



FIVE TOWNS COLLEGE

305 North Service Road, Dix Hills, NY 11746-5871 | www.ftc.edu

**CAMPUS GUIDE TO
NEW YORK STATE
EDUCATION LAW**

**ENOUGH IS ENOUGH:
WHAT YOU NEED TO KNOW**

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Welcome to Five Towns College! While your time on campus should be all about academics and campus life, as young adults there may arise situations where you need to know, understand, and take action if violations of institutional policies occur or if you are a victim or witness of sexual assault or related misconduct. Sexual misconduct, including sexual assault, dating violence, domestic violence, and stalking is unacceptable on college campuses and was directly addressed by New York's Governor Andrew Cuomo in 2015 when a law called *Enough is Enough* was adopted and passed.

As new or returning students to campus, please be sure to read this *Campus Guide* and familiarize yourself with the terminology, definitions, differences between privacy and confidentiality, where to get help, reporting options and guidelines, interim measures and accommodations taken to assure your safety, situations where institutions must act whether you consent or not, and other important information. This *Campus Guide* highlights main concepts but the full statute is attached as a resource for you. There are regularly scheduled workshops and programs throughout each semester for all students, faculty and staff so be sure to attend those, too. And, if you have questions, ask!

FOR IMMEDIATE HELP:

To report a sexual assault on a New York college campus to the State Police, call the dedicated 24-hour hotline at 1-844-845-7269. In an emergency, call 911. For confidential support resources, call the New York State Domestic and Sexual Violence Hotline at 1-800-942-6906. In New York City, call 1-800-621-HOPE (4673) or dial 311.

What is *Enough is Enough*?

Governor Andrew Cuomo signed NYS *Enough is Enough* legislation in July 2015. This is a clear and deliberate law - one of the toughest in the country- intended to fight against sexual assault on college campuses. By standing up and saying "Enough is Enough," NYS has made a clear and bold statement that sexual violence is a crime, and students can be assured they have a right to have it investigated and prosecuted as one. Five Towns College adopts and fully incorporates the provisions of the New York State law, *Enough is Enough*.

How does it affect me?

As a college student in NYS, Governor Cuomo is determined to stamp out sexual assault on campuses of higher education institutions. Hopefully, your college experience will be filled with great academic success and progress. Higher education professionals, including student affairs professionals and professionals in the Counseling Center are trained in assisting young adults through time with social, emotional and mental health concerns. On occasion, students hear about violations of *Codes of Conduct* or unfortunate events as a result of sexual assault, dating violence, domestic violence, stalking or more. This law is intended to protect victims, reporting individuals, and the rights of respondents with policies and due process that help to enforce the law. Further, students may find themselves in the position of a bystander and would be afforded certain protections under this law that they should be educated about as well.

What is consent?

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 the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

What are some other important definitions to know?

Title IX Coordinator shall mean the Title IX Coordinator and/or his or her designee(s).

Bystander shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of an institution.

Code of Conduct shall mean the written policies of the College governing student behavior, rights, and responsibilities while such student is matriculated in the institution.

Confidentiality may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers and pastoral counselors are examples of institution employees who may offer confidentiality. At Five Towns College, this means the Counseling Center personnel.

Privacy may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate institution officials.

Accused shall mean a person accused of a violation who has not yet entered an institution's judicial or conduct process.

Respondent shall mean a person accused of a violation who has entered an institution's judicial or conduct process.

Reporting Individual shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term to reference an individual who brings forth a report of a violation.

Sexual Activity shall have the same meaning as "sexual act" and "sexual contact" as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246 (3). To determine when affirmative consent is required prior to sexual activity, the definition of sexual activity refers to 18 U.S.C. 2246(2)-(3), it states:

(2) The term "sexual act" means:

1. contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

2. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
3. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
4. the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(3) The term “sexual contact” means:-

1. the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- Individuals must obtain affirmative consent prior to engaging in any of the activity referenced above.

What are the meanings of . . . ?

Domestic Violence is defined as violence committed by a current or former spouse of the student, by someone who is or has cohabited with the student as a spouse, by someone with whom the student has a child, by others to whom the student is related by consanguinity (blood) or affinity (marriage), or by unrelated persons who are (or have been in the past) continually living in the same household.

Dating Violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the student. The existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

Examples of domestic and dating violence include:

- Slapping, kicking, pinching, biting, pulling hair or punching a girlfriend.
- Threatening to hit, harm, or use a weapon on a boyfriend or a boyfriend’s family.
- Pushing, grabbing or choking an intimate partner.
- Physically restraining a spouse.
- Burning an intimate partner.
- Hurting or threatening to hurt the pet of a boyfriend.

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress. Stalking also includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

Examples of stalking include:

- Constantly following a student
- Repeatedly appearing at the student's home, place of business, vehicle or classroom for no legitimate purpose
- Leaving unwanted messages, objects, or gifts at the student's home, place of business, vehicle, or classroom.

Sexual Assault consists of any of the following:

- *Non-Consensual Sexual Contact*, which is defined as any intentional sexual touching or fondling either directly or through the clothing, of a person's genitalia, anus, groin, breast, inner thigh or buttocks without Affirmative Consent. Non-Consensual Sexual Contact also includes an individual making a person touch him or her with, or on, any of these body parts.
- *Non-Consensual Sexual Intercourse*, which is defined as any sexual penetration (anal, oral, or vaginal), however slight, with any object or body part, without Affirmative Consent.

What is the College's policy on alcohol and drug use amnesty?

The health and safety of every student at Five Towns College is of utmost importance. Five Towns College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct.

Five Towns College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Five Towns College officials or law enforcement will not be subject to *Five Towns College 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. Further, depending on the facts of any incident, the College may provide amnesty in additional circumstances.

What is the Students' Bill of Rights?

All students have the right to:

- Make a report to local law enforcement and/or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution (Note: Students have three options: (1) notify proper law enforcement authorities, including on-campus and local police; (2) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and (3) decline to notify such authorities. This is required under the Clery Act, 20 U.S.C. section 1092 (f)(8)(B)(iii)(III)(aa)-(cc) and institutions must be neutral in

providing these options while reporting individuals should control their own decision-making.);

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

What are my rights if I am a reporting individual?

Should you find yourself in a situation that may fall under the *Enough is Enough* statute, it is important that you review section 6444(A)-(I). In part, reporting individuals have the right to:

- Notify College Public Safety or campus security, local law enforcement, and/or state police;
- Have emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney.
- Such official shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the reporting individual of other reporting options;
- Disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for reporting individuals;
- Disclose confidentially the incident and obtain services from the state or local government;
- Disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;

- File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the title ix coordinator and other appropriate institution representatives for information and assistance. Reports shall be investigated in accordance with institution policy and a reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy;
- Disclose, if the accused is an employee of the institution, the incident to the institution's human resources authority or the right to request that a confidential or private employee assist in reporting to the appropriate human resources authority;
- Receive assistance from appropriate institution representatives in initiating legal proceedings in family court or civil court; and
- Withdraw a complaint or involvement from the institution process at any time.

At the first instance of disclosure to an institution representative, be presented with the following information: “You have the right to make a report to the Five Towns College Public Safety Office; local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.”

Is there a difference between confidentiality and privacy? They sound like the same thing.

This is a very important question.

Confidentiality is the highest form of keeping information between the person sharing the information and the person receiving it. The duty of confidentiality follows legal statute and is similar to the confidentiality expected from one’s clergy, psychologist, licensed mental healthcare providers, or lawyer. On a college campus, this type of confidentiality can be found in The Counseling Center from trained and educated mental health professionals.

Privacy on the other hand is a slightly lower form of keeping information between the person sharing the info and the person receiving the info. Under the Enough is Enough law, higher education professionals are trained to only share information as necessary with the professionals who need to know for administrative purposes. This is a real difference that students need to understand before they share information about an occurrence/event. But, always try to consider your health and well being first. Take care of your physical and emotional health.

Even Five Towns College offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

Therefore, read, think, and ask College staff and professionals to explain so if you ever need to report, your choice is intentional. College faculty and staff are mandated reporters. This means a report to the College’s Title IX Coordinator is required.

So what do I do first if something happens?

Your health and welfare are of paramount importance. You should **seek immediate medical attention if you are injured** and know that there are *Counseling resources* available 24/7 that will assist you.

On campus, for **confidential resources**, please contact:

- The Counseling Center at (631) 656-3191
- 24/7 Confidential Resources located in the [Student Handbook](#) p. 51-53:

The *FTC Public Safety Office* issues vouchers for taxi service, if needed. So students do not need to worry about transportation to hospitals or medical providers.

Other offices to contact that are **private resources** include:

- FTC Public Safety Office (631) 656-2196
- Title IX Coordinator (631) 656-2189
- Dean of Students (631) 656-2102
- Director of Residence Life (631) 656-2126
- Director of Student Activities (631) 656- 2151

Remember, you must try to think about reporting options of confidentiality or privacy. And, there is also an option not to report. These decisions are important to you.

How do I know which college personnel can keep my information confidential or private?

As stated, the Counseling Center and its resources are bound under the law to keep your information confidential. Other than that, the Title IX Coordinator, Title IX Deputies listed here: <https://www.ftc.edu/title-ix/> and all other College faculty and staff, including Residence Life Staff will keep your information as private as practical. They are mandated to report though and you must keep that in mind when deciding whom to speak to first.

What happens if I make a report and, then, change my mind?

Once a report is made, the college is obliged to initiate an investigation. However, if you do not consent or if you change your mind and want to withdraw your report, there are a few exceptions where the college is obliged to investigate nonetheless. This has to do with continuous or ongoing threats to the campus environment. A copy of the College's *Title IX: Intake Worksheet* is attached to this *Campus Guide* for you to review and become familiar with the questions to be answered should you need to report. Also, read further to learn about the six exceptions where the College is obliged to investigate even if you do not consent.

What is the College's process of assessing whether an ongoing or continuous threat exists?

The FTC Public Safety and Dean of Students offices receive digital and hardcopies of all *Institutional Disciplinary Committee Decision Letters*. The Public Safety Office keeps written records of any/all Incident Reports that occur on campus. This form is generated when there

are violations of institutional policy, the Code of Conduct, or any other reportable events on campus. This ensures that an accurate institutional record is kept and that the Director of Public Safety has the ability to go back and take notice of repeated offenders and individuals whose conduct has previously violated the Code of Conduct, including, for instance, those who may be on disciplinary probation.

Once an Incident Report is made and concerns a current student, the Director of Public Safety will meet with the Dean of Students to review any relevant Disciplinary Committee decision letter to assess and determine if any students are involved in repeated incidents, whether disciplinary letters have been issued that placed students on disciplinary probation, and the nature of the incident i.e. violent or non-violent, and other factors listed below. Together with other institutional representatives, a determination is made whether the facts warrant investigation if consent is not given due to overriding factors. While the institution would seek consent from reporting individuals prior to conducting an investigation, declining to consent to an investigation shall be honored unless the institution determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual or other members of the community. For more information, go to <https://www.ftc.edu/options-confidential-disclosure-section-6446-2/>

How does the college assess the existence of an ongoing threat to the health and safety of the campus community once it receives a report from a student who was a victim of sexual misconduct by another student?

It is the institution's policy to have the consent of a reporting individual prior to conducting an investigation. However, there are some instances where the institution must investigate, whether consent is given or not, or withdrawn or if there is a change of mind. This decision to investigate when there is no consent to do so, exists when one or more of these six factors are present:

1. Whether the accused has a history of violent behavior or is a repeat offender (the nature of the allegation);
2. whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior (what the subsequent behavior after the allegation is- e.g. pattern of behavior, recurring behavior);
3. the increased risk that the accused will commit additional acts of violence;
4. whether the accused used a weapon or force;
5. whether the reporting individual is a minor; and
6. whether the institution possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group.

What interim measures and accommodations can be made to assure my safety if I report?

To insure that you are safe from further harm, some of the interim measures and accommodations that the institution can take include:

- the issuance of a “No Contact” order so that the respondent must stay away from the victim or reporting individual;
- issuing interim suspensions pending a hearing;
- a change in academic course schedules or deadlines, in certain instances;
- a change in housing such as moving to any other available room or residence hall;
- a change in employment schedule, if needed;
- transportation assistance if reasonable, in certain instances;
- a referral to counseling and health services; or
- assistance with reporting incidents to local police or prosecutors; or
- any other reasonable arrangements requested in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment.

Both the accused or respondent and the reporting individual shall, upon request be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects him or her, and shall be allowed to submit evidence in support of his or her request.

What information is reviewed regarding students subjected to interim suspension?

Both the accused or respondent and the reporting individual shall, upon request be afforded a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of his or her request which may include proof of counseling, remorse, apology, and/or other relevant documentation for a change in circumstances. See Section 6444 (4) (H).

Does the institution consider requests for modification of interim suspensions? Are students permitted to submit evidence in support?

