

# STUDENT RIGHTS & RESPONSIBILITIES CODE OF CONDUCT



2024 - 2025

**SUNY**  
**NIAGARA**

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# Student Code of Conduct

## 1. Policy Statement

Students enrolling at SUNY Niagara (or the “College”) assume an obligation to conduct themselves in a manner compatible with the academic standards, policies, procedures, rules and regulations of the College and its entities. The SUNY Niagara Student Code of Conduct (the “Code”) defines the expectations, rights and responsibilities of all members of the student body. Students are valued members of the College community and are expected to act responsibly and to avoid interference with the rights, comfort, or safety of other members of the College community. Consistent with these premises, all students are held accountable for their actions. Behavior that adversely affects the student’s responsible membership of the academic community shall result in appropriate disciplinary action.

In addition to the conduct expected of all members of the SUNY Niagara student body, SUNY Niagara also upholds the Rules for the Maintenance of Public Order as adopted by The Board of Trustees of the State of New York (8 NYCRR 535) for all campus members, visitors, licensees, invitees and all other persons, whether or not their presence is authorized on campus.

### A. Prohibited Conduct

#### **No person either singly or in concert with others shall:**

- i. willfully cause physical injury to another person, nor threaten to do so;
- ii. physically restrain or detain any other person;
- iii. remove anyone from any place where they are authorized to remain;
- iv. willfully damage or destroy property of the campus or property under its care;
- v. remove property of the campus or property under its care;
- vi. use campus property or property in the campus’s care without authorization;
- vii. enter into any private office of an administrative officer, member of the faculty or staff member without implied or explicit permission;
- viii. enter into and remain in any campus building or facility for any purpose other than its authorized uses or in such manner as to obstruct its authorized use;
- ix. remain in any building or facility after it is closed without authorization;
- x. refuse to leave a campus building or facility after being required to do so by an authorized administrative officer;
- xi. obstruct the free movement of people and vehicles in any place to which these rules apply;
- xii. deliberately disrupt or prevent the peaceful and orderly conduct of classes, lecture and meetings;
- xiii. deliberately disrupt or prevent the freedom of any person to express their views, including invited speakers;
- xiv. knowingly have in their possession upon the premises to which these rules apply, any rifle, shotgun, pistol, revolver, or other firearm or weapon without the written authorization of the president whether

- or not a license to possess the weapon has been issued to the person;
- xv. willfully incite others to commit any of the acts prohibited in this section with the specific intent to procure them to do so; or
  - xvi. take any action, create or participate in the creation of any situation, which recklessly or intentionally endangers the mental or physical health of anyone for the initiation into or affiliation with any organization.

## **2. Non-Discrimination**

Applies the protections set forth in this Code regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, criminal conviction, or other characteristic protected by law. Students should feel encouraged to exercise their civil rights and practice religion without interference by SUNY Niagara investigative, criminal justice, or judicial or conduct process(es).

## **3. Purpose of the Code**

This Code and the accompanying student disciplinary process are intended to assist students in their personal development by providing a fair conduct review procedure that issues consistent responses for behaviors that are incongruent with the College's expectations. In furthering the educational aims of the College and maintaining compliance with the provisions of:

Article 129-A of the Educational Law of the State of New York, the Code outlines the practices to be utilized in administering disciplinary system at SUNY Niagara.

- a. Other SUNY Niagara Policies and Procedures Referenced in this Code Include:
  - i. Title IX Grievance Policy
  - ii. Sexual Assault, Relationship Violence, and stalking Policies for Students ("Sexual Misconduct Policy")
  - iii. Discrimination, Harassment, and Retaliation Policy
  - iv. Academic Integrity Policy (Cheating and Plagiarism)
  - v. Anti-Bullying Policy
  - vi. Confidentiality of Student Records (FERPA)
  - vii. Consensual Sexual and Amorous Relationships
  - viii. Drug and Alcohol Policy
  - ix. SUNY Niagara Net Usage Policy/Student Email Policy
  - x. Tobacco Free Environment Policy
  - xi. Workplace Violence Policy and Program

## **4. Definitions**

- a. The term "College" means SUNY Niagara (SUNY Niagara).
- b. The term "Institution" refers to SUNY Niagara (SUNY Niagara).

- c. The term “Code of Conduct” shall mean the written policies adopted by SUNY Niagara governing student behavior, rights and responsibilities while such student is attending the institution.
- d. The “Vice President of Student Services” is the senior officer designated by the President of SUNY Niagara to be responsible for the administration of the Student Code of Conduct. The Vice President or their designee is responsible for the day-to-day administration of the Student Code of Conduct.
- e. The term “student” includes any person taking a course(s) (credit or non-credit) at the Sanborn Campus, Niagara Falls Culinary Institute or any official off-campus site.
- f. The term “faculty member” means any person employed by the College to conduct educational activities.
- g. The term “College employee” means any person eligible to be a member of the Educational Support Personnel Association, Faculty Association, and Technical Support Personnel Association. The College employee may have full- time or part-time status.
- h. The term “College official” means any person employed by the College performing administrative responsibilities.
- i. The term “Title IX Coordinator” shall mean the Title IX Coordinator and/or their designee(s).
- j. The term “member of the College Community” includes any person who is a student taking a course, faculty member, College official or any other person employed by the College. The Vice President of Student Services shall determine a person’s status in a particular situation.
- k. The term “SUNY Niagara premises” or “College premises” includes all land, buildings, facilities, vehicles and any other property in the possession of, owned, used, leased or controlled by the College.
- l. The term “Judicial Hearing Board” refers to the body authorized by the President of the College, or designee, to implement the judicial process.
- m. The term “policy” includes all written regulations of the College as found in, but not limited to, the Student Handbook, College Catalog, Faculty Handbook or the College Policy Manual.
- n. The term “working/business days” refers to the hours and days the College conducts administrative and/or instructional operations.
- o. The term “recommendation” refers to a remedy proposed by the Judicial Board. A recommendation(s) is not binding.
- p. The term “decision” refers to the determination by the Judicial Board; Vice President of Student Services or designee; or Title IX Coordinator; or designee(s). A decision(s) is binding.
- q. The term “advisor” means any person the College has designated, or a student, faculty member or staff member the student(s) selects to advise/assist them with the judicial process. The student(s) is responsible for any cost incurred to retain their counsel external to the College to advise/assist them with the judicial process.
- r. The term “complainant” means the member of the College on behalf of an individual or department in SUNY Niagara, and or the reporting individual that initiates the complaint. If the College brings the complaint forward on behalf of the reporting individual, the College shall be the complainant and the reporting individual shall be the co-complainant.
- s. The term “accused” shall mean a person accused of a violation who has not yet entered the college’s judicial or conduct process.



- t. The term “respondent” shall mean the person accused of a violation who has entered SUNY Niagara’s judicial or conduct process.
- u. The Term “reporting individual” shall encompass the terms victim, survivor, complainant, claimant, and witness with victim status and any other term used by an institution to reference an individual who brings forward a report of a violation.
- v. The term “sexual activity” shall have the same meaning as “sexual act” and “sexual contact” as provided by 18 U.S.C. 2246 (2) and 18 U.S.C. 2246 (3).
  - i. Sexual Act means:
    1. Contact between the penis and the vulva or the penis and the anus, and for the purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;
    2. Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
    3. The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
    4. The intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify for sexual desire of any person;
  - ii. The term “Sexual Contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- w. The term “affirmative consent” means 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.
  - i. 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.
  - ii. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
  - iii. Consent may be initially given but withdrawn at any time.
  - iv. 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
  - v. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
  - vi. When consent is withdrawn or can no longer be given, sexual activity must stop.
- x. . The term “Sexual Offense” means sexual activity, sexual assault, relationship violence, and stalking as defined on SUNY Niagara’s Sexual Assault Resources

page <http://www.Niagaracc.suny.edu/sexual-assault/#defining> and the SUNY Niagara's Sexual Misconduct and VAWA Notice page <https://www.Niagaracc.suny.edu/hr/sexual-misconduct-vawa/>

- y. The term “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 victim. The existence of such a relationship shall be determined based on the reporting person’s statement and with consideration of the type and length of the relationship, the type of the relationship and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- z. The term “domestic violence” is defined as felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common,, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or New York family violence laws, or by any other person against an adult or youth victim who is protected from that person’s acts under New York domestic or family violence laws.
- aa. The term “stalking” generally means engaging in a pattern of behavior that would cause a reasonable person to (a) fear for the person’s safety or the safety of others; or (b) suffer substantial emotional stress. Behaviors can include:
  - i. Repeatedly leaving or sending victim unwanted items, presents, flowers
  - ii. Harassing the victim through the internet, including social networking websites
  - iii. Repeated, unwanted and intrusive phone calls, emails, or text messages; especially after being clearly informed to stop
  - iv. Damaging or threatening to damage the victim’s property
  - v. Following, monitoring, surveillance of victim and/or victim’s family, friends, co-workers
  - vi. Abusing or killing a pet or other animal
  - vii. Crossing jurisdictions/borders to stalk/commit offenses
  - viii. intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for their safety or the safety of others or cause that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy, or alarm them.
- bb. The term “sexual assault” means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s UCR program and as set forth in Appendix A to the Clery Act regulations (34 CFR 668.46). In Appendix A to the Clery Act regulations, these terms are defined as follows:
  - i. Rape – the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim
  - ii. Fondling – the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will;

- or, not forcibly or against the person's will where the victim is incapable of giving consent because of their youth because of their temporary or permanent mental or physical incapacity.
- iii. Incest – sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - iv. Statutory rape – sexual intercourse with a person who is under the statutory age of consent. Under New York law, the age of consent is 17 years old. See New York State Penal Law Article 130.
  - cc. The term “crime of violence” means murder, Sexual Offense, robbery, aggravated assault, burglary, motor vehicle theft, manslaughter, and arson.
  - dd. The term “bystander” shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of SUNY Niagara.
  - ee. “Confidentiality” may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092 (f) and 20 U.S.C. 1681 (a). Licensed mental health counselors, medical providers and pastoral counselors are examples of institution employees who may offer confidentiality.
  - ff. “Privacy” may be offered by an individual when such individual is unable to offer confidentiality under the law but shall not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate institution officials

## 5. Students' Bill of Rights

The State University of New York and SUNY Niagara are committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in College programs, activities, and employment. All victims/survivors of these crimes and violations, regardless of **race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction**, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad:

### **All students have the right to:**

1. Make a report to campus security, local law enforcement and/or state police.
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously.
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure from the institution.
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available.
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different

- manner to avoid such crimes or violations.
7. Describe the incident to as few institution representatives as practical, and not to be required to unnecessarily repeat a description of the incident.
  8. Be protected from retaliation by the institution, any student, the accused and/or respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution.
  9. Access to at least one level of appeal of a determination.
  10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process.
  11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

**Options in Brief:**

1. Victims/survivors have many options that can be pursued simultaneously, including one or more of the following:
  - a. Receive resources, such as counseling and medical attention.
  - b. Confidentially or anonymously disclose a crime or violation and find additional information: <https://www.Niagaracc.suny.edu/sexual-assault/>
  - c. Make a report to:
    - i. An institution employee with the authority to address complaints, including the Title IX Officer, Assistant Vice President of Human Resources, or Vice President of Student Services or designee,
    - ii. Campus Security,
    - iii. Niagara County Sheriff’s Department or State Police, and/or
    - iv. Family Court or Civil Court.

**6. Jurisdiction of the College**

The College will have jurisdiction over misconduct that occurs on College premises and/or at College sponsored activities. The College may also address off campus behavior if the College determines that the behavior or the continued presence of the student engaging in such behaviors impairs, obstructs, interferes with or adversely affects the missions, processes or functions of the College. The College will also have jurisdiction over Sexual Offenses that occur on or off campus, or while the students are studying abroad.

**7. Amnesty Policy**

Student Amnesty Policy - the health and safety of every student at SUNY Niagara is of utmost importance. SUNY Niagara 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. SUNY Niagara strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to SUNY Niagara 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 SUNY Niagara’s officials or law enforcement will not be subject to SUNY Niagara’s 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.

## **8. Response to Reports**

All individuals reporting an incident have the following right:

- a. To notify campus security, local law enforcement and/or state police;
- b. Have emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. Such official shall also explain whether they are authorized to offer the reporting individual confidentiality or privacy, and shall inform the reporting individual of other reporting options;
- c. Disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for reporting individuals;
- d. Disclose confidentially the incident and obtain services from the state or local government;
- e. Disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;
- f. File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate institution representatives for information and assistance. Reports shall be investigated in accordance with institution policy and a reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy;
- g. Disclose, if the accused is an employee of the institution, the incident to the institution's human resources authority or the right to request that a confidential or private employee assist in reporting to the appropriate human resources authority;
- g. Disclose, if the accused is an employee of the institution, the incident to the institution's human resources authority or the right to request that a confidential or private employee assist in reporting to the appropriate human resources authority;
- h. Receive assistance from appropriate institution representatives in initiating legal proceedings in family court or civil court; and
- i. Withdraw a complaint or involvement from the institution process at any time.

SUNY Niagara will ensure that, at a minimum, at the first instance of disclosure by a reporting individual to a representative of SUNY Niagara, the information above shall be presented to the reporting individual.

SUNY Niagara will ensure that reporting individuals have information about resources, including intervention, mental health counseling, and medical services, which shall include information on whether such resources are available at no cost or for a fee. SUNY Niagara will also provide information on sexually transmitted infections, sexual assault forensic examinations, and

resources available through the New York state office of victim services, established pursuant to section six hundred twenty-two of the executive law.

SUNY Niagara will ensure that individuals are provided with the following protections and accommodations:

- a. When the accused or respondent is a student, to have the institution issue a “no contact order” consistent with SUNY Niagara’s policies and procedures, whereby continued intentional contact with the reporting individual would be a violation of policy subject to additional conduct charges; if the accused or respondent and a reporting individual observe each other in a public place, it shall be the responsibility of the accused or respondent to leave the area immediately and without directly contacting the reporting individual. Both the accused or respondent and the reporting individual shall, upon request and consistent with SUNY Niagara’s policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no contact order, including potential modification, and shall be allowed to submit evidence in support of their request. SUNY Niagara may establish an appropriate schedule for the accused and respondents to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the reporting individual;
- b. Both the accused or respondent and the reporting individual shall, upon request and consistent with institution policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no contact order, including potential modification, and shall be allowed to submit evidence in support of their request.
- c. Individuals may be assisted by the SUNY Niagara’s public safety, if applicable, or other officials in obtaining an order of protection or, if outside of New York state, an equivalent protective or restraining order;
- d. Individuals may receive a copy of the order of protection or equivalent when received by SUNY Niagara and have an opportunity to meet or speak with a SUNY Niagara representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused’s responsibility to stay away from the protected person or persons;
- e. Individuals will receive an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension;
- f. Individuals will receive assistance from Public Safety in effecting an arrest when an individual violates an order of protection
- g. When the accused or respondent is a student determined to present a continuing threat to the health and safety of the community, to subject the accused or respondent to interim suspension pending the outcome of a judicial or conduct process consistent with SUNY Niagara’s policies and procedures. Both the accused or respondent and the reporting individual shall, upon request and consistent with SUNY Niagara’s policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of their request;
- h. When the accused is not a student but is a member of SUNY Niagara’s community and presents a continuing threat to the health and safety of the

community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and rules and policies of the institution;

- i. To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation or other applicable arrangements in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment, consistent with the institution's policies and procedures. Both the accused or respondent and the reporting individual shall, upon request and consistent with SUNY Niagara's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects them, and shall be allowed to submit evidence in support of their request.

## 9. Violations

- a. **Referrals:** Complaints, incidents, or referrals regarding student behavior as hereinafter described in paragraph "B" should be reported to the Student Services or the Public Safety Office. The Vice President of Student Services or their designee will investigate each report and determine the action to be taken.
- b. **Behavior Subject to Discipline:** All of the following behaviors are a violation of the Code and may subject a student to disciplinary action as set forth below. A violation occurs when there is evidence of a student having committed actual misconduct, attempting to commit misconduct but not completing the violation (i.e. offering to sell illegal substances to an individual who does not buy them or trying to steal an item but stopping or being stopped before removing the item from its location), assisting or convincing another person to commit misconduct, and misconduct or attempted misconduct by a student's guest.

The College expects every student to conduct themselves in an honorable and ethical manner. The following are UNACCEPTABLE conduct(s) and subject to sanction(s):

- a. **ACADEMIC MISCONDUCT:** Commission of an act which violates the academic integrity of SUNY Niagara as detailed in the Academic Integrity Policy section of this publication, including, but not limited to, academic cheating; plagiarism; the sale, purchase or exchange of papers, or research; or destroying or damaging another person's work or work materials including, but not limited to, lab experiments, computer programs/files, term papers, projects or copy of an examination; or theft of another's work from any source is a violation of the Code.
- b. **CHEATING:** which includes, but is not limited to, use of any unauthorized assistance in taking quizzes, tests or examinations; dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems or carrying out other assignments; the acquisition without permission of tests or other academic materials belonging to a member of the College's faculty. Any concern regarding plagiarism shall be handled through the Academic Grievance Policy – refer to the policy on page 20 of this document.
- c. **ALCOHOLIC BEVERAGE VIOLATION:** Except for appropriate classroom activities or approved student activities, the possession and/or consumption of any alcoholic beverage is a violation of this College Code. Students under the influence of alcohol on campus property is also a violation of the code. Possession and/or consumption of alcoholic beverages by students participating

in a College club or College sponsored trip or an off-campus activity is also prohibited. Any action that involves the forced consumption of alcohol for the purpose of initiation into or affiliation with any organization is also strictly prohibited, and will be subject to disciplinary action. See the College's policy on page 26 of this document.

