

Article I.

Hamilton College Sexual Misconduct Policy

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Article II.

Introduction

All members of the Hamilton College community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Hamilton seeks to provide an environment in which students, faculty, staff, and guests can work, study, and enjoy the College community without experiencing Sexual Misconduct. When such actions are brought to its attention, the College is committed to providing prompt and thorough responses to actions that adversely impact, or have the potential to adversely impact, the educational or workplace environment of any member of the Hamilton community.

The College strongly encourages all members of its community to report any prohibited act of Sexual Misconduct which they experience (including sexual assault, dating violence, domestic violence, stalking, sexual harassment, and/or related retaliatory behavior, as more fully defined in Article VI, and referenced herein as “Sexual Misconduct”) to the College and to immediately seek appropriate support and health care. In addition, many College employees are considered Responsible Employees who are required to report instances of Sexual Misconduct that they are made aware of to the Title IX Coordinator (see Definitions, Responsible Employees). The

College also encourages all community members to contribute to the creation of a safe, welcoming, and respectful environment on campus. This includes taking reasonable and prudent actions to prevent or stop an act of Sexual Misconduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, or seeking assistance from a person in authority. Community members who choose to positively intervene will be supported by the College and protected from retaliation.

This Policy has been developed to provide recourse for individuals who believe their rights have been violated, and serves as a means to determine, after the fact and with fairness to all involved, if specific behaviors constitute violations of this Policy.

Any individual who has experienced Sexual Misconduct has the right to make a report to Campus Safety, local law enforcement, and/or the New York State Police, or choose not to report; to report the incident to the Title IX Coordinator; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from the College.

This Policy describes support resources and accommodations available to members of the Hamilton community who experience Sexual Misconduct, whether or not that individual decides to pursue a formal report on campus.

When a community member (i.e., a current student or member of the faculty or staff) decides to make a formal report of an incident of Sexual Misconduct involving another community member, Hamilton will use the procedures outlined below (see Articles X, XI, XII and XIX) to take reasonable, prompt, and appropriate action to respond. When a guest or other non-College community member decides to make a formal report, or a community member makes a formal report involving a guest or non-College community member, the process in Article XIII will apply. For purposes of this Policy, a formal report by a former student about an incident involving another community member which occurred while that former student was a current student, will be processed under this Policy in the same manner as a formal report by a current student.

Article III.

What Do Title IX and the Violence Against Women Reauthorization Act (VAWA) Require? Who is the Title IX Coordinator?

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §1681, *et seq.*, a federal law, prohibits discrimination on the basis of sex in education programs and activities:

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.

All public and private elementary and secondary schools, school districts, colleges, and universities receiving any federal funds must comply with Title IX. Title IX mandates that colleges and universities create an environment free from sexual discrimination and harassment for all community members. The College recognizes its obligation under Title IX to take steps to

prevent the recurrence of Sexual Misconduct and to correct its discriminatory effects.

Under Title IX, discrimination on the basis of sex includes sexual harassment, gender-based harassment, sexual violence, sexual assault, and other forms of sexual misconduct. Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, and other applicable statutes.

Pursuant to the Violence Against Women Reauthorization Act, the College also prohibits domestic violence, dating violence, and stalking.

This Policy also reflects the requirements of New York Education Law Article 129-B, relating to sexual assault, domestic violence, dating violence and stalking.

The College's Title IX Coordinator is responsible for ensuring that the College responds to such complaints in a manner that is equitable, effective, and eliminates the harassment through remedies designed for the individual and, as needed, the entire College community.

The Title IX Coordinator is:

- responsible for oversight of the investigation and resolution of all reports of Sexual Misconduct;
- knowledgeable and trained in relevant state and federal laws and the College's Policy and procedure;
- available to advise any individual, including a Complainant (defined below), a Respondent (defined below), or a third party, about the courses of action and resources available at the College, both informally and formally, and the courses of action and resources available externally, including reports to law enforcement;
- available to provide assistance to any Hamilton community member regarding how to respond appropriately to reports of Sexual Misconduct;
- responsible for monitoring full compliance with all requirements and timelines specified in the complaint procedures; and
- responsible for compiling and maintaining required reports.

Hamilton's Title IX Coordinator is Catherine Berryman (315-859-4020 or cberryma@hamilton.edu).

Article IV. Scope

All College community members are responsible for their actions and behavior, and for adhering to College policies and local, state, and federal law. This Policy, therefore, applies to all members of the Hamilton College community who participate in any of Hamilton's programs or activities, including students, employees, contractors, and visitors. Those who conduct business with the College on College property must also adhere to this Policy.

This Policy applies to:

- conduct occurring on College property and
- conduct occurring at College-sanctioned events.

In addition, this Policy applies to off-campus conduct that is likely to have a substantial adverse effect on, or poses a threat of danger to, any member of the Hamilton College community or at activities that take place at events hosted by organizations recognized by the College, including fraternities and sororities; study abroad and internship programs; or conduct that has continuing effects on campus or in an off-campus education program or activity.

The protections of this Policy apply regardless of a person's race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, pre-disposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

Article V.

Options for Immediate Assistance

If you have experienced an act of Sexual Misconduct and desire immediate assistance, you have several on and off-campus options:

A. On Campus Support Resources

The **Counseling Center** (315-859-4340) is a **confidential** resource, available 24-hours a day/7 days a week, whose staff can provide students emotional support and information about reporting options.

The **Health Center** (315-859-4111) is a **confidential** resource whose staff can provide students medical assistance and can share information about reporting options. After hours, **Emergency Medical Technicians** (EMTs) are available (reached through Campus Safety at 315-859-4000).

The **Chaplaincy** (315-859-4130) is a **confidential** resource for students and employees whose staff can provide pastoral counsel, emotional support, and information about reporting options. Visit the **Chaplaincy site** (<http://www.hamilton.edu/chaplain/office-hours>) to learn how to contact individual staff in the Chaplaincy.

Employee Assistance Program (EAP) (1-800-834-3947) through BRiDGES is a **confidential** resource for employees regarding issues ranging from alcohol and drug abuse to financial and legal concerns. Appointments with a BRiDGES EAP professional are available 8:00 am until 5:00 pm Monday through Friday with evening hours on Tuesday. Call 315-697-3949 or 1-800-834-3947 during working hours and a staff member will assist in booking an appointment and/or answering any of your questions. A 24-hour answering machine is also available after hours to provide callers with the numbers for crisis services or to take messages. An employee or a family member may attend up to five sessions unless a referral to a community provider is recommended.

Campus Safety (315-859-4000) is available to students and employees 24 hours a day, 7 days a

week to respond to any community concern. Students who call Campus Safety after normal business hours may request to speak with the Title IX Coordinator. Campus Safety will notify the Title IX Coordinator after responding to a call related to alleged Sexual Misconduct. Campus Safety is not a confidential resource; however, every effort will be made to maintain privacy.

The College's **Title IX Coordinator**, Catherine Berryman, is also available to students and employees as an immediate resource. **Talking with the Title IX Coordinator about a specific incident of Sexual Misconduct constitutes a report under this Policy to which the College must respond, although this does not necessarily mean that the College will take formal action if the Complainant does not wish for action to be taken (see Section VII Confidentiality).** However, general conversations or questions about Hamilton's processes, without disclosure of identifiable information about specific incidents, can remain private [see "Privacy of Resources"]. The Title IX Coordinator can provide information about all resources available to individuals who have experienced Sexual Misconduct, including where to obtain emergency mental health services and health care. The Title IX Coordinator can review and determine the immediate academic and administrative accommodations that can be made to protect a Hamilton community member who has experienced Sexual Misconduct. The Title IX Coordinator can also advise about options for reporting, including the option to report to local law enforcement, to initiate the on-campus resolution procedures, to do both, or to do neither. The Title IX Coordinator will provide guidance and assistance through the process of reporting on- and/or off-campus. She can be reached at 315-859-4020 or after hours for emergencies through Campus Safety at 315-859-4000.

B. Off Campus Support Services

YWCA Rape Crisis Services (315-797-7740) is an anonymous hotline available to provide counsel as well as in-person assistance getting to a hospital or the police. If requested, YWCA Rape Crisis Service may also provide victim advocacy services.

Help Restore Hope Center coordinates **Sexual Assault Nurse Examiner** (SANE) services for medical attention (injuries from a sexual assault are not always immediately apparent) and collecting physical evidence (a "rape kit") at a regional hospital. The College strongly encourages any individual who has experienced sexual violence to obtain a rape kit, which is critical: (1) to diagnose and treat the full extent of any injury or physical effect and (2) to properly collect and preserve evidence. There is a limited window of time (typically up to 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Gathering such evidence does *not* commit an individual to pursuing legal action against the assailant, but does preserve that option. Although it may be difficult following a sexual assault, individuals who are considering or may consider legal action should try not to shower, rinse mouth, brush teeth or change clothes to allow for the maximum possible collection of evidence by a SANE nurse or other health care provider.