As an institution of higher education, the College respects the proposition that students may learn from mistakes and become better and more mature adults. Thus, the institution will permit students subject to interim suspensions to submit evidence worthy of reconsideration. These requests would go to the Dean of Students office with supporting documentation. Students should be their best advocates but the overriding concern is always that the campus is safe and secure for all of its constituents and interim suspensions issued to achieve this will not be reversed absent compelling documentary evidence.

What is the institution’s policy about notating student transcripts about student conduct under NYS Education Law, Article 129-B?

The College’s policy is included in the College Catalog Addendum and can be found here: <https://www.ftc.edu/wp-content/uploads/2018/05/CATALOG%20ADDENDA.pdf>

Transcript Notation Policy

Pursuant to New York State Education Law Article 129B, §644, for crimes of violence, including, but not limited to sexual violence (defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 109 et seq.), it is the policy of Five Towns College to make a notation on the official transcripts of students found

responsible, after a conduct process, that they were “suspended after a finding of responsibility for a code of conduct violation” or were “expelled after a finding of responsibility for a code of conduct violation.”

For a student-respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, Five Towns College will make a notation on the transcript of such students that they “withdrew with conduct charges pending.”

Students and former students seeking a review of a Transcript Notation decision or seeking to appeal therefrom must adhere to the process for disciplinary appeals, as set forth in the *Five Towns College Student Handbook*. Unless such transcript notation decision is vacated, applications to have notations of “suspension” removed rest with the discretion of the College Provost or her designee; but, shall not be granted prior to one year following the conclusion of the suspension. Unless the decision is vacated, applications to have notation of “expulsion” removed shall not be granted.

Further, it is the policy of Five Towns College to publish this Transcript Notation Policy in both the College Catalog and Student Handbook.

Does the College have a Memorandum of Understanding, Agreement or Collaborative Partnership with any existing community-based organizations, including rape-crisis centers and domestic violence shelters and assistance organizations?

The College has entered into a Memorandum of Understanding (MOU) with the Family Violence and Rape Crisis Center also known as the Victims Information Bureau of Suffolk (VIBS). VIBS provides services and innovative programs for victims of violence. VIBS also has a recognized *Sexual Assault Nurse Examiner (SANE)* who could conduct SAFE exams and provide related services i.e. counseling, health, mental health, victim advocacy and legal assistance, if needed for students. VIBS works in conjunction with *Good Samaritan Hospital* and is located in West Islip, NY.

What types of services does this healthcare provider cover?

The MOU with VIBS will enable students access to Good Samaritan Hospital, a comprehensive Medical Center, that offers a *full range of medical care or treatment*. The college refers or transports students, as needed, for treatment. As stated, VIBS provides SAFE exams conducted by a sexual assault nurse examiner who is trained in dealing with trauma related issues and for students who may be victims of sexual assault. Exams are provided free-of-charge. Confidential counseling, advocacy and referrals are also available. The FTC Public Safety office will provide transportation or taxi vouchers to assist students and transport them to healthcare or medical providers nearby.

What types of Student onboarding and ongoing education are provided? What is the manner and method for providing training? What topics will be covered?

Training and education is provided in a variety of ways at different types of presentations throughout the academic year. The topics that will be covered include:

- The institution prohibits sexual and interpersonal violence and will offer resources to any victims and survivors of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of the institution;
- the definitions of sexual assault, domestic violence, dating violence, stalking, confidentiality, privacy, consent and others;
- that these policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression;
- what the role is of the Title IX Coordinator, university police or campus security, and other relevant offices that address domestic violence, dating violence, stalking, and sexual assault prevention and response on campus is;
- understanding and recognizing the impact of violence on victims and survivors and their friends and family, and its long-term impact;
- bystander intervention and the importance of taking action to prevent violence when one can safely do so; and
- risk assessment and reduction including, but not limited to, steps that potential victims, perpetrators, and bystanders can take to lower the incidence of violations.

This may contain information about

- the dangers of drug and alcohol use, including underage drinking and binge drinking,
- involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol,
- the importance of communication with trusted friends and family whether on campus or off campus, and
- the availability of institution officials who can answer general or specific questions about risk reduction; and
- consequences and sanctions for individuals who commit these crimes and code of conduct violations.

Here are some links to websites that may help further educate individuals about risk reduction:

Center for Disease Control and Prevention – Sexual Violence: Prevention Strategies
<https://www.cdc.gov/violenceprevention/sexualviolence/prevention.html>

RAINN (Rape, Abuse & Incest National Network)
<https://www.rainn.org/>

Harvard University Office of Sexual Assault Prevention and Response
<https://osapr.harvard.edu/>

So, how do I file a report if I need to?

First, it is recommended that you take the time to review the Title IX Intake Worksheet available on the Enough is Enough webpage here: <https://www.ftc.edu/five-towns-college-enough-enough/> and be aware of what information you will be asked to provide as well as understand the circumstances when the institution may be obliged to investigate even if you change your mind or do not consent. Also, please review the Grievance Policy and Procedures: Sexual Harassment and Misconduct included in the Appendix.

What are the evidentiary standards in the disciplinary, grievance, N.Y.S. Education Law, Article 129-B, Title IX of the Education Amendments of 1972, and Federal/State Penal Codes?

Students/employees should be apprised of the different standards applied to the evidence submitted in various instances by the appropriate judicial bodies when making decisions.

For *complaints, charges, or incidents* that fall under the *Five Towns College Code of Conduct* and may be general discipline or grievance matters, the preponderance of the evidence standard is applied or a more likely than not standard based on the evidence submitted.

For complaints, misconduct, or reports that may fall under the *Five Towns College Code of Conduct* and may be deemed to be either sexual harassment, sexual assault or any type of domestic violence, dating violence, stalking and/or sexual assault, the standard applied is a preponderance of the evidence standard.

For *criminal conduct, violent crimes* etc. subject to the Penal Codes, a beyond the reasonable doubt will be applied by the local, state or federal governing body but this is outside the scope of Five Towns College.

Further, students are advised that in some instances should certain conduct be deemed to be a violation of the *Code of Conduct* and be treated as a disciplinary matter, that will occur separately from any other proceeding being investigated as either a Title IX, Article 129-B violation and/or as a criminal matter subject to investigation by police or other investigation outside of the institution's disciplinary scope.

Appendix

- **FTC Title IX: Intake Sheet**
- **FTC Sexual Assault Reporting Options**
- **NYSED guidance document:**

<http://www.highered.nysed.gov/ocue/documents/Article129-BGuidance.pdf>

- **NYS Education law, Article 129-B, *Enough is Enough*:**

http://assembly.state.ny.us/leg/?default_fld=%0D%0A&bn=a8244&term=2015&Summary=Y&Text=Y

- **Grievance Policy & Procedures: Sexual Harassment and Misconduct**



Title IX: Intake Worksheet

1. File Date: _____
2. Complainant Name: _____
Best Contact Information: _____
3. Bystander/Witness Name(s): _____
Best Contact Information: _____
4. Respondent Name: _____
Best Contact Information: _____
5. Initially Reported to (Name/Title): _____
6. Time/Date/Location of Incident(s): _____
7. Description of Conduct: _____

8. Complaints' Rights/Exceptions Explained (see page 2): Y / N
9. Consent to Investigate Given: Y / N Exception Present: Y / N
If Yes, specify by letter: _____
10. Referred to State police/Local law enforcement/Campus Security: Y / N
11. Forensic Exam Offered: Y / N Conducted: Y / N If Yes, list provider: (SANE)
12. Referred to Health Services/Counseling Services/Rape Crisis Center: Y / N
13. Recommended Interim Measures: _____

Complainants' Rights: The 4 R's

1. Report to Law Enforcement: You have the right to make a report to the College's Office of Public Safety/FTC campus security, local law enforcement, and/or state police OR Choose Not to Report;

2. Report to College: You have the right to report the incident to your institution;

3. Retaliation: You have the right to be protected by the institution from retaliation for reporting an incident; and

4. Resources: You have the right to receive assistance and resources from your institution.

EXCEPTIONS:

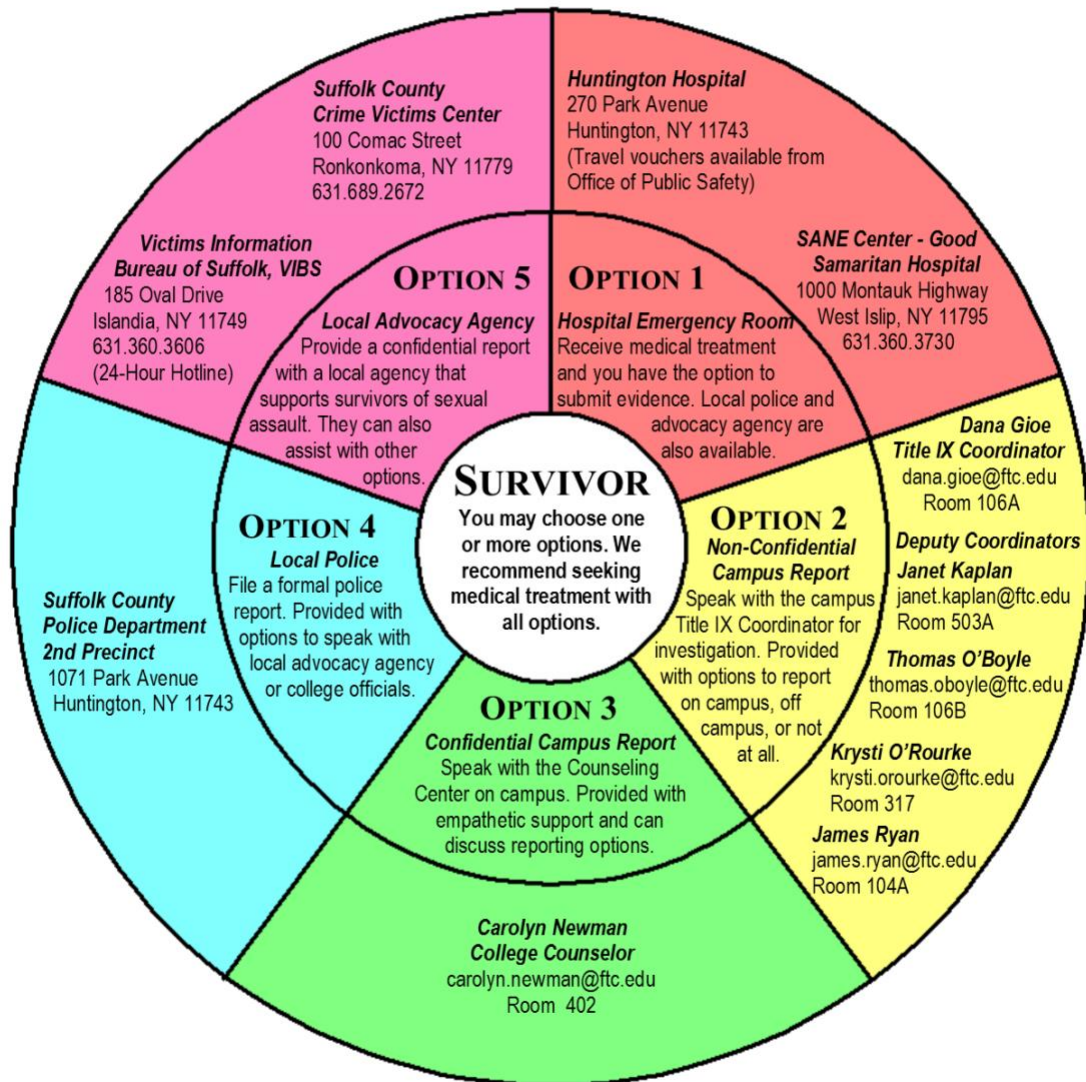
***Declining to consent to an investigation shall be honored UNLESS the institution determines in good faith that failure to investigate creates a potential risk of harm to the reporting individual or other members of the community. Factors used to determine whether to honor such a request include, but are not limited to:

- Whether the accused has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior;
- The increased risk that the accused will commit additional acts of violence;
- Whether the accused used a weapon or force;
- Whether the reporting individual is a minor; and
- Whether the institution possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group.

Please note: In any of the above exceptions, the College is obliged to institute an investigation.

FIVE TOWNS COLLEGE SEXUAL ASSAULT REPORTING OPTIONS

This guide provides survivors of sexual assault with the various options and resources available to them. We encourage survivors to consider each option and to remember: all options and efforts are directed at best supporting survivors.