- d. **BULLYING BEHAVIORS:** Repeated unwanted direct or indirect, written, verbal, electronic, and/or physical acts that may harm or humiliate another person are a violation of the Code. Refer to SUNY Niagara's Anti-Bullying policy. See the College's policy on page 50 of this document.
- e. **COMPUTER MISUSE:** Engaging in any unauthorized use of the College's hardware, software, or network systems is prohibited, including:
  - Theft, damage or misuse of computer resources including, but not limited to, computer accounts codes, passwords or facilities; damaging computer equipment or interfering with the operation of any computer system in the College
  - Unauthorized access, entry, or use of a computer, computer system, network, software, password, account or data,
  - Unauthorized alteration or tampering with computer equipment, software, network, or data
  - Unauthorized copying or distribution of computer software or data, use of computer facilities' equipment to send obscene, harassing, threatening or abusive messages or images,
  - Use of computers to falsify records, tamper with records or commit any act of academic dishonest;
  - Any other act in violation of the law and/or the College policies and guidelines regulating computer-related use
  - Refer to the *College's Net Use Policy and Student Email Policy* for additional information.
- f. **CRIMINAL ACTS:** Any alleged criminal act committed by a student off campus, which is such serious nature that it threatens the health and safety of the College community.
- g. **DEMONSTRATIONS:** Any individual or group behavior which endangers life, public or private property or violates local, state or federal law is a violation of the Code. Participation in any demonstration which disrupts the normal operations of the College and/or infringes on the rights of another member of the College Community; leading or inciting another person to disrupt scheduled and/or normal activities on any College premises is a violation of the Code. The right to assemble is provided to any group recognized by the Student Government Association and when room or facility space was registered with the appropriate College official(s).
- h. **DISCRIMINATION:** It is a violation of the code to engage in unlawful Discrimination, as defined in SUNY Niagara's Notice of Non-Discrimination as found at: <https://www.Niagaracc.suny.edu/hr/compliance/> Procedures for resolving complaints of discrimination, harassment, and retaliation, are available at : <https://www.Niagaracc.suny.edu/wp-content/uploads/2023/08/Discrimination-Harassment-and-Retaliation-Policy- Final-w-Cover.pdf>
- i. **DISHONESTY:** The falsification of information which includes any form of providing false or misleading information in writing, orally, or electronically in a manner, which has the intent, or effect of deceiving college personnel, or altering



or falsifying official College records or documents; and/or the misrepresentation of oneself as an agent of the College is a violation of the Code.

- j. **DISRUPTIVE CONDUCT:** Any behavior that substantially threatens, harms, or interferes with the peace and good order of the College community, students, visitors, personnel and/or other College processes and functions, including but not limited to, lewd, indecent, or obscene conduct or expression; unreasonable and disruptive noise; public intoxication; or prohibited athletic activity on College owned or controlled property or at a College sponsored or supervised function is a violation of the Code.
- Disruption or obstruction of research, administration, disciplinary proceeding or other College activity including the on- or off-campus public service function of the College or other authorized non-College activities on any College premises or electronic media.
  - Disruption or obstruction of teaching or disrespectful behavior in any learning environment, physical, or electronic. Every professor has the right to remove any disruptive student from any learning activity. (See Faculty Handbook).
- k. **DRUGS AND/OR DRUG PARAPHERNALIA:** Possession or use of any illegal controlled substance, drug, or drug paraphernalia is prohibited and will be reported to local and state authorities and will also be subject to disciplinary action by the College. Being under the influence of drugs including, but not limited to, marijuana, and any cannabinoid containing product is prohibited on College premises or at any College function. Any action that involves the forced consumption of illegal drugs for the purpose of initiation into or affiliation with any organization is also strictly prohibited, and will be subject to disciplinary action. The College will cooperate with local and state authorities on any cases of suspected illegal use, possession or distribution of state- controlled drugs. See the *College's Policy on Drug Usage*.
- l. **EXPLOSIVES:** The possession, storage, or use of firecrackers or other explosive device of any description for any purpose is a violation of this Code.
- m. **FAILURE TO COMPLY:** The willful obstruction and/or the failure to comply with the reasonable directions of any College official acting in performance of their prescribed duty; failure to provide valid student identification upon request of a College official; failure to comply with all regulations regarding student conduct on campus, and/or any violation of a College policy or procedure is a violation of the Code.
- n. **FIRE SAFETY VIOLATION:** Violation of campus safety regulations, including but not limited to, setting unauthorized fires, tampering with fire safety and/or firefighting equipment or rendering such equipment inoperable, pulling or turning in a false fire alarm, tampering or improper use of campus emergency phones, falsely reporting a hazard, or failure to evacuate facilities upon the sounding of a fire alarm or drill is a violation of the Code.
- o. **FORGERY:** Forgery, alteration or misuse of any College document, record or instrument of identification; imitating another person's signature or mark on academic or other official documents is a violation of the Code. (immunization records, transcripts, etc.)
- p. **GAMBLING:** Gambling for money or prizes except for approved college activities is prohibited on College owned or controlled property or at any College sponsored or supervised function is a violation of the Code.
- q. **HARASSMENT:** It is a violation of the code to engage in sexual or other unlawful Harassment, as defined by SUNY Niagara's Procedures for Resolving

Complaints of Discrimination, Harassment, and Retaliation, available at:  
<https://www.Niagaracc.suny.edu/wp-content/uploads/2023/08/Discrimination-Harassment-and-Retaliation-Policy-Final-w-Cover.pdf>

- r. **HAZING:** Hazing, which is any act that endangers the mental or physical health or safety of any student, or that destroys or removes public or private property for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in any group or organization is a violation of the Code.
- s. **IDENTIFICATION CARD VIOLATION:** SUNY Niagara identification cards should be carried at all times and must be produced, upon request, to any college personnel. The use of an identification card by anyone else other than the rightful owner is a violation of the Code. Failure to show your student ID when requested is a violation of the code.
- t. **IMPROPER CULINARY KNIFE STORAGE:** It is a violation of the code to have culinary knives outside of their cases when not in the culinary labs.
- u. **PARKING VIOLATION:** Failure to abide by any College parking regulation including the affixing of parking stickers, parking in designated areas and speed limits is a violation of the code.
- v. **POLICY VIOLATION:** Violation of any published College policy, protocol, rule, regulation or inciting another person(s) to do so is a violation of the code.
- w. **REMOVAL OF LIBRARY BOOKS AND MATERIALS:** Removal of books or other materials from the College Library in violation of the normal checkout procedures; defacing or damaging Library materials; intentionally displacing or hoarding library materials within the Lewis Library for one's unauthorized private use or any other abuse of reserved materials is a violation of the Code. Students with such materials and books in their possession will be considered as knowingly participating in the use of stolen materials.
- x. **RETALIATION:** It is a violation of the code to engage in unlawful retaliation, as indicated in SUNY Niagara's Student's Bill of Rights available at [www.Niagaracc.suny.edu/sexual-assault/index.php#bill-of-rights](http://www.Niagaracc.suny.edu/sexual-assault/index.php#bill-of-rights) and the employee and student policy on Discrimination and Harassment available at: <https://www.Niagaracc.suny.edu/wp-content/uploads/2023/08/Discrimination-Harassment-and-Retaliation-Policy-Final-w-Cover.pdf> and in SUNY Niagara's Sexual Harassment Policy found at: <https://www.Niagaracc.suny.edu/hr/titleix/regulations/>
- y. **SANCTION VIOLATION:** Violations of a College judicial sanction including, but not limited to, failing to meet the terms of the sanction, failure to complete a specified condition or assignment of a sanction, or violating the Student Code of Conduct when on disciplinary probation is a violation of the Code.
- z. **SEXUAL OFFENSE:** It is a violation of the code to engage in a Sexual Offense, as defined in this Code, and SUNY Niagara's Sexual Misconduct Policy and the Title IX Grievance Policy on page 39 of this document Sexual assault, domestic violence, dating violence, coercion, stalking, sexual discrimination and/or any other conduct which threatens or endangers the health or safety of any person on any College premises, on any College electronic media, including social media, the internet, and direct or anonymous chat applications, at any College sponsored or College supervised function. The Title IX Coordinator shall be notified for any of these offenses and will determine if the Title IX Grievance procedures will be used or Student Code of Conduct procedures.
- aa. **SOLICITING:** The advertisement, solicitation or sale of any item or service on College property, unless a part of an approved club activity, is a violation of the Code unless the prior approval of the Vice President of Student Services or

- designee has been secured.
- bb. **THEFT:** Theft or attempted theft of the property or services of the College, any organization, or any individual by means of taking, selling, deceiving, misappropriating, or misusing, as well as receiving and or possessing such stolen property is a violation of the Code.
- cc. **THREAT OF HARM:** Conveyance of threats or the commission of any act which results in, or which may result in, harm to any person or the damage to College property or the property of others by willful and deliberate means is a violation of the Code. This offense includes any form of harassment, physical assault, verbal abuse, threatening or attempting physical assault upon any person not to include dating violence, domestic violence or sexual misconduct (these actions are covered under separate policies or other infractions listed in this document), or threats to destroy College property or the property of others. Any action or behavior that endangers the health, safety or welfare of any member of the College community or visitors is a violation of this Code.
- dd. **TOBACCO USAGE:** The use of tobacco products on any College campus (this also includes smokeless tobacco products, e-cigarettes, and vaping) is a violation of the Code. Refer to the SUNY Niagara's Tobacco Use Policy found at: [Tobacco-Free-Environment-Policy.pdf](#) (suny.edu) and on page 46 of this document.
- ee. **TRESPASSING:** Unauthorized entry, use or occupancy of any building, structure, facility or college grounds is a violation of the Code.
- ff. **UNAUTHORIZED ENTRY:** Unauthorized possession, duplication, or use of any key to any College premises or unauthorized entry to, or use of any College premises or electronic media is a violation of the Code.
- gg. **VANDALISM:** The intentional and/or reckless, but not accidental, destruction of property; damaging, destroying, defacing, tampering, misuse, or abuse of student, staff or College property, including rentals or leased facilities, is a violation of the Code.
- hh. **VIOLATION OF LAW:** A violation of any municipal, state or federal criminal law or engaging in behavior that is a civil offense, or a violation of any policy, procedure, rule, regulation or directive of the College or any of its affiliated entities is a violation of this Code, even if the specific conduct is not listed as a prohibited act in the Code. The College regards criminal conduct/civil offense as a violation of the Code regardless of whether the criminal violation/civil offense are pursued in a court of law. The College may, to the extent permitted by law (including without limitation to FERPA), inform law enforcement agencies of perceived criminal violations and may elect to defer internal disciplinary action until the prosecution of the criminal violation has been completed. Proceedings under the Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the College.
- Generally, proceedings under this Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus at the discretion of the Vice President of Student Services or designee.
  - For Sexual Offense charges or complaints, however, the judicial or conduct process will run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external law enforcement entities while law enforcement gathers evidence, which should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay. Determinations made or sanctions imposed under this Code shall not be subject to change

because criminal charges arising out of the same facts giving rise to violation of SUNY Niagara rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

- ii. **VIOLATION OF PRIVACY:** Making a video recording, audio recording, taking photographs, or streaming audio/visual of any person in a location where the person has a reasonable expectation of privacy, without that person's knowledge and expressed consent, is a violation of the code.
- jj. **WEAPONS:** The threat of use or actual use of any weapon on College premises or at any College sponsored or College supervised function is strictly prohibited and will be reported to local and/or state authorities.

For purposes of this provision, a weapon is defined as:

- anything within the definition of a weapon set forth in Penal Law 265.00;
- any instrument, device, or object designed or specifically adapted for the purpose of inflicting physical harm or death;
- any instrument, device or object possessed, carried, or used for the purpose of inflicting or threatening physical harm or death.

## 10. Student Conduct Disciplinary Procedure Overview

### a. Charge of Misconduct

- i. Any student, faculty member, College official, or College employee may file a charge(s) of misconduct against a student. An incident report may be submitted to a College Public Safety Officer, to the Vice President of Student Services or designee, the Title IX Coordinator, the Chief Diversity and Equity Officer, and/or their designee(s), and may constitute a written charge of misconduct. Pending action on any charge(s) of misconduct by the Vice President of Student Services, or designee, the status of a student shall not be altered or their right to participate in all class(es), College sponsored or College supervised functions or be present on any College premises except for: (a) reasons relating to the student's physical or emotional safety or for reasons relating to the safety and wellbeing of any other student, College employee, faculty member, member of the College Community, College official or College property; or (b) the student persistently disrupts or obstructs teaching/learning, or is continuously disrespectful in the classroom.
  - 1. **Cases not involving Sexual Offense Charges:** Upon receipt of a charge or complaint, the Vice President of Student Services or designee may conduct a review to determine if the charges have merit and/or if they can be disposed of administratively by mutual consent of the parties involved on a basis acceptable by SUNY Niagara. Such disposition shall be final and there should generally be no subsequent proceedings. If the charges are not admitted and/or cannot be disposed of by mutual consent, the Vice President of Student Services or designee will prepare written charges and refer the case to the Judicial Hearing Board for a hearing. If the student admits violating the Student Code of Conduct but sanctions are not agreed to, subsequent process,

- including a hearing if necessary, shall be limited to determining appropriate sanction(s).
2. Cases Involving Sexual Offenses: Upon receipt of a charge or complaint alleging Sexual Offense, the Vice President to Student Services or designee shall immediately forward the charge or complaint to the Title IX Officer for handling under the Title IX Grievance Policy and/or the Sexual Misconduct Policy.
    - ii. The Vice President of Student Services or designee will respond promptly to any complaint filed. The Vice President of Student Services or designee will also promptly respond upon knowledge that a violation of the Code may have occurred.
    - iii. All charges shall be presented to the accused student in written form.
    - iv. The Vice President of Student Services or designee will determine (a) whether or not the alleged misconduct is within the purview of the Student Code of Conduct; and (b) if so the appropriate procedure.
    - v. Designation of an Appropriate Hearing Board – The College will designate members of the Faculty Senate, Student Government Association and campus community to create a Judicial Hearing Board for all student conduct charges.
      1. The three (3) faculty members on the Judicial Board are elected by the Faculty Senate. Membership terms for the Judicial Board are for three (3) years, on a rotating basis. One faculty member of the Judicial Board shall be replaced each year. An election to replace this Judicial Board member shall occur at the May meeting of the Faculty Senate. The Chairperson of the Judicial Board is elected by the Judicial Board members' majority vote. Ex-Officio members shall consist of faculty and staff members who volunteer to serve on Title IX cases only along with the three elected faculty members.
      2. The purpose of the elected Judicial Board is to review the administrative judicial process for Student Conduct cases. The review of the administrative judicial process is considered an appeal process within the Student Code of Conduct and (a) reviews the charge(s) of misconduct; (b) determines if the charge(s) of misconduct violates the Student Code of Conduct; (c) investigates the charge(s) of misconduct by interviewing all involved parties including the student charged with the misconduct; (d) decides if the student(s) charged is guilty of the violation; and (e) if the student violated the Student Code of Conduct, imposes a sanction(s).
      3. The elected members and ex-officio members will also participate in the Title IX Grievance process for student cases. Members from the entire Board may be chosen to serve as (a) hearing board officers, (b) decision makers, (c) report writers, or (d) investigators as part of this process.
      4. Members involved in the Title IX process will need to maintain annual credentials that are in alignment with federal and state mandatory training requirements.
      5. The four (4) student members of the Judicial Hearing Board are composed of the Student Government Association (SGA) Officer Board. These students are elected each year at the May meeting

- of the SGA from those who petition to serve on the SGA Board.
6. All faculty members and students on the Judicial Hearing Board shall agree to be available within the specified time frames, even if classes are not in session. If it is necessary to conduct a Judicial Hearing when faculty members do not normally work or students are not in attendance (e.g. winter, spring or summer recess), then the time frame for convening the Judicial Hearing may be extended until all Judicial Board members are available.
  7. Choosing Alternate Judicial Hearing Board Members - An alternate(s) Judicial Hearing Board faculty member works in the same area/department/division as the faculty member(s) or College employee(s) who filed the charge of misconduct.
  8. The temporarily replaced Judicial Board faculty member(s) may not observe all proceedings dealing with that charge(s) of misconduct in question. The process for choosing an alternate(s) shall be done on a rotating basis from the alphabetical list of divisions. The Division Chairperson shall be contacted by the Chairperson of the Judicial Board to request a volunteer(s) to act as an alternate(s) for the charge(s) of misconduct in question. An alternate(s) shall be chosen from full-time faculty members.
  9. An alternate(s) Judicial Hearing Board student member shall be chosen, for that specific charge(s) of misconduct, if the Judicial Hearing Board student member takes a course from the faculty member(s) or College employee(s) who filed the charge of misconduct. An alternate(s) Judicial Hearing Board student member shall be chosen, for that specific charge(s) of misconduct, if the Judicial Hearing Board student member is enrolled in the curriculum of the faculty member(s) or College employee(s) who filed the charge of misconduct. The temporarily replaced Judicial Hearing Board student member(s) may not observe all proceedings dealing with the charge(s) of misconduct in question. An alternate(s) shall be selected through the SGA. The President of the SGA shall be contacted by the Chairperson of the Judicial Hearing Board to request a volunteer(s) to act as an alternate(s) for the charge(s) of misconduct in question.
  - vi. The standard of evidence used to evaluate the charge or complaint is a "preponderance of evidence". Under this standard, a determination must be made on the basis of whether it is more likely than not that the accused student violated the Code.
  - vii. If the student withdraws from SUNY Niagara while student conduct proceedings are in process, the student does so with charges pending. The College reserves the right to continue with the review and administer possible sanctions. The College reserves the right to enforce those sanctions when/if the student returns to SUNY Niagara.
  - viii. A time shall be set for a hearing, not less than five (5) nor more than (15) business days after the student has been notified. Minimum and maximum time limits for scheduling hearings may be modified at the discretion of the Vice President of Student Services or designee.