Hospitals are **confidential** resources and are not required to report any non-identifying information to the College or to anyone else. However, hospitals providing care to individuals reporting sexual assault are required to:

- collect and maintain the chain of custody of sexual assault evidence for not less than 30 days *unless* the patient signs a statement directing the hospital not to collect it;
- advise the individual seeking medical treatment related to sexual assault of the availability of the services of a local rape crisis or victim assistance organization to accompany the individual through the sexual offense examination;
- contact a rape crisis or victim assistance organization providing assistance to the geographic area served by that hospital to establish the coordination of non-medical services to individuals reporting sexual assault who request such coordination and services; and
- provide emergency contraception upon the patient's request.

Even if an individual who has experienced sexual violence does not have injuries requiring emergency attention, the College encourages that individual to seek medical care as soon as possible, whether at the Health Center or another health care provider or hospital. A medical evaluation is still important to check for physical injuries, reduce risk of complications from sexually transmitted diseases as a result of the assault, and/or (if appropriate) reduce risk of pregnancy.

In most instances, any health care provider will encourage an individual reporting Sexual Misconduct to authorize collection of evidence. For individuals who seek initial medical treatment at the Health Center and decide to proceed with evidence collection, the individual may be escorted to Oneida Health by Campus Safety or may choose to travel by taxi (the College will provide a voucher) to any chosen medical provider. A Complainant can receive follow-up health care at the Health Center or the chosen health care provider or hospital.

C. Law Enforcement

The College encourages anyone who is a victim of Sexual Misconduct to pursue criminal action for incidents that may also be crimes under applicable criminal statutes. The **New York State Police Campus Sexual Assault Victim Unit's 24-hour Hotline** (1-844-845-7269) or the Oneida County Sheriff (315-736-0141) can assist with pressing criminal charges following an incident in New York.

D. Reporting Options

Anyone who wishes to report Sexual Misconduct has the following options:

- report to law enforcement to initiate criminal action;
- report to the College to initiate the College's complaint process; *or*
- simultaneously report to initiate both criminal action and the College's complaint process.

An individual also has the right to choose not to report to any or all of the above.

The Title IX Coordinator or Campus Safety will assist any Complainant who wishes to pursue a formal complaint with local law enforcement in making the report. In addition, an individual

making a report to local law enforcement may also be able to obtain services through the New York State Office for Victim Services (OVS). The OVS funds local Victim Assistance Programs including YWCA Rape Crisis Services (listed above), which will, among other things, offer a crime victim advocate that can provide direct assistance to victims and their families as they navigate the criminal justice process.

The College will cooperate with law enforcement agencies (to the extent permitted by law) if a Complainant decides to pursue the criminal process. Except where the Complainant is less than 18 years old, the College will generally respect a Complainant's choice whether or not to report an incident to local law enforcement, unless the College determines that there is an overriding issue with respect to the safety or welfare of the individual and/or the Hamilton College community. Where a report involves suspected abuse of a minor less than 18, certain individuals at the College may be required by state law to notify law enforcement and/or the New York Statewide Central Register of Child Abuse and Maltreatment.

E. Orders of Protection

Campus Safety, or other College officials, will provide reasonable assistance to a College campus community member, in connection with prohibited Sexual Misconduct under this policy, in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order. This assistance includes providing that person with:

- i. a copy of an order of protection or equivalent when received by the College and providing that person with an opportunity to meet or speak with a College representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons;
- ii. an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension; and
- iii. assistance from Campus Safety in contacting local law enforcement to effect an arrest for violating such an order.

F. Amnesty Related to Other Policy Violations

The health and safety of every student at the College is of utmost importance. Hamilton 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. Hamilton strongly encourages students to report incidents of 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 College officials or law enforcement will not be subject to 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.

Persons cooperating by furnishing information in good faith in connection with College processes under this Policy (whether as Complainants, Respondents or witnesses), or in

connection with law enforcement proceedings arising out of reported incidents of Sexual Misconduct, will not be subject to College code of conduct action for violations of alcohol and/or drug use policies, or other minor conduct offenses (i.e., those that can be expected to result in sanctions no more than probationary status) based on their conduct occurring at or near the time of a reported incident of domestic violence, dating violence, stalking or sexual assault.

Additionally, individuals can report anonymously through **TipNow** at **315-282-5426** or email at Hamilton@tipnow.com or through their smart phones using the Reach Out App (<https://www.cappivation.com/reach-out/hamilton-college/default.html>)

G. Privacy of Resources

The resources listed above (also listed in Addendum A) can provide different levels of privacy. An overview of these different levels of privacy follows:

Confidential resources operate under special rules which restrict their disclosure of information, including to the College. At Hamilton, these individuals include:

- All staff in the Counseling Center, including the Counselor on Call
- All staff in the Health Center, including student EMTs (in their roles as EMTs)
- All staff in the Chaplaincy

Confidential resources can direct individuals towards other avenues of support as well, including providing information about Hamilton's process for pursuing disciplinary action.

Non-confidential resources are all faculty and staff who are not listed above, including student Resident Advisors employed by the Office of Residential Life. These individuals are "Responsible Employees" (defined further below) who must report an act of alleged Sexual Misconduct to the Title IX Coordinator. As explained in more detail in Article VII (Confidentiality), the College will respect the privacy of reports to the greatest extent permissible. Even 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. General questions about Hamilton's policies and procedures, or conversations where specific individuals or acts are not identified or implied, may remain private.

Additional protected resources for individuals impacted by a prohibited act include student-run programs such as Hamilton's Peer Advocates (advocate@hamilton.edu). Volunteers in these programs are not Responsible Employees and are not required to report any information. In addition, information disclosed at public awareness events such as "Take Back the Night" is not considered notice of an act described in this Policy and does not create an obligation on the part of the College to conduct an investigation.

Article VI. Definitions

The following definitions outline the types of Sexual Misconduct prohibited under this Policy and identify the individuals and processes involved in the investigation of and response to allegations of those prohibited acts. To be covered under this Policy, the conduct, or its effects, must have a connection to the College and/or the College community.

A. Prohibited Sexual Misconduct

Sexual harassment is defined as unwelcome action, language or visual representation of a sexual nature that has the effect of unreasonably interfering with an individual's work or academic performance or that creates a hostile working, educational, or living environment. A form of quid pro quo (this for that) sexual harassment exists when submission to or rejection of unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature results in adverse educational or employment action, or the threat of such adverse action, or limits or denies an individual's educational or employment access, benefits, or opportunities.

Sexual harassment:

- may be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated;
- does NOT have to include intent to harm, be directed at a specific target or involve repeated incidents;
- may be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context;
- may be committed by a stranger, an acquaintance or someone with whom the individual has an intimate or sexual relationship;
- may be committed by or against an individual or may be a result of the actions of an organization or group;
- may occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation;
- may occur in the classroom, in the workplace, in residential settings, or in any other setting;
- may be a one-time event or can be part of a pattern of behavior;
- may be committed in the presence of others or when the parties are alone;
- may affect the subject of the harassment and/or third parties who witness or observe harassment and are affected by it.

Sexual harassment also includes gender-based harassment, which may include acts of verbal, nonverbal or physical aggression or hostility based on gender, sexuality or sex- or gender-stereotyping, even if those acts do not involve conduct of a sexual nature.

Examples of conduct that may constitute sexual harassment include:

- Physical conduct:
 - unwelcome touching, sexual/physical assault, impeding, restraining or blocking movements
 - unwanted sexual advances
- Verbal conduct:
 - making or using derogatory comments, epithets, slurs or humor, not pedagogically appropriate
 - verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations, not pedagogically appropriate
 - objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes, which a reasonable peer would find offensive and which are not pedagogically appropriate
- Visual conduct:
 - leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons or posters in a public space or forum, not pedagogically appropriate
- severe, persistent or pervasive visual displays of suggestive, erotic or degrading sexually oriented images, not pedagogically appropriate
- Written conduct: letters, notes or electronic communications containing comments, words or images described above, not pedagogically appropriate
- Quid pro quo conduct:
 - direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists
 - offering employment benefits in exchange for sexual favors
 - making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose
 - making or threatening reprisals after a negative response to sexual advances

The determination of whether an environment is “hostile” is based on a reasonable person standard, considering all the circumstances. These circumstances could include, but are not limited to:

- the frequency or pervasiveness of the speech or conduct;
- the nature and severity of the speech or conduct;
- whether the conduct was physically threatening;
- whether the speech or conduct was humiliating;
- the effect of the speech or conduct on the recipient's mental and/or emotional state;

- whether the speech or conduct was directed at more than one person;
- whether the speech or conduct arose in the context of other discriminatory conduct;
- whether the speech or conduct unreasonably interfered with the recipient's educational opportunities or performance (including study abroad), college-controlled living environment, work opportunities or performance;
- whether a statement is a mere utterance of an epithet which engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or whether the speech or conduct deserves the protections of academic freedom.

Sexual Assault is prohibited under this Policy. Sexual assaults can take a number of forms, including:

- **Non-Consensual Sexual Contact** is defined as any intentional sexual touching, however slight, either directly or through clothing, with any body part or object without affirmative consent.
- **Non-Consensual Sexual Act** is defined as penetration and/or oral contact, however slight, with any body part or object with the genitals or anus of another person, without affirmative consent.