Here is a copy of the NYS Education law, Article 129-B, *Enough is Enough*:
http://assembly.state.ny.us/leg/?default_fld=%0D%0A&bn=a8244&term=2015&Summary=Y&Text=Y

STATE OF NEW YORK

8244

2015-2016 Regular Sessions

IN ASSEMBLY

June 14, 2015

Introduced by M. of A. GLICK, PAULIN, ARROYO, BARRETT, BARRON, BICHOTTE, BLAKE, BRENNAN, BRINDISI, BRONSON, CRESPO, CUSICK, DAVILA, ENGLE-BRIGHT, FAHY, FARRELL, GALEF, JAFFEE, KAMINSKY, LINARES, LUPARDO, McDONALD, MORELLE, MOSLEY, MOYA, OTIS, PICHARDO, PRETLOW, ROBINSON, ROSENTHAL, ROZIC, RYAN, SANTABARBARA, SCHIMEL, SEAWRIGHT, SIMON, SIMOTAS, STECK, STIRPE, THIELE, TITONE, WALKER, WEINSTEIN, WEPRIN, ZEBROWSKI -- (at request of the Governor) -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to the implementation by colleges and universities of sexual assault, dating violence, domestic violence and stalking prevention and response policies and procedures; and to amend the civil practice law and rules, in relation to privacy of name in certain legal challenges to college/university disciplinary findings; and making appropriations therefor

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The education law is amended by adding a new article 129-B
2 to read as follows:

3 ARTICLE 129-B

4 IMPLEMENTATION BY COLLEGES AND UNIVERSITIES OF SEXUAL ASSAULT,
5 DATING VIOLENCE, DOMESTIC VIOLENCE AND STALKING PREVENTION AND
6 RESPONSE POLICIES AND PROCEDURES

7 Section 6439. Definitions.

8 6440. General provisions.

9 6441. Affirmative consent to sexual activity.

10 6442. Policy for alcohol and/or drug use amnesty.

11 6443. Students' bill of rights.

12 6444. Response to reports.

13 6445. Campus climate assessments.

14 6446. Options for confidential disclosure.

15 6447. Student onboarding and ongoing education.

1 6448. Privacy in legal challenges.
2 6449. Reporting aggregate data to the department.
3 § 6439. Definitions. As used in this article, the following terms have
4 the following meanings:
5 1. "Institution" shall mean any college or university chartered by the
6 regents or incorporated by special act of the legislature that maintains
7 a campus in New York.
8 2. "Title IX Coordinator" shall mean the Title IX Coordinator and/or
9 his or her designee or designees.
10 3. "Bystander" shall mean a person who observes a crime, impending
11 crime, conflict, potentially violent or violent behavior, or conduct
12 that is in violation of rules or policies of an institution.
13 4. "Code of conduct" shall mean the written policies adopted by an
14 institution governing student behavior, rights, and responsibilities
15 while such student is matriculated in the institution.
16 5. "Confidentiality" may be offered by an individual who is not
17 required by law to report known incidents of sexual assault or other
18 crimes to institution officials, in a manner consistent with state and
19 federal law, including but not limited to 20 U.S.C. 1092(f) and 20
20 U.S.C. 1681(a). Licensed mental health counselors, medical providers and
21 pastoral counselors are examples of institution employees who may offer
22 confidentiality.
23 6. "Privacy" may be offered by an individual when such individual is
24 unable to offer confidentiality under the law but shall still not
25 disclose information learned from a reporting individual or bystander to
26 a crime or incident more than necessary to comply with this and other
27 applicable laws, including informing appropriate institution officials.
28 Institutions may substitute another relevant term having the same mean-
29 ing, as appropriate to the policies of the institution.
30 7. "Accused" shall mean a person accused of a violation who has not
31 yet entered an institution's judicial or conduct process.
32 8. "Respondent" shall mean a person accused of a violation who has
33 entered an institution's judicial or conduct process.
34 9. "Reporting individual" shall encompass the terms victim, survivor,
35 complainant, claimant, witness with victim status, and any other term
36 used by an institution to reference an individual who brings forth a
37 report of a violation.
38 10. "Sexual activity" shall have the same meaning as "sexual act" and
39 "sexual contact" as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3).
40 11. "Domestic violence", "dating violence", "stalking" and "sexual
41 assault" shall be defined by each institution in its code of conduct in
42 a manner consistent with applicable federal definitions.
43 § 6440. General provisions. 1. Every institution shall:
44 a. adopt written rules implementing this article by amending its code
45 of conduct or other comparable policies;
46 b. annually file with the department on or before the first day of
47 July, beginning in two thousand sixteen, a certificate of compliance
48 with the provisions of this article; and
49 c. file a copy of all written rules and policies adopted as required
50 in this article with the department on or before the first day of July,
51 two thousand sixteen, and once every ten years thereafter, except that
52 the second filing shall coincide with the required filing under article
53 one hundred twenty-nine-A of this chapter, and continue on the same
54 cycle thereafter.
55 2. All institutional services and protections afforded to reporting
56 individuals under this article shall be available to all students and

1 applicable to conduct that has a reasonable connection to that institu-
2 tion. When such conduct involves students or employees from two or more
3 institutions, such institutions may work collaboratively to address the
4 conduct provided that such collaboration complies with the Family Educa-
5 tional Rights and Privacy Act codified at 20 U.S.C. 1232g; 34 C.F.R.
6 Part 99.

7 3. If an institution fails to file a certificate of compliance on or
8 before September first beginning in two thousand sixteen, such institu-
9 tion shall be ineligible to receive state aid or assistance until it
10 files such a certificate. The department shall conduct audits of insti-
11 tutions by random selection, at any time after September first, two
12 thousand sixteen, to ensure compliance with the provisions of this arti-
13 cle, and shall post information and statistics regarding compliance with
14 this article on the department's website.

15 4. A copy of such rules and policies shall be provided by each insti-
16 tution to all students enrolled in said institution using a method and
17 manner appropriate to its institutional culture. Each institution shall
18 also post such rules and policies on its website in an easily accessible
19 manner to the public.

20 5. The protections in this article apply regardless of race, color,
21 national origin, religion, creed, age, disability, sex, gender identity
22 or expression, sexual orientation, familial status, pregnancy, predis-
23 posing genetic characteristics, military status, domestic violence
24 victim status, or criminal conviction.

25 6. The provisions of this article shall apply regardless of whether
26 the violation occurs on campus, off campus, or while studying abroad.

27 7. Institutions shall, where appropriate, utilize applicable state and
28 federal law, regulations, and guidance in writing the policies required
29 pursuant to this article.

30 8. Nothing in this article shall be construed to limit in any way the
31 provisions of the penal law that apply to the criminal action analogous
32 to the student conduct code violations referenced herein. Action pursued
33 through the criminal justice process shall be governed by the penal law
34 and the criminal procedure law.

35 9. Nothing in this article shall be construed to create a new private
36 right of action for any person.

37 10. Nothing in this article shall be construed to prevent an institu-
38 tion from continuing an investigation when required by law to continue
39 such investigation.

40 § 6441. Affirmative consent to sexual activity. 1. Every institution
41 shall adopt the following definition of affirmative consent as part of
42 its code of conduct: "Affirmative consent is a knowing, voluntary, and
43 mutual decision among all participants to engage in sexual activity.
44 Consent can be given by words or actions, as long as those words or
45 actions create clear permission regarding willingness to engage in the
46 sexual activity. Silence or lack of resistance, in and of itself, does
47 not demonstrate consent. The definition of consent does not vary based
48 upon a participant's sex, sexual orientation, gender identity, or gender
49 expression."

50 2. Each institution's code of conduct shall reflect the following
51 principles as guidance for the institution's community:

52 a. Consent to any sexual act or prior consensual sexual activity
53 between or with any party does not necessarily constitute consent to any
54 other sexual act.

55 b. Consent is required regardless of whether the person initiating the
56 act is under the influence of drugs and/or alcohol.

1 c. Consent may be initially given but withdrawn at any time.

2 d. Consent cannot be given when a person is incapacitated, which
3 occurs when an individual lacks the ability to knowingly choose to
4 participate in sexual activity. Incapacitation may be caused by the lack
5 of consciousness or being asleep, being involuntarily restrained, or if
6 an individual otherwise cannot consent. Depending on the degree of
7 intoxication, someone who is under the influence of alcohol, drugs, or
8 other intoxicants may be incapacitated and therefore unable to consent.

9 e. Consent cannot be given when it is the result of any coercion,
10 intimidation, force, or threat of harm.

11 f. When consent is withdrawn or can no longer be given, sexual activ-
12 ity must stop.

13 § 6442. Policy for alcohol and/or drug use amnesty. 1. Every institu-
14 tion shall adopt and implement the following policy as part of its code
15 of conduct: "The health and safety of every student at the {Institution}
16 is of utmost importance. {Institution} recognizes that students who have
17 been drinking and/or using drugs (whether such use is voluntary or
18 involuntary) at the time that violence, including but not limited to
19 domestic violence, dating violence, stalking, or sexual assault occurs
20 may be hesitant to report such incidents due to fear of potential conse-
21 quences for their own conduct. {Institution} strongly encourages
22 students to report domestic violence, dating violence, stalking, or
23 sexual assault to institution officials. A bystander acting in good
24 faith or a reporting individual acting in good faith that discloses any
25 incident of domestic violence, dating violence, stalking, or sexual
26 assault to {Institution's} officials or law enforcement will not be
27 subject to {Institution's} code of conduct action for violations of
28 alcohol and/or drug use policies occurring at or near the time of the
29 commission of the domestic violence, dating violence, stalking, or sexu-
30 al assault."

31 2. Nothing in this section shall be construed to limit an insti-
32 tution's ability to provide amnesty in additional circumstances.

33 § 6443. Students' bill of rights. Every institution shall adopt and
34 implement the following "Students' Bill of Rights" as part of its code
35 of conduct which shall be distributed annually to students, made avail-
36 able on each institution's website, posted in campus residence halls and
37 campus centers, and shall include links or information to file a report
38 and seek a response, pursuant to section sixty-four hundred forty-four
39 of this article, and the options for confidential disclosure pursuant to
40 section sixty-four hundred forty-six of this article: "All students have
41 the right to: 1. Make a report to local law enforcement and/or state
42 police; 2. Have disclosures of domestic violence, dating violence,
43 stalking, and sexual assault treated seriously; 3. Make a decision about
44 whether or not to disclose a crime or violation and participate in the
45 judicial or conduct process and/or criminal justice process free from
46 pressure by the institution; 4. Participate in a process that is fair,
47 impartial, and provides adequate notice and a meaningful opportunity to
48 be heard; 5. Be treated with dignity and to receive from the institution
49 courteous, fair, and respectful health care and counseling services,
50 where available; 6. Be free from any suggestion that the reporting indi-
51 vidual is at fault when these crimes and violations are committed, or
52 should have acted in a different manner to avoid such crimes or
53 violations; 7. Describe the incident to as few institution represen-
54 tatives as practicable and not be required to unnecessarily repeat a
55 description of the incident; 8. Be protected from retaliation by the
56 institution, any student, the accused and/or the respondent, and/or

1 their friends, family and acquaintances within the jurisdiction of the
2 institution; 9. Access to at least one level of appeal of a determi-
3 nation; 10. Be accompanied by an advisor of choice who may assist and
4 advise a reporting individual, accused, or respondent throughout the
5 judicial or conduct process including during all meetings and hearings
6 related to such process; and 11. Exercise civil rights and practice of
7 religion without interference by the investigative, criminal justice, or
8 judicial or conduct process of the institution."

9 § 6444. Response to reports. 1. Every institution shall ensure that
10 reporting individuals are advised of their right to:

11 a. Notify university police or campus security, local law enforcement,
12 and/or state police;

13 b. Have emergency access to a Title IX Coordinator or other appropri-
14 ate official trained in interviewing victims of sexual assault who shall
15 be available upon the first instance of disclosure by a reporting indi-
16 vidual to provide information regarding options to proceed, and, where
17 applicable, the importance of preserving evidence and obtaining a sexual
18 assault forensic examination as soon as possible, and detailing that the
19 criminal justice process utilizes different standards of proof and
20 evidence and that any questions about whether a specific incident
21 violated the penal law should be addressed to law enforcement or to the
22 district attorney. Such official shall also explain whether he or she is
23 authorized to offer the reporting individual confidentiality or privacy,
24 and shall inform the reporting individual of other reporting options;

25 c. Disclose confidentially the incident to institution represen-
26 tatives, who may offer confidentiality pursuant to applicable laws and
27 can assist in obtaining services for reporting individuals;

28 d. Disclose confidentially the incident and obtain services from the
29 state or local government;

30 e. Disclose the incident to institution representatives who can offer
31 privacy or confidentiality, as appropriate, and can assist in obtaining
32 resources for reporting individuals;

33 f. File a report of sexual assault, domestic violence, dating
34 violence, and/or stalking and the right to consult the Title IX Coordi-
35 nator and other appropriate institution representatives for information
36 and assistance. Reports shall be investigated in accordance with insti-
37 tution policy and a reporting individual's identity shall remain private
38 at all times if said reporting individual wishes to maintain privacy;
39 g. Disclose, if the accused is an employee of the institution, the
40 incident to the institution's human resources authority or the right to
41 request that a confidential or private employee assist in reporting to
42 the appropriate human resources authority;

43 h. Receive assistance from appropriate institution representatives in
44 initiating legal proceedings in family court or civil court; and

45 i. Withdraw a complaint or involvement from the institution process at
46 any time.