#### **b. Interim Pre-Hearing Measures**

- i. **Interim Suspension:** In certain circumstances, the Vice President of Student Services or designee, may impose a College suspension prior to the hearing before the Judicial Hearing Board.
  - An interim suspension may be imposed only: (a) to ensure immediate safety and wellbeing of members of the SUNY Niagara community or preservation of SUNY Niagara property; (b) to ensure the student’s own immediate physical or emotional safety and wellbeing; or (c) if the student poses an immediate threat of disruption of, or interference with, the normal operations of SUNY Niagara.
  - During an interim-suspension, students may be denied access to the campus and/or student housing, which may include in-person, hybrid and/or online classes and/or all College activities or privileges for which the student might otherwise be eligible, as the Vice President of Student Services or designee may determine appropriate.
  - If an interim-suspension is imposed, the accused/respondent may request a review of the interim-suspension including the submission of evidence supporting the review. The accused/respondent may request a modification of the interim-suspension in writing to the Vice President of Student Services or designee and shall be granted a prompt review of the measures put in place prior to the judicial hearing.
- ii. **Additional Pre-Hearing Measures**
  - **No Contact Orders:** The Vice President of Student Services or designee has discretion to issue no-contact orders to the complainant and respondent, depending upon the nature of the charge or complaint.
  - **Interim Measures:** SUNY Niagara shall provide a complainant with reasonable and available interim measures and accommodations that affect a change in academic, employment, transportation, housing, or other applicable arrangements in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment, depending upon the nature of the charge or complaint.

**c. Hearing Procedures**

- i. The Vice President of Student Services or designee shall work with the designated Chair to ensure compliance with these procedures. (Formal complaints of Title IX incidents will follow the Title IX Grievance policy as found on the college’s website - [https://www.Niagaracc.suny.edu/wp-content/uploads/2021/02/SUNY\\_NiagaraTitle-IX-Policy-8.13.2020.pdf](https://www.Niagaracc.suny.edu/wp-content/uploads/2021/02/SUNY_NiagaraTitle-IX-Policy-8.13.2020.pdf))
- ii. Hearings normally shall be conducted in private.
- iii. **Advisors**
  - The complainant and the respondent each will have the option to have an advisor throughout the Student Code process.
  - The advisor cannot personally participate, except to ask cross-examination questions during the hearing.
  - If a student chooses to have an advisor who is not a member of the SUNY Niagara community, the student must inform the Vice

President of Student Services or designee of the name of their advisor at least three (3) business days prior to the scheduled hearing. Students who wish to have their advisors notified regarding the hearing date and other matters should notify the Vice President of Student Services or designee and provide the advisor's contact information.

- iv. The complainant and respondent and their advisors, if any, shall be informed in writing of the day, time, and location for the hearing. Hearings will convene as scheduled unless the Judicial Hearing Board has been notified of and approves a request to reschedule. The hearing will proceed even if the complainant, respondent, advisors, and/or witnesses are not in attendance.
- v. Parties and advisors in attendance at a hearing are not permitted to video or audio record the hearing. The Judicial Hearing Board shall ensure that the hearing is recorded. The record can initially be a tape recording; however, this tape recording should be transcribed following the hearing. The record and transcription of the hearing will be confidential, except as otherwise provided herein. The record shall be the property of SUNY Niagara. The record, including documents entered into evidence, will be transmitted to the Student Services Office along with the Judicial Hearing Board's report and recommendation.
- vi. Prior to the start of the hearing, if the parties wish to challenge the designation of any members of the Judicial Hearing Board, the student must raise this concern to the Vice President of Student Services or designee, who will hear the reasons for such challenge and determine whether a member of the Judicial Hearing Board must be replaced.
- vii. Attendance at Hearing
  - The complainant, respondent, and their advisors, if any, shall be permitted to attend the entire portion of the hearing at which information is presented. They shall not be permitted to attend the Judicial Hearing Board's deliberations.
  - When requested, a student must appear before the Judicial Hearing Board for the purpose of providing information relevant to a Code proceeding. SUNY Niagara will change the date/time for such an appearance if the accused student provides a good reason why they cannot appear as directed. Failure to appear or willful failure or refusal to provide information, unless it will result in self-incrimination, may result in student conduct action. The Judicial Hearing Board may draw negative inference from the failure or refusal to provide information or even if such failure is due to concerns of self-incrimination.
  - If an accused student, with notice, does not appear at a hearing, the information in support of the charges shall be presented and considered, even if the accused student is not present.
  - The Judicial Hearing Board may accommodate concerns of personal safety, well-being and/or fears of confrontation of complainant, accused, and/or other witnesses during the hearing by providing separate facilities, by using a visual screen, and/or permitting participation by telephone, video tape, written statement or other means, where and as determined in the sole judgement



of the Vice President of Student Services or designee to be appropriate.

- viii. At the beginning of the hearing, the Chair shall delineate the hearing process. This includes informing the participants that the Judicial Hearing Board may remove or prohibit the participation of anyone disrupting the hearing. All questions regarding whether potential information will be admissible in the hearing and all procedural questions with respect to the hearing, shall be resolved by the Chair of the Judicial Hearing Board.
- ix. Formal rules of process, procedure, and/or technical rules of evidence, such as those, which are applied in criminal or civil court, are not used in Code hearings.
- x. The Judicial Hearing Board will be responsible for maintaining a disciplinary procedure that makes reasonable efforts to accommodate concerns for personal safety, wellbeing and/or fears of confrontation of the complainant, respondent, and/or witnesses during the hearing by providing security present at the hearing, permitting participation by telephone or other web-based access, permitting witnesses to submit written statements, and/or other means as determined by the Hearing Board to be appropriate.
- xi. The complainant and respondent will each have an opportunity to present information and evidence, answer questions from the Judicial Hearing Board, and question their witnesses. Complainants and respondents may not directly cross-examine the other party. They may have their advisors conduct the cross-examination, or submit questions to the Judicial Hearing Board in advance of or during the hearing to be asked of the other party. Throughout the hearing, the Judicial Hearing Board has the discretion to limit testimony to information relevant to the disposition of the charge or complaint, and prohibit repetitious or redundant testimony.
- xii. Pertinent records, exhibits, and written statements (including student impact statements, written statements made by members of the College's community dealing with the impact that the accused student's conduct has had on a particular student or students or upon SUNY Niagara students in general) may be accepted as information for consideration by the Judicial Hearing Board, at its sole discretion.
- xiii. After the portion of the hearing concludes in which all pertinent information has been received, the Judicial Hearing Board shall determine, by majority vote, whether they believe that the respondent has violated each section of the Student Code of Conduct which the student is charged with violating, using the preponderance of the evidence standard.
- xiv. If the College withdraws the complaint, the College representative shall discuss the reasons for the withdrawal with the reporting individual and no Judicial Hearing Board hearing shall be held. In the event that the complaint is withdrawn after the hearing is completed, the Judicial Hearing Board will not issue a determination.
- xv. The Judicial Hearing Board may consider mitigating and aggravating circumstances when choosing whether or not to recommend a sanction and the severity of the sanction, including without limitation any or all of the following:
  - Nature of the offense
  - Severity of the damage, injury, or harm resulting from the offense

- Whether the respondent promptly took responsibility of their actions
- Present demeanor of the respondent
- Past disciplinary history of the respondent, which includes, without limitation, completion of or pending disciplinary sanctions from past cases
- The respondent's honesty, or lack thereof and the cooperation demonstrated during the investigation of the complaint and subsequent disciplinary proceedings
- Whether the charge involved an action directed at another based on race, religion, ethnicity, national origin, gender, age, physical or mental disability, sexual orientation or another protected characteristic under federal, state or local law or College policy
- The recommendation of associated victims or parties to the incident, and
- Any other factor deemed relevant by the Judicial Hearing Board.

**d. Review by Vice President of Student Services or Designee:**

The Vice President of Student Services or designee may, following a review of the record, accept or reject the Judicial Hearing Board's determination of fact and sanction recommendation. The Vice President of Student Services or designee reserves the right to review and amend any decision of the Judicial Hearing Board. If the Vice President of Student Services or designee determines that the accused student violated the Code, one or more of the following penalties may be imposed:

- **No Action;**
- **Warning:** Notice to the student stating that repetition of the misconduct for a period not exceeding one (1) calendar year is cause for more severe disciplinary action;
- **Mediation** and/or counseling referral;
- **Disciplinary Probation:** suspension from participating in privileges or College co-curricular activities for a specified period of time;
- **Restitution:** Reimbursement for any damage or misappropriation of property;
- **Community Service:** may include performance of no more than fifty (50) hours of unpaid work assignments per semester either on or off campus as specified. Assignments are assigned and supervised by an administrative officer of the College and may not be combined or in conjunction with any other volunteer or court ordered requirement;
- **Educational Activities:** such sanctions may include a formal apology in writing and/or in person; a behavioral contract specifying the behavioral requirements to be followed, a reflective writing assignment or attendance at an event directly related to the violation committed;
- **Restrictions:** temporary or permanent loss of the use of a College facility, service, and or the privilege of participating in any extra-curricular activity;
- **No Contact Order:** A no contact order can be issued for incidents where it is in the best interest of both the reporting individual and

the respondent to not have contact. A no contact order consists of physical, electronic, and verbal contact. The order may also restrict access to certain areas of the College and certain activities sponsored by the College;

- **Mental Health and Threat Assessments:** professional assessments may be imposed at the expense of the student;
- **Degree Revocation:** The college reserves the right to revoke a degree when upon conclusion of an investigatory process it is determined that the degree was obtained by fraud;
- **Suspension:** Exclusion from all class(es), College premises, College sponsored or College supervised functions or privileges as determined by the Vice President of Student Services or designee, for a period not exceeding one (1) calendar year. Any conditions of readmission shall be stated in the notice of suspension; a transcript notation will be added to the student's academic record. This notation can be appealed through the Vice President of Student Services or designee.
- **Expulsion:** Termination of student status for an indefinite period of time. Any condition(s) of readmission shall be stated in the notice of expulsion. A transcript notation will be added to a student's academic record.
- **Other Secondary Sanctions/Interventions:** such sanctions/interventions may be imposed instead of or in addition to those specified above.

## 11. Notification

- a. Within five (5) business days of the receipt of the Judicial Hearing Board's written report and recommendation, the Vice President of Student Services or designee will notify both parties simultaneously in writing of the result of the Code review, any sanctions imposed, the rationale for the result and the actual sanctions imposed, and the findings of fact, by mailing a copy of the results by email and certified mail to the last address provided to the College by the respondent and complainant. The parties will also be informed of their right to appeal the decision to a Judicial Appeals Board within five (5) business days of the decision, pursuant to the procedures set forth below.
- b. The decision of Vice President of Student Services or designee shall take effect immediately unless otherwise provided for the student notification, and such decision shall be final except as provided for in the appeal process.

## 12. Appeal Process

- a. A final determination by the Vice President of Student Services or designee may be appealed by the respondent and/or the complainant to a Judicial Appeals Board within five (5) business days' receipt of the determination. Such appeals shall be in writing and shall be delivered to the Vice President of Student Services or designee.
  - Upon receipt of an appeal, the Vice President of Student Services or designee will confirm that the appeal is supported by one of the reasons listed in Section B below.

- If no appeal is submitted to the Vice President of Student Services or designee within five (5) business days of the decision, the determination of the Vice President of Student Services or designee shall become final, unless the individual filing the appeal can establish good cause for the delay in filing the appeal
- b. Appeals can be requested for one or more of the following reasons:
    - To determine whether the penalty is inappropriate to the finding (including where a student admits to wrongdoing, and an agreement was reached on liability, but no agreement is reached regarding penalty);
    - To determine whether the Vice President of Student Services or designee findings are supported by the evidence;
    - To determine whether the student's procedural rights were violated; or
    - To determine whether new evidence, which was unavailable at the original proceeding, has been discovered.
  - c. If the Vice President of Student Services or designee determines that the appeal was not requested for one of the reasons listed above, the appeal shall be dismissed. If the Vice President of Student Services or designee determines that the appeal falls within in one of the reasons above, a copy of the hearing transcript will be provided to both parties as soon as it is available.
  - d. Once the appellant receives the transcript, the appellant will have five (5) business days from receipt of the transcript to present their reasons for the appeal with supporting documentation. The other parties must be provided with notice of the appeal, with access to the same evidence made available to the appellant (including the transcript), and with the same opportunity to submit supporting documentation. However, the other parties are not required to submit supporting document.
  - e. If the appellant fails to submit supporting documentation with five (5) business days after review of the transcript, the determination of the Vice President of Student Services or designee will become final, unless the appellant can establish good cause for the delay in filing the submission.
  - f. If a proper appeal and submission are filed, the Vice President of Student Services or designee shall appoint a Judicial Appeals Board. The transcripts and all case documentation, including any appeals submissions, shall be delivered to each member of the Board.
  - g. The Vice President of Student Services or designee shall convene the Judicial Appeals Board with ten (10) business days of receiving the appellant's submission. The Judicial Appeals Board shall reach a determination with ten (10) business days of being convened.
  - h. Except as required to explain the basis of new evidence, an appeal shall be limited to review of the verbatim record of the initial hearing and supporting documents.
  - i. The parties will be informed in writing of the result of the appeal. Delivery of the outcome will not be delayed to either party, and should occur as nearly simultaneously as possible, without necessarily bringing those in conflict into close proximity to each other.

### **13. Student Disciplinary Files and Records**

- a. Except expulsion and suspension, any other sanction(s) shall not be part of the student's permanent record, but shall become part of the student's confidential record. Six years after the concern(s) is resolved, the student's confidential record may or may not be expunged of any sanction(s). However, records may be retained longer or permanently if the student was suspended or permanently dismissed, or if there is reason to believe the case could result in future litigation. The case summary will be retained within the campus files indefinitely. The Student Services Office shall retain the record separate and apart from the student's permanent record.
- b. Transcript notations will be entered for students who have been suspended or expelled. The following transcript notations will be used at SUNY Niagara:
  - i. "Suspended after a finding of responsibility for a code of conduct violation";
  - ii. "Expelled after a finding of responsibility for a code of conduct violation";
  - iii. "Withdrew with conduct charges pending"
- c. These transcript notations can be appealed by contacting the Vice President of Student Services or designee. Transcript notations for violence-related suspensions shall not be removed prior to one year after conclusion of the suspension. Transcript notation for violence-related expulsions shall never be removed from a student's transcript. If a finding of responsibility is vacated for any reason, however, the transcript notation must be removed.

## **Academic Integrity Policy (Cheating and Plagiarism)**

Honest participation in academic endeavors fosters an environment in which optimal learning can take place and is consistent with the mission of SUNY Niagara. Academic misconduct is destructive to the spirit of an educational environment and, therefore, cannot be condoned.

The following definitions will apply:

1. The term "cheating" includes, but is not limited to, use of any unauthorized assistance in taking quizzes, tests or examinations; dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems or carrying out other assignments; the acquisition without permission of tests or other academic materials belonging to a member of the college's faculty.
2. The term "plagiarism" includes, but is not limited to, the use by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or by an agency engaged in the selling of term papers or other academic materials.
3. The term "academic misconduct" includes any or all forms of the above.

Unless an instructor has provided students with an alternative academic integrity policy at the start of the semester, the college policy that follows will apply:

1. For the first incidence of academic misconduct in a course, the student will receive a grade of F (or zero) for the test, assignment or activity.
2. If there is a second incidence in the same course, the student will receive a grade of F for the course.

The instructor who believes that an incidence of academic misconduct has occurred will discuss it immediately with the student. If, in the judgment of the instructor, the student has committed

an act of academic misconduct or if the student admits that there has been misconduct, the instructor will assess the appropriate penalty.

Instances of admitted or proven academic misconduct should be reported in writing to the Vice President for Academic Affairs. The purpose of this reporting will be to track individuals who have repeated incidents. If such a pattern of behavior is found, the Vice President of Academic Affairs will determine an appropriate sanction on a case-by-case basis.

Students who think they have been treated unfairly may invoke the *Academic Grievance Procedure*, which is explained in this publication.

