints of violations of this policy;
- Maintaining a community awareness of the problems this policy addresses;
- Making community members aware of ways that bystander intervention can help reporting and prevention;
- Creating awareness of the dynamics of sexual assault, dating violence, domestic violence and stalking so as to better address those behaviors
- Fostering a sense of safety and wellbeing for all members of the Utica University community

XIV. LAW ENFORCEMENT AND CRIMINAL CHARGES

A victim of a crime, including sexual misconduct, is encouraged, but is not required, to report the incident to law enforcement and pursue criminal charges. Members of the University community who want to pursue criminal charges may contact the Student Counseling Center, Office of Student Affairs, the Office of Campus Safety, or the YWCA/local crisis center for assistance in making a report of a crime to law enforcement, or may contact law enforcement authorities directly.

The criminal process and the University's investigatory/disciplinary processes are not mutually exclusive or dependent on each other, meaning that a person may pursue either a criminal complaint or internal complaint with the University, both, or neither. Any internal University investigation and/or hearing process will be conducted concurrently with any criminal justice investigation and proceeding that may be pending. Temporary delays in the University's internal processes may be requested by local law enforcement authorities for the purpose of evidence gathering. Any temporary delay shall not last more than ten (10) days, except when local law enforcement authorities specifically request and justify a longer delay. The University will cooperate with any criminal proceedings as required or permitted by law.

In criminal cases, including non-consensual sex offenses, the preservation of evidence is critical and must be done properly and promptly. Local law enforcement agencies can assist in filing a criminal complaint and in securing appropriate examination, including by a sexual assault nurse examiner. The New York State Police Sexual Assault Hotline, which can be reached at 1-844-845-7269, may also be of assistance in reporting an incident to law enforcement. Additionally, orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence. In appropriate circumstances, an order of protection may be available that restricts the offender's right to enter University property, and the University will abide by a lawfully issued order of protection. Utica University officials will, upon request, provide reasonable assistance to any member of the University community in obtaining an order of protection or, if outside New York State, an equivalent protective or restraining order.

Upon receipt of an order of protection (or equivalent order) by the University, University officials will also assist by providing all applicable parties with a copy of the order. Those parties will be given an opportunity to meet or speak with a Utica University representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons. The University official, or other appropriate individual, will also provide an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and emergency removal, and will assist in contacting local law enforcement related to alleged violations of such an order.

XV. AMNESTY

The health and safety of every student at Utica University is of utmost importance. Utica University realizes 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. Utica University strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to Utica University officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Utica University officials or law enforcement will not be subject to the University's Student Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

XVI. NON-RETALIATION

Retaliation against any person involved in an investigation, proceeding or hearing under this policy, including the reporting party, responding party, witnesses, or University personnel, is strictly prohibited. This includes retaliation from a third party on behalf of the reporting party, responding party, witnesses, or University personnel. The University defines retaliation as any adverse action taken against an individual for making a good faith report under this policy, for testifying, assisting, or participating or refusing to participate in any manner in an investigation, proceeding, or hearing under this policy, or for the purpose of interfering with any right or privilege under this policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. Any retaliation against such individuals is subject to disciplinary or conduct action, including additional interim measures or other sanctions through the appropriate employee or student conduct systems. Reports of retaliation should be directed to the Title IX Coordinator or Deputy Title IX Coordinator, who will then determine the most appropriate course of action.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance process does not constitute retaliation. At the same time, a determination of no findings, alone, is not enough to conclude that any party made a false statement.

XVII. RECORDS RETENTION

Utica University will create and maintain for not less than seven years records documenting all investigations covered under this policy. The records will include all notices, investigatory materials, determinations of responsibility, audio or audiovisual recordings or transcripts of hearings, sanctions imposed on the respondent, remedies provided to the reporting party designed to restore or preserve equal access to the University's education program or activity, and any informal resolutions or appeals-related materials and documents. Parties may request access to these records pertaining to their own case.

Utica University will also keep for not less than seven years records regarding the response to every report of sexual harassment or sexual misconduct of which it becomes aware, even if no formal complaint was filed, including documentation of any supportive measures offered and implemented. If the University does not provide a party with requested supportive measures, then the University will document the reasons for that decision. In each instance, the University will document the reason for actions taken or not taken, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity.

The University will also maintain for not less than seven years records of all materials used to train the Title IX Coordinator, Deputy Title IX Coordinator, investigators, decision makers, and persons responsible for considering appeals. The University will make these training materials publicly available on its website.