47 2. Every institution shall ensure that, at a minimum, at the first
48 instance of disclosure by a reporting individual to an institution
49 representative, the following information shall be presented to the
50 reporting individual: "You have the right to make a report to university
51 police or campus security, local law enforcement, and/or state police or
52 choose not to report; to report the incident to your institution; to be
53 protected by the institution from retaliation for reporting an incident;
54 and to receive assistance and resources from your institution."

55 3. Every institution shall ensure that reporting individuals have
56 information about resources, including intervention, mental health coun-

1 seling, and medical services, which shall include information on whether
2 such resources are available at no cost or for a fee. Every institution
3 shall also provide information on sexually transmitted infections, sexu-
4 al assault forensic examinations, and resources available through the
5 New York state office of victim services, established pursuant to
6 section six hundred twenty-two of the executive law.

7 4. Every institution shall ensure that individuals are provided the
8 following protections and accommodations:

9 a. When the accused or respondent is a student, to have the institu-
10 tion issue a "no contact order" consistent with institution policies and
11 procedures, whereby continued intentional contact with the reporting
12 individual would be a violation of institution policy subject to addi-
13 tional conduct charges; if the accused or respondent and a reporting
14 individual observe each other in a public place, it shall be the respon-
15 sibility of the accused or respondent to leave the area immediately and
16 without directly contacting the reporting individual. Both the accused
17 or respondent and the reporting individual shall, upon request and
18 consistent with institution policies and procedures, be afforded a
19 prompt review, reasonable under the circumstances, of the need for and
20 terms of a no contact order, including potential modification, and shall
21 be allowed to submit evidence in support of his or her request. Insti-
22 tutions may establish an appropriate schedule for the accused and
23 respondents to access applicable institution buildings and property at a
24 time when such buildings and property are not being accessed by the
25 reporting individual;

26 b. To be assisted by the institution's police or security forces, if
27 applicable, or other officials in obtaining an order of protection or,
28 if outside of New York state, an equivalent protective or restraining
29 order;

30 c. To receive a copy of the order of protection or equivalent when
31 received by an institution and have an opportunity to meet or speak with
32 an institution representative, or other appropriate individual, who can
33 explain the order and answer questions about it, including information
34 from the order about the accused's responsibility to stay away from the
35 protected person or persons;

36 d. To an explanation of the consequences for violating these orders,
37 including but not limited to arrest, additional conduct charges, and
38 interim suspension;

39 e. To receive assistance from university police or campus security in
40 effecting an arrest when an individual violates an order of protection
41 or, if university police or campus security does not possess arresting
42 powers, then to call on and assist local law enforcement in effecting an
43 arrest for violating such an order, provided that nothing in this arti-
44 cle shall limit current law enforcement jurisdiction and procedures;

45 f. When the accused or respondent is a student determined to present a
46 continuing threat to the health and safety of the community, to subject
47 the accused or respondent to interim suspension pending the outcome of a
48 judicial or conduct process consistent with this article and the insti-
49 tution's policies and procedures. Both the accused or respondent and the
50 reporting individual shall, upon request and consistent with the insti-
51 tution's policies and procedures, be afforded a prompt review, reason-
52 able under the circumstances, of the need for and terms of an interim
53 suspension, including potential modification, and shall be allowed to
54 submit evidence in support of his or her request;

55 g. When the accused is not a student but is a member of the insti-
56 tution's community and presents a continuing threat to the health and

1 safety of the community, to subject the accused to interim measures in
2 accordance with applicable collective bargaining agreements, employee
3 handbooks, and rules and policies of the institution;
4 h. To obtain reasonable and available interim measures and accommo-
5 dations that effect a change in academic, housing, employment, transpor-
6 tation or other applicable arrangements in order to help ensure safety,
7 prevent retaliation and avoid an ongoing hostile environment, consistent
8 with the institution's policies and procedures. Both the accused or
9 respondent and the reporting individual shall, upon request and consist-
10 ent with the institution's policies and procedures, be afforded a prompt
11 review, reasonable under the circumstances, of the need for and terms of
12 any such interim measure and accommodation that directly affects him or
13 her, and shall be allowed to submit evidence in support of his or her
14 request.

15 5. Every institution shall ensure that every student be afforded the
16 following rights:

17 a. The right to request that student conduct charges be filed against
18 the accused in proceedings governed by this article and the procedures
19 established by the institution's rules.

20 b. The right to a process in all student judicial or conduct cases,
21 where a student is accused of sexual assault, domestic violence, dating
22 violence, stalking, or sexual activity that may otherwise violate the
23 institution's code of conduct, that includes, at a minimum: (i) notice
24 to a respondent describing the date, time, location and factual allega-
25 tions concerning the violation, a reference to the specific code of
26 conduct provisions alleged to have been violated, and possible sanc-
27 tions; (ii) an opportunity to offer evidence during an investigation,
28 and to present evidence and testimony at a hearing, where appropriate,
29 and have access to a full and fair record of any such hearing, which
30 shall be preserved and maintained for at least five years from such a
31 hearing and may include a transcript, recording or other appropriate
32 record; and (iii) access to at least one level of appeal of a determi-
33 nation before a panel, which may include one or more students, that is
34 fair and impartial and does not include individuals with a conflict of
35 interest. In order to effectuate an appeal, a respondent and reporting
36 individual in such cases shall receive written notice of the findings of
37 fact, the decision and the sanction, if any, as well as the rationale
38 for the decision and sanction. In such cases, any rights provided to a
39 reporting individual must be similarly provided to a respondent and any
40 rights provided to a respondent must be similarly provided to a report-
41 ing individual.

42 c. Throughout proceedings involving such an accusation of sexual
43 assault, domestic violence, dating violence, stalking, or sexual activ-
44 ity that may otherwise violate the institution's code of conduct, the
45 right:

46 i. For the respondent, accused, and reporting individual to be accom-
47 panied by an advisor of choice who may assist and advise a reporting
48 individual, accused, or respondent throughout the judicial or conduct
49 process including during all meetings and hearings related to such proc-
50 ess. Rules for participation of such advisor shall be established in the
51 code of conduct.

52 ii. To a prompt response to any complaint and to have the complaint
53 investigated and adjudicated in an impartial, timely, and thorough
54 manner by individuals who receive annual training in conducting investi-
55 gations of sexual violence, the effects of trauma, impartiality, the
56 rights of the respondent, including the right to a presumption that the

1 respondent is "not responsible" until a finding of responsibility is
2 made pursuant to the provisions of this article and the institution's
3 policies and procedures, and other issues including, but not limited to
4 domestic violence, dating violence, stalking or sexual assault.
5 iii. To an investigation and process that is fair, impartial and
6 provides a meaningful opportunity to be heard, and that is not conducted
7 by individuals with a conflict of interest.
8 iv. To have the institution's judicial or conduct process run concur-
9 rently with a criminal justice investigation and proceeding, except for
10 temporary delays as requested by external municipal entities while law
11 enforcement gathers evidence. Temporary delays should not last more than
12 ten days except when law enforcement specifically requests and justifies
13 a longer delay.
14 v. To review and present available evidence in the case file, or
15 otherwise in the possession or control of the institution, and relevant
16 to the conduct case, consistent with institution policies and proce-
17 dures.
18 vi. To exclude their own prior sexual history with persons other than
19 the other party in the judicial or conduct process or their own mental
20 health diagnosis and/or treatment from admittance in the institution
21 disciplinary stage that determines responsibility. Past findings of
22 domestic violence, dating violence, stalking, or sexual assault may be
23 admissible in the disciplinary stage that determines sanction.
24 vii. To receive written or electronic notice, provided in advance
25 pursuant to the college or university policy and reasonable under the
26 circumstances, of any meeting they are required to or are eligible to
27 attend, of the specific rule, rules or laws alleged to have been
28 violated and in what manner, and the sanction or sanctions that may be
29 imposed on the respondent based upon the outcome of the judicial or
30 conduct process, at which time the designated hearing or investigatory
31 officer or panel shall provide a written statement detailing the factual
32 findings supporting the determination and the rationale for the sanction
33 imposed.
34 viii. To make an impact statement during the point of the proceeding
35 where the decision maker is deliberating on appropriate sanctions.
36 ix. To simultaneous (among the parties) written or electronic notifi-
37 cation of the outcome of a judicial or conduct process, including the
38 sanction or sanctions.
39 x. To be informed of the sanction or sanctions that may be imposed on
40 the respondent based upon the outcome of the judicial or conduct process
41 and the rationale for the actual sanction imposed.
42 xi. To choose whether to disclose or discuss the outcome of a conduct
43 or judicial process.
44 xii. To have all information obtained during the course of the conduct
45 or judicial process be protected from public release until the appeals
46 panel makes a final determination unless otherwise required by law.
47 6. For crimes of violence, including, but not limited to sexual
48 violence, defined as crimes that meet the reporting requirements pursu-
49 ant to the federal Clery Act established in 20 U.S.C.
50 1092(f)(1)(F)(i)(I)-(VIII), institutions shall make a notation on the
51 transcript of students found responsible after a conduct process that
52 they were "suspended after a finding of responsibility for a code of
53 conduct violation" or "expelled after a finding of responsibility for a
54 code of conduct violation." For the respondent who withdraws from the
55 institution while such conduct charges are pending, and declines to
56 complete the disciplinary process, institutions shall make a notation on

1 the transcript of such students that they "withdrew with conduct charges
2 pending." Each institution shall publish a policy on transcript
3 notations and appeals seeking removal of a transcript notation for a
4 suspension, provided that such notation shall not be removed prior to
5 one year after conclusion of the suspension, while notations for expul-
6 sion shall not be removed. If a finding of responsibility is vacated
7 for any reason, any such transcript notation shall be removed.

8 7. Institutions that lack appropriate on-campus resources or services
9 shall, to the extent practicable, enter into memoranda of understanding,
10 agreements or collaborative partnerships with existing community-based
11 organizations, including rape-crisis centers and domestic violence shel-
12 ters and assistance organizations, to refer students for assistance or
13 make services available to students, including counseling, health,
14 mental health, victim advocacy, and legal assistance, which may also
15 include resources and services for the respondent.

16 8. Institutions shall, to the extent practicable, ensure that students
17 have access to a sexual assault forensic examination by employing the
18 use of a sexual assault nurse examiner in their campus health center or
19 entering into memoranda of understanding or agreements with at least one
20 local health care facility to provide such a service.

21 9. Nothing in this article shall be deemed to diminish the rights of
22 any member of the institution's community under any applicable collec-
23 tive bargaining agreement.

24 § 6445. Campus climate assessments. 1. Every institution shall
25 conduct, no less than every other year, a campus climate assessment to
26 ascertain general awareness and knowledge of the provisions of this
27 article, including student experience with and knowledge of reporting
28 and college adjudicatory processes, which shall be developed using stan-
29 dard and commonly recognized research methods.

30 2. The assessment shall include questions covering, but not be limited
31 to, the following:

- 32 a. the Title IX Coordinator's role;
- 33 b. campus policies and procedures addressing sexual assault;
- 34 c. how and where to report domestic violence, dating violence, stalk-
35 ing or sexual assault as a victim, survivor or witness;
- 36 d. the availability of resources on and off campus, such as coun-
37 seling, health and academic assistance;
- 38 e. the prevalence of victimization and perpetration of domestic
39 violence, dating violence, stalking, or sexual assault on and off campus
40 during a set time period;
- 41 f. bystander attitudes and behavior;
- 42 g. whether reporting individuals disclosed to the institution and/or
43 law enforcement, experiences with reporting and institution processes,
44 and reasons why they did or did not report;
- 45 h. the general awareness of the difference, if any, between the insti-
46 tution's policies and the penal law; and
- 47 i. general awareness of the definition of affirmative consent.

48 3. Every institution shall take steps to ensure that answers to such
49 assessments remain anonymous and that no individual is identified.
50 Institutions shall publish results of the surveys on their website
51 provided that no personally identifiable information or information
52 which can reasonably lead a reader to identify an individual shall be
53 shared.

54 4. Information discovered or produced as a result of complying with
55 this section shall not be subject to discovery or admitted into evidence
56 in any federal or state court proceeding or considered for other

1 purposes in any action for damages brought by a private party against an
2 institution, unless, in the discretion of the court, any such informa-

3 tion is deemed to be material to the underlying claim or defense.