## **Academic Grievance Procedure Overview**

There shall be five (5) faculty Academic Grievance Board members and two (2) student Academic Grievance Board members.

The five (5) faculty members on the Academic Grievance Board are elected by the Faculty Senate. Membership terms for the Academic Grievance Board for (3) three years on a rotating basis.

Members replacing those with expired terms are elected each year at the May meeting of the Faculty Senate. The Chairperson of the Academic Grievance Board is elected annually by the Academic Grievance Board members by a majority vote.

The selection of the Chairperson shall occur in an organizational meeting of the Academic Grievance Board held in September. The Office of Academic Affairs shall call this meeting.

### **1. Choosing Alternate Academic Grievance Board Members:**

If a Formal Academic Grievance involves a faculty member(s) of a division from which an Academic Grievance Board member(s) is already elected, an alternate(s) shall be chosen to replace that Academic Grievance Board faculty member(s) for that specific academic grievance. The temporarily replaced Academic Grievance Board faculty member(s) may not observe any proceedings dealing with that academic grievance. The process for choosing an alternative shall be done on a rotating basis from an alphabetical list of divisions.

The Division Chairperson shall be contacted by the Office of Academic Affairs to request a volunteer to act as an alternate for the academic grievance in question. An alternate(s) shall not be chosen from a division(s) already represented on the Academic Grievance Board. An alternate(s) shall be chosen from full-time faculty members.

If a formal academic grievance involves a faculty member(s) who a student Academic Grievance Board member(s) currently has for a course, or if the student is currently enrolled within the faculty member's curriculum, an alternate(s) shall be chosen to replace that Academic Grievance Board student member(s) for that specific grievance. The temporarily replaced Academic Grievance Board student member may not observe all proceedings dealing with the academic grievance. An alternate(s) shall be selected through the Student Senate.

The President of the Student Senate shall be contacted by the Chairperson of the Academic Grievance Board to request a volunteer(s) to act as an alternate(s) for the grievance in question.

## **2. Record of Proceedings**

The Academic Grievance Board reserves the right to create a record of all proceedings for accuracy and review. The record used is the only one that is permitted during all proceedings. If requested, the student(s) and faculty member(s) involved shall have access to the record through the Office of Academic Affairs. The record and all documents relevant to the concern(s) shall be kept in a confidential file by the Vice President of Academic Affairs for seven years from the date of the end of the grievance process

## **3. Voting Procedures**

Approval of any recommendation(s) or decision(s) requires a majority vote. The Academic Grievance Board Chairperson is permitted to vote in all proceedings.

## **4. Time Frames**

Any time frame may be extended if necessary. All such extensions shall be reasonable.

## **5. Assistant Vice President of Human Resources**

The Chairperson of the Academic Grievance Board may request the Assistant Vice President of Human Resources to attend, in an advisory capacity, during the Preliminary Hearing and if necessary the Formal Academic Grievance Hearing if a student alleges he/she received unfair academic treatment based on discrimination.

## **6. Definitions:**

- a. The term "College" means SUNY Niagara.
- b. The term "student" includes any person taking a credit course(s) at the Sanborn campus, Niagara Falls Culinary Institute or any official off-campus site, both full- and part-time, matriculated and non-matriculated.
- c. The term "faculty member" means any person employed by the College to conduct educational activities.
- d. The term "Academic Grievance Board" refers to the body authorized by the President of the College, or designee, to implement the Formal Academic Grievance Process.
- e. The term "policy" includes all written regulations of the College as found in, but not limited to, the Student Code of Conduct and the College catalog.
- f. The term "working days" refers to the hours and days the College conducts administrative operations. This is usually Monday through Friday 9 am to 5 pm from September to May, and Monday through Thursday 8 am to 5:15 pm during June, July and August.
- g. The term "recommendation(s)" refers to a remedy proposed by the Academic Grievance Board. A recommendation(s) is not binding.
- h. The term "decision(s)" refers to a determination by the Academic Grievance Board, Vice President of Academic Affairs, or designee, or President of the College, or designee. A decision(s) is binding.
- i. The term "advocate" means any person from the Academic or Student Services units designated, or a student, faculty member or staff member the student(s) or faculty member(s) selects to advise/assist him/her with the Formal Academic Grievance Process.
- j. The term "counsel" means any person external to the College that the student(s) or faculty member(s) retains to advise/assist him/her with the Formal Academic Grievance Process. The student(s) and/or faculty member(s) are responsible for any cost incurred to retain his/her respective counsel.

- k. The term “plagiarism” includes, but is not limited to, the use of paraphrase of direct quotation of the published or unpublished work of another person without full and clear acknowledgement; the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers of other academic materials.
- l. The term “Standard of Ethics Policy” means the approved policy by the Board of Trustees for select curricula which addresses safe patient care and/or ethics standards in a profession. Refer to the College catalog for further information.

## **7. Interpretation and Revision**

Any questions about or interpretation the Academic Grievance Policy shall be referred to the Vice President of Academic Affairs, or designee, for final determination. The Academic Grievance Policy shall be reviewed as under the direction of the Vice President of Academic Affairs, or designee.

## **Drug and Alcohol Policy**

*In compliance with the Drug-free Schools and Campus Act and the Drug-free Workplace Act, this policy is intended to inform all members of the College community of the College’s policy concerning alcohol and other drugs.*

*This policy applies to all students and to all employees (faculty and staff).*

### **1. POLICY SUMMARY**

The unlawful use, possession, manufacture, dispensation, or distribution of controlled substances or alcohol in all college campus and work locations, or in the course of performing duties of employment with the College, is prohibited. This policy applies to all SUNY Niagara employees and students.

### **2. POLICY**

In compliance with the Federal Drug-Free Workplace Act of 1988, employees of SUNY Niagara (“SUNY NIAGARA”) should be aware of and must adhere to the policy stated below:

- a. The unlawful use, possession, manufacture, dispensation, purchase, or distribution of controlled substances or alcohol in all SUNY NIAGARA campus and work locations, or in the course of performing duties of employment with the College, all SUNY NIAGARA property, campus housing, offices (including college-owned and leased buildings, campus housing, College Association, and parking lots) and at all campus events is prohibited. The term “controlled substance” means a controlled substance in Schedules I through V of Section 202 of the Controlled Substances Act (21USC8112), and as further defined in regulation at 21 CFR 1308.11–1308.15.
- b. Specifically, using, possessing, and distributing cannabis/marijuana, a controlled substance, in any form remains a crime under federal law and is thus prohibited on all SUNY NIAGARA property in public or campus housing or offices (including college-owned and leased buildings, housing, and parking lots) and at all campus events or while conducting campus business, except for approved academic activities.



- i. In addition to traditional cannabis buds that are smoked using rolling papers, bowls, bong, vaping pens, or other paraphernalia, cannabis/marijuana may also take the form of edibles, including candies, cookies, and brownies. None of these forms are permitted within SUNY NIAGARA- and all other entities on SUNY Niagara property. Smoking or vaping medical marijuana is prohibited which includes all entities on SUNY Niagara campus and operated property according to NY Department of Health Regulations. While CBD that is derived from hemp and contains no more than 0.3% THC is legal under federal law, most CBD products are not regulated by the Food and Drug Administration and may contain more THC than identified on the label. As such, CBD is prohibited on all SUNY NIAGARA property in public or campus housing or offices (including college-owned and leased buildings, housing, and parking lots) and at all campus events or while conducting campus business, except for approved academic research and classes. Reasonable accommodations will be made as required by the New York State Human Rights Law and the Americans with Disabilities Act.
  - ii. For the avoidance of doubt, medical marijuana remains prohibited in SUNY NIAGARA-owned or operated accommodations which include campus housing.
- c. Students and employees should be aware there are significant psychological and physiological health risks associated with the use of controlled substances and alcohol. Physical addiction, loss of control, and withdrawal syndrome as well as serious damage to vital organs of the body can result from drug and alcohol use and abuse.
- d. No employee or student will report for work or school impaired by any controlled substance, alcohol, or lawful prescription or over-the-counter medication. "Impaired" means under the influence of a substance such that the student's or employee's motor senses (i.e., sight, hearing, balance, reaction, or reflex) or judgment either are or may be reasonably presumed to materially impact the employee's ability to perform job functions. An employee or student should contact the Assistant Vice President of Human Resources/Title IX Coordinator or the Assistant Vice President of Student Services/Title IX Investigator in advance to review any circumstances where the employee or student believes or reasonably should be expected to know that the performance of job functions or the academic expectations may be affected by use of lawful prescription or over-the-counter medication.
- e. Employees and Students will be subject to criminal, civil, and disciplinary penalties consistent with applicable laws, rules, regulations, and collective bargaining agreements (if applicable) if they use, manufacture, distribute, sell, attempt to sell, possess, or purchase controlled substances while at the workplace while performing in a work-related capacity or as a student under circumstances which have a nexus to the employee's employment or as a student with the College. An employee or student may not possess and use a controlled substance that is properly prescribed for him/her by a physician, subject to the conditions or use set forth above on SUNY Niagara property or in campus housing.
- f. As required by the Federal Drug-Free Workplace Act of 1988, any employee at SUNY NIAGARA convicted of a criminal drug statute violation occurring at the workplace must notify his/her supervisor of the conviction within five (5) days after the conviction. SUNY NIAGARA must inform contracting or granting agencies of such convictions within ten (10) days after receiving notification from the employee or otherwise receiving notice of a conviction.

- g. SUNY NIAGARA will impose appropriate disciplinary sanctions on employees or students found to violate standards of conduct as follows:
- i. SUNY NIAGARA will take all steps necessary to ensure the proper conduct of its activities. This may include the use of counseling and discipline procedures. If a decision is reached to allow the affected employee or students to continue employment or continue as a student at SUNY NIAGARA, the employee or student may be required to participate in and satisfactorily complete an approved drug abuse assistance or rehabilitation program.
  - ii. Where an appointing authority or designee has a reasonable suspicion that an employee is not able to perform his/her duties as a result of disability which may be caused by alcohol or a controlled substance, the appointing authority may proceed under the provision of Section 72 of the Civil Service Law and require that the employee undergo a medical examination to ascertain the cause of the disability. Where testing for alcohol or a controlled substance occurs, appropriate medical procedures and tests should be utilized to ensure accurate and proper results. Confidentiality of the testing process and results is an important aspect of this procedure for any affected State employee. Such medical examinations may be required under the safeguards of Section 72 of the Civil Service Law for employees who are permanently appointed competitive employees subject to due process before termination. Other State employees who are not entitled to any due process protections before being terminated or placed on involuntary examination may also be required to undergo such a medical examination, if appropriate under the circumstances.
  - iii. Once a determination is made that any employee or student at SUNY NIAGARA violates this Policy, the appointing authority may determine that the affected employee or student should be disciplined, subject to administrative action, or under the student code of conduct and/or whether a referral should be made to appropriate law enforcement authorities. Disciplinary action may be taken pursuant to the procedures contained in the collective bargaining agreements, student code of conduct handbook, other college policies, or the law, as appropriate and required.
  - iv. The appointing authority may determine that the employee or student could benefit from the Employee Assistance Program or counseling services for students. In such a case, a referral will be made. EAP is a free, voluntary, information and referral service available to SUNY NIAGARA employees and family members. Should the employee have a substance abuse problem, EAP will provide the employee with resources in the community for treatment services, and may assist the employee in making the contact. For more information go to [www.HigherEdEAP.com](http://www.HigherEdEAP.com) or by calling 1-800-252-4555. Students should contact the Wellness Center at 716-614- 6275.

### **3. State Sanctions**

- a. The State Penal Code has numerous penalties for the possession and sale of controlled substances; stimulants, LSD, hallucinogenic substances, and marijuana. Possession and sale of controlled substances sanctions range from

misdemeanor to felony, with penalties ranging from one year to life. Marijuana possession and sale sanctions range from violations to felonies, with penalties from fines up to \$1000 and up to fifteen years in prison.

#### **4. Federal Sanctions**

- a. Federal law has numerous penalties for the illegal possession of controlled substances, possession of crack cocaine, and trafficking in methamphetamine, heroin, cocaine, cocaine base, PCP, LSD, fentanyl, and fentanyl analog.
- b. Possession sentences range from up to one year imprisonment and a \$1,000 fine to 20 years imprisonment and fines up to \$250,000. Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance can be a sanction for convictions. Sanctions can also include denial of federal benefits, such as student loans, grants, contracts, public housing tenancy, eligibility to receive or purchase firearms, and professional and commercial licenses. Federal trafficking sanctions can range from year one-year imprisonment and a \$100 fine to life in prison and a fine of \$8 million dollars.

**The following SUNY NIAGARA resources are available for assisting those with possible problems of chemical abuse:**

- Wellness Center, Room C122, or by calling (716) 614-6275
- EAP: [www.HigherEdEAP.com](http://www.HigherEdEAP.com) or call 1-800-252-4555.
- YWCA of the Niagara Frontier, 32 Cottage Street, Lockport, NY 14094, or by calling 716-433-6714

**For further information on the Alcohol & Drug Use in the Workplace Policy, please visit:**

- [https://www.suny.edu/sunypp/documents.cfm?doc\\_id=440](https://www.suny.edu/sunypp/documents.cfm?doc_id=440) (SUNY guidelines)
- <https://www.ecfr.gov/current/title-34/subtitle-A/part-> (Federal Guidelines)

#### **5. Policy Information Contact Information:**

SUNY Niagara **Human Resources Department** A261 Notar Administration Building, 3111 Saunders Settlement Rd, Sanborn, NY 14132 716-614-5950.

SUNY Niagara **Student Services Department**, A265 Notar Administration Building, 3111 Saunders Settlement Rd, Sanborn, NY 14132 716-614-6240.

For further information on the Alcohol & Drug Use in the Workplace Policy, please visit:

[https://www.suny.edu/sunypp/documents.cfm?doc\\_id=440](https://www.suny.edu/sunypp/documents.cfm?doc_id=440) (SUNY guidelines)

[https://www.goer.ny.gov/Labor\\_Relations/ManagementConfidential/handbook/appdxk.cfm](https://www.goer.ny.gov/Labor_Relations/ManagementConfidential/handbook/appdxk.cfm) (New York State Guidelines)

<https://ifap.ed.gov/regcomps/attachments/86.pdf> (Federal Guidelines)

## 6. New York State Law

Articles 220 and 221 of the New York State Penal Law set criminal penalties for possession or sale of drugs considered harmful or subject to abuse. The seriousness of the offense and penalty imposed upon conviction depend upon the individual drug and amount held or sold. Additional information can be found at this website:

<http://statelaws.findlaw.com/new-york-law/new-york-drug-possession-laws.html>

### a. Marijuana

New York State law classifies possession of up to 25 grams of marijuana as a violation. Penalties range from \$100 to \$250 fine and/or up to 15 days in jail, depending on whether it is a first, second or third offense. Possession of more than 25 grams but not more than eight ounces is a misdemeanor; possession of more than eight ounces is a felony. Sale of 25 grams or less is a misdemeanor; sale of more than 25 grams is a felony. New York State law makes no exception for the use of marijuana for medical purposes.

### b. Hashish

The penalties for sale or possession of hashish are more severe. Possession of any amount, no matter how small, is a misdemeanor punishable by up to one year in county jail and/or up to \$1000 fine. Possession of one-quarter ounce or more is a felony. Sale of any amount of hashish, no matter how small, is a felony.

### c. Cocaine and Crack

Possession of any amount, no matter how small, is the most serious class of misdemeanor punishable by up to 12 months in a county jail. Possession of 500 milligrams or more is a class D felony punishable by 2.3 to 7 years in a state correctional facility. Sale of any amount is a felony.

## 7. Federal Penalties and Sanctions

- Drug Enforcement Administration of the U.S. Department of Justice website: <http://www.dea.gov/druginfo/factsheets.shtml>
- Federal Trafficking Penalties can be found at: <http://www.dea.gov/druginfo/ftp3.shtml>

## 8. Alcohol Policy and Enforcement Guidelines for SUNY Niagara

### A. General Policy for Use of Alcohol on Campus

1. The College adheres to and enforces all federal, state and local laws concerning alcohol. Alcohol may only be sold and served at pre-approved social functions where the Alcohol Use Registration Form has been approved by the College Association.
2. No student under the age of twenty-one may possess or consume alcoholic beverages anywhere on campus.
3. Alcoholic beverages are not permitted in any student housing. These areas are designated as alcohol free. See Student Housing Handbook for more information.
4. The following are prohibited under the College's alcohol policy: binge drinking; driving under the influence; kegs and beer balls, whether empty or full, tapped, or untapped; spiked punch; Jell-O shots containing alcohol; drinking games or any behavior that encourages or contributes to excess alcohol consumption; carrying

open containers in any public area of campus; possessing, consuming, and storage of alcohol are prohibited in all public areas, e.g. lounges, hallways, stairwells, common bathrooms, or outdoor areas.