Sexual Exploitation occurs when a person takes non-consensual sexual advantage of another, and that behavior does not otherwise constitute another form of Sexual Misconduct. Examples of sexual exploitation include, but are not limited to, non-consensual video or audio-recording of sexual or other private activity, exceeding the boundaries of consent (e.g., permitting others to hide in a closet and observe consensual sexual activity, or making consensual intimate video or audio recordings of another but then distributing the pictures to others without the person's consent or in a way that exceeds the bounds of consent), compelling another person to sexually touch themselves or another person without consent of all parties to the touching, intentional sexual transmission of bodily fluids (including seminal fluid, vaginal fluid, blood, urine or feces) onto a clothed or unclothed individual without affirmative consent, or engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted diseases (STD) and without informing the other person of such infection.

Retaliation means any adverse action taken against a person for making a good faith report under this Policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this Policy. Retaliation may be present even where there is a finding of "no responsibility" on the allegations of a violation of this Policy. Retaliation does not include good faith actions pursued in response to a report under this Policy.

Domestic Violence is defined as a felony or misdemeanor crime of violence committed by:

- a current or former spouse or intimate partner of the person against whom the violence is committed;
- a person with whom the person against whom the violence is committed shares a child in common;

- a person who is cohabiting with, or has cohabited with, the person against whom the violence is committed as a spouse or intimate partner;
- a person similarly situated to a spouse of the person against whom the violence is committed under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

This definition does not apply to roommates who have not expressed interest in entering into, or who have not entered into, a dating or sexual relationship.

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 person against whom the violent act is/acts are committed. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Stalking occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances that would cause a reasonable person to fear for personal safety or the safety of others or suffer substantial emotional distress.

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

Stalking 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 to pursue, harass or to make unwelcome contact with another person in an unsolicited fashion.

B. Related Terms

Affirmative 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.

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

Coercion: Coercion is the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to engage in sexual activity. When a person makes clear a decision not to participate in a particular form of sexual activity, a decision to stop, or a decision not to go beyond a certain sexual activity, continued pressure can be coercive. In evaluating whether coercion was used, the College will consider: (i) the nature of the pressure; (ii) the frequency of the application of the pressure, (iii) the intensity of the pressure, (iv) the degree of isolation of the person being pressured, and (v) the duration of the pressure.

Capacity to give consent: Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks the ability to knowingly make that decision. In assessing capacity, the College will consider whether the individual had the ability to understand the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. Incapacitation may result from the use of alcohol and/or drugs, but consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affect an individual's:

- decision-making ability;
- awareness of consequences;
- ability to make informed judgments; and
- capacity to appreciate the nature and the quality of the act.

Persons who have sexual activity with someone who lacks the mental or physical capacity to consent (including being incapacitated by alcohol or other drug use or unconscious) are in violation of this Policy, and any consent perceived to have been obtained is invalid. Possession, use and/or distribution of any of the so-called "date rape" drugs (including Rohypnol, Ketamine, GHB, Burundanga and others) is prohibited, and administering any of these drugs to another is a

violation of this Policy.

Individuals and Processes

Complainant: This term refers generally to an individual who has allegedly been subjected to Sexual Misconduct in violation of this Policy, whether a formal complaint has been filed or not. However, by their very nature, some aspects of this Policy apply only after the College has been put on notice of a possible violation and references to “Complainant” in that context should be read (and will be applied by the Title IX Coordinator) accordingly. In the case of complaints that are pursued by the College when the impacted individual does not want to participate in the process, Hamilton may pursue a complaint without such individual’s participation, in which case Hamilton may stand in the place of the Complainant for procedural purposes.

Respondent: This term refers to an individual whose conduct is alleged to have violated this Policy, whether a formal complaint has been filed or not. However, by their very nature, some aspects of this Policy apply only after the College has been put on notice of a possible violation and references to “Respondent” in that context should be read (and will be applied by the Title IX Coordinator) accordingly.

Responsible Employees: The U.S. Department of Education’s Office for Civil Rights defines Responsible Employees as employees who have the authority to take action to redress sexual violence, who have been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or other appropriate school designee, or whom a student could reasonably believe have this authority or duty. Responsible Employees who receive information or a report about any act that potentially constitutes Sexual Misconduct must further report that information to the Title IX Coordinator. The following employees of the College are Responsible Employees: faculty, staff (except staff in the Counseling Center, the Health Center, and the Chaplaincy), and Resident Advisors. In addition, Responsible Employees are expected to make every effort to explain their duty to report to anyone disclosing, or about to disclose, information to them.

Harassment and Sexual Misconduct Board: The Harassment and Sexual Misconduct Board (HSMB or the Board) shall be composed of at least eight members (one of whom shall be designated Chair), appointed by the Title IX Coordinator to staggered terms of four years beginning in the Fall semester. Each year, the current Board will solicit applications and nominations for any open seat(s), and will recommend individuals to serve for the following year. Members of the Hamilton community may also nominate individuals for Board membership, provided the nominees are willing to serve if appointed. The Title IX Coordinator, in consultation with the Chair, will ultimately be responsible for appointing new members and designating a new Chair. Normally, the Chair will be a tenured member of the faculty and serve for two years as Chair. Every effort will be made to maintain a diverse Board, and membership normally will be limited to members of the faculty who have attained the rank of associate or full professor, and full-time staff members. The Title IX Coordinator shall arrange for the Board members to receive annual training. Members of the HSMB are required to maintain the privacy of all information they acquire in this role, unless disclosure is authorized by the Title IX Coordinator. Members of the HSMB can be removed prior to the end of their term by the Title IX Coordinator, with the agreement of the Chair of the HSMB (unless the member to be

removed is the Chair), for good reason (e.g., dereliction of duty, failure to abide by the provisions of the Policy, etc.). The Title IX Coordinator may appoint, and train, additional Board Members as necessary.

Investigation Team: Individual(s) assigned by the Title IX Coordinator to conduct investigations following notice of alleged Sexual Misconduct. The Investigation Team will normally be comprised of members of the HSMB (who are not members of the Harassment and Sexual Misconduct Review Panel, defined below), but the Title IX Coordinator may decide to use one or more appropriately trained College employees who are not members of the HSMB or external investigators in addition to, or instead of, members of the HSMB when the Title IX Coordinator considers it appropriate to do so. However, in cases involving a Non-consensual Sexual Act, so long as at least one qualified HSMB member is available, the Investigation Team will include an HSMB member, and an external investigator. Normally, in order for a member of the HSMB to be eligible to serve on the Investigation Team, the HSMB member must have served for at least one year on the Board. Upon receipt of a complaint, the Title IX Coordinator will assign the investigator(s) to begin the investigation. If the Title IX Coordinator determines that a legitimate conflict of interest exists between an Investigation Team member and a party to a complaint, the Title IX Coordinator, in consultation with the Chair of the HSMB, will appoint a replacement. The Investigation Team issues a report of its investigation to the Harassment and Sexual Misconduct Review Panel, which can include assessments of credibility, but does not make a recommendation with respect to responsibility for violating the Policy.

Harassment and Sexual Misconduct Review Panel (Review Panel): In each investigation, the Title IX Coordinator will appoint a three person Review Panel from the HSMB to review the investigative report, determine whether this Policy was violated, and, if so, recommend a sanction to the Senior Staff Member. The HSMB Chair serves as a non-voting fourth member of the Review Panel and presides over the review process. The term of appointment to the panel shall be for the duration of the investigation. If any vacancy on the Review Panel occurs during the investigation, if the Title IX Coordinator determines that a legitimate conflict of interest exists between a member of the panel and a party to a complaint, or if a member of the panel is unable to participate in the consideration of a complaint due to personal or professional circumstances or commitments, the Title IX Coordinator, in consultation with the Chair of the HSMB, will appoint a replacement from those members of the Board eligible to serve.

Senior Staff Member: The Vice President who has supervisory authority over the area of the College with which the Respondent is affiliated, and who will (as outlined in this Policy) make a final decision on sanction following the Review Panel's recommendation. The Vice President and Dean of Students is the Senior Staff Member with respect to complaints brought against a student. In the case of complaints brought against members of the faculty, staff, or administration, the Vice President of the area in which the Respondent is employed is the Senior Staff Member. For example, the Vice President for Academic Affairs and Dean of Faculty is the Senior Staff Member with respect to complaints brought against a faculty member.

Appeals Board: This is the group of individuals, defined in [Hamilton's Code of Student Conduct](#), that considers appeals of findings and sanctions in appropriate cases under this Policy. For appeals under this Policy, a subset of the Appeals Board which does not include students will

be utilized. This subset of the Appeals Board will receive annual training on relevant state and federal law (including Title IX) and this Policy.

Article VII. Confidentiality

Hamilton encourages the reporting of acts of Sexual Misconduct in order to help the College respond effectively to conduct that negatively impacts the safety of the community. In addition the College recognizes its obligation to address incidents of Sexual Misconduct it learns about even in the absence of a complaint or report. The College also recognizes the importance of privacy and confidentiality. The following section describes how the College will maintain privacy while pursuing a complaint of Misconduct, and how it will respond to requests for confidentiality. (Information about confidential resources available on campus can be found in Article V. A.)