4 § 6446. Options for confidential disclosure. 1. In accordance with
5 this article, every institution shall ensure that reporting individuals
6 have the following:

7 a. Information regarding privileged and confidential resources they
8 may contact regarding domestic violence, dating violence, stalking or
9 sexual assault;

10 b. Information about counselors and advocates they may contact regard-
11 ing domestic violence, dating violence, stalking, or sexual assault;

12 c. A plain language explanation of confidentiality which shall, at a
13 minimum, include the following provision: "Even {Institution} offices
14 and employees who cannot guarantee confidentiality will maintain your
15 privacy to the greatest extent possible. The information you provide to
16 a non-confidential resource will be relayed only as necessary for the
17 Title IX Coordinator to investigate and/or seek a resolution.";

18 d. Information about how the institution shall weigh a request for
19 confidentiality and respond to such a request. Such information shall,
20 at a minimum, include that if a reporting individual discloses an inci-
21 dent to an institution employee who is responsible for responding to or
22 reporting domestic violence, dating violence, stalking, or sexual
23 assault but wishes to maintain confidentiality or does not consent to
24 the institution's request to initiate an investigation, the Title IX
25 Coordinator must weigh the request against the institution's obligation
26 to provide a safe, non-discriminatory environment for all members of its
27 community. The institution shall assist with academic, housing, trans-
28 portation, employment, and other reasonable and available accommodations
29 regardless of reporting choices;

30 e. Information about public awareness and advocacy events, including
31 guarantees that if an individual discloses information through a public
32 awareness event such as candlelight vigils, protests, or other public
33 event, the institution is not obligated to begin an investigation based
34 on such information. The institution may use the information provided at
35 such an event to inform its efforts for additional education and
36 prevention efforts;

37 f. Information about existing and available methods to anonymously
38 disclose including, but not limited to information on relevant confiden-
39 tial hotlines provided by New York state agencies and not-for-profit
40 entities;

41 g. Information regarding institutional crime reporting including, but
42 not limited to: reports of certain crimes occurring in specific
43 geographic locations that shall be included in the institution's annual
44 security report pursuant to the Clery Act, 20 U.S.C. 1092(f), in an
45 anonymized manner that identifies neither the specifics of the crime nor
46 the identity of the reporting individual; that the institution is obli-
47 gated to issue timely warnings of crimes enumerated in the Clery Act
48 occurring within relevant geography that represent a serious or continu-
49 ing threat to students and employees, except in those circumstances
50 where issuing such a warning may compromise current law enforcement
51 efforts or when the warning itself could potentially identify the
52 reporting individual; that a reporting individual shall not be identi-
53 fied in a timely warning; that the Family Educational Rights and Privacy
54 Act, 20 U.S.C. 1232g, allows institutions to share information with
55 parents when i. there is a health or safety emergency, or ii. when the
56 student is a dependent on either parent's prior year federal income tax

1 return; and that generally, the institution shall not share information
2 about a report of domestic violence, dating violence, stalking, or sexu-
3 al assault with parents without the permission of the reporting individ-
4 ual.

5 2. The institution may take proactive steps, such as training or
6 awareness efforts, to combat domestic violence, dating violence, stalk-
7 ing or sexual assault in a general way that does not identify those who
8 disclose or the information disclosed.

9 3. If the institution determines that an investigation is required, it
10 shall notify the reporting individuals and take immediate action as
11 necessary to protect and assist them.

12 4. The institution should seek consent from reporting individuals
13 prior to conducting an investigation. Declining to consent to an inves-
14 tigation shall be honored unless the institution determines in good
15 faith that failure to investigate does not adequately mitigate a poten-
16 tial risk of harm to the reporting individual or other members of the
17 community. Honoring such a request may limit the institution's ability
18 to meaningfully investigate and pursue conduct action against an accused
19 individual. Factors used to determine whether to honor such a request
20 include, but are not limited to:

21 a. Whether the accused has a history of violent behavior or is a
22 repeat offender;

23 b. Whether the incident represents escalation in unlawful conduct on
24 behalf of the accused from previously noted behavior;

25 c. The increased risk that the accused will commit additional acts of
26 violence;

27 d. Whether the accused used a weapon or force;

28 e. Whether the reporting individual is a minor; and

29 f. Whether the institution possesses other means to obtain evidence
30 such as security footage, and whether available information reveals a
31 pattern of perpetration at a given location or by a particular group.

32 § 6447. Student onboarding and ongoing education. 1. Every institution
33 shall adopt a comprehensive student onboarding and ongoing education
34 campaign to educate members of the institution's community about domes-
35 tic violence, dating violence, stalking, and sexual assault, in compli-
36 ance with applicable federal laws, including the Clery Act as amended by
37 the Violence Against Women Act reauthorization of 2013, 20 U.S.C.
38 1092(f).

39 2. Included in this campaign shall be a requirement that all new
40 first-year and transfer students shall, during the course of their
41 onboarding to their respective institution, receive training on the
42 following topics, using a method and manner appropriate to the institu-
43 tional culture of each institution:

44 a. The institution prohibits sexual and interpersonal violence and
45 will offer resources to any victims and survivors of such violence while
46 taking administrative and conduct action regarding any accused individ-
47 ual within the jurisdiction of the institution;

48 b. Relevant definitions including, but not limited to, the definitions
49 of sexual assault, domestic violence, dating violence, stalking, confi-
50 dentiality, privacy, and consent;

51 c. Policies apply equally to all students regardless of sexual orien-
52 tation, gender identity, or gender expression;

53 d. The role of the Title IX Coordinator, university police or campus
54 security, and other relevant offices that address domestic violence,
55 dating violence, stalking, and sexual assault prevention and response;

1 e. Awareness of violence, its impact on victims and survivors and
2 their friends and family, and its long-term impact;
3 f. Bystander intervention and the importance of taking action to
4 prevent violence when one can safely do so;
5 g. Risk assessment and reduction including, but not limited to, steps
6 that potential victims, perpetrators, and bystanders can take to lower
7 the incidence of violations, which may contain information about the
8 dangers of drug and alcohol use, including underage drinking and binge
9 drinking, involuntary consumption of incapacitating drugs and the danger
10 of mislabeled drugs and alcohol, the importance of communication with
11 trusted friends and family whether on campus or off campus, and the
12 availability of institution officials who can answer general or specific
13 questions about risk reduction; and
14 h. Consequences and sanctions for individuals who commit these crimes
15 and code of conduct violations.

16 3. Every institution shall train all new students, whether first-year
17 or transfer, undergraduate, graduate, or professional.

18 4. Every institution shall use multiple methods to educate students
19 about violence prevention and shall share information on domestic
20 violence, dating violence, stalking and sexual assault prevention with
21 parents of enrolling students.

22 5. Every institution shall offer to all students general and specific
23 training in domestic violence, dating violence, stalking and sexual
24 assault prevention and shall conduct a campaign that complies with the
25 Violence Against Women Act, 20 U.S.C. 1092(f), to educate the student
26 population. They shall, as appropriate, provide or expand specific
27 training to include groups such as international students, students that
28 are also employees, leaders and officers of registered or recognized
29 student organizations, and online and distance education students. They
30 shall also provide specific training to members of groups that the
31 institution identifies as high-risk populations.

32 6. Every institution shall require that each student leader and offi-
33 cer of student organizations recognized by or registered with the insti-
34 tution, as well as those seeking recognition by the institution,
35 complete training on domestic violence, dating violence, stalking, or
36 sexual assault prevention prior to receiving recognition or registra-
37 tion, and each institution shall require that each student-athlete
38 complete training on domestic violence, dating violence, stalking, or
39 sexual assault prevention prior to participating in intercollegiate
40 athletic competition.

41 7. Every institution must regularly assess programs and policies
42 established pursuant to this article to determine effectiveness and
43 relevance for students.

44 § 6448. Privacy in legal challenges. Pursuant to subdivision (i) of
45 rule three thousand sixteen of the civil practice law and rules, in any
46 proceeding brought against an institution which seeks to vacate or modi-
47 fy a finding that a student was responsible for violating an insti-
48 tution's rules regarding a violation covered by this article, the name
49 and identifying biographical information of any student shall be
50 presumptively confidential and shall not be included in the pleadings
51 and other papers from such proceeding absent a waiver or cause shown as
52 determined by the court. Such witnesses shall be identified only as
53 numbered witnesses. If such a name or identifying biographical informa-
54 tion appears in a pleading or paper filed in such a proceeding, the
55 court, absent such a waiver or cause shown, shall direct the clerk of

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1 the court to redact such name and identifying biographical information
2 and so advise the parties.

3 § 6449. Reporting aggregate data to the department. 1. Institutions
4 shall annually report to the department the following information about
5 reports of domestic violence, dating violence, stalking and sexual
6 assault:

7 a. The number of such incidents that were reported to the Title IX
8 Coordinator.

9 b. Of those incidents in paragraph a of this subdivision, the number
10 of reporting individuals who sought the institution's judicial or
11 conduct process.

12 c. Of those reporting individuals in paragraph b of this subdivision,
13 the number of cases processed through the institution's judicial or
14 conduct process.

15 d. Of those cases in paragraph c of this subdivision, the number of
16 respondents who were found responsible through the institution's judi-
17 cial or conduct process.

18 e. Of those cases in paragraph c of this subdivision, the number of
19 respondents who were found not responsible through the institution's
20 judicial or conduct process.

21 f. A description of the final sanctions imposed by the institution for
22 each incident for which a respondent was found responsible, as provided
23 in paragraph d of this subdivision, through the institution's judicial
24 or conduct process.

25 g. The number of cases in the institution's judicial or conduct proc-
26 ess that were closed prior to a final determination after the respondent
27 withdrew from the institution and declined to complete the disciplinary
28 process.

29 h. The number of cases in the institution's judicial or conduct proc-
30 ess that were closed because the complaint was withdrawn by the report-
31 ing individual prior to a final determination.

32 2. The department shall create a reporting mechanism for institutions
33 to efficiently and uniformly provide the information outlined in subdi-
34 vision one of this section.

35 3. The department shall not release the information, as provided for
36 in this section, if it would compromise the confidentiality of reporting
37 individuals or any other party in the best judgment of the department.

38 4. Within one year of the effective date of this article, the depart-
39 ment shall issue regulations in consultation with representatives from
40 the state university of New York, city university of New York, and
41 private and independent colleges and universities, and within two years
42 of the effective date of this article the department shall issue a
43 report to the governor, the temporary president of the senate, the
44 speaker of the assembly and the chairs of the higher education commit-
45 tees in each house regarding the data collected pursuant to this
46 section.

47 § 2. Rule 3016 of the civil practice law and rules is amended by
48 adding a new subdivision (i) to read as follows:

49 (i) Privacy of name in certain legal challenges to college/university
50 disciplinary findings. In any proceeding brought against a college or
51 university that is chartered by the regents or incorporated by special
52 act of the legislature, which proceeding seeks to vacate or modify a
53 finding that a student was responsible for a violation of college or
54 university rules regarding a violation covered by article one hundred
55 twenty-nine-B of the education law, the name and identifying biograph-
56 ical information of any student shall be presumptively confidential and

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1 shall not be included in the pleadings and other papers from such
2 proceeding absent a waiver or cause shown as determined by the court.
3 Such witnesses shall be identified only as numbered witnesses. If such a
4 name or identifying biographical information appears in a pleading or
5 paper filed in such a proceeding, the court, absent such a waiver or
6 cause shown, shall direct the clerk of the court to redact such name and
7 identifying biographical information and so advise the parties.

8 § 3. The executive law is amended by adding a new section 232 to read
9 as follows:

10 § 232. Sexual assault victims unit. There is hereby established within
11 the division of state police the sexual assault victims unit, which
12 shall be a specialized unit having advanced training in responding to
13 sexual assaults, including campus sexual assaults, and related crimes.
14 The sexual assault victims unit shall perform such tasks as determined
15 by the superintendent, which shall include but not be limited to provid-
16 ing assistance, including forensic support services, to campus police or
17 local police or sheriff's departments, and providing training to college
18 campus communities.

19 § 4. The sum of four million five hundred thousand dollars
20 (\$4,500,000) is hereby appropriated to the division of state police out
21 of any moneys in the state treasury in the general fund to the credit of
22 the state purposes account, not otherwise appropriated, and made imme-
23 diately available, for the purpose of carrying out the provisions of
24 section 232 of the executive law as added by section three of this act.
25 Such moneys shall be payable on the audit and warrant of the comptroller
26 on vouchers certified or approved by the director of the budget as
27 submitted by the superintendent of state police in the manner prescribed
28 by law.

29 § 5. The sum of four million five hundred thousand dollars
30 (\$4,500,000) is hereby appropriated to miscellaneous aid to localities
31 out of any moneys in the state treasury in the general fund to the cred-
32 it of the local assistance account, not otherwise appropriated, and made
33 immediately available, for services and expenses of rape crisis centers,
34 including but not limited to prevention, education and victim services
35 on college campuses in the state. Notwithstanding any law to the contra-
36 ry, the office of victim services and the department of health shall
37 administer the program and allocate funds pursuant to a plan approved by
38 the director of the budget. Such allocation methodology shall be based
39 in part on the following factors: certification status, number of
40 programs, and regional diversity. Funds hereby appropriated may be
41 transferred or suballocated to any state department or agency. Such
42 moneys shall be payable on the audit and warrant of the comptroller on
43 vouchers certified or approved by the director of the budget in the
44 manner prescribed by law.