## **B. Summary of policies governing the use of alcohol on all SUNY Niagara Properties**

1. No alcohol may be consumed in academic buildings, on Athletic Fields, in the Physical Education complex, at the Niagara Falls Culinary Institute or at the Student Housing, except at “alcohol approved” social functions. An alcohol approved social function is one where the Alcohol Use Registration Form is filled out and approved by the College Association.
2. Under New York law, only persons twenty-one (21) years of age or older are legally entitled to purchase, be sold, given, or served alcohol. A person under 21 years of age may not possess or consume alcoholic beverages at any time on the College campus.
3. Under New York law, persons under the age of 21 are prohibited from possessing any alcoholic beverages with intent to consume the beverage. Violators are subject to a fine up to \$50.00 per offense. Authorized law enforcement personnel may seize alcoholic beverages involved in alleged violations of this law.
4. New York law further provides that any person, other than a parent or guardian, who purchases alcohol for, procures for, or gives alcohol to anyone under 21 years of age is guilty of a misdemeanor.
5. Under New York law, anyone under 21 years of age who uses fraudulent proof of age to obtain alcohol is guilty of a misdemeanor. This violation is punishable by a fine of up to \$100.00 and a community service requirement of up to thirty (30) hours
6. The Director of Housing shall interpret the alcohol policy at student housing. The Vice President for Student Services is responsible for implementing and interpreting the alcohol use policy.

## **9. Alcohol Policy Enforcement**

### ***Example of how to implement procedures***

1. Within SUNY Niagara’s policies and regulations, the College permits students of legal drinking age to possess and consume alcoholic beverages at special events that had prior administrative approval. However, individuals under 21 years of age may do neither.

### **A. EXPECTATION:**

College administrators, Resident Housing Officials and CSD (herein referred to as College officials) are expected to clearly explain to student what action will be taken in dealing with alcohol policy violations.

When encountering instances of alcohol policy violations, College officials are expected to confront the violators. Information should be provided as to what behavior is inappropriate and what the individual is expected to do to be in compliance with the campus alcohol policy. If the individual is cooperative and complies with the request, the incident may be considered resolved. If the individual is uncooperative or refuses to comply, College officials responsible for the building or area should be contacted. If the policy administrator is unavailable or the individual continues to be uncooperative, the Public Safety Department should be summoned. The PSD will formally identify the violator and state the campus expectation for

compliance with the College's alcohol policy. In such cases, an Incident Report will be completed by the CSD and the individual referred to the campus Judicial System. The CSD reserve the right to have the person(s) arrested, or issued a notice to meet with the Vice President of Student Services or the Director of Housing if such action is deemed necessary.

#### **B. STAFF DIRECTIVES TO VIOLATORS:**

Violators are to be instructed to dispose of the alcohol by means other than consuming it. Students may either pour the alcohol out on their own or give it to a staff member to pour out. When students pour alcohol out themselves, a College official should accompany the student to ensure proper disposal.

Students are not to dispose of alcohol by consuming it, throwing it in a trash can or giving it to another person who may be 21 years of age. The College official should ask the students if they intend to comply with the request. If the students are cooperative, they can proceed to dispose of the alcohol. Internal departmental procedures for communicating and documenting such incidents should take place. It is expected that students who violate the College's alcohol policy will have the incident referred to the campus judicial system for appropriate sanctioning. If the students are uncooperative or refuse the official's request, the Public Safety Public Safety Department or law enforcement should be summoned for assistance. Again, it is expected such incidents will result in the preparation of an Incident Report and referral of the incident to the campus judicial system for alleged violation of the alcohol policy as well as non-compliance with the College Official.

***NOTE:** If College officials encounter an unauthorized bulk container (e.g. beer ball, box of wine, keg, or "bash") it should be removed to an area where it can be drained. Once it is drained the container and tapping equipment, as appropriate, should be returned to the students. If the students refuse to drain the bulk container, the CSD should be summoned.*

### **10. Campus Policy for Governing the Use of Alcohol in Residence Halls**

All SUNY Niagara students who live in residence, and their visitors/guests, are subject to New York State Law and the College's policy regarding possession and consumption of alcohol, as well as specific policies governing the Residence Halls.

#### **A. Definition of Student Housing**

SUNY Niagara students have various options to live near campus. In particular, the Student Housing Village Corporation, an affiliated entity to the College Association, that manages all auxiliary functions at the College, offers SUNY Niagara students various living arrangements. Student Housing is defined as The Student Housing Village, including outdoor areas.

#### **B. Alcohol Policy in the Student Housing Village**

Alcoholic beverages are never permitted in residence halls. This includes all residential areas in the Student Housing Village. Visitors or guests of students residing in these areas are not permitted to possess or consume alcohol in these areas regardless of whether they are of legal drinking age. These areas are designated as alcohol free. Web site for alcohol policy:

#### **C. Alcohol Policy for Students Under 21 Years of Age Living in the Student Housing Village**

A person under 21 years of age may not possess or consume alcoholic beverages at any time on Housing property. Visitors or guests of students under 21 years of age are not permitted to possess or consume alcohol in the suite or bedroom of an underage student regardless of whether they are of legal drinking age.

Alcohol containers, including empty liquor bottles, wine bottles and/or beer cans are prohibited.

#### **D. Alcohol Policy for Students Over 21 Years of Age Living in Student Housing**

The following regulations regarding alcohol use apply to students and visitors/guests in the Student Housing Village areas who are 21 years of age or older:

No individual student may possess alcoholic beverages, whether under the age of 21 or of the New York State legal age of 21.

Binge drinking is defined as consuming five or more drinks in about 2 hours for men or four or more drinks in the same time period for women. ([www.niaaa.nih.gov/alcohol-health/overview-alcohol-consumption/moderate-binge-drinking](http://www.niaaa.nih.gov/alcohol-health/overview-alcohol-consumption/moderate-binge-drinking)) Binge drinking is strictly prohibited.

Individuals of legal drinking age may not provide alcohol to underage roommates, suitemates, visitors or guests.

Drinking games (e.g. beer pong) and other activities that promote the irresponsible use of alcohol are prohibited. This includes the use of alcohol paraphernalia such as funnels and ice luges.

Kegs and beer balls, whether empty or full, tapped or untapped, are prohibited. Spiked punch and Jell-O shots containing alcohol, regardless of alcohol content are also prohibited. Behavior that encourages or contributes to alcohol consumption by another student is prohibited.

Carrying open containers of alcoholic beverages or consuming them in any public area of the campus is prohibited. This includes movement between residence hall rooms or apartments with an alcoholic beverage.

Compliance with all requests by College and/or Resident officials, including, but not limited to, Residential Life staff or CSD, for proof of 21-year-old status is required. If there is reasonable suspicion to believe that alcohol might be in squeeze bottles, cups or other such containers, College and Residential staff reserve the right to approach students and hold individuals accountable under the provisions of this policy.

Possession, consumption, and storage of alcohol are prohibited in all public areas, e.g. lounges, hallways, stairwells, common bathrooms, or outdoor areas.

Driving on College property while under the influence of alcohol is strictly prohibited and will result in arrest, loss of driving privileges on campus, and possible suspension or expulsion from the College. Please see the following web site for further NYS Department of Motor Vehicles information, including FAQ's regarding Alcohol, Drugs, and DWI: <https://dmv.ny.gov/points-and-penalties/penalties-for-alcohol-or-drug-related-violations>

#### **E. Alcohol and Other Drug Education, Prevention Services and Programs**

The College offers alcohol and drug education prevention services and referrals. Current information regarding alcohol and drug prevention services and educational programs can be found by linking to: <http://www.Niagaracc.suny.edu/wellness/counseling.php>

#### **F. The Incident-Sanction Protocol for Alcohol & Other Drug Violations**

The Sanction Guide is designed to cover a range of sanctions that would be considered appropriate for a particular violation or behavior – including inappropriate alcohol and other drug use. The College’s response is not restricted to those sanctions listed in the protocol. Students are advised that illegal possession and/or use of alcohol and other drugs are strictly prohibited at the College.

See the following link for the Sanction Guide:

[http://www.Niagaracc.suny.edu/pdf/rights\\_and\\_responsibilities.pdf](http://www.Niagaracc.suny.edu/pdf/rights_and_responsibilities.pdf)



## 11. Effects and Symptoms of overdose, withdrawal, and misuse of alcohol and drugs

A description of alcohol and drug categories, their effects, symptoms of overdose, symptoms of withdrawal and indications of misuse can be found at: [www.samhsa.gov](http://www.samhsa.gov)

| HEALTH RISKS ASSOCIATED WITH THE USE OF ILLICIT DRUGS AND THE ABUSE OF ALCOHOL |  |                      |
|--|--|----------------------|
| Commonly Abused Substances   |  |                      |
| Substance  | Possible Long-Term Effects   | Dependence Potential |
| Alcohol  | Toxic psychosis, addiction, neurological and liver damage, fetal alcohol syndrome  | Yes                  |
| Amphetamines<br>Uppers, Speed  | Loss of appetite, delusion, heart problems, hypertension, irritability, insomnia, toxic psychosis  | Yes                  |
| Barbiturates<br>Barbs, Bluebirds, Blues  | Severe withdrawal symptoms, possible convulsions, toxic psychosis, depression  | Yes                  |
| Cocaine, Cocaine Freebase,<br>Coke, Crack                                      | Loss of appetite, depression, weight loss, seizures, heart attack, stroke, hypertension, hallucinations, psychosis, chronic cough, nasal passage injury  | Yes                  |
| Codeine  | Addiction, constipation, loss of appetite, lethargy  | Yes                  |
| Heroin<br>H, Junk, Smack   | Addiction, constipation, loss of appetite, lethargy  | Yes                  |
| LSD<br>Acid  | May intensify existing psychosis, panic reactions, can interfere with psychological adjustments and social functioning, insomnia, hallucinations   | Possible             |
| MDA, MMDA, MOMA, MDE<br>Ecstasy, xtc   | Same as LSD, sleeplessness, nausea, confusion increased blood pressure, sweating   | Possible             |
| Marijuana<br>(Cannabis) Pot, Grass, Dope,<br>Weed, Joints                      | Bronchitis, conjunctivitis, possible birth defects   | Yes                  |
| Mescaline<br>(Peyote Cactus) Mesc  | May intensify existing psychosis, anxiety, sweating, chills and shivering  | Possible             |
| Methaqualone<br>Ludes  | Coma, convulsions  | Yes                  |
| Morphine<br>M, Morf  | Addiction, constipation, loss of appetite, lethargy  | Yes                  |
| PCP<br>Crystal, Tea, Angel Dust  | Psychotic behavior, violent acts, psychosis  | Yes                  |
| Psilocybin<br>Magic Mushrooms, Shrooms   | May intensify existing psychosis   | Possible             |
| Steroids<br>Roids, Juice   | Cholesterol imbalance, acne, anger management problems, masculinization of women, breast enlargement in men, premature fusion of long bones preventing attainment of normal height, atrophy of reproductive organs, impotence, reduced fertility, stroke, hypertension, congestive heart failure, liver damage | Yes                  |

# SUNY Niagaranet Use Policy

**Introduction:** SUNY Niagara (SUNY Niagara or College) provides computing resources to support SUNY Niagara users in academic research and the learning/teaching process.

## 1. Definitions:

- a. SUNY Niagaranet means the College-provided, computer-based data systems which include, but are not limited to, the host computer systems, College-licensed software, mobile devices, computers and related equipment, and communication networks that specifically include, but are not limited to, its local-area networks and virtual private networks that are either owned by the College or made available to the College under contract.
- b. User means any SUNY Niagara student, College employee or community member that uses or accesses SUNY Niagaranet.
- c. Student means any person taking credit bearing SUNY Niagara course.
- d. College employee means any person being compensated by the College for services being provided in any capacity other than independent contractor.
- e. Community member means any person who is not a SUNY Niagara student or College employee.
- f. Electronic communications include, but are not limited to, e-mail, voice mail, text messages, instant messages and information or content that is sent or received through SUNY Niagaranet to or from sites or accounts outside of SUNY Niagaranet (e.g., internet sites).

## 2. Confidentiality:

While unauthorized access of a User's SUNY Niagaranet account is prohibited, SUNY Niagara cannot guarantee complete confidentiality of any User's SUNY Niagaranet account. In addition, all data on a User's SUNY Niagaranet account and device is subject to review and disclosure. While it is not the normal practice of the College to monitor or limit access to content, it reserves the right to access and review information to assure the stability of the College's resources and to assure the User is not in violation of this or any other College policy. Users of SUNY Niagaranet have no expectation of privacy with regard to such use.

## 3. Software licensing:

Per U.S. Code, Title 17, Section 106, software shall only be distributed per the licensing software agreement. SUNY Niagara is obligated to enforce all software licensing agreements.

## 4. Software and Computer Hardware Allocation:

The Office of Information Technology will:

- Determine what software will be loaded onto SUNY Niagaranet
- Assign all computing hardware and related equipment

Users must obtain the approval of the Office of Information Technology for:

- Moving any College-licensed software
- Moving any College-owned computing hardware or related equipment

- Loading any software onto SUNY Niagaranet.

## **5. Rights and Responsibilities of Users:**

- a. Only SUNY Niagara students and College employees are entitled to SUNY Niagaranet accounts. Proper college identification can be requested and must be provided to utilize college labs and/or college owned assets.
- b. SUNY Niagaranet account is intended for the sole use of the assigned User and is non-transferable.
- c. Anytime a User is accessing the college network or college resources, whether local or remote, the User must comply with the SUNY Niagaranet Use Policy.
- d. All Users are responsible for respecting the rights of other Users.
- e. All Users are expected to use SUNY Niagaranet in a responsible manner (e.g. Users should not consume unreasonable amounts of limited computing resources). Users are not permitted to download or install software on SUNY Niagaranet without the express permission of an authorized College official.
- f. All Users are responsible to protect their SUNY Niagaranet account password from discovery or use by another person.
- g. The assigned User is responsible for the usage of his/her SUNY Niagaranet account. If User knowingly or inadvertently makes his/her SUNY Niagaranet account password available to another person, he/she is responsible for any sanctions that may arise from the use of his/her SUNY Niagaranet account by another person.
- h. All Users are responsible for reporting to the Office of Information Technology if they suspect that their SUNY Niagaranet account was accessed without permission.
- i. All Users are responsible for backing up and recovering any data that is stored only on their electronic device (including those that are part of SUNY Niagaranet) in order to assure the integrity of their data (see Rights and Responsibilities of SUNY Niagara for other stored data).
- j. SUNY Niagara is not responsible for any privately-owned software, personal computers, cell phones, or related equipment brought by an employee, student, or community member on College property, or used by an employee or student, for personal or College purposes.

## **6. Rights and Responsibilities of SUNY Niagara**

- a. SUNY Niagara has the right to control all policies and procedures governing SUNY Niagaranet.
- b. SUNY Niagara has the right to monitor the use of all computing resources and to protect the integrity of SUNY Niagaranet. SUNY Niagara reserves the right to monitor all communications transacted through SUNY NiagaraNet. This includes, but is not limited to, mobile devices, telephone, and other network resources.
- c. SUNY Niagara has the right to monitor all software loaded onto SUNY Niagaranet and remove any unauthorized software.
- d. SUNY Niagara has the right to allocate the use of all SUNY Niagaranet resources (e.g. time and space) as necessary. The Chief Information Officer has the discretion to allocate SUNY Niagaranet accounts.
- e. SUNY Niagara has the right to terminate any User's SUNY Niagaranet account.
- f. SUNY Niagara reserves the right to terminate employees' access to SUNY Niagaranet when their employee status ends.

- g. SUNY Niagara will terminate students' access to SUNY Niagaranet when their student status ends—either the student terminates enrollment or fails to enroll for the next consecutive semester.
- h. SUNY Niagara reserves the right to terminate any User's access to the SUNY Niagaranet if he/she violates this policy or he/she is no longer associated with SUNY Niagara.
- i. SUNY Niagara has the right to investigate any data stored on a User's SUNY Niagaranet account that caused or may cause a system problem and remove such data.
- j. SUNY Niagara will determine the level of access all Users have to data on SUNY Niagaranet.
- k. SUNY Niagara assumes no liability for loss of any data stored on a User's SUNY Niagaranet account due to system failure, User error or any other cause.
- l. SUNY Niagara has the right to monitor and log access to resources such as websites, email, and network shares if it relates to the standard business practice of the Office of Information Technology. If suspicious behavior is suggested or detected the Chief Information Officer will coordinate with the supervising manager to provide detailed logging.
- m. SUNY Niagara is responsible for backing up and restoring any data that is stored on the file servers that support SUNY Niagaranet. SUNY Niagara will make best efforts to restore any files on such servers that become lost or corrupted, but cannot provide a guarantee that 100% of all such files will be recovered.
- n. SUNY Niagara has the right to monitor the use of all computing resources and to protect the integrity of SUNY Niagaranet. SUNY Niagara will honor a User's right to privacy, but reserves the right to monitor all communications transacted through SUNY Niagaranet. This includes, but is not limited to: mobile devices, telephones, and other network resources.

## **7. Prohibited Behavior:**

Prohibited behavior includes, but is not limited to, the following and complies with conditions stipulated in the federal law Telecommunications Act 1996 Sections 502 & 507 Title V Subtitle A—Obscene, Harassing and Wrongful Utilization of Telecommunications Facilities. A copy of these laws is available in the Library Learning Center.