A. General

In all cases of Sexual Misconduct covered by this Policy, Hamilton will treat information as private and will, to the extent permitted by law, limit the disclosure of information to only those non-party individuals who are responsible for handling the school's response. Certain college administrators (e.g., the College President and Director of Campus Safety) may also be provided information on a need to know, private basis. In accordance with the Clery Act and other state and federal mandates, the College must also report information concerning the occurrence on campus of certain crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include any personally identifiable information. The College may issue a timely warning if a report of Sexual Misconduct presents information that there is an ongoing threat to the community. The announcement will include the nature of the violation and the action(s) being taken.

The College will normally not inform students' parents or guardians of their involvement in a complaint of Sexual Misconduct without their consent, but the Title IX Coordinator will speak with each party about their decision to personally inform their parents or guardians. College officials will directly inform a student's parents or guardians when requested to do so by the student, and may do so in emergency circumstances when necessary to prevent imminent harm.

B. Requests for Confidentiality

If the Title IX Coordinator has received notice of an alleged Sexual Misconduct violation under this Policy but the individual impacted requests confidentiality or otherwise asks that an investigation not be pursued, the Title IX Coordinator will make every effort to balance this request with Hamilton's policy of providing a safe and non-discriminatory environment for all members of the community. Honoring such a request may limit Hamilton's ability to conduct a thorough investigation and take appropriate disciplinary action. The Title IX Coordinator will consider many factors when determining whether or not the College can honor the request for confidentiality and/or the request that the College take no investigatory or disciplinary action, including but not limited to whether:

- the Respondent has a history of violent behavior or is a repeat offender;
- the incident represents escalation in unlawful conduct on behalf of the Respondent from previously noted behavior;
- the individual impacted is a minor;
- the information provided suggests an increased risk that the Respondent has committed prior acts or will commit additional acts;
- the alleged misconduct was perpetrated with a weapon or force;
- the alleged misconduct was committed by multiple perpetrators;
- the information provided suggests that the act is part of a larger pattern at a specific location or by a particular group; and/or
- information can be obtained by means other than from the impacted individual (e.g., by personnel or security cameras, witnesses, or through physical evidence).

If confidentiality cannot be maintained, the impacted individual will be informed of the decision prior to the start of an investigation. In appropriate cases, the course of action may include steps to limit the effects of the alleged Misconduct and prevent its recurrence that do not involve formal disciplinary action against a Respondent or revealing the identity of the Complainant.

In the event that the College proceeds with an investigation and is unable to maintain confidentiality, the College will continue to evaluate methods and measures to protect the reporting individual from retaliation or harm. The Title IX Coordinator will work with the Complainant to create a safety plan. Retaliation against the reporting individual, whether by students or College employees, will not be tolerated.

Regardless of a request for confidentiality and the College's decision with respect to that request, the College will also:

- assist the reporting individual in accessing other available advocacy support, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus, as appropriate;
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the Respondent pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the reporting individual of the right to report a crime to local law enforcement and provide assistance if the reporting individual wishes to do so.

Article VIII.

Protection for Retaliation

Hamilton prohibits Retaliation against individuals who pursue complaints or who are otherwise involved in any of the processes outlined in this Policy. The College views Retaliation as a serious violation of this Policy that is subject to the same range of sanctions and responsive action as Sexual Misconduct. Retaliation is defined in Article VI(A).

Article IX.

Interim Measures

Upon receipt of a report pursuant to this Policy, the College will evaluate and if warranted impose reasonable and appropriate interim measures designed to eliminate the reported hostile environment and protect the parties involved. Interim measures may be imposed at any time regardless of whether formal disciplinary action is sought by the Complainant or the College and may be imposed prior to the commencement or conclusion of an investigation. Interim measures will be kept confidential to the extent that maintaining confidentiality will not impair the ability of the College to provide the interim measures.

The parties may request of the Title IX Coordinator some form of interim measure, or the College may choose to impose interim measures at its discretion to enhance the safety of all parties, the broader College community, and/or the integrity of the investigative and/or complaint resolution process.

Possible interim measures include (but may not be applicable depending on the parties' status as students or employees):

- limitations on the Respondent or others regarding contact with the Complainant during the investigation and while the complaint is being reviewed (typical in cases involving students);
- changing class schedules, including the ability to transfer course sections or withdrawal from a course without penalty;
- changing work schedules or job assignments;
- changing a student's College owned housing;
- rescheduling of exams, papers, or other assignments;
- taking an incomplete in a class;
- transferring class sections;
- temporary withdrawal or in the case of an employee temporary suspension or other removal from campus;
- alternative course completion options;
- access to counseling services on- and off-campus and assistance in setting up an initial appointment;
- limiting an individual's or organization's access to certain Colleges facilities or activities pending resolution of the matter;
- voluntary leave of absence;
- providing an escort between classes and activities;
- providing medical services;
- providing academic support services, such as tutoring;
- College-imposed leave (for employees) or separation (for students); and/or
- any other remedy that can be tailored to the involved individuals to achieve the goals of this Policy.

All individuals are encouraged to report concerns about the failure of another individual or organization to abide by restrictions imposed by an interim measure. The College will take prompt and responsive action to enforce a previously implemented measure.

When as a result of a Sexual Misconduct complaint a no contact order is issued and the person against whom the no contact order is issued and the person protected by the no contact order observe each other in a public place, unless it is otherwise provided in the no contact order, it is the responsibility of that individual subject to the no contact order to leave the area immediately and without directly contacting the person protected. This restriction requires removal to the extent necessary to prevent interaction of the sort prohibited by the no contact order. It does not require a party to refrain from attending an event (e.g., an athletic contest, a campus speaker presentation) in circumstances where simultaneous attendance can occur without prohibited interaction.

When a no contact order is issued, both the person against whom it is issued and the person seeking the no contact order, will, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and/or terms of the no contact order, including potential modification. This request may be made by submitting a written request the Title IX Coordinator, providing the basis for the request and submitting any evidence in support of the request.

Continued intentional contact in violation of a no contact order is grounds for additional misconduct charges.

Upon request, an individual may also seek a prompt review of the need for and/or terms of any interim measure and accommodation that directly affects said individual, by submitting a written request for review to the Title IX Coordinator, providing the basis for that request and any evidence in support.

When a student accused of Sexual Misconduct is determined to present a continuing threat to the health and safety of the campus community, the accused student is subject to interim suspension pending the outcome of any proceedings under this Policy. Both that student as well as the subject of any such misconduct will, upon written request, be afforded an opportunity for a review of the need for and/or terms of an interim suspension, including potential modification, by submitting a written request to the Title IX Coordinator, providing the basis for that request and any evidence in support.

When the accused is not a student but is a member of the College community, the accused is subject to interim suspension in accordance with the College's employment policies and practices (including applicable collective bargaining agreements).

Article X Complaint Response Procedures

The following steps outline Hamilton's process for addressing notice of Sexual Misconduct:

A. Notice of Complaint

Complaints of Sexual Misconduct may be made orally or in writing, and may come from the report of a Responsible Employee, directly from a Complainant, or from a third party. This will be considered “notice” that an act of Sexual Misconduct is alleged to have occurred. This notice must ultimately be recorded in written form by the Complainant, Responsible Employee, or Title IX Coordinator, and must include, at a minimum (to the extent known), the time, place, and nature of the alleged offense and the name of the Respondent. In addition, the College may also receive notice of a possible incident of Sexual Misconduct without any actual complaint or report and it recognizes that it may have an obligation to act in those instances as well.

B. Evaluation of Response Options

After receiving notice, the Title IX Coordinator will determine if the conduct alleged by the Complainant falls within this Policy.

In cases where action against an alleged Respondent cannot otherwise be taken because that individual is not a member of the College community, the Title IX Coordinator will assess the information given and provide appropriate recommendations and resources to the Complainant, including the procedure available under Article XIII.

In cases where it is determined that the act, if proven, does not fall within this Policy, no further action will be pursued under this Policy and the Complainant will be advised by the Title IX Coordinator of other avenues of recourse and support as appropriate.

C. Informal Resolution: Mediation

In cases where the Title IX Coordinator and HSMB Chair determine that mediation may be appropriate, the Title IX Coordinator will first speak with the Complainant about the option to pursue mediation. If the Complainant is agreeable, then the Title IX Coordinator will meet with the Respondent to discuss the mediation process. If both parties are agreeable to mediation, mediation will be coordinated by the Title IX Coordinator. Either party or the College may discontinue mediation at any time. The mediator will report to the Title IX Coordinator and the HSMB Chair the results of the mediation, which is subject to the acceptance of the Title IX Coordinator. Mediation, even if voluntary, may not be used in cases involving sexual assault.

D. Formal Resolution

In cases of alleged Sexual Misconduct under this Policy, where informal resolution is not used or if used is not successful, the following process will apply. This process may involve the Chair of the HSMB, the appropriate Senior Staff Member, the Title IX Coordinator, an Investigation Team, and the Review Panel. In the event the Complainant, Respondent, Chair of the HSMB, or Title IX Coordinator identifies a conflict of interest involving the Chair or the Title IX Coordinator, the appropriate Senior Staff Member will appoint another member of the HSMB to

oversee the process.

The Title IX Coordinator will meet with the Complainant and explain the investigation procedures that will be followed. The Title IX Coordinator will meet separately with the Respondent to provide written notification that Hamilton is investigating the possibility that the Respondent may have violated this Policy. Both parties will be provided written notification of formal complaint and a copy of this Policy.