45 § 6. The sum of one million dollars (\$1,000,000) is hereby appropri-
46 ated to miscellaneous aid to localities out of any moneys in the state
47 treasury in the general fund to the credit of the local assistance
48 account, not otherwise appropriated, and made immediately available, for
49 services and expenses of college campuses for training and other
50 expenses related to implementation of article 129-b of the education
51 law, pursuant to a plan administered and approved by the director of the
52 budget. Funds hereby appropriated may be transferred or suballocated to
53 any state department or agency. Such moneys shall be payable on the
54 audit and warrant of the comptroller on vouchers certified or approved
55 by the director of the budget in the manner prescribed by law.

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1 § 7. This act shall take effect immediately; provided that sections
2 one, two and three of this act shall take effect on the ninetieth day
3 after it shall have become a law, provided, however, that sections 6445
4 and 6449 of article 129-B of the education law, as added by section one
5 of this act, shall take effect one year after it shall have become law.



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FIVE TOWNS COLLEGE

TITLE IX: GRIEVANCE POLICY AND PROCEDURES

Policy Regarding Sexual Harassment and Misconduct for Students, Staff and Faculty
(FTC institutional policy adheres to these procedures for grievances under Title IX
and NYS Education Law Article 129-B)

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A. PURPOSE & SCOPE:

To ensure a safe and secure living, learning and working environment, Five Towns College (FTC) takes its responsibility to comply with the provisions of Title IX seriously. FTC has endeavored to establish compassionate, consistent, clear, and compliant policies and procedures that are prompt and equitable, have a balanced approach, and allow for adequate, reliable and impartial investigation. Thus, FTC is committed to maintaining a safe educational environment that maximizes students, faculty, and staff welfare and development. FTC is intent on supporting a culture of prevention, intervention and a climate that encourages reporting, respect and trust in the institutional Title IX Response.

Title IX states, in part, that: “No person in the United States shall, on the basis of sex, be

excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance” As such, sexual harassment and misconduct towards students, staff and/or faculty is considered to be a form of discrimination prohibited under Title IX. To comply with the statute, the College is dedicated to providing prompt and equitable responses to any and all complaints alleging violations under the law as set forth below.

Any member of the College community who believes they have sustained sex based discrimination or harassment is encouraged to report the incident to appropriate personnel. Five Towns College has a Title IX Team consisting of the FTC Title IX Coordinator and several Deputies who are visible and accessible to individuals who believe they have sustained a violation under the law; Complainants should know that the members of the Title IX Team are required under the law to make a report if a finding is made. In the alternative or, even just initially, individuals are made aware of and advised of counseling options for confidential reporting. In addition to being apprised of the different reporting options, Complainants are informed of available counseling/emotional support and the necessity to preserve evidence. In addition, Complainants have the right to make a report to Public Safety, local law enforcement, or choose not to report the incident. Individuals have the right to report the incident to the College, to be protected by the College from retaliation for reporting an incident, and to receive assistance and resources.

On and Off-Campus-While Five Towns College is empowered to take appropriate action to comply with its requirements under Title IX for any incidents that occur on campus, it also reserves the discretion to take appropriate action regarding off-campus incidents if it deems the facts and circumstances warrant this. In all instances, Five Towns College will respond within prompt time frames for the complaint process. Both the Complainant and the Respondent will be

given periodic status updates, receive notification of the outcome, and be informed of their right to appeal.

Included in these Grievance Procedures are mechanisms for remedies that address both individual and community safety, implement no-contact orders, provide academic support, adjust academic schedules or living arrangements, provide counseling or emotional support, and allow for other equitable solutions or responses for both parties. Interested parties should be aware that Title IX mandates that these Grievance Procedures apply the “preponderance of the evidence” standard or a standard that means “more likely than not”; in any event, a fair and balanced approach that concerns equitable treatment for the involved parties i.e. Complainants, Respondents and third-party witnesses, is followed.

The grievance procedures set forth below are geared particularly for the adjudication of complaints that may fall under the auspices of Title IX and involve FTC students, faculty, staff or third-party witnesses. The Five Towns College Title IX Coordinator and/or the Deputy Title IX Coordinators noted below a/k/a the **FTC Title IX Team** should be contacted with any inquiries:

The Five Towns College Title IX Coordinator: Dr. Dana Gioe (631) 656-2185

Title IX Deputies:

Janet Kaplan, J.D. (631) 656-2129;
Thomas O'Boyle, M. B. A. (631) 656-2126;
Krysti O'Rourke, M. P. A. (631) 656-2163;
James Ryan, M. S. Ed., Director of HEOP
Michael Cavalli, M. S. W. (631) 656-3127;
Deseree Wiltshire, M. A. (631) 656-2185:

B. DEFINITIONS (alphabetical order):

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

- A sexual encounter is considered consensual when individuals each willingly and knowingly engage in sexual activity. Consent cannot be obtained through the use of coercion. Coercion is the use of pressure, manipulation, substances, force and disregarding objections of another party to engage in sexual activity. Consent must be clearly and unambiguously communicated.

- One who is incapacitated (whether by alcohol or drug use, disability, unconsciousness, or is otherwise helpless) cannot consent to sexual activity. In this procedure, determining whether an individual was incapacitated may depend on the perspective of an objective and reasonable interpretation of events to consider whether a sober individual in the respondent's position could know or should have known that the complainant was incapacitated.

Lack of Affirmative Consent exists where the respondent knew, or a reasonable person in the position of the respondent should have known, of the other person's inability to consent. There is no Affirmative Consent where the respondent knew, or a reasonable person in the position of the respondent should have known, that the complainant was unable to make an informed rational judgment due to his or her use of alcohol or other drugs.

Dating Violence means violence by a person who has been in a romantic or intimate relationship with the complainant (victim). Whether there was such relationship will be gauged by its length, type, and frequency of interaction. Dating violence can be a single act or a pattern of behavior in relationships. The parties may be in short or long-term relationships (current or former) intended to provide some emotional/romantic and/or physical intimacy.

Discrimination occurs when one experiences negative or adverse conduct based on characteristics protected in this policy and applicable local, state, and federal laws, where such conduct has the effect of denying or limiting one's ability to benefit from and fully participate in educational programs or activities or employment opportunities.

Domestic Violence includes assorted violent misdemeanor and felony offenses committed by the complainant's current or former spouse, current or former cohabitant, person

similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law. Domestic violence can be a single act or a pattern of behavior in relationships. The parties may be in short or long-term relationships (current or former) intended to provide some emotional/romantic and/or physical intimacy.

Gender-Based Harassment includes acts of verbal, non-verbal, or physical aggression, intimidation, or hostility based on gender, gender identity, or gender-stereotyping. Gender-based harassment can occur when an individual or group is harassed either for exhibiting stereotypical characteristics of a particular sex or failing to conform to stereotypical notions of masculinity or femininity.

Gender-Based Misconduct comprises a broad range of behaviors focused on sex and/or gender discrimination that may or may not be sexual in nature. Sexual harassment, sexual assault, sexual exploitation, gender-based harassment, stalking, domestic violence and dating violence are forms of gender-based misconduct under this policy. Misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship (current or former). Gender-based misconduct can be committed by men or by women, and it can occur between people of the same or different sex or gender identity.

Grievance related to Title IX and which entitles the individual(s) to the procedures herein is, generally, something considered as grounds for a complaint.

Harassment is harassment on the basis of a protected classification, including harassment of an individual in connection with a stereotyped group characteristic, or because of that person's identification with a particular group. Harassment, a form of discrimination, consists of either sexual harassment or other unlawful harassment because of a protected characteristic or belief. Protected characteristics or beliefs under this Policy are as follows: race,

color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, marital or veteran status or any other characteristic protected by state or federal laws.

Such harassment is any conduct, verbal, nonverbal, or physical, on or off campus, that has the effect, because of its severity and/or persistence, of unreasonably interfering with an individual or group's educational or work performance or that creates an intimidating or hostile educational, work or living environment. Discriminatory harassment includes, but is not limited to epithets or slurs, negative stereotyping, denigrating jokes and display or circulation in the working, learning, or living environment (including electronic transmission) of written or graphic material.

Retaliation is any action to penalize, intimidate, harass, or take adverse action against a person who makes a report of discrimination or harassment, participates in an inquiry or investigation or otherwise asserts rights protected by non-discrimination laws.

Sexual Assault is any non-consensual intentional physical contact of a sexual nature, such as unwelcome physical contact with a person's genitals, buttocks, or breasts, or any form of sexual intercourse without consent. Rape is a form of sexual assault. Sexual assault occurs when the act (non-consensual sexual contact or non-consensual sexual intercourse) is committed by: a) physical force, violence, threat, or intimidation; b) ignoring the objections or without the consent of another person; c) causing another's incapacitation through intoxication or impairment through the use of alcohol or other drugs; and/or d) taking advantage of another person's incapacitation by alcohol or drug use, disability, unconsciousness or helplessness which renders them unable to give consent. In accordance with New York State law, a person under the age of 17 lacks the capacity to give consent. (See the definition of Consent below).

Sexual Exploitation is non-consensual sexual abuse or exploitation of another, such behavior that does not otherwise constitute another specifically defined behavior. Examples of sexual exploitation include, but are not limited to, non-consensual use of electronics to capture, reproduce or share images of a sexual nature without consent of parties involved, public indecency or exposing genitals to others without consent or engaging in 'peeping' (observing another when privacy would be reasonably expected) without consent.

Sexual Harassment is unwelcome conduct of a sexual nature. Sexual assault and requests for sexual favors that affect educational or employment decisions constitute sexual harassment. Sexual harassment may also consist of unwelcome physical contact, requests for sexual favors, and visual displays of degrading sexual images, sexually suggestive conduct, or remarks of a sexual nature. Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal (including print or electronic communication) or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or admission to or participation in an academic program or College-sponsored activity; or
2. Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment status or academic standing; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's performance on the job or in the classroom; or
4. Such conduct has the purpose or effect of creating an intimidating or hostile work or study environment for an individual or group of individuals.

Sexual harassment can occur regardless of the relationship, position or respective sex of the parties,

same sex harassment violates this policy. Harassment because of one's actual or perceived sexual orientation also constitutes a violation of this policy. Violation of this policy also includes harassment by a student of a faculty member or a subordinate employee of his/her supervisor.

Stalking means a course of conduct directed at a specific person that would cause a reasonable person to feel fear for her, his or others' safety or to suffer substantial emotional distress. Stalking involves repeated and continued harassment made against the expressed wishes of another individual, which causes the targeted individual to feel emotional distress, including fear and apprehension. Stalking behaviors may include: pursuing or following, non-consensual (unwanted) communication or contact, including face-to-face, telephone calls, voice messages, electronic messages, text messages, unwanted gifts, etc., trespassing, and surveillance or other types of observation.

C. ALCOHOL AND DRUG AMNESTY

Of paramount importance at Five Towns College is the health and safety of every student. Five Towns College recognizes that students who may 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. Nonetheless, students are strongly encouraged to report domestic violence, dating violence, stalking, or sexual assault to institutional officials. Thus, 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 Five Towns College's officials or law enforcement will not be subject to consequences under the College's Code of Conduct 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.

D. CONFIDENTIAL RESOURCES VS. PRIVACY

This issue of confidentiality is important for individuals who believe they have sustained discrimination or harassment under Title IX to understand. Students or employees who wish to obtain confidential assistance, support, guidance as well as emotional support may do so by speaking with professionals who are obligated by law to maintain confidentiality. Under state law, confidential resources generally include medical providers, mental health providers, clergy and rape crisis counselors. At Five Towns College, this specifically means that professionals in the Counseling Center are required to maintain confidentiality as well as other off-campus Counseling Services.

Individuals i.e. students or employees are, therefore, apprised that reports of sexual assault, harassment or discrimination that may fall under Title IX when communicated to other institutional employees of the school may not be confidential but that privacy will be protected as much as the law provides. This is because Title IX requires that any school employees i.e. faculty, staff, administrators, student employees responsible for student or employee welfare are required to share with a member of the Title IX Team any report of sexual harassment or misconduct they receive or of which they become aware. This may include resident advisors, resident directors, peer advocates or educators and/or members of the Title IX Team.

E. REPORTING OPTIONS

Five Towns College supports the goal of centralized reporting to ensure consistent application of this Title IX Policy, to permit prompt and equitable resolution of these matters, eliminate harassment, prevent recurrence and address its effects. FTC encourages dissemination of this Policy and educating College constituents of the reporting options thereunder. Therefore, in addition to being posted on the institution's website, students/employees are encouraged to consider these reporting options and, then, consult with the Title IX Coordinator or members of the Title IX Team, the Office of Public Safety, the Office of the Dean of Students or the Associate Dean of Students/Director of Residence Life. Further, FTC is obligated to take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. Individuals can be assured of no retaliation and that the institution will protect them from any fear of reprisal. Individuals are encouraged to take the option that they chose.