- a. Violating any child pornography law, state or federal law, SUNY Niagara policy, or software agreement.
- a. Copyrighted material is considered intellectual property of the owner. Any misuse of copyrighted material without the consent of the owner is illegal and punishable by law.
- b. Accessing or attempting to access an area of SUNY Niagaranet the User is not authorized to access.
- c. Disrupting or attempting to disrupt the integrity of SUNY Niagaranet.
- d. Altering or attempting to alter any College-licensed software or the configuration of any College owned computer or related equipment.
- e. Circumventing or attempting to circumvent any data protection scheme.
- f. Discovering or attempting to discover any security loophole or possessing software to do such.
- g. Decoding or attempting to decode any encrypted material.
- h. Deliberately wasting or overloading any SUNY Niagaranet resource.
- i. Viewing, downloading, trading or posting to a SUNY Niagaranet account or transporting across SUNY Niagaranet material that is non-business related, illegal, proprietary, obscene, in violation of SUNY Niagara contractual agreements or otherwise damaging to

SUNY Niagara. This includes, but is not limited to, the forwarding of chain email or other communications that cannot be considered business related.

- j. Harassing, threatening, defaming or otherwise causing harm to another person, whether by direct or indirect reference, including sexual and racially offensive jokes.
- k. Accessing or attempting to access another User's SUNY Niagaranet account.
- l. Manipulating or attempting to manipulate data in another User's SUNY Niagaranet account.
- m. Sharing one's SUNY Niagaranet password and account with another person.
- n. Misrepresenting one's identity.
- o. Plagiarizing any work (e.g. text, graphics or programs).
- p. Violating any software agreement.
- q. Using SUNY Niagaranet for any commercial purpose unless authorized by the Office of the President.
- r. Reading, deleting, copying or altering communications of others.
- s. Sending unsolicited for-profit personal messages or chain letters.
- t. Using the internet and e-mail for other than educational and work related purposes.
- u. Permitting persons not considered to be Users (per this policy) access to equipment reserved for College Users.
- v. Installation or alteration of wiring, including attempts to create network connections, or any extension or retransmission of any SUNY Niagaranet services or content without the approval of the Office of Information Technology.
- w. Reselling of services based on the use of SUNY Niagaranet. This includes, but is not limited to, web server space, email, and use of lab equipment.

## **8. Violations:**

Any of these behaviors by a User will prompt a College official to take action. Any communications or complaints regarding a potential violation of the *SUNY Niagaranet Use Policy* or misuse of SUNY Niagaranet resources should be directed as follows (based on the classification of the User):

### Student:

The suspected violation should be reported to the Vice President of Student Services, or designee, and handled through the Student Code of Conduct Policy.

While investigating the suspected violation or misuse, the Vice President of Student Services, or designee, may suspend a student's SUNY Niagaranet privileges. The Office of Student Services will notify the student, in writing, within three (3) working days that his/her SUNY Niagaranet privileges were suspended.

### Employee:

The suspected violation should be reported to the Human Resources, or designee, and handled in accordance with College employee policies and collective bargaining agreements.

### Community Member:

The suspected violation should be reported to the Chief Information Officer, or designee, and handled in accordance with the College's Information Security and other pertinent policies. Any suspected violation that could constitute a potential breach of information security should be immediately reported by the above individuals (as applicable) to the Chief Information Officer in accordance with the College's Information Security Policy.

## **9. Sanctions:**

A User's SUNY Niagaranet privileges will not be suspended unless the suspected violation is reasonably perceived to constitute unlawful activity, pose a risk to the integrity of SUNY Niagaranet, or present a threat to the safety or welfare of SUNY Niagara, a student, College employee, or another person in the community. Penalties that may be imposed include, but are not limited to, reprimand, temporary or permanent loss of using SUNY Niagaranet, or referral to College, state and/or federal authorities.

## **10. Interpretation and Revision:**

Any question about the SUNY Niagaranet Use Policy shall be referred to the Chief Information Officer for explanation or interpretation. The SUNY Niagaranet Use Policy shall be reviewed annually.

# **Student E-Mail Policy**

## **1. Purpose:**

In an effort to facilitate internal & external communication in an effective and efficient manner, SUNY Niagara ("College") has adopted an electronic format as an official means of communication. The College understands the increasing reliance and acceptance of electronic communication among students, faculty, staff and administration. Because of this, the College is adopting e-mail as an official means of communication between the College and its students, either part-time or full-time, in credit-bearing classes.

## **2. Background:**

The student e-mail system is independent of the College's e-mail system and will be hosted by a third party independent of the College.

Therefore, only student accounts will be created (except as otherwise noted below). To the extent reasonably possible, the College will use all features available in this system to limit the potential abuse of the system, the potential extraction of personally-identifiable student information from the system, and the marketing of products or services to students through the system. The College is intending to only implement e-mail functionality at this time. Additional features will be reviewed at a later date.

## **Scope:**

## **3. Official Means of Communication:**

E-mail is considered an official method for communication between students and the College. Official communications are intended to meet the academic and administrative needs of the College community. Examples of such communications may include, but are not limited to: registration information, academic standing, financial aid information, disciplinary action, and school closure/class cancelation. Students have the responsibility to recognize that communications may contain time-critical information and the College has the right to expect that communications will be received and read by students in a timely fashion. The student e-mail system is considered part of the College's network of information systems. Accordingly, all who use it must adhere to and not violate the guidelines set forth in the SUNY Niagara Net Policy.

E-mail can be accessed by any computer or smart phone that is connected to the internet, including personal and college- provided computers. Students who do not own a computer are not absolved from accessing their account on a regular basis. Until a College Identity System has been established and such system addresses the use of the College's logo, seal and other marks in digital communications with students, no such marks are to be used in conjunction with the student e-mail system.

#### **4. Creation and notification of e-mail account information:**

- a. The College will create an account for a matriculated student when the student is accepted by the College. An account for a non-matriculated student will be created when the non-matriculated application process has been completed. If the student does not attend the College for a period of six months following the creation of the account, the e-mail account will be deactivated.
- b. With two exceptions, the College will deactivate a student account if the student does not continue attending the College for a term of nine months. If the student has a financial responsibility to the College, the account will remain active. If the student is expelled from the College for disciplinary reasons, his or her account will be deactivated immediately.
- c. The student will be notified of his or her account and credentials via the United States Postal system to the student's legal mailing address. The notification will consist of the student's username, randomly generated password, and directions on how to properly log into the system the first time. The student will be required to change his or her password upon first login and register for the account password reminder utility. At first login, the student will receive an introductory e-mail notifying him or her of all rights and responsibilities associated with use of the account.
- d. The assigned e-mail address will be considered directory information under FERPA regulations unless the student completes a request for non-disclosure.
- e. Accounts will only be created for students. Faculty, staff and administration are to use the College email system.

#### **5. Administrative use of student e-mail:**

- a. The College will use student e-mail for official administrative correspondence and the student is expected to read and respond as necessary in a timely manner. The following list contains examples of what the students are expected to receive:
  - Financial Aid award letters
  - Registration Information
  - School Closures
  - Students Billing Statements
  - Students Holds Information
  - Payment Information
  - Academic Standing
  - Change of Curriculum
- b. Each department will meet with its respective Vice President to create an approved list of correspondences that will be sent to either the entire student body or a list larger than 500 students (referred to as a mass mailing). Each department will document its approved correspondences and meet with the responsible Vice President and update its list as needed.

- c. The Office of Information Technology Services will create a generic email account for each department (at its request) to send out mass mailings. The department is to choose if the account is to receive return e-mail.
- d. Each Division Chair will be provided the ability to download from the student information system (Banner) a complete list of students registered in courses offered out of their respective Division. This list will be used for communicating important business-related information such as class cancelations and other non-course related information. This list is to not be shared with individuals outside of the Division office.
- e. The above policies apply to time sensitive or critical correspondences. For mass mailings containing general announcements or information that is not time-sensitive, Public Relations will send a weekly (biweekly if needed) mass mailing to students containing such information.

## **6. Faculty use of student e-mail:**

- a. The College strongly encourages faculty to utilize the College's Learning Management System for all course-related communication with students.

## **7. Student responsibilities and proper use of student e-mail:**

- a. Students are responsible for accessing their account on a regular basis and understand that some of the correspondences may be time sensitive. Failure to read e-mail does not absolve a student from the responsibility associated with communication sent to his or her official e-mail address. "I did not check my email" or an error in processing messages forwarded from the College's e-mail system to a student's personal e-mail account (initiated by the student) are not excuses for missing official College communications.
- b. Student e-mail is not intended to send harassing or offensive messages. The provided account should only be used for appropriate correspondence required by College-related activities (e.g., responding to messages received from College departments, corresponding with other students or organizations to complete course work or academic research, etc.).

## **8. The College's system should not be used for the following:**

- Chain Letters
- Messages that are for personal gain
- Solicitations for non-College activities
- Mass Mailings
- Any message that is in violation of any state or federal law
- Any offensive or disruptive message, such as harassing or bullying
- Other inappropriate uses

## **9. Forwarding and access to student e-mail:**

- a. The College will maintain responsibility to ensure that students e-mail service operates in a reliable and secure environment.
- b. If students wish to have e-mail redirected from their official College address to another e-mail address, they may do so, but at their own risk. The College will not be responsible



for the handling of e-mail by outside vendors. Forwarding does not absolve students of their responsibilities associated with communications sent to their official e-mail address.

## 10. Security and Privacy:

- a. Communications that occur through the use of e-mail are subject to local, state, and federal law, including the Family Educational Rights and Privacy Act of 1974 (FERPA). All use of e-mail, including use for sensitive or confidential information, will be consistent with such laws. Users are to exercise caution in using e-mail to communicate confidential or sensitive matters. The recipients may not follow proper security procedures and could inadvertently allow such content to be divulged to someone other than the intended recipient(s).
- b. Students are responsible for maintaining the privacy of their log in and password. When using a public computer on campus or otherwise, students should not leave the computer logged on or unattended.
- c. Students are expected to routinely change their password.
- d. Students are not to share their username and password with anyone.

## SUNY Niagara Policy on Title IX

*SUNY NIAGARA (“SUNY NIAGARA” or the “College SUNY NIAGARA prohibits discrimination and sexual harassment in any education program or activity that it operates as required by Title IX of the Education Amendments Act of 1972 (“Title IX”). Inquiries about Title IX may be referred to SUNY NIAGARA’s Title IX Coordinator, the U.S. Department of Education’s Office for Civil Rights, or both. SUNY NIAGARA’s Title IX Coordinators are:*

### *Employees:*

*Catherine Brown, Assistant Vice President of Human Resources, A-264, 716-614-5951, [cbrown@niagaracc.suny.edu](mailto:cbrown@niagaracc.suny.edu);*

### *Students:*

*Robert McKeown, Assistant Vice President of Student Services, A-266, 716-614-6201, [McKeown@niagaracc.suny.edu](mailto:McKeown@niagaracc.suny.edu);*

### *Athletics:*

*Amanda Haseley, Director of Athletics H-168 716-614-6271, [ahaseley@niagaracc.suny.edu](mailto:ahaseley@niagaracc.suny.edu). The College’s Discrimination, Harassment, and Retaliation Policy and corresponding Complaint Form can be located at: <https://www.niagaracc.suny.edu/hr/titleix/>.*

Additionally, to report information about conduct that may constitute sex discrimination or make a Complaint of sex discrimination under Title IX, please refer to:

<https://www.niagaracc.suny.edu/hr/titleix/>.

The College’s Notice of Non-Discrimination is located at:

<https://www.niagaracc.suny.edu/hr/compliance/>.

## 1. Applicability of Title IX Policy:

- a. This policy applies to incidents that occur on or after August 1, 2024. Any incidents of alleged sex discrimination that occurred on or before July 31, 2024, will be processed

through SUNY NIAGARA's Title IX Policy available at <https://ett3x2kbxx8.exactdn.com/wp-content/uploads/2023/08/Title-IX.pdf>. This policy may be subject to further change if the 2024 Title IX Final Rule is withdrawn or modified. In that case, any conduct covered under this policy shall be investigated and adjudicated under the previous 2020 Title IX Grievance Policy and/or SUNY NIAGARA's Code of Conduct and/or Sexual Misconduct/VAWA policy.

- b. This policy applies to all employees, applicants for employment, students, applicants for admission, interns, whether paid or unpaid, and contractors and persons conducting business with the College. Students who are only employed by the College as student assistants or work study, or who are interns inside and outside the College as a part of their course study, will be considered students for purposes of this policy.

## 2. Reporting Requirements

### A. Supervisory Responsibility:

Supervisory personnel are responsible for maintaining a safe work environment that is free from discrimination and sexual harassment. As such, supervisors are required to promptly report information they encounter that could be considered sexual harassment, sexual assault, dating violence, domestic violence, stalking, or any other sex-based discrimination, regardless of when the behavior occurred, to a Title IX Coordinator listed above. Supervisors may be subject to disciplinary action, up to and including termination, for failing to report observed, reported, or suspected discrimination or sexual harassment, or knowingly permitting such conduct to continue in the workplace and/or education environment. Supervisors may also be subject to disciplinary action, up to and including termination, for engaging in any retaliation against a person who makes a complaint of discrimination or sexual harassment, or who assists, participates, or testifies in any investigation or proceeding related to such complaint.

### B. Responsible Employees

A Responsible Employee means any employee who has authority to take action to redress harassment, the duty to report discrimination or harassment to appropriate College officials, or an individual who a student reasonably believes has this authority or responsibility.

All College employees (faculty, staff, and administrators) are designated Responsible Employees and must report incidents of actual or suspected discrimination or harassment to the Title IX Coordinator or designee(s) immediately, with limited exceptions.

The Responsible Employee must include within their report the following information:

- the reporting student'(s) or employee'(s) name (known as the "Reporting Party"),
- the name of accused (known as the "Responding Party"),
- the approximate date/time/location of incident if known,
- how information was shared with them (i.e. personal conversation, written, etc.)

Some College employees may maintain the confidence of the Reporting Party if requested (i.e., Mental Health Counselors in the Wellness Center). Such confidential employees may offer options and advice without any obligation to inform an outside agency or College official unless the Reporting Party has requested the information to be shared or the reported incident involves potential or actual criminal conduct or an immediate threat to the College community.

Any Reporting Party has the right, and can expect, to have their reported allegations taken seriously by the College, and to have those incidents investigated and properly resolved through these procedures.

Failure of a Responsible Employee, as described in this section, to report an incident(s) of sex-based harassment or sex discrimination of which they become aware is a violation of College policy and, accordingly, such Responsible Person may be subject to disciplinary consequences.

### **3. Grievance Procedures for Complaints of Sex Discrimination:**

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

Sex discrimination, as defined by Title IX, includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Title IX's prohibition on sex discrimination includes sex-based harassment in the form of quid pro quo harassment, hostile environment harassment, sexual assault, dating violence, domestic violence, and stalking. For complaints of sex-based harassment involving a student, the College will utilize the Grievance Procedures set forth herein in Section XII and which is also available on the College's website at: <https://www.niagaracc.suny.edu/hr/titleix/>.

### **4. Complaints of Sex Discrimination:**

The following individuals have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that SUNY NIAGARA investigate and make a determination about alleged discrimination under Title IX:

A "complainant," which includes:

- A student or employee of SUNY NIAGARA who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- A person other than a student or employee of SUNY NIAGARA who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in SUNY NIAGARA's education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or SUNY NIAGARA's Title IX Coordinator.

An individual is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with Title IX's requirements. Complaints may be made verbally or by completing [the Discrimination/Sexual Harassment Complaint Form](#).

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the individuals listed above, the following individuals have a right to make a complaint:

- Any student or employee of SUNY NIAGARA; or
- Any person other than a student or employee who was participating or attempting to participate in SUNY NIAGARA's education program or activity at the time of the alleged sex discrimination.

SUNY NIAGARA may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex

discrimination arise out of the same facts or circumstances. Note that SUNY NIAGARA is not permitted to consolidate complaints if doing so would violate the Family Educational Rights and Privacy Act ("FERPA").

#### **A. Jurisdiction of Title IX Grievance Procedure:**

This policy applies to all instances of sex discrimination occurring on campus or at College-sponsored functions or events and may also apply to off-campus conduct, including conduct which occurs outside of the United States or outside of SUNY NIAGARA's Education Program or Activity, if such conduct causes or contributes to a sex-based hostile environment in the College's education program or activity. In the limited circumstances in which Title IX permits different treatment or separation on the basis of sex, SUNY NIAGARA will not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm, except as permitted by law.

#### **5. Definitions:**

- a. **Admission** means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an Education Program or Activity operated by SUNY NIAGARA.
- b. **Consent** means 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.
- c. **Complainant** means (a) a student or employee who is alleged to have been subjected to conduct that could constitute sex-based harassment as defined in this procedure and who was participating or attempting to participate in SUNY NIAGARA's Education Program or Activity; or (b) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex-based harassment under these

grievance procedures and who was participating or attempting to participate in SUNY NIAGARA's Education Program or Activity at the time of the alleged sex-based harassment.