E. Respondent Acceptance of Responsibility

The Respondent, with the Senior Staff Member's agreement, may accept responsibility for alleged conduct. A Respondent choosing this path must provide the Senior Staff Member and the Chair a written statement accepting responsibility for the alleged conduct and waiving any further process under this Policy. In such cases, the appropriate Senior Staff Member – in consultation with the Chair and Title IX Coordinator – will determine a sanction, which may range from a warning to permanent separation from the College. By accepting responsibility, the Respondent accepts the Senior Staff Member's decision as final. If the Respondent does not agree to accept responsibility and disputes the description of alleged conduct, the process below will proceed.

F. Investigation of Complaint

General

Hamilton College uses an investigation model to resolve complaints of Sexual Misconduct that are not appropriate for voluntary mediation, or that either party does not wish to mediate even if mediation could be pursued.

A trained Investigation Team will interview all parties and witnesses and collect relevant information. The Investigation Team is authorized to contact any relevant people and to access any relevant and available records not otherwise prohibited by legal protections of privilege or confidentiality. It is the responsibility of the Investigation Team to take custody of, and arrange safekeeping for, any physical or electronic records, documents, or other tangible items to be used in making a finding.

The Investigation Team will make every effort to conclude a thorough investigation, including submission of its written report, within sixty (60) days (absent circumstances such as school breaks and examination periods) of delivery of the notice of investigation. Should a Respondent choose not to participate in the investigative process, the investigation may proceed, a decision will be made, and, if appropriate, a sanction may be imposed based on available information.

The Complainant and Respondent may have an advisor of choice present at any interview or other meeting related to the investigation and resolution process if the matter involves sexual assault, dating or domestic violence, or stalking, or when otherwise required by law. In all other cases, an advisor may be used but the advisor must be an active member of the campus community, who is not a lawyer. In all cases, advisors can only advise the Complainant or

Respondent privately and cannot act as speaking advocates. If an advisor does not adhere to these or other applicable ground rules, the advisor will be dismissed from the interview or other meeting, which will continue without opportunity for the advisee to secure a new advisor. If an advisor is going to accompany a party, that party must advise the Title IX Coordinator of the identity of the advisor upon making that decision. Neither members of the HSMB nor the Appeals Board may serve as advisors. The College will determine its own schedule for interviews and other meetings, and it is incumbent upon each party to ensure that the party's advisor is available. The schedule will not be determined by advisor availability.

In matters involving students, the College will typically issue "no contact" orders for the duration of the investigation and resolution process. In all other matters, the College will evaluate and implement measures intended to reduce the burden on the Complainant; the College's evaluation of the appropriateness of such measures will be ongoing.

G. Rights of the Respondent and Complainant

Common Rights

Each party has the right to:

- be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
 - In the case of students, medical and emotional support from the Student Health Service, the Counseling Center, and/or trained advocates;
 - In the case of employees, medical and emotional support through the College's Employee Assistance Program (1-800-834-3947);
- have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- make a report to local law enforcement and/or state police;
- 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;
- describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- preservation of privacy, to the extent possible and allowed by law;
- receive appropriate, reasonably available measures to reduce the burden on either the Complainant and/or Respondent, which may include (but may not be applicable to all depending on their status as a student or an employee):
 - placement of limitations on one party regarding contact with the other during the investigation and while the complaint is being reviewed;
 - separation or modification of the working, living, and/or academic arrangements of the Complainant and/or the Respondent and the College's assistance in effecting such change;
 - rescheduling of exams, papers, or other assignments;
 - taking an incomplete in a class, changing class sections; temporary withdrawal; or

alternative course completion options;

- 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;
- participate in a process that is fair, timely, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution;
- be informed of campus judicial rules and procedures as well as the nature and extent of all alleged violations contained within the complaint;
- be informed in advance of any meeting they are required or eligible to attend, the purpose of the meeting and the rules allegedly violated and potential sanctions (if not previously advised);
- receive the counsel and support of an advisor (as more fully described above) throughout the investigation and resolution processes. The advisor may consult with the advisee but may not speak on behalf of the advisee unless directed to answer questions raised by the Investigation Team or Review Panel, or to assist the advisee with questioning;
- provide information at any step of the procedures outlined in this Policy outside the presence of the other party;
- have their own past sexual history with persons other than the other party precluded from consideration by the Review Panel for purposes of determining responsibility;
- have their own mental health diagnosis and/or treatment excluded from consideration by the Review Panel for purposes of determining responsibility;
- have other irrelevant information concerning character, or incidents not directly related to the complaint, excluded from the investigation and resolution proceedings (the HSMB Chair, Title IX Coordinator or other appropriate person may determine that information about unrelated incidents demonstrating a pattern of behavior directly related to the alleged violation is admissible information);
- be informed of the names of any additional individuals who have provided information to be considered in determining responsibility and/or sanctioning (as applicable);
- have the College request the presence of individuals at investigative and resolution proceedings (as appropriate);
- petition the Chair of the HSMB for removal of any member of the Investigation Team or Review Panel (where applicable) on the basis of demonstrated bias or conflict of interest;
- have complaints investigated and reviewed in a timely, impartial and thorough manner, by individuals who have received annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the Respondent (including the right to a presumption that the Respondent is “not responsible” until a responsibility determination has been made), and other issues relating to sexual assault, domestic/dating violence and stalking;
- review all relevant documentary information available regarding the complaint and investigation, subject to the confidentiality limitations imposed by state and federal law and College policy, and the ability of the Title IX Coordinator and the HSMB Chair to

exercise discretion to redact or remove information deemed to be irrelevant, more prejudicial to a party or witness than probative, an unwarranted invasion of an individual's privacy or immaterial;

- submit a personal impact statement prior to the consideration of any sanction;
- have College policies and procedures followed without material deviation;
- an outcome based solely on information obtained by the Investigation Team and during the Review Panel or other applicable proceeding;
- be notified of the Review Panel's finding and recommended sanction (where applicable), as well as the Senior Staff Member's decision as to sanction; and
- appeal the Review Panel's determination and/or the Senior Staff Member's decision as to sanction, in accordance with the standards for appeal established by this Policy.

H. Additional Rights of the Complainant

A Complainant has the right to:

- be informed by College officials of options to notify appropriate law enforcement authorities and the option to be assisted by campus officials in notifying such authorities whether or not the individual intends to pursue on-campus complaint resolution procedures;
- be free from any suggestion that the Complainant is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- file a report of sexual assault, domestic violence, dating violence, and/or stalking and consult the Title IX Coordinator and other appropriate College personnel for information and assistance;
- disclose, if the accused is a College employee, the incident to Human Resources or request that another employee of their choosing assist in reporting to Human Resources;
- receive assistance from appropriate College representatives if interested in initiating legal proceedings in family court or civil court (e.g. orders of protection), such assistance to consist of facilitation in contacting appropriate local agencies (e.g., YWCA), who can provide direct assistance with court proceedings; and
- withdraw a complaint or involvement from the College processes at any time, with the understanding that in appropriate cases, the College may nonetheless be required to proceed even if the reporting individual does not wish to do so (see Article VII section B, Requests for Confidentiality).

I. Additional Rights of the Respondent

A Respondent has the right to:

- receive written or electronic notice, prior to any meeting the Respondent is required to or eligible to attend, of the date, time, location and factual allegations made, the specific provisions of the Policy allegedly violated and the possible sanctions;
- a presumption that the Respondent is "not responsible" until a finding of responsibility

- has been made;
- review the complaint made (subject to the confidentiality and privacy provisions of this Policy);
- waive Review Panel or other proceedings by admitting responsibility (in which case, the Senior Staff Member, in consultation with the Title IX Coordinator and Chair of the HSMB, will determine a sanction, with no right of appeal); and
- withdraw from the College, subject to Article XI. A. 2 of this Policy.

J. Procedures for Submitting and Accessing Information Collected During College's Investigation

The Complainant and Respondent will be invited to offer and/or identify all information they would like the Investigation Team to review, and both may recommend witnesses and submit information for consideration, including proposed questions to be posed by the Investigation Team to witnesses. Decisions about interviews and collection and evaluation of relevant information, physical or electronic documents, and other tangible items, however, are ultimately at the sole discretion of the Investigation Team in the context of impartial treatment of both parties. In the course of conducting interviews, the Investigation Team will ask any participant in the investigation to sign a statement attesting to, or otherwise verifying, the veracity of the information provided. The Investigation Team will also encourage participants to keep the substance of an interview confidential.

At the conclusion of the investigation, the Complainant and Respondent will have the opportunity to review the initial investigation report (which will include the other party's statement, relevant witness statements and other relevant materials gathered during the course of the investigation). Prior to this review, however, the Title IX Coordinator and HSMB Chair will review those materials to determine whether the information contained therein is relevant and material to the determination of the charged violation(s) and otherwise consistent with the terms of this Policy given the nature of the allegation(s). In general, the Title IX Coordinator and the HSMB Chair may redact information that is irrelevant, more prejudicial to a party or witness than probative, an unwarranted invasion of an individual's privacy, otherwise violative of this policy, or immaterial.