It needs to be clear then that complainants who make a report to any College employee will trigger the centralized review process. While those reports will be kept private, they are not afforded absolute legal confidentiality protections. A report to a College employee is required to be reported to the Title IX Coordinator. Only reports or conversations or support from the professionals in the College Counseling Office or off-campus Counseling Services are ensured to be confidential; in any instance where an individual is either not sure to report or not ready to report, that reporting option should be considered first. It is, thus, imperative that the College constituents are aware of these reporting options

F. TITLE IX GRIEVANCE/APPEAL PROCEDURES

FILING A REPORT

Any report of alleged gender-based misconduct by a student, member of the faculty, staff or administration of Five Towns College or a person who is not a member of the College community can be filed with the Title IX Coordinator or other designated contact noted within this Policy Regarding Sexual Harassment and Misconduct for Students, Staff and Faculty. All members of the community are encouraged to consult with the Title IX Coordinator if they are unsure about how or what information to report. The Title IX Coordinator is obligated to act on any report of alleged gender-based misconduct, to ensure measures are taken to stop adverse behavior and prevent its recurrence, as appropriate. It is important to note, however that not every report leads to a disciplinary process. Each report is reviewed individually. Information can be shared with members of the FTC Title IX Team via email noted on the College's website.

In cases where the gender-based misconduct is reported anonymously (e.g. through the online report without including information of the reporting party) or by an observer/concerned individual to the Title IX Coordinator, the Complainant will be notified by the Title IX Coordinator that a report has been received. The Title IX Coordinator will meet with the Complainant to discuss her/his options and available resources at the College and in the community. The Complainant has a right to withdraw involvement or withdraw complaint, however, in some circumstances, the College nevertheless may need to investigate, such as where it is necessary to ensure the safety of the College community. In such instances where the complainant withdraws the complaint or from involvement in the process, the College may proceed and serve as a complainant in the matter.

ADMINISTRATIVE CONTACTS FOR MAKING A REPORT

Anyone wishing to file a report of gender-based misconduct, seeking information, accommodation and/or resource information should contact the Title IX Coordinator. This may include reports of gender-based misconduct by a visitor to or vendor of campus, or when the identity of the alleged perpetrator is unclear. Anyone may consult with the Title IX Coordinator regarding reporting or may file a report electronically by emailing the Title IX Coordinator.

The Title IX Coordinator is responsible for coordinating the College's response, disciplinary process, and for working with all involved parties. The Title IX Coordinator will assist in identifying options for complainants in situations when discipline of the Respondent is outside of the College's jurisdiction (including students of other institutions).

RIGHTS OF REPORTING INDIVIDUAL/COMPLAINANT

Upon receipt of a report of an incident of sex or gender-based misconduct the Title IX Coordinator will insure the reporting individual has been advised of their rights (1) to make a report to local law enforcement and /or state police or choose not to report; (2) to report the incident to campus authorities; (3) to be protected from retaliation by the College for reporting an incident; and (4) to receive assistance and resources from the College. The reporting individual can choose to meet with the Title IX Coordinator to discuss these rights.

Individuals reporting acts of sex or gender-based misconduct may also choose to file a report with local law enforcement. The College system and police/legal system work independently from one another. Individuals can file reports with the College, or local law enforcement or with both systems simultaneously. Individuals also have the right to decline reporting. Because the standards for finding a violation of criminal law are different from the

standards in this policy, criminal investigations or reports are not determinative of whether or not gender-based misconduct, under this policy, has occurred.

ADVISOR OF CHOICE

Complainant and Respondent each have the right to be accompanied to any related meeting or proceeding by an advisor of their choice. An advisor may be an individual who attends as a supportive presence. An advisor may take notes and quietly confer with the party being advised, but may not speak on behalf of the party or in any way disrupt any meeting or proceeding. Witnesses or others involved in this process are not permitted to bring another person to any meeting or hearing.

Although the parties are not required to bring their advisor to all meetings, utilizing the same advisor throughout the process, unless there are extenuating circumstances, allows the process to move forward in an efficient fashion. In the event that a party wants to make a change to their advisor, they must provide notice to the Title IX Coordinator.

TIME FRAME

The College encourages prompt reporting, but does not limit the time frame for filing a report of gender-based misconduct. Reports can be submitted at any time following an incident, although the College's ability to take any action may be adversely affected or limited by the length of time between the alleged incident and the report. The current relationship to the alleged perpetrator may also limit the available range of disciplinary action (e.g., if an individual is no longer employed by the College or enrolled as a student). Once a report is received, projected timelines are provided in the steps of the procedure outlined below.

JURISDICTION

The College is able to respond formally to alleged incidents of gender-based misconduct:

- that occurred or may have a continuing effect on campus,
- that occurred in the context of official College programs or activities (regardless of location), or where the Complainant and Respondent are students, member of the faculty, staff or administration of the College.

If the Respondent is affiliated with the College, but not a College student, faculty or staff member, procedures of the affiliated institution may apply to the investigation and disciplinary process.

If the offender is unknown or is not a member of the College community, the Title IX Coordinator (or designee) will assist individuals in identifying appropriate on and off campus resources and/or provide access to local law enforcement authorities if the individual would like to file a report. In addition, the College may take other actions such as providing interim measures or accommodations to protect the individual and the campus community, regardless of whether there is a disciplinary process to proceed.

RETALIATION

Any action by a member of the Five Towns College community to penalize, intimidate, harass, take adverse action against a person who makes a report of discrimination or harassment, participates in an investigation or otherwise asserts rights protected by non-discrimination laws is prohibited. Retaliation may be found even when the underlying report does not constitute discrimination or harassment in violation of policy.

Any person who believes that he or she has experienced retaliation for reporting

discrimination or harassment, participating in an investigation, or for acting as an advocate should immediately contact the Title IX Coordinator or Human Resources. The College takes such reports seriously, investigates reports of retaliation, and takes strong disciplinary action against individuals found to have engaged in retaliation, as appropriate. All members of the College community are expected to cooperate with investigations of violation of this policy.

INTERIM MEASURES

Based upon the nature of a report, and particularly where the presence of the Respondent may be a continuing threat to the health or safety of the community, the College may impose restrictions, or interim measures, during the investigative process, up to or including suspension or other access restrictions. Requests for specific measures to be considered can be discussed with the Title IX Coordinator.

When the Respondent is a student, the College may issue a “no contact directive” consistent with College policies and procedures, whereby continued intentional contact with the reporting individual would be a violation of the College policy subject to additional conduct charges. If the Respondent and the Complainant observe each other in a given campus space, it shall be the responsibility of the Respondent to leave the area immediately and without directly contacting the Complainant. The College may work with both parties to establish an appropriate schedule for the Respondent to access applicable College buildings and property at a time when such buildings and property are not being accessed by the Complainant. No contact directives may also be imposed when the Respondent is a staff or faculty member of the College.

During an investigation and until resolution of the matter, other reasonable and available interim measures and accommodations may be provided, including bans from campus, and/or

appropriate changes in academic, housing, transportation or employment or other applicable arrangements in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment. Failure to adhere to the parameters of any interim measures is a violation of policy and may lead to additional disciplinary action.

Both the Respondent and the Complainant shall, upon request to the Title IX Coordinator, be afforded a prompt review of interim measures that may affect both parties, including the ability to provide information and/or evidence, reasonable under the circumstances, of the need for reviewing terms of a no contact order or parameters of other interim measure, including interim suspension, as well as including proposed potential modification.

ACCOMMODATIONS

All students affected by experience of gender-based misconduct, whether or not the matter is to be adjudicated by the College, may request accommodations to support safety, well-being, and access to education. The Title IX Coordinator will work with the student, in light of available information at the time of the request, to identify reasonable accommodations.

Accommodations may include, but are not limited to housing reassignment, adjustments to academic or campus work schedules, providing access to tutoring or academic support, or allowing a student to withdraw from or retake a course without penalty.

Informal Resolution Options

Informal resolution options are not available in cases involving allegations of sexual violence (e.g. rape, sexual assault, sexual coercion), even on a voluntary basis.

INDEPENDENT INFORMAL RESOLUTION

In cases involving some forms of alleged gender-based misconduct, an individual may choose to deal with the alleged offender directly through a face to face discussion, a personal

telephone conversation, e-mail correspondence, or other written correspondence. In some cases, this approach may resolve the situation; in others, it may be ineffective or place the individual in an uncomfortable, insecure, or compromised position. Under no circumstances should an individual feel pressured to address the alleged offender directly or otherwise handle the matter alone, and a decision not to confront an individual she/ he believes to be discriminatory or harassing will not be viewed negatively. If efforts to address a matter directly prove unsuccessful or impractical, an individual may choose to meet with the Title IX Coordinator to pursue other methods of resolution as described in these procedures.

FACILITATED INFORMAL RESOLUTION

In cases involving some forms of alleged gender-based misconduct, the Title IX Coordinator (or designee, in collaboration with the Title IX Coordinator) will determine whether there is an appropriate facilitated informal resolution mechanism that may be considered based on information provided about the incident. This may include shuttle diplomacy, facilitated conversation, and/or training and education for individuals or groups.

If it is determined that a facilitated informal resolution may be appropriate, the Title IX Coordinator will speak with the Complainant about this option. If the Complainant agrees, the Title IX Coordinator (or designee) will speak with the Respondent. Facilitated informal resolution will be pursued only with the consent of both parties; either party may terminate the facilitated informal resolution process at any time and the Complainant may choose to pursue or resume the formal resolution process instead. If the facilitated informal process results in a resolution, both parties will receive outcome notification that the process has concluded and the case will be closed. If the parties are unable to reach a resolution in a timely manner, or if either party requests to terminate the facilitated informal resolution process, the investigation and disciplinary process will proceed. It is anticipated that facilitated informal resolution efforts will

be prompt and, generally, should be completed within forty-five (45) days; unless both parties agree to an extension of time and the Title IX Coordinator approves such extension.

Inquiry and Investigation

INQUIRY

Promptly following the receipt of a report, information will be reviewed by the Title IX Coordinator to determine if there may be reason to believe that a policy may have been violated. An initial inquiry will be undertaken by the Title IX Coordinator, if necessary, to determine whether a formal investigation must commence. If further information is necessary, it may involve prompt discussions with the Complainant and others, as appropriate. The Complainant may be accompanied by an advisor of choice to all meetings. An advisor may attend, but not participate in, all meetings and interviews. The Complainant may be offered reasonable accommodations and will be offered resources, as appropriate, regardless of whether or not there is reason to proceed with an investigation.

If the findings of the initial inquiry indicate there is not sufficient reason to believe a violation may have occurred, the Complainant will receive prompt notice of this outcome and rationale, and will be afforded the opportunity to appeal the decision not to commence a formal investigation. Inquiry is a prompt process that should not take longer than five to ten (5-10) days. If a formal investigation is to commence, the Respondent will be notified that a report has been filed. In cases of investigation of an employee as Respondent, the employee's supervisor may be notified of the investigation at the same time the Respondent receives notification.

Vendors or other agencies in contract with the College will be promptly notified if any of their employees are alleged to have violated this policy, and such employees may be banned from College properties and may be subject to action deemed appropriate by their respective

employer. Restrictions regarding access to College property or events may be imposed.

The Respondent and Complainant, with their respective advisor of choice, will be given the opportunity to meet separately with the Title IX Coordinator (or designee) to review the policy and procedure, as well as related rights. A complete list of Complainant and Respondent Rights are included at the end.

FORMAL INVESTIGATION

Reports of alleged gender-based misconduct will be equitably investigated in a fair, impartial, thorough and prompt fashion, providing a meaningful opportunity for participants to be heard. Investigation will be conducted by individuals without a conflict of interest or bias for or against either party. Every effort is made to resolve complaints within sixty (60) days. The formal investigation process may vary depending upon the nature and complexity of the case and the time of year (and availability of parties). Typically the investigation process may take 30-40 days (inclusive of initial inquiry, if applicable).

A Title IX Investigator(s) (who will be either the FTC Title IX Coordinator or a member(s) of the FTC Title IX Team) will interview the Complainant, Respondent, and available witnesses, as appropriate. The Complainant and Respondent may each have an advisor of choice present at all meetings and interviews. The Investigator will also gather any pertinent evidentiary materials (this may include, but is not limited to, emails, written or electronic documents or photographs).

During the investigation process, both the Complainant and the Respondent will have an equal opportunity to provide the FTC Title IX Investigator(s) with relevant evidence and/or specific witness information. It is possible that more than one meeting may be necessary for Complainant and Respondent to have opportunity to respond to information obtained.

The FTC Title IX Investigator(s) will prepare an investigative report that will include a summary of relevant information of each interview, provide a summary of factual information, and include any relevant documentation collected. It should be noted that some information disclosed during investigation may not be relevant or appropriate to include in the investigative report. Specifically, the parties' sexual history with anyone other than each other (to the extent relevant to the complaint) or disclosure of medical or mental health conditions, diagnoses, and/or treatment generally will not be included.