XVIII. CLERY ACT COMPLIANCE AND FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials have a duty to report incidents of sexual assault, domestic violence, dating violence, and stalking for federal statistical reporting purposes under the Clery Act. All personally identifiable information is kept confidential, but statistical information must be passed along to Director of Student Conduct and Community Standards regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses given) for publication in the University's Annual Security Report (ASR). This report helps to provide the University community with a clear picture of the extent and nature of campus crime.

In the case of a reported situation reflecting a serious and continuing threat to the University community, the University will issue a timely warning to the University community. In such circumstances, the name of the alleged perpetrator may be disclosed to the community, but the name of the victim/reporting party will not be disclosed.

XIX. TRANSCRIPT NOTATIONS

For those crimes of violence that the University is required by federal law to include in its Annual Security Report, the transcripts of students found responsible after a hearing and appeal, if any, shall include the following notation (as applicable):

- Withdrew with conduct charges pending;
- 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.

A student may request that the University remove a transcript notation for suspension, no earlier than one year after the conclusion of the suspension. The University will review the request and decide, in its sole discretion, whether the notation will be removed. Transcript notations for expulsion shall not be removed.

XX. DELEGATION OF AUTHORITY AND UNIVERSITY COUNSEL; USE OF EXTERNAL RESOURCES

Any University administrator or official responsible for performing a responsibility under this policy may delegate their authority, or the Title IX Coordinator may require reassignment of authority, to any other appropriate University official. Delegation of authority may be necessary to avoid conflicts of interest or where time constraints or other obligations prevent a University official named in this policy from fulfilling the person's designated role. The University may also utilize appropriately trained external personnel for any role under this policy as it may deem necessary or appropriate. Any University administrator or official functioning under this policy may seek the advice and counsel of the Title IX Coordinator and/or the University's legal counsel at any time.

XXI. COORDINATION WITH OTHER POLICIES

A particular situation may potentially invoke one or more university policies or processes. The University reserves the right to determine the most applicable policy or process and to utilize that policy or process. Without limiting the foregoing, if determined appropriate by the Title IX Coordinator, the processes described in this policy may be used to respond to, investigate and adjudicate conduct allegedly violating other policies if the alleged conduct is related to or arises out of the same facts, circumstances or incidents as alleged prohibited conduct to be addressed pursuant to this policy.

XXII. DISCRETIONARY AUTHORITY; CHANGE IN APPLICABLE LAW

The Title IX Coordinator shall have discretionary authority to construe and interpret this policy, and to determine the meaning of any disputed or uncertain provisions. In the course of any process under this policy, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party. The Title IX Coordinator may also vary procedures materially with notice upon determining that changes to law or regulation, or interpretations thereof, require policy or procedural alterations not reflected in this policy. If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this policy, this policy will be construed to comply with the most recent government regulations or holdings.

XXIII. RESPONSIBILITY

The University's Title IX Coordinator is responsible for ensuring compliance with this policy. Any questions or concerns about the administration of this policy should be directed to the Title IX Coordinator, Kyle Wilson, at (315) 792-3063 or klwilson@utica.edu. Inquiries and complaints may be made externally to:

U.S. Department of Education, Office for Civil Rights
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline: 800-421-3481
Facsimile: 202-453-6012 TDD: 877-521-2172
E-mail: OCR@ed.gov
Web: http://www.ed.gov/ocr

XXIV. ENFORCEMENT

Enforcement of Utica University policies is the responsibility of the office or offices listed in the "Resources/Questions" section of each policy. The responsible office will contact the appropriate authority regarding faculty or staff members, students, vendors, or visitors who violate policies.

Utica University acknowledges that University policies may not anticipate every possible issue that may arise. The University therefore reserves the right to make reasonable and relevant decisions regarding the enforcement of this policy. All such decisions must be approved by an officer of the University (i.e. President, Provost and Senior Vice President for Academic Affairs, or Vice President for Financial Affairs).

XXV. RESOURCES/QUESTIONS

For questions regarding the implementation and interpretation of this policy, contact Kyle Wilson, Title IX Coordinator, at (315) 792-3063 or via email at klwilson@utica.edu.

Please note that other Utica University policies may apply or be related to this policy. To search for related policies, use the Keyword Search function of the online policy manual.

Stephanie R. Nesbitt, President _____ Date

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