After such review and redaction, the Title IX Coordinator will facilitate the opportunity for each party to access the information separately in a private setting. Both parties will have an opportunity to respond to this information, in writing, within seven (7) days. If at any stage following the submission of these responses new and relevant information is gathered, it will be shared with the Complainant and Respondent, who will again have the opportunity to submit a written response within a time frame determined by the Title IX Coordinator. The Complainant and Respondent may request to see the other party's written responses.

Following the initial seven (7) day review period by the Complainant and Respondent and any subsequent responses and gathering of new information, the Investigation Team will complete their final written report and, within seven (7) days, meet with the Chair and Title IX Coordinator to deliver that final written report, which will include relevant facts, all relevant investigation materials, Complainant and Respondent statements and responses to the other's

statement, and any additional information gathered. The Title IX Coordinator will notify the Complainant and Respondent of the completion of the final Investigation Team report and make arrangements for each to review.

K. Simultaneous College and Law Enforcement Investigations

When a Complainant reports to both local law enforcement and the College, there will usually be some coordination of the investigations.

At the request of law enforcement, the College may agree to defer its fact-gathering until after the initial stages of a criminal investigation. The College will delay no more than 10 days unless law enforcement authorities specifically request and justify a longer delay. During that time, the College will continue to offer support to the Complainant, including discussing Title IX rights, procedural options, and needed interim measures to ensure safety and well-being. The College will promptly resume its fact-gathering as soon as appropriate.

The College will timely share information in simultaneous investigations except when local law enforcement determines that the sharing of information will impede its ongoing investigation. In addition, the College's ability to share information related to its own investigation and/or adjudication of certain offenses involving a student or students will be governed by the Family Educational Rights and Privacy Act, which prohibits disclosure of student education records containing personally identifiable information except under certain circumstances.

The College's Policy, definitions, and standard of review differ from New York criminal law. Neither law enforcement's determination whether to prosecute a Respondent nor the outcome of any criminal prosecution is determinative of whether Sexual Misconduct has occurred under this Policy. Proceedings under this Policy may be carried out prior to, simultaneously with or following civil or criminal proceedings off campus.

Article XI. Resolution Procedures

A. When the Respondent Is a Student

1. Review Panel Procedures and Guidelines

Unless the Title IX Coordinator and the HSMB Chair determine that mediation is appropriate and the parties agree to proceed with mediation as described above, the Title IX Coordinator will convene the Review Panel upon receipt of the final report from the Investigation Team. The Review Panel will review the final Investigation Team report and may request any additional relevant information from the investigators and/or to meet individually with any person(s). The Complainant or Respondent also has the right to meet separately with the Review Panel and to address the Review Panel regarding any matter relevant to the complaint, the Investigation Team's final report, and possible sanctions. Utilizing this information, the Review Panel is responsible for arriving at a determination of whether this Policy was violated and, if so, which specific portion(s). The Review Panel will apply a preponderance of evidence standard when

arriving at a determination of whether this Policy was violated.

If the Review Panel determines that this Policy has been violated, the Complainant and Respondent will be invited by the Title IX Coordinator to submit a personal impact statement that will be provided to the Review Panel and the Senior Staff Member for consideration in recommending and determining (respectively) a sanction. The Title IX Coordinator will set the time frame for the submission of personal impact statements which normally will be seven (7) days. The Review Panel will then recommend a sanction to the Senior Staff Member for the Respondent based on the nature of the violation and available precedent. Possible sanctions include any one or more of the following:

- **Warning:** Notice, orally or in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
- Mandatory educational workshop or service.
- **Loss of status in housing lottery.**
- **Status of probation:** To be assigned for a specified period of time. Terms of the probation shall be specified, and may include denial of specified social privileges, exclusion from extracurricular activities, exclusion from study abroad or other off campus programs, and other measures deemed appropriate. Violation of this Policy or the College's Code of Conduct during the period of probation may result in suspension or expulsion from the College.
- **Suspension:** Separation from the College, and exclusion from College premises, and from other privileges and activities. Readmission to the College after the term of suspension is not automatic, but requires application to the Dean of Students.
- **Expulsion:** Permanent termination of student status, and exclusion from College premises, privileges, and activities. An application for readmission shall not be considered. Students who have been expelled are expected to leave the campus within 48 hours unless the Dean of Students grants a special extension.
- **Other Actions:** In addition to or in place of the above actions, the Review Panel may recommend, and/or the Senior Staff Member may assign, such other penalties as deemed appropriate.

Individuals found responsible for a Non-consensual Sexual Act (penetration and/or oral contact) should normally expect suspension or expulsion from the College.

Transcript Notation: In the event any student is found responsible for conduct which constitutes a crime of violence that must be reported under the Clery Act (including but not limited to aggravated assault and sexual assault) and is suspended or expelled as a result, the notation "Suspended/Expelled after a finding of responsibility for a code of conduct violation" will appear on the transcript. A student who has been suspended may request to have the notation removed no sooner than one year after the conclusion of the suspension and prior to graduation. Requests should be submitted in writing to the Dean of Students. Notations for expulsions shall not be removed. In pending cases that could result in suspension or expulsion, the Dean of Students will normally place a temporary encumbrance on a student's transcript. If a student withdraws with such charges pending and does not participate through completion in any College process, the notation "Withdrew with code of conduct charges pending" will appear on

the student's transcript.

If the Review Panel determines that College Policy was not violated, no sanction will be recommended.

The Review Panel will prepare a brief written summary of its determination, including findings of fact and a rationale for its determination and recommended sanction (if applicable), and submit it to the Senior Staff Member. The Review Panel will make every effort to conclude this process within fourteen (14) days of the receipt of the Investigation Team's final report.

The Senior Staff Member will make the final decision as to sanction after considering the Review Panel's determination and sanction recommendation and the final Investigation Team report, subject to the Senior Staff Member's right to meet individually with any person. The Senior Staff Member and Chair will meet separately with the Complainant and Respondent to inform them of the Review Panel's determination and recommendation and the Senior Staff Member's decision as to sanction (if applicable). Each party will also be informed in writing of the Review Panel's determination and the Senior Staff Member's decision as to sanction (if applicable), and procedures to appeal.

2. Respondent Withdrawal

In the event any student is found responsible for conduct which constitutes a crime of violence that must be reported under the Clery Act (including but not limited to aggravated assault and sexual assault) and is suspended or expelled as a result, the notation "Suspended/Expelled after a finding of responsibility for a code of conduct violation" will appear on the transcript. Should a Respondent choose to withdraw from the College with knowledge that a formal complaint against the Respondent has been made under this Policy and prior to the Senior Staff member's final decision, the Respondent's transcript will note that a complaint had been made at the time of withdrawal as described above. The College reserves the right, notwithstanding a withdrawal, to proceed with consideration of any complaint to completion and, if appropriate, impose a sanction.

B. When the Respondent is a Faculty Member

When the Respondent is a Faculty Member, the Investigation Team's final report will be presented to the Dean of the Faculty and the Chair of the HSMB. The Dean may meet individually with any person. If the Dean, after consultation with the Chair, believes that a violation of this Policy has occurred and a major change in the terms of employment or dismissal is appropriate, as provided in X.D. 1 (b) of the Faculty Handbook, the Dean will use the Investigation Team's final report (or any relevant portions thereof) as the basis for a petition under X.E of the Faculty Handbook and those procedures will be followed, subject to the following modifications:

- tribunal members can only be drawn from those otherwise qualified individuals who have undergone or who in advance of the hearing undergo appropriate (as determined by the Title IX Coordinator) Title IX training;
- either the original Complainant or the Faculty Member Respondent may request to be

separated from the other during the course of any proceeding, in which case the Tribunal will determine whether and how best to accomplish that separation (such as through use of a screen or partition, close circuit tv, or otherwise, to allow either party to provide information outside the presence of the other);

- both the Complainant and the Faculty Member Respondent may request to have all questions from the other (or questions to the other from them, as applicable) asked through, and in a substance and form determined by, the Tribunal, rather than through direct examination/cross examination;
- any determination will be based on a preponderance of evidence standard;
- the time periods provided for notice of hearings and/or decisions may be shortened as determined necessary by the Title IX Coordinator to permit completion of the process in a timely fashion, as provided in this Policy; and
- any other modifications that may be required to comply with Title IX or other law.

In cases where the Dean of the Faculty believes a major change or dismissal is not appropriate, and finds a violation of College Policy, the Dean may impose a penalty as provided for in X.D. 1 (b) of the Faculty Handbook. The Dean's determination will include findings of fact and a rationale for the responsibility determination and sanction, if any.

C. When the Respondent is a Staff Member

When the Respondent is a Staff member (i.e., for purposes of this Policy, any non-faculty employee), the Investigation Team's final report will be provided to the Director of Human Resources and the Senior Staff Member (who must both be appropriately trained, as determined by the Title IX Coordinator), who together are responsible for arriving at a determination of whether this Policy was violated and, if so, which specific portion(s). The Director of Human Resources and/or the Senior Staff Member may meet individually with any person. If it is determined that a violation of this Policy has occurred, or if it is determined that no violation of this Policy has occurred but a violation of some other College policy, rule, or requirement has occurred, the Director of Human Resources and Senior Staff Member, after consultation with the Chair or other member of the HSMB, may impose an appropriate sanction, up to and including termination of employment.