- d. **Confidential Employee** means (1) an employee of SUNY NIAGARA whose communications are privileged under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; (2) an employee of SUNY NIAGARA designated as confidential for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or (3) an employee of SUNY NIAGARA who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination. The employee's confidential status is only with respect to information received while conducting the study.
- e. **Disciplinary Sanctions** means consequences imposed on a Respondent following a determination under this grievance procedure that the Respondent violated SUNY NIAGARA's prohibition against sex discrimination.
- f. **Education Program or Activity** means all of the operations of a college, university, or other postsecondary institution, or a public system of higher education.
- g. **Party** means Complainant or Respondent.
- h. **Peer Retaliation** means retaliation by a student against another student.
- i. **Pregnancy or related conditions** means (a) Pregnancy, childbirth, termination of pregnancy, or lactation; (b) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (c) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- j. **Relevant** means related to the allegations of sex discrimination under investigation as part of this Grievance Procedure. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.
- k. **Remedies** means measures provided, as appropriate, to a Complainant or any other person SUNY NIAGARA identified as having had their equal access to SUNY NIAGARA's Education Program or Activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to SUNY NIAGARA's Education Program or Activity after SUNY NIAGARA determines that sex discrimination occurred.
- l. **Respondent** means a person who is alleged to have violated SUNY NIAGARA's prohibition on sex discrimination.
- m. **Responsible Employee** means an employee who has the authority to address and/or stop the harassment, who has the duty to report discrimination or harassment to

appropriate College officials, or an individual who a Complainant reasonably believes has such authority or responsibility. All SUNY NIAGARA employees are designated as Responsible Employees and will promptly share any Title IX complaint or report with the Title IX Coordinator.

- n. **Retaliation** means intimidation, threats, coercion, or discrimination by any person by SUNY NIAGARA, a student, or an employee or other person authorized by SUNY NIAGARA to provide aid, benefit, or service under SUNY NIAGARA's Education Program or Activity, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a Complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Grievance Procedure.
- o. **Sex-Based harassment** means sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:
  - **Quid pro quo harassment:** An employee, agent or other person authorized by SUNY NIAGARA's Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
  - **Hostile environment harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from SUNY NIAGARA's Education Program or Activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
    1. The degree to which the conduct affected the Complainant's ability to access SUNY NIAGARA's Education Program or Activity;
    2. The type, frequency, and duration of the conduct;
    3. The Parties' ages, roles within SUNY NIAGARA's Education Program or Activity, previous interactions and other factors about each Party that may be relevant to evaluating the effects of the conduct;
    4. The location of the conduct and the context in which the conduct occurred; and
    5. Other sex-based harassment in SUNY NIAGARA's Education Program or Activity.
  - **Sexual Assault** (as defined in the Clery Act) means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent;
  - **Dating Violence** (as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person:

1. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  2. where the existence of such a relationship shall be determined based on a consideration of the following factors: The length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.
- **Domestic Violence** means any felony or misdemeanor crimes committed by a person who:
    1. Is a current or former partner of the victim under the family or domestic violence laws of New York State, or a person similarly situated to a spouse of the victim;
    2. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
    3. Shared a child in common with the victim; or
    4. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of New York State; or
  - **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
    1. Fear for the person's safety or the safety of others; or
    2. Suffer substantial emotional distress.
- p. **Student** means a person who has gained admission to SUNY NIAGARA.
- q. **Supportive Measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:
- Restore or preserve that Party's access to SUNY NIAGARA's Education Program or Activity, including measures that are designed to protect the safety of the Parties or SUNY NIAGARA's educational environment; or
  - Provide support during SUNY NIAGARA's Grievance Procedure for sex discrimination.

## 6. Basic Requirements of Title IX Grievance Procedure

- a. **Equitable Treatment:** SUNY NIAGARA will treat Complainants and Respondents equitably.
- b. **Conflicts and Bias:** SUNY NIAGARA requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

- c. **Presumption:** SUNY NIAGARA presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its Grievance Procedure.
- d. **Reasonably Prompt Timeframes:** The formal resolution process, inclusive of evaluation of the Formal Title IX Complaint, investigation, determination, and appeal, is generally concluded within sixty (60) to ninety (90) business days of the filing of a Formal Title IX Complaint.
- e. **Extensions:** SUNY NIAGARA has also established a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay. Reasons for such delay include, but are not limited to, the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or disability accommodation(s).
- f. **Privacy:** SUNY NIAGARA will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedure. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedure. Retaliation is strictly prohibited, including against witnesses.
- g. **Objectivity:** SUNY NIAGARA will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
- h. **Impermissible Evidence:** The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by SUNY NIAGARA to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
  - A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless SUNY NIAGARA obtains that party's or witness's voluntary, written consent for use in its grievance procedure; and
  - Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.



## **7. Disability Accommodations**

### **A. Generally**

This grievance procedure does not alter any institutional obligation under federal disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973.

Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedure. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

### **B. Supportive Measures**

If the Complainant or Respondent discloses a disability, the Title IX Coordinator may consult, as appropriate, with the Accessibility Services Office to provide support to students with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973 regarding the implementation of any supportive measures.

## **8. Reporting Sex Discrimination**

### **A. Types of Complaints**

Types of complaints that may be addressed under these Grievance Procedures include, but are not limited to, sex discrimination other than sex-based harassment, such as:

- Complaints of retaliation;
- Complaints of sex discrimination that do not involve sex-based harassment;
- Complaints regarding failure to make reasonable modifications to policies, practices, or procedures, as necessary, to ensure equal access and prevent sex discrimination based on parental, family or marital status, including pregnancy or related conditions; or
- Complaints that SUNY NIAGARA's policies or procedures discriminate on the basis of sex.

Complaints may be submitted using the following options:

1. Individuals may report directly to a Title IX Coordinator or Responsible Employee verbally, by mail, by telephone, by electronic mail, or by using the attached Complaint Form.
2. Employees should promptly report any complaints to their supervisor or other administrator with whom they feel comfortable, if their supervisor is the alleged offender.
3. Individuals may also submit a complaint directly to the U.S. Department of Education, Office for Civil Rights (OCR), which is the federal agency charged with enforcing compliance with Title IX. Information regarding OCR can be found at:

Office for Civil Rights, 400 Maryland Avenue, SW, Washington, D.C. 20202-1100, or on its website at: <https://www.ed.gov/about/ed-offices/ocr>.

4. Employees or students should make a report to campus safety or local law enforcement if the incident involves conduct that may constitute a crime (i.e., physical confinement, unwanted physical touching, sexual assault).

## **B. Confidential Reports**

The following officials at SUNY NIAGARA will provide privacy, but not confidentiality, upon receiving a complaint of conduct prohibited by Title IX:

- Title IX Coordinator or designee(s); and
- Officials with authority to institute corrective measures under Title IX.

The following officials at SUNY NIAGARA may provide confidentiality:

For employees: the Employee Assistance Program (EAP).

Phone: 800-252-4555 or

Web: <https://www.theeap.com/>

The EAP is a 3rd party, neutral service for employees seeking counseling and other resources.

For students: the Mental Health Counselors within the Wellness Center.

Wellness Center

<https://www.niagaracc.suny.edu/wellness/>

Phone: 716-614-6275

Fax: 716-614-6817

Location: C-122

A student or employee wishing to report an incident off campus in complete confidence may contact YWCA, or other external resources listed here:

<http://nyscasa.org/> or <https://www.suny.edu/violence-response/>.

### **YWCA**

Rachel Sandle-Sacco

T: 716-433-6714 ext. 235

C: 716-481-3610

### **24-Hour Crisis Hotline**

T: 716-433-6716

Text: 716-870-9726

Individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor.

- **Semi-Confidential Options for Students**

There are some professionals on campus who are designated as semi-confidential for students. These individuals are not required to reveal personally identifiable information about a victim/survivor to the Title IX Coordinator, or anyone else on campus. They are, however, required to report aggregate data to a Title IX Coordinator, including nature, date, time, and general location of the incident. These individuals include: Wellness

Center Supervisor of College Nursing, Assistant Vice President of Student Services, or the, Director of Athletics and Director of Housing.

### **C. Public Awareness Events**

If SUNY NIAGARA's Title IX Coordinator is notified of information about conduct that may reasonably constitute sex discrimination, including sexual harassment, under Title IX or this policy during a public event designed to raise awareness of such conduct and that is held on SUNY NIAGARA's campus or sponsored by SUNY NIAGARA through an online platform, SUNY NIAGARA is not obligated to act in response to the information unless it constitutes an immediate and serious threat to the health or safety of a Complainant, any students, employees, or other persons.

However, in all cases, SUNY NIAGARA must use this information to inform its efforts to prevent sex-based harassment, including by providing specific training to address such conduct, as part of its Education Program or Activity or at a specific location when information indicates there may be multiple incidents of such conduct.

Nothing herein obligates SUNY NIAGARA to require its Title IX Coordinator or any other employee to attend such public awareness events.

## **9. Supportive and Interim Measures**

### **A. Types of Supportive/Interim Measures**

Complainants who report allegations of sex-based harassment have the right to receive supportive measures from the College regardless of whether they file a formal complaint. Supportive measures are non-disciplinary and non-punitive and may vary depending upon what is reasonably available at the College.

Such measures may include, but are not limited to:

- no contact orders;
- providing education, counseling and/or medical services;
- student academic support;
- student living arrangement adjustments;
- providing a campus escort, as available;
- academic or work schedule and assignment accommodations, such as extension of deadlines or modification of work schedules;
- leaves of absence;
- increased security and monitoring of certain areas on campus; or
- referral to campus and community support resources.

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or SUNY NIAGARA's educational environment, or to provide support during SUNY NIAGARA's grievance procedure under this policy.

SUNY NIAGARA may modify or terminate supportive measures at the conclusion of the grievance procedure, or may continue them beyond that point within SUNY NIAGARA's discretion.

The College will take additional prompt remedial action with respect to any member of the community, guest or visitor upon a finding that they have engaged in harassing or discriminatory behavior or retaliation while on campus, against a student or employee, or while at a College-sponsored event or activity.

The College will not disclose information about any supportive measures to individuals other than the individual to whom they apply, unless necessary to provide the supportive measure or restore or preserve a party's access to SUNY NIAGARA's Education Program or Activity, or there is an exception that applies, such as:

- SUNY NIAGARA has obtained prior written consent from a person with the legal right to consent to the disclosure;
- When the information is disclosed to an appropriate third Party with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- To carry out the purpose of the policy when it is necessary to address conduct that reasonably may constitute sex- based harassment under Title IX in SUNY NIAGARA's Education Program or Activity;
- As required by Federal law, federal regulations, or the terms and conditions of a federal award; or
- To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, or its implementing regulations, 34 CFR Part 99).

## **B. Process for Reviewing Supportive Measures**

SUNY NIAGARA provides for a Complainant or Respondent to seek modification or reversal of SUNY NIAGARA's decision to provide, deny, modify or terminate supportive measures.

This review will be done by an impartial employee who did not make the challenged decision on the original supportive measure request. The impartial employee who makes this determination will have the authority to modify or reverse the decision if such employee determines that the decision to provide, deny, modify or terminate the supportive measure was inconsistent with the procedure as outlined above for providing supportive measures in accordance with the Title IX regulations.

Parties are only allowed to challenge their own individual supportive measures. For instance, a Complainant may only challenge the supportive measures they requested and/or received. Challenges by one party will not be heard to supportive measures afforded to the opposite party, unless that measure directly impacts the party making such challenge (i.e., two-way no contact orders).

## **C. Emergency Removal**

SUNY NIAGARA retains the authority to remove a Respondent from its Education Program or Activity on an emergency basis, where SUNY NIAGARA: (1) undertakes an individualized safety and risk analysis, and (2) determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of

sex-based harassment justifies removal. Other interim actions, such as no contact orders or exclusion from certain locations, may also be issued under the same authority where necessary for the physical health or safety of any individual.

SUNY NIAGARA will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

If the Respondent is a Student, then the Notice of Emergency Removal shall be issued by Robert McKeown, Assistant Vice President of Student Services. If the Respondent is an Employee, then the Notice of Emergency Removal will be issued by Catherine Brown, Assistant Vice President of Human Resources, in consultation with the Division Chair/Assistant Vice Presidents or Direct Supervisor in which the Respondent works. The individual who issues the Notice of Emergency Removal will not be a decision-maker in any other part of the grievance process under this Policy for the case.

The Notice of Removal shall be in writing and will provide the Respondent with the basis upon which removal was issued, and the opportunity to promptly challenge the determination.

A Respondent seeking to challenge a Notice of Emergency Removal shall make the request to the College official who issued the notice. That College official shall refer the determination to a neutral office who will then determine whether to modify or rescind the Notice of Emergency Removal. The Respondent will be allowed to submit evidence in support of their request. The issuing College official shall determine if the requested modifications are appropriate, in consultation with the Title IX Coordinator or designee(s), as applicable. Any decisions to modify or rescind the Notice of Emergency Removal will be provided in writing to the Respondent in a reasonably prompt timeframe.

#### **D. Administrative Leave**

SUNY NIAGARA retains the authority to place a non-student employee Respondent on administrative leave during the Title IX Grievance Procedure, consistent with any existing, applicable collective bargaining agreement (“CBA”) and/or relevant provisions of the Condition of Employment for Administrative Employees.

If a Complainant or Respondent is both a student and an employee of SUNY NIAGARA, SUNY NIAGARA will make a fact-specific inquiry to determine whether these procedures apply to the individual. For example, the College will review whether the Complainant or Respondent’s primary relationship with SUNY NIAGARA is to receive an education or whether the alleged sex-based harassment primarily occurred while the individual was performing employment-related work.

#### **Federal Reporting Obligations Pursuant to the Clery Act**

College administrators must issue timely warnings for incidents of sexual misconduct reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The College will ensure that a victim’s name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions considering the potential danger.

Certain campus officials – those deemed Campus Security Authorities – have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting

purposes. All personally identifiable information is kept confidential, but statistical information must be passed along to campus police regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

**Mandated Federal Reporters Include:**

- student services, public safety, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities.

The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category.

**E. False Allegations**

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and may be subject to disciplinary consequences.

**10. Title IX Grievance Procedure for Sex Discrimination**

**A. Filing a Complaint**

**i. Who can make a Complaint?**

- A Complainant, which includes: a student or employee of SUNY NIAGARA who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or a person other than a student or employee of SUNY NIAGARA who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in SUNY NIAGARA's Education Program or Activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- The Title IX Coordinator.

**ii. Title IX Coordinator initiated Complaints:**

In the absence of a Complaint or the withdrawal of any or all the allegations in a Complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator must determine whether to initiate a Complaint of sex-based harassment.

This determination is fact-specific, and the Title IX Coordinator must consider:

- The Complainant's request not to proceed with the initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;

- The risk that additional acts of sex-based harassment would occur if a Complaint were not initiated;
- The severity of the alleged sex-based harassment, including whether the sex-based harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the sex-based harassment and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee of the recipient;
- The scope of the alleged sex-based harassment, including information suggesting a pattern, ongoing sex-based harassment, or sex-based harassment alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether sex-based harassment occurred; and
- Whether SUNY NIAGARA could end the alleged sex-based harassment and prevent its recurrence without initiating these grievance procedures.

If after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged present as an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents SUNY NIAGARA from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint.

If the Title IX Coordinator initiates a Complaint after making this determination, they must notify the Complainant prior to doing so and address reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures as provided herein.

### **iii. Format of Complaint:**

A Complaint can be an oral or written request to SUNY NIAGARA that objectively can be understood as a request for SUNY NIAGARA to investigate and make a determination about alleged sex discrimination at the College.

#### **To whom can I make a complaint?**

- Title IX Coordinator or designee(s); and
- Officials with authority to institute corrective measures under Title IX.

#### **The following officials at SUNY NIAGARA may provide confidentiality:**

- For employees: the Employee Assistance Program (EAP).
  - Phone: 800-252-4555 or
  - Web: [HigherEdEAP](#)
- For students: the Mental Health Counselors within the Wellness Center
  - Phone: 716-614-627
  - Web: <https://www.niagaracc.suny.edu/wellness/>
  - Location: C-122
- A student or employee wishing to report an incident off campus with complete confidence may contact:
  - YWCA
  - Rachel Sandle-Sacco

- Phone 716-433-6714 ext. 235
- Cell 716-481-3610
- External Resources:
  - <http://nyscasa.org/>
  - <https://www.suny.edu/violence-response/>

Individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor.

## **B. Consolidation of Complaints**

SUNY NIAGARA may consolidate Complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a Party, Complainant, or Respondent include the plural, as applicable.

## **C. Allegations Potentially Falling Under Two Policies**

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied to investigation and adjudication of only the allegations that constitute covered sexual harassment.

## **D. Notice of Allegations**

Upon initiation of SUNY NIAGARA's Title IX grievance procedure, SUNY NIAGARA will notify the Parties of the following:

- SUNY NIAGARA's Title IX grievance procedure and any informal resolution process;
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited; and
- The Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

If, in the course of an investigation, SUNY NIAGARA decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, SUNY NIAGARA will notify the Parties of the additional allegations.

## **E. Investigation**



SUNY NIAGARA will provide for adequate, reliable, and impartial investigation of Complaints. The burden is on SUNY NIAGARA - not on the Parties - to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

SUNY NIAGARA will provide to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

SUNY NIAGARA will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- SUNY NIAGARA will not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding.
- SUNY NIAGARA may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

SUNY NIAGARA will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.

SUNY NIAGARA will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.

SUNY NIAGARA will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

SUNY NIAGARA will provide each Party and the Party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

SUNY NIAGARA will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes the evidence.

SUNY NIAGARA will further provide the parties with an equal opportunity to assess the relevant and not otherwise impermissible evidence upon the request of any party.