The Complainant and Respondent will each have the opportunity to review the investigative report, in the presence of a member of the FTC Title IX Team and deliver a response to the investigative report. An impact statement may be provided, in writing, to be provided for review by the Adjudicator. The Adjudicator at FTC is either the Title IX Coordinator or a member (s) of the Title IX Team who did not participate in the investigation. The investigative report is then delivered to the Adjudicator for review and adjudication.

In some instances, during or at the conclusion of the investigation, the parties may voluntarily agree to end the formal process and utilize one of the informal resolution processes described above. Where informal resolution is appropriate for the circumstances (and such circumstances do not involve allegations of sexual violence), the Title IX Coordinator will make a decision about whether the matter may be resolved through an informal process. In addition, should it be determined that the information reported and investigated is not appropriate for consideration through these Title IX procedures, a decision to refer the matter for an institutional disciplinary proceeding may be made.

At any point, the College may institute community-based efforts such as educational initiatives and/or trainings as deemed appropriate for prevention.

INDEPENDENT INVESTIGATION

The College, at the discretion of counsel, may conduct an investigation independent of, or in addition to, the procedures provided herein at any time. The investigation may involve complaints or allegations concerning gender-based misconduct against the College or any of its employees or students.

Adjudication Process

ADMINISTRATIVE RESOLUTION

Upon review of the investigative report, the Respondent will be given the opportunity to respond to the alleged violation of policy in the following ways: 1) No Response; 2) Not Responsible; or 3) Responsible.

If the Respondent accepts responsibility, the FTC Title IX Coordinator or Title IX Team members will be notified, and both parties will receive notification and that the matter has been forwarded for sanctioning.

If the Respondent declines responsibility, or chooses not to respond, the Complainant will be notified and the case will be forwarded to the FTC Title IX Coordinator or member(s) of the Title IX Team for review and adjudication.

REVIEW OF INVESTIGATIVE FINDINGS

The FTC Title IX Team Adjudicator(s) is charged with fairly, promptly and impartially determining, based on a preponderance of the evidence, whether it is more likely than not that policy has been violated upon a review of the investigative materials. FTC Title IX Team members who do not possess a conflict of interest or bias for or against either party will conduct the adjudication. A party with concern about a conflict of interest or bias should contact the Title IX

Coordinator.

The FTC Title IX Team Adjudicator(s) will review the investigative report and materials within five (5) days of delivery. If clarification is needed on any of the materials, the FTC Title IX Team member(s) and/or Title IX Coordinator will assist the Title IX Team in obtaining this. Though it is typically not necessary, consultation with the Title IX Coordinator to request further information from the Respondent may be undertaken. Complainant and/or any of the witnesses may be asked to clarify information in the investigative materials. If such follow up is necessary, the Complainant and the Respondent, will again each have the opportunity to review and respond to the updated investigative report.

FTC TITLE IX TEAM ADJUDICATOR FINDINGS

The FTC Title IX Team Adjudicator(s) will decide, upon a complete review of the investigative report and materials and based on a preponderance of the evidence, whether there has been a violation of any gender-based misconduct policies. Preponderance of evidence means that based on the information provided, a violation of policy was more likely than not to have occurred.

If it is determined that a violation has occurred, the Respondent is “Responsible” and the appropriate sanctions will be determined. This determination will be made within ten (10) days of receipt of the investigative report. If found “Not Responsible”, both Respondent and Complainant will be notified in writing of the outcome, rationale for the not responsible finding, and any related action i.e. communication of continued measures such as a no contact directive, and instructions about the right to appeal the outcome and/or sanction(s) to the Appeals Panel.

DETERMINATION OF SANCTIONS

If the Respondent has accepted responsibility or there has been made a finding of

responsibility, based on review of the investigative report and related materials, the FTC Title IX Coordinator and/or Team Adjudicator(s) (or designee) will determine the appropriate sanctions.

Consideration may be given to the nature of and the circumstances surrounding the violation, prior disciplinary violations, precedent cases, College safety concerns and any other information deemed relevant. Past findings of domestic violence, dating violence, stalking or sexual assault may be admissible for consideration during sanctioning. The FTC Title IX Team Adjudicator(s) will render a written decision detailing the factual findings supporting the determination and the rationale for the sanction(s) imposed, if applicable.

The sanctioning determination will be made within five (5) days of receiving the investigative report with indication that the Respondent accepted responsibility or the FTC Title IX Team Adjudicator's determination of responsibility. Both Respondent and Complainant will be notified in writing of the outcome, rationale for finding and sanctions, and/or remedies, as well as instructions about the right to appeal the outcome and/or sanction(s) to the Appeals Panel.

RANGE OF SANCTIONS

Faculty, staff or administrators who are found in violation of any sex or gender-based misconduct policy are subject to disciplinary action, up to and including discharge. Students are subject to disciplinary action, up to and including suspension or expulsion. In any case, educational programming or alcohol/substance assessment may be required. Sanctions may include reassignment of work duties or location; reassignment of class meetings; reassignment of or removal from living accommodations; restrictions on contact with Complainant; access restrictions to College property and/or events, disciplinary probation, suspension or expulsion. More than one sanction may be imposed.

Guests, visitors and other persons who are alleged to have engaged in sex or gender-based misconduct are subject to corrective action, which may include removal from campus, ban from campus, and/or termination of contractual arrangements. Vendors or other agencies in contract with the College will be promptly notified if any of their employees are alleged to have violated policy, and such employees may be banned from any or all College properties and may also be subject to action deemed appropriate by their respective employer or law enforcement. Restrictions regarding access to College property or events may also be imposed.

Regardless of how a matter proceeds in this process, a range of remedies may be made by the College, including reviewing protocol and providing or enhancing training to staff and/or students. Protective measures may also be taken, such as issuing no-contact directives or access restrictions or implementing reasonable accommodations. Accommodation requests are reviewed on a case by case basis, and may include, but are not limited to, measures such as moving a student's housing assignment, adjusting a campus work schedule, assisting with academic support, seeking extensions for assignment, or allowing a student to withdraw and/or retake a course without penalty.

Appeals Process

The Respondent and Complainant may request an appeal of the decision and sanctions rendered on one of the following three grounds:

1. The party believes a procedural error occurred, which the party feels may change or affect the outcome of the decision;
2. The party has substantive new evidence that was not available during the investigation, at the time of the hearing, and/or that may change the outcome of the decision;
3. The party feels that the severity of the sanction is substantially disproportionate given the

details of the case.

Disagreement with the finding or sanctions is not, by itself, grounds for appeals.

The request for an appeal, including the grounds upon which the request is based, should be submitted in writing to the FTC Appeals Panel (as identified in the outcome letter) within five (5) business days following the date on the outcome letter. The other party will be notified if an appeal request is submitted and be provided the opportunity to respond in writing.

The Appeals Panel consists of the FTC Provost, FTC President or their designee(s).

Appeals will be conducted in an impartial manner. The Appeals Panel can determine whether a change in the FTC Title IX Team Adjudicator's decision is warranted. If a change in this decision is necessary, the Appeals Panel will review the appeal, the rationale and make a final decision. The appeals decision is final.

Appeals will not be reviewed or considered beyond the Appeals Panel. Appeals decisions will be rendered within ten (10) business days after the receipt of the formal request for appeal. Both parties will be notified in writing of appeals outcome.

NOTIFICATION TO THE PARTIES

Both the Complainant and Respondent will be concurrently notified of results, in writing, at the following times:

1. Commencement of the Investigation Process
 - The parties will receive notice of the date, time, location and description of the alleged violation and possible sanctions related to such allegation.
2. Commencement and Conclusion of Facilitated Informal Resolution (if applicable)

- Notice of the approval of request for independent or facilitated resolution (or termination) of such informal resolution.

3. Conclusion of the Investigation

- After the conclusion of the Investigation, each party, accompanied by his or her advisor of choice, will be notified and provided the opportunity to review the investigative materials, in the presence of a member of the FTC Title IX Team.

4. Administrative Resolution

- Notice of no responsibility by Respondent
- Notice that the Respondent accepts responsibility for being “in violation” (if applicable).
- Notice of the sanctions determined by the FTC Title IX Team Adjudicator(s) after the Respondent accepts responsibility.

5. Adjudication and/or Sanctioning Outcome

- Notice of the FTC Title IX Team Adjudicator’s finding of “responsible” or “not responsible”.
- Notice of the sanctions determined upon a finding that the Respondent is “responsible.”
- Notice to both parties of the right to appeal the sanctioning.

6. Appeals Process

- Notice that either party at any point has filed an appeal in the outcome phase.

7. Conclusion of Appeals Period

- Notice of the Appeals Panel determination or final resolution of the appeals process, if applicable.

PROCEDURAL TIMELINE

The goal of the College is to provide a prompt resolution, upon receipt of a report, seeking to resolve matters within sixty (60) days whenever possible. Best efforts will be made by the College to adhere to the time frames provided in this procedure. If time frames cannot be met, the FTC Title IX Coordinator or Title IX Team member will notify the Complainant and Respondent in writing of the reason for the delay and will provide an estimated timeline by which that step of the process will be completed.

Generally, the time line will be as follows:

- Inquiry completed within 5-10 days after the initial report
- Investigation completed within 30-40 days after the initial report (inclusive of inquiry)
- FTC Title IX Team Adjudicator(s) to review the investigative report and materials with 5 days of delivery
- Determination issued within 10 days after receipt of investigative report
- Notice of sanctions issued within 5 days after the determination
- Appeals due from either party within 5 business days following the date on the outcome letter
- Appeals decisions rendered within 10 business days after receipt of the formal request of appeal

G. RESOURCES AND RIGHTS

RESOURCES FOR ANYONE WHO EXPERIENCES GENDER-BASED MISCONDUCT

The College's primary concern is with the health, safety, and well-being of the members of the Five Towns College community. If you or someone you know may have experienced any form of gender-based misconduct or possible violations under Title IX, we urge you to seek immediate assistance. Student assistance can be obtained 24 hours a day, 7 days a week from:

ON-CAMPUS CONFIDENTIAL RESOURCES:

Five Towns College Counseling Center: Mrs. Carolyn Newman (631) 656-3191

ALL FTC COMMUNITY MEMBERS:

All members of the community can seek assistance through the following contacts:

- FTC Public Safety Office: (631) 656-2196
- Title IX Coordinator, Dana Gioe (631) 656-2189
- NYS Police 24 Hour Hotline # is: 1-844-845-7269

Additional information about gender-based and sexual misconduct can be found on the Five Towns College website, <http://www.ftc.edu/title-ix/>

RELEVANT GOVERNMENT RESOURCES

The below government agency may provide additional resources for anyone wishing to file a complaint of gender-based misconduct:

U.S. Department of Justice, Office on Violence Against Women, <http://www.ovw.usdoj.gov/>

Department of Education, Office for Civil Rights, New York—Region II via

email OCR.NewYork@ed.gov or online at <http://www.ed.gov/ocr>

H. COMPLAINANT AND RESPONDENT RIGHTS

The following rights are available to both parties in this process:

- To be treated with respect, dignity, and sensitivity throughout the process.
- To seek support services at the College or referrals for support services off campus.
- To privacy and protection under the Family Education Rights and Privacy Act (FERPA), as applicable. The College will make all reasonable efforts to ensure preservation of privacy, restricting information to those with a legitimate need to know.
- To be informed of the College's Policies and Procedures related to Gender-Based Misconduct.
- To a prompt and thorough investigation of the allegations, investigated and adjudicated in an impartial, timely and thorough manner by trained individuals.
- To receive similar and timely access to information, and periodic updates on the progress of the process.
- To review all applicable documents prior to the review by the Adjudicator.
- To challenge the individuals responsible for administering these procedures, if a conflict of interest is present.
- To participate or decline to participate in the disciplinary procedure. However, the Adjudicator will determine an outcome with the information available to him/her.
- To discuss alternatives to procedures, where alternatives may be reasonable and acceptable to involved parties.

- To refrain from making self-incriminating statements. However, the Adjudicator will determine a resolution with the information available to him/her.
- To be afforded an appeal process regarding outcome and/or sanctioning (as applicable).
- To be notified, in writing, of the case resolution – including the outcome of any appeal.
- To report the incident to law enforcement if she/he wishes to do so, and receive assistance with this if requested.
- To understand that information collected in this process may be subpoenaed in criminal or civil proceedings.

These rights apply regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

I. N.Y.S. EDUCATION LAW ARTICLE 129-B: STUDENTS' BILL OF RIGHTS

All students have the right to:

1. Make a report to local law enforcement and/or state police.
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously.
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the University.
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.
5. Be treated with dignity and to receive from the University courteous, fair, and respectful health care and counseling services, as available through the student Counseling Services Office.
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations.
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident.
8. Be protected from retaliation by the University, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the University's jurisdiction.
9. Access to at least one level of appeal of a determination.
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including

during all meetings and hearings related to such process.

11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the University.