The Director of Human Resources and the Senior Staff Member determination will include findings of fact and a rationale for the responsibility determination and sanction, if any. A preponderance of the evidence standard will apply to this determination. In the event the Director of Human Resources and the Senior Staff Member are unable to agree, they shall advise the President, who will appoint a third person to act as a tie-breaker.

Article XII.

Overall Time Frame for Investigation and Complaint Resolution

The College has established time frames with the goal of addressing and reaching a determination about all complaints in a timely and efficient manner. In general, parties can expect that the College will conclude all reports of Sexual Misconduct within ninety (90) days (exclusive of any appeal) and, in general, parties can expect that the process will proceed

according to the time frames provided in this Policy. However, because circumstances may arise that require the extension of time frames—possibly beyond the overall ninety (90) day timeline— all time frames expressed in this Policy are meant to be guidelines rather than rigid requirements. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation or other unforeseen circumstances. The College will provide written notice to all parties of the reason for any delay and the expected adjustment in time frames. The College will make its best efforts to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Appeals

When the Respondent is a Student

Either party may request an appeal of the findings as to responsibility and/or the sanction (if applicable) within seven (7) days of being informed in writing. Acceptable grounds for an appeal are limited to:

- A sanction inconsistent with the severity of the violation or with stated community standards and precedents;
- procedural error(s) that had a material impact on the fairness of the process (the Appeals Board is not to substitute its judgments on the merits for that of the Review Panel or Senior Staff Member); and/or
- the discovery of previously unavailable relevant information that could significantly impact the result of the Review Panel's or Senior Staff member's determination.

Appeal Procedures

Either party may submit a written request for an appeal to the Chair of the Appeals Board. In the request, the party must identify the specific grounds upon which the appeal is based and must provide all of the detail the given party wants considered in support of the appeal. (The Appeals Board will not consider submissions from anyone other than the parties themselves.) The Chair of the Appeals Board will inform the Senior Staff Member and Chair of the HSMB that an appeal request has been made and will invite them to review the appeal request and respond in writing within seven (7) days of that invitation.

Where an appeal is requested by the Respondent, the Complainant will be provided with a copy of the Respondent's appeal and invited to respond. Where an appeal is requested by the Complainant, the Respondent will be provided a copy of the Complainant's appeal and invited to respond. However, in either case, the Title IX Coordinator and HSMB Chair will review the appeal statement to determine whether the information contained therein is relevant and material to the determination of the appeal and, in general, the Title IX Coordinator and the HSMB Chair may redact information that is irrelevant, more prejudicial to a party or witness than probative, an unwarranted invasion of an individual's privacy, otherwise violative of this Policy, or immaterial. The Title IX Coordinator may also redact statements of personal opinion rather than

direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty.

Within seven days of an appeal being filed, the Chair of the Appeals Board will schedule a meeting for consideration and disposition of the appeal. The Title IX Coordinator will provide the Appeals Panel access to the Investigation Report and any other written materials that were made available to the Review Panel. In considering the appeal, the Appeals Panel may request additional information from the Title IX Coordinator, the Senior Staff Member, or the Chair of the HSMB. Normally, the parties, Senior Staff Member, and Chair of the HSMB will not appear before the Appeals Panel, though they may be summoned at the discretion of the Chair of the Appeals Board.

The Appeals Panel may:

- uphold the original decision;
- remand the matter to the Review Panel. The Appeals Panel may (but is not required to) take this action when there is a procedural irregularity that could be corrected in a review or the presentation of previously unavailable relevant information that could significantly impact the result of the Review Panel's determination;
- remand the matter to the appropriate Senior Staff Member with a recommendation that the sanction be modified, together with an explanation of why the original sanction is deemed inappropriate; or
- remand the matter to an ad hoc review panel composed of members of the HSMB not previously involved in the matter. This will be done only in extraordinary cases when, in the considered opinion of the Appeals Panel, the matter would be best addressed by a newly-constituted panel.

Any determination made following a remand of a matter is subject to appeal to the Appeals Board utilizing this same process.

In cases where the two members of the Appeals Panel do not agree, a third Appeals Board member will review the appeal and make a determination. If there is a conflict of interest, or a third member of the Appeals Board is unavailable, a member of the Faculty Appeals Board will be appointed by the Chair of the Faculty Appeals Board. The Appeals Panel will provide the parties, the Senior Staff Member, and the Chair of the Harassment and Sexual Misconduct Board written notice of its decision, including grounds for the decision, normally within seven days of its meeting. The record of the appeal will consist of the letter of appeal; any written statements from the parties, Senior Staff Member and/or Chair of the HSMB; and the written decision that acceptable grounds for an appeal were not asserted (if that is the case), and the outcome of the appeal. This record will be appended to the written record of the original decision and will be kept with it as part of the case file maintained by the Title IX Coordinator.

Decisions of the Appeals Panel are final.

B. When the Respondent is a Faculty Member

If the matter was processed under X.E of the Faculty Handbook, the faculty member shall have the rights provided therein and no others. For other matters, either party (but only parties themselves) shall have the right to appeal, in writing, to the Title IX Coordinator, within seven days of receipt of the Dean's determination. Grounds for appeal are limited to:

- a sanction inconsistent with the severity of the violation;
- procedural error(s) that had a material impact on the fairness of the determination (the President's and Vice President's judgment on the merits should not be substituted for that of Dean); or
- the discovery of previously unavailable relevant information that could significantly impact the result of the Dean's determination.

The appeal will be heard by the President and a Vice President not otherwise involved in the matter, as selected by the Title IX Coordinator. On appeal, the President and Vice President may uphold the original determination, remand the matter for either further consideration by the Dean of Faculty and/or Investigation Team, or modify or reject the determination. The President and Vice President's decision is final, subject to the rights of the parties to appeal any proceedings ordered on remand. In the event the President and Vice President do not agree, the Title IX Coordinator will appoint to the panel another Vice President not involved in the matter.

C. When the Respondent is a Staff Member

Either party (but only the parties themselves) may appeal the determination of the Director of Human Resources and the Senior Staff Member by submitting a request for an appeal in writing within seven (7) days of receiving notice of the determination to the Title IX Coordinator. Acceptable grounds for an appeal are limited to:

- a sanction inconsistent with the severity of the violation;
- procedural error(s) that had a material impact on the fairness of the determination (the President's and Vice President's judgment on the merits should not be substituted for that of the Director of Human Resources and Senior Staff Member); or
- the discovery of previously unavailable relevant information that could significantly impact the result of the Director of Human Resources/Senior Staff Member's determination.

The appeal will be heard by the President and a Vice President not otherwise involved in the matter, as selected by the Title IX Coordinator. On appeal, the President and Vice President may uphold the original determination, remand the matter for either further consideration by the Director of Human Resources and Senior Staff Member and/or investigation team, or modify or reject the determination. The President and Vice President's decision is final, subject to the rights of the parties to appeal any proceedings ordered on remand. In the event the President and Vice President do not agree, the Title IX Coordinator will appoint to the panel another Vice President not involved in the matter.

Article XIII.

Guests and Non-College Community Members

The College expects all guests to be able to participate in its programs and offerings (to the extent otherwise appropriate) without experiencing Sexual Misconduct related to those programs and offerings. The College also expects guests and other non-community members to not engage in such conduct towards others in the context of those programs and offerings.

If guests or other non-community members believe they have been subjected to Sexual Misconduct by a member of the College community in connection with a College program or offering, they may request that the conduct be addressed pursuant to the applicable process under this Policy.

If College community members believe they have been subjected to Sexual Misconduct by a guest or other non-community member in connection with a College program or offering, they should make a report to Campus Safety, which will conduct an appropriate investigation and report its findings to the Title IX Coordinator for action. The parties are permitted to use an advisor, on the same terms as set out in Article X, F, above. The decision of the Title IX Coordinator in such matters will be final.

Article XIV. Education and Prevention Programs

The College is committed to educating and promoting community awareness about the prevention of sex discrimination and harassment, sexual harassment, sexual violence, stalking, domestic violence, dating violence, and sex- and gender-based harassment that does not involve conduct of a sexual nature. The College offers programs to promote awareness and prevention of such issues throughout the year, including an overview of the College's policies and procedures, relevant definitions (including prohibited conduct, discussion of the impact of alcohol and illegal drug use, and effective consent), the severity of sanctions for violations (including suspension and expulsion) and information about bystander intervention and risk reduction.

The Title IX Coordinator and others designated by the Title IX Coordinator oversee the development and implementation of the College's education and prevention programs, which are based on campus needs and climate. Incoming first-year students and new employees receive primary prevention and awareness programming as part of their orientation. Returning students and employees receive ongoing training on a periodic basis. All educational programs include a review of resources and reporting options.

Article XV. Annual report

At the end of each academic year, the Title IX Coordinator shall prepare a report that will include the number of notices of alleged misconduct, the kinds of behaviors that gave rise to complaints during that academic year, and the final resolution of those complaints. The Title IX Coordinator will make the annual report public at the beginning of the next academic year. The report shall not mention the name of any individual or contain identifying details of any case.

**Article XVI.
Records**

The Title IX Coordinator shall keep on file in the Title IX office for seven years from the date of the filing of the formal complaint the following written documentation: notice of complaint and related no contact orders, the investigation report and supporting materials, summary and recommendation, the Senior Staff member's written finding and sanction notification (if applicable), and the appeals record.

**Article XVII.
Conflicts**

Whenever any official with a role under this Policy (e.g., is a Senior Staff Member, Director of Human Resources, etc.), has a conflict of interest and the process for resolving the conflict is not otherwise provided in this Policy, the President may designate someone else to fill that person's role under this Policy (except in cases processed under the Tribunal provisions of the Faculty Handbook, in which case those provisions on the selection of Tribunal members will govern).

If a complaint is made against the President, or a member of the Board of Trustees, it will go to the Chair of the Board (or the Vice Chair of the Board if the charge is against the Chair), who may appoint different individuals to any role under this Policy as the Chair (or Vice Chair) deems appropriate to ensure a fair and appropriate process.

**Article XVIII.
Multiple Charges/Parties**

When multiple charges and/or parties are involved, including charges by and against individuals with different statuses (e.g. faculty and student), the Title IX Coordinator, in consultation with the HSMB Chair, will determine the appropriate procedures to be used, including varying from these procedures as may be necessary. Normally, multiple contemporaneous charges against the same Respondent, even when brought by multiple complainants, will be investigated by a single Investigation Team. Absent the consent of the Respondent, the Title IX Coordinator will convene separate Review Panels to hear complaints by different Complainants against the same Respondent whenever separate Review Panels are necessary to ensure the exclusion of the Respondent's prior sexual history with persons other than the Complainant.

**Article XIX.
Coordination with Other Policies**

A particular situation may potentially invoke one or more College policies or processes. The Title IX Coordinator, in consultation with other college officials, reserves the right to determine the most applicable policy or process and to utilize that policy or process.

**Article XX.
Counsel**

Any College administrator or official when involved in the implementation of this policy (e.g., HSMB member, Senior Staff member, Director of Human Resources, Tribunal member, etc.) may seek the advice of, and share information with, the College's legal counsel through the Title IX Coordinator.

**Article XXI.
Policy Amendment**

Members of the community may suggest changes to members of the HSMB or the Title IX Coordinator, who shall bring them to the HSMB for discussion. Final policy changes, other than updates to contact information included in this policy, are to be approved by the President of the College. Unless otherwise provided in the amendment, amendments to this Policy will become effective upon approval.

**Article XXII.
Inquiries Related to This Policy and Title IX**

The College encourages members of the Hamilton community to bring any and all questions or concerns about this Policy and/or Title IX to the Title IX Coordinator: Catherine Berryman, at 315-859-4020 or cberryman@hamilton.edu, Elihu Root.

Members of the Hamilton community may submit inquiries or complaints concerning Title IX to the U.S. Department of Education's Office for Civil Rights:

U. S. Department of Education, Office for Civil Rights New York Office
32 Old Slip, 26th Floor
New York, New York 10005-2500
Phone: 646-428-3800
Fax: 646-428-3843
Email: OCR.NewYork@ed.gov

OCR National Headquarters
U. S. Department of Education
Office of Civil Rights, Customer Service Team
Mary E. Switzer Building
330 C. Street, S.W.
Washington, D. C. 20202
Phone: 800-421-3481
Fax: 202-205-9862

Inquiries involving employees may also be referred to:

New York State Division of Human Rights
Office of Sexual Harassment
55 Hanson Place, Suite 347
Brooklyn, New York 11217
Phone: 718.722.2060 or 1.800.427.2773
Fax: 718.722.4525

U.S. Equal Employment Opportunity Commission National Headquarters
131 Main Street NE Fourth Floor Suite 4NW02F
Washington, D.C. 20507
Phone: 202.663.4900
Fax: 202.663.4912

U.S. Equal Employment Opportunity Commission
New York District Office
33 Whitehall Street, 5th Floor
New York, New York 10004
Phone: 1-800-669-4000
Fax: 212-336-3790
TTY: 1-800-669-6820

ADDENDUM A

RESOURCES

On Campus Support Resources

The **Counseling Center** (315-859-4340) is a **confidential** resource, available 24-hours a day/7 days a week, whose staff can provide students emotional support and information about reporting options.

The **Health Center** (315-859-4111) is a **confidential** resource for students whose staff provides medical assistance, and can share information about reporting options. After hours, **Emergency Medical Technicians** (EMTs) are available (reached through Campus Safety at 315-859-4000).

The **Chaplaincy** (315-859-4130) is a **confidential** resource for students and employees whose staff can provide pastoral counsel, emotional support, and information about reporting options. Visit the **Chaplaincy site** (<http://www.hamilton.edu/chaplain/office-hours>) to learn how to contact individual staff in the Chaplaincy.

Employee Assistance Program (EAP) (1-800-834-3947) through BRiDGES is a **confidential** resource for employees regarding issues ranging from alcohol and drug abuse to financial and legal concerns. Appointments with a BRiDGES EAP professional are available 8:00 am until 5:00 pm Monday through Friday with evening hours on Tuesday. Call 315-697-3949 or 1-800-834-3947 during working hours and a staff member will assist in booking an appointment and/or answering any of your questions. A 24-hour answering machine is also available after hours to provide callers with the numbers for crisis services or to take messages. An employee or a family member may attend up to five sessions unless a referral to a community provider is recommended.

Campus Safety (315-859-4000) is available to students and employees 24 hours a day, 7 days a week to respond to any community concern. Campus Safety will notify the Title IX Coordinator after responding to a call related to alleged Sexual Misconduct. Campus Safety is not a confidential resource; however, every effort will be made to maintain privacy.

The College's **Title IX Coordinator**, Catherine Berryman, is also available to students and employees as a resource. **Talking with the Title IX Coordinator about a specific incident of Sexual Misconduct constitutes a report under this Policy to which the College must respond, although this does not necessarily mean that the College will take action if the Complainant does not wish for action to be taken (see Section VII Confidentiality).** However, general conversations or questions about Hamilton's processes can remain private [see "Privacy of Resources"]. The Title IX Coordinator can provide information about all resources available to individuals who have experienced Sexual Misconduct, including where to obtain emergency mental health services and health care. The Title IX Coordinator can review and determine the immediate academic and administrative accommodations that can be made to protect a Hamilton community member who has experienced Sexual Misconduct. The Title IX Coordinator can also advise about options for reporting, including the option to report to local

law enforcement, to initiate the on-campus resolution procedures, to do both, or to do neither. The Title IX Coordinator will provide guidance and assistance through the process of reporting on- and/or off-campus. She can be reached at 315-859-4020 or after hours for emergencies through Campus Safety at 315-859-4000.

Off Campus Support Resources

YWCA Rape Crisis Services (315-797-7740) is an anonymous hotline available to provide counsel as well as in-person assistance getting to a hospital or the police. If requested, YWCA Rape Crisis Service may also provide victim advocacy services.

Help Restore Hope Center coordinates **Sexual Assault Nurse Examiner** (SANE) services for medical attention (injuries from a sexual assault are not always immediately apparent) and collecting physical evidence (a “rape kit”) at a regional hospital. The College strongly encourages any individual who has experienced sexual violence to obtain a rape kit, which is critical: (1) to diagnose and treat the full extent of any injury or physical effect and (2) to properly collect and preserve evidence. There is a limited window of time (typically up to 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Gathering such evidence does *not* commit an individual to pursuing legal action against the assailant, but does preserve that option. Although it may be difficult following a sexual assault, individuals who are considering or may consider legal action should try not to shower, rinse mouth, brush teeth or change clothes to allow for the maximum possible collection of evidence by a SANE nurse or other health care provider.

Hospitals are **confidential** resources and are not required to report any non-identifying information to the College or to anyone else. However, hospitals providing care to individuals reporting sexual assault are required to:

- collect and maintain the chain of custody of sexual assault evidence for not less than 30 days *unless* the patient signs a statement directing the hospital not to collect it;
- advise the individual seeking medical treatment related to sexual assault of the availability of the services of a local rape crisis or victim assistance organization to accompany the individual through the sexual offense examination;
- contact a rape crisis or victim assistance organization providing assistance to the geographic area served by that hospital to establish the coordination of non-medical services to individuals reporting sexual assault who request such coordination and services; and
- provide emergency contraception upon the patient’s request.

Even if an individual who has experienced sexual violence does not have injuries requiring emergency attention, the College encourages that individual to seek medical care as soon as possible, whether at the Health Center or another health care provider or hospital. A medical evaluation is still important to check for physical injuries, reduce risk of complications from sexually transmitted diseases as a result of the assault, and/or (if appropriate) reduce risk of pregnancy.

In most instances, any health care provider will encourage an individual reporting Sexual Misconduct to authorize collection of evidence. For individuals who seek initial medical treatment at the Health Center and decide to proceed with evidence collection, the individual may be escorted to Oneida Health by Campus Safety or may choose to travel by taxi (the College will provide a voucher) to any chosen medical provider. A Complainant can receive follow-up health care at the Health Center or the chosen health care provider or hospital.

Law Enforcement

The College encourages anyone who is a victim of Sexual Misconduct to pursue criminal action for incidents that may also be crimes under applicable criminal statutes. The **New York State Police Campus Sexual Assault Victim Unit's 24-hour Hotline** (1-844-845-7269) or the Oneida County Sheriff (315-736-0141) can assist with pressing criminal charges following an incident in New York.