SUNY NIAGARA will provide a reasonable opportunity to review and respond to the evidence or the investigative report

SUNY NIAGARA will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosure of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of sex discrimination are authorized.

### **Impermissible Evidence:**

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by SUNY NIAGARA to determine whether one of the

exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

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

### **Questioning Parties and Witnesses to Aid in Evaluating Allegations and Assessing Credibility**

SUNY NIAGARA will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

SUNY NIAGARA's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the investigator/decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator/decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

### **F. Determination Regarding Responsibility**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, SUNY NIAGARA will:

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
2. Notify the Parties in writing of the determination whether sex discrimination occurred under Title IX, including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable;
3. Not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedure that the Respondent engaged in prohibited sex discrimination.
4. If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
  - i. Coordinate the provision and implementation of remedies to a Complainant and other individuals SUNY NIAGARA identifies as having had equal access to its Education Program or Activity limited or denied by sex discrimination;
  - ii. Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
  - iii. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within SUNY NIAGARA's Education Program or Activity.
5. Comply with the grievance procedure before the imposition of any disciplinary sanctions against a Respondent; and
6. Not discipline a Party, witness, or others participating in the grievance procedure for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

## **G. Informal Resolution**

### **1. Procedures for Entering and Exiting Informal Resolution Process:**

At any time prior to determining whether sex-based harassment occurred under this Grievance Procedure, including prior to making a Complaint, Parties may instead seek SUNY NIAGARA's assistance to resolve allegations of sex discrimination, and enter the informal resolution process.

The Parties may voluntarily elect to enter SUNY NIAGARA's informal resolution process at any time through an informed written consent. This informed written consent will include all terms of the elected informal process, including a statement that any agreement reached through the process is binding on the Parties.

No Party may be required to participate in informal resolution, and SUNY NIAGARA will not condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.

The Parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded. If a Party elects to leave the informal resolution process, the Grievance Procedure that the Parties paused in lieu of informal resolution will continue. The Parties understand that the timeframes governing the formal Grievance Procedure will temporarily cease while engaging in the informal resolution process and will only resume upon re-engaging in the Grievance Procedure.

Supportive Measures will be available, or will continue to be available, during an informal resolution process, if elected. The Title IX Coordinator will also, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within SUNY NIAGARA's Education Program or Activity during any period of informal resolution.

## **2. Notice Prior to Entry into Informal Resolution Process:**

Before the initiation of an informal resolution process, the Title IX Coordinator must provide to the Parties a written notice that explains:

- The allegations;
- The requirements of the informal resolution process;
- That any Party has the right to withdraw from the informal resolution process and initiate or resume SUNY NIAGARA's Grievance Procedure at any time before agreeing to a resolution;
- That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming SUNY NIAGARA's Grievance Procedure arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- What information SUNY NIAGARA will maintain and whether and how it could disclose such information for use in its Grievance Procedure if it is initiated or resumed.

## **3. Determination to Approve Entry into Informal Resolution Process:**

Even where the Parties agree to submit a matter to informal resolution, the Title IX Coordinator or other designated official **may** approve the decision to move the matter to the informal resolution process and may determine that informal resolution is not appropriate under the circumstances.

Factors that the Title IX Coordinator may weigh in considering the appropriateness of the informal resolution process include, but are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the Respondent is a repeat offender, whether the alleged conduct would present a future risk of harm to others, and whether the Parties are participating in good faith. This determination is not subject to appeal.

Critically, informal resolution is never permitted where the allegations include sexual assault, allegations that an employee engaged in sex-based harassment of a student, or when such a process would conflict with Federal, State, or local law.

At any time after the commencement of the informal resolution process, the Title IX Coordinator may determine that the informal resolution process is not an appropriate method for resolving the matter and may require that the matter be resolved through the Grievance Procedure. This determination is not subject to appeal.

If informal resolution is approved or denied, SUNY NIAGARA will provide the outcome in writing simultaneously to the Parties. If informal resolution is approved, the Title IX Coordinator shall also provide the information of the process facilitator in writing to the Parties in a reasonable timeframe once the facilitator is assigned.

#### **4. Role of the Facilitator:**

Informal resolution processes are managed by Trained Facilitators which must not be the same person as the investigator or the decisionmaker(s) in SUNY NIAGARA's Grievance Procedure. Any person designated to facilitate informal resolution must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The Title IX Coordinator may serve as the facilitator, subject to these restrictions. For example, if the Title IX Coordinator is also the investigator, they may not serve as the facilitator of informal resolution.

Facilitators must have specialized training, required by law and regulation. Such training includes:

- SUNY NIAGARA's obligation to address sex discrimination, including sex-based harassment, in its Education Program or Activity;
- The scope of conduct that constitutes sex discrimination, including sex-based harassment, under Title IX, including the definition of sex-based harassment;
- All applicable notification and information requirements related to parental, family, or marital status, including pregnancy and related conditions, and SUNY NIAGARA's response to sex discrimination;
- The rules and practices associated with SUNY NIAGARA's informal resolution process; and
- How to serve impartially, including by avoiding conflicts of interest and bias.

#### **5. Contents of Informal Resolution Agreements:**

Terms that may be included in an informal resolution agreement between the Parties include, but are not limited to:

- Restrictions on contact; and
- Restrictions on the Respondent's participation in one or more of SUNY NIAGARA's education programs or activities or attendance at specific events, including restrictions SUNY NIAGARA could have imposed as Remedies or Disciplinary Sanctions had SUNY NIAGARA determined at the conclusion of the Grievance Procedure that sex- based harassment occurred.

#### **6. Breach of Informal Resolution Agreements:**

If a Party breaches the resolution or if SUNY NIAGARA has other compelling reasons, such as if it learns of any fraud by a Party in entering into the agreement, SUNY NIAGARA may void the agreement and initiate or resume the Grievance Procedure.

### **7. Confidentiality:**

In entering the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the Complaint are confidential while the Parties participate in the informal resolution process. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization. Should the Parties withdraw from the informal resolution process, information disclosed or obtained for purposes of the informal resolution process may be incorporated into the Grievance Procedure, provided that this information is disclosed and reviewed by the Parties under *SUNY NIAGARA's Grievance Procedure*.

### **8. Informal Resolution Options:**

SUNY NIAGARA offers the following informal resolution procedures complaints of sex-based harassment described under this Grievance Procedure:

#### **Administrative Resolution:**

Should the Parties mutually determine to enter the informal resolution process, and the Respondent elects to accept responsibility for the allegations of the Complaint at any point during the informal resolution process, the institution may administratively resolve the Complaint.

Where the Respondent admits responsibility, the Parties will receive simultaneous written notification of the acceptance of responsibility, and a decisionmaker will convene to determine the Respondent's sanction and other remedies, as appropriate and consistent with College policy. The Parties will be given an opportunity to be heard at the sanctions hearing, including without limitation, the submission of impact statements, and the Parties may be accompanied by their Advisor. Questioning of Parties or witnesses will not be permitted. The Parties will receive simultaneous written notification of the decision regarding sanctions and remedies, which may be appealed according to the process described within this policy.

#### **Mediation:**

The purpose of mediation is for the Parties who are in conflict to identify the implications of a Student's actions and, with the assistance of a trained facilitator, identify points of agreement and appropriate Remedies to address them. Either Party can request mediation to seek resolution; mediation will be used only with the consent of both Parties, who will be asked not to contact one another during the process. The Title IX Coordinator will also review any request for mediation, and may decline to mediate based on the facts and circumstances of the particular case. Either Party has the right to terminate the mediation process and choose or resume another option for resolution at any time.

The mediation process will typically commence within ten (10) business days after the Title IX Coordinator receives consent to mediate from both Parties, and has made the determination to allow informal resolution to go forward. Mediation will continue until concluded or terminated by either Party, the facilitator, or the Title IX Coordinator. During mediation, any potential investigation will halt, and calculations for time frames will be stayed (or paused). If the mediation results in a resolution, the disciplinary process will be concluded, and the matter will be closed. If a resolution cannot be reached, the matter will be referred to the appropriate College official to re-evaluate other options for resolution, including investigation or proceeding forward with the Grievance Procedure.

During mediation, a facilitator will guide a discussion between the Parties. In circumstances where the Parties do not wish to meet face to face, either Party can request “caucus” mediation, and the facilitator will conduct separate meetings. Whether or not the Parties agree to meet face to face, each Party will be permitted to bring an Advisor of their choice to any meetings who may be, but is not required to be, an attorney.

At the conclusion of the mediation, the facilitator will memorialize the agreement that was reached between the Parties. The Title IX Coordinator will monitor adherence to the proposed solution and close the matter when compliance is satisfactory.

### **Restorative Justice:**

A Restorative Justice (“RJ”) Conference is a dialogue, facilitated by a trained informal resolution facilitator, intended to restore relationships and repair harm after a conflict has occurred. Both the responsible Party and the individuals affected by the conflict come together to identify what harm was caused and, collaboratively, determine how conflict and trust might be, respectively, resolved and repaired.

A Party may request to engage in RJ at any stage of the disciplinary process, however, restorative justice may not be an appropriate mechanism for all conflicts. To qualify for RJ, the Student accused of wrongdoing must accept responsibility and express remorse for the harm that was caused. The harmed Party must also be willing to accept an apology offered by the Student accused of wrongdoing. Additionally, all involved Parties must agree to and abide by measurable and timely actions within the scope of this Policy and directives. The Title IX Office will review any request for RJ, and may decline to initiate RJ based on the facts and circumstances of the particular case.

The RJ Conference proceeds only if all Parties agree to participate willingly. Upon doing so, the RJ process typically commences within ten (10) business days after the Title IX Office receives written agreements from all involved Parties. The conference will continue until the conference is successfully concluded or until the Title IX Office determines that the conference will not be successful. If successful, an agreeable resolution is reached by all involved Parties, at which time the process is concluded, and the matter is resolved. If a resolution cannot be reached, the matter will be referred to the appropriate College official to re-evaluate other options for resolution.

The Title IX Coordinator will monitor the Parties’ adherence to their proposed solution and reserves the right to close the matter when compliance is satisfactory.

## **H. Dismissal of Complaint**

SUNY NIAGARA may dismiss a Complaint of sex discrimination for any of the following reasons:

- SUNY NIAGARA is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in SUNY NIAGARA's Education Program or Activity and is not employed by SUNY NIAGARA;
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and SUNY NIAGARA determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- SUNY NIAGARA determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX. SUNY NIAGARA will make reasonable efforts to clarify the allegations with the Complainant before dismissing the Complaint.

### **1. Notice of Dismissal**

Upon dismissal, SUNY NIAGARA will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then SUNY NIAGARA will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing.

SUNY NIAGARA will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then SUNY NIAGARA will also notify the Respondent that the dismissal may be appealed.

**Dismissals may be appealed on the following bases:**

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

### **I. Appeal of Dismissals and Determinations**

SUNY NIAGARA will offer an appeal from a dismissal or determination whether sex-based harassment occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and



- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If a party appeals a dismissal or determination whether sex-based harassment occurred, SUNY NIAGARA will:

- Notify the Parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the Parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the Parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal SUNY NIAGARA offers will be equally available to all parties.

Supportive measures will continue to be made available, or offered, to the parties, as appropriate.

### **1. Appeal of Determinations**

The submission of an appeal of a determination has the effect of pausing any disciplinary sanctions while the appeal is being deliberated and decided upon. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a Party appeals, SUNY NIAGARA will, as soon as practicable, notify the other Party in writing of the appeal, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.

Appeals of formal disciplinary sanctions imposed upon employees who are covered by a CBA or Conditions of Employment for Administrative Employees Handbook with the College shall be made in accordance with the discipline procedure set forth in the applicable agreement or handbook.

For all other matters covered under this policy, written appeals, including any supporting documentation, must be submitted to and received by the College President of the party's notice of the investigation findings within twenty (20) days of the issuance of the determination of responsibility or notice of dismissal of the complaint. Appeals may be submitted by both the Complainant or Respondent within the timeframes set forth herein. Upon receipt of an appeal, notification that an appeal has been submitted shall be provided in writing to the Parties within five (5) business days.

The College President shall issue a determination within the timeframes set forth in the applicable CBA or Conditions of Employment Handbook, or of receipt of the appeal(s) within ten

(10) business days if no CBA or Employment Handbook applies. If any component of the appeal procedure set forth herein conflicts with a disciplinary procedure set forth in an applicable CBA, the CBA shall govern.

## **J. Miscellaneous**

### **Compliance with Sanctions**

All Parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Title IX Coordinator or appropriate College official. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect, or any other reason, may result in additional responsive/corrective actions, up to and including expulsion and/or termination, as appropriate.

### **Records**

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be maintained confidentially by the Title IX Coordinator or designee(s) electronically in accordance with applicable record retention requirements.

## **K. Prohibition Against Retaliation:**

Retaliation against any individual covered by this policy who, in good faith, brings a written or verbal complaint of discrimination or sexual harassment, or who assists, participates, or testifies in any investigation or proceeding related to such complaint, regardless of whether the alleged harassment rises to the level of a violation of this policy or the law, is strictly prohibited. Such retaliation is unlawful and SUNY NIAGARA will not tolerate or permit adverse treatment of individuals because they report discrimination or sexual harassment or provide information related to such complaints. Adverse treatment includes discharge, discipline, discrimination, or any action that could discourage an individual from coming forward to make or support a claim of discrimination or sexual harassment. Individuals who believe they may have experienced retaliation should contact the Title IX Coordinator or other appropriate College official for prompt investigation.

## **Statement on Consensual Sexual and Amorous Relationships**

SUNY Niagara acknowledges its responsibility to provide clear direction to the College Community about the professional risks associated with consensual amorous and/or sexual relationships in which a definite power differential between parties exists.

In as much as SUNY Niagara is committed to fostering the development of learning and work environments characterized by professional and ethical behavior and free of discriminatory behavior, consenting amorous and/or sexual relationships between College employees and students, or between supervisor and subordinates are strongly discouraged. SUNY Niagara recognizes that it is difficult to regulate such personal decisions, but views them as a reason for concern for the following two reasons:

### **1. Power Differential:**

Individuals entering into consensual amorous and/or sexual relationships involving a power differential must recognize that (1) the reasons for entering such a relationship may be a function of the power differential; (2) where power differential exist, even in seemingly consensual relationships, consent may not be considered a defense if a complaint of sexual harassment or retaliation is brought; and (3) it is almost always the case that the individual with the power or status advantage in the relationship will bear the burden of accountability.

## **2. Conflict of Interest:**

Conflicts of interest may arise in connection with consensual amorous and/or sexual relationships between College employees and students, or between supervisor and subordinates. College policy and more general ethical principles preclude individuals from evaluating the work or academic performance of those with whom they have intimate, familial relationships or from making hiring, salary or similar decisions that have a financial impact on such persons. The same principles apply to consensual amorous and/or sexual relationships and require that appropriate alternate arrangements be made for objective decision making with regard to the student, subordinate or prospective employees.)

## **Sexual Misconduct/VAWA (Violence Against Women Act) Notice**

Niagara County Community College (NCCC) is committed to creating and maintaining an educational environment free from all forms of sex discrimination, including sexual misconduct. Any act involving sexual harassment, violence, coercion, and intimidation will not be tolerated. Specifically, NCCC strictly prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking. These acts have a real impact on the lives of victims. They not only violate a person's feelings of trust and safety, but they can also substantially interfere with a student's education.

It is the policy of SUNY and NCCC that, upon learning that an act of sexual misconduct has taken place, immediate action will be taken to address the situation and punish the perpetrator. This includes working with State and local law enforcement to bring possible criminal charges, seeking disciplinary action through the College, and enforcing mandatory transcript notifications so other institutions are on notice of the offense committed.

NCCC encourages the reporting of sexual misconduct that is prompt and accurate. This allows the NCCC community to quickly respond to allegations and offer immediate support to the victim. NCCC is committed to protecting the confidentiality of victims, and will work closely with students who wish to obtain confidential assistance regarding an incident of sexual misconduct. Certain professionals at the College are permitted by law to offer confidentiality. Those who do not maintain the privilege to offer confidentiality are expected to keep reports private to the extent permitted under the law and College policy. This means that they may have to report to college officials, but will not broadcast the information beyond what is required by law and policy. All allegations will be investigated promptly and thoroughly, and both the victim and the accused will be afforded equitable rights during the investigative process.

It is the collective responsibility of all members of the NCCC community to foster a safe and secure campus environment. In an effort to promote this environment and prevent acts of sexual

misconduct from occurring, NCCC engages in ongoing prevention and awareness education programs. All members of the NCCC community must participate in ongoing campaigns and trainings focused on the prevention of sexual misconduct on campus.

This policy applies to all members of the NCCC community, including students, faculty, staff, visitors, independent contractors, and other third parties who are on campus and involved in an incident of sexual misconduct (this can be someone who witnessed an incident or who wishes to report an incident on behalf of another). The policy applies to these parties regardless of sexual orientation or gender identity.

This policy prohibits all forms of sexual misconduct. This broad term includes, but is not limited to, acts of sexual harassment, sexual violence, sexual coercion, sexual threats or intimidation, domestic violence, dating violence, sexual assault, stalking, and cyber-stalking.

## **Accessibility Services**

In accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, SUNY Niagara provides “reasonable accommodations and support services to students with disabilities, including learning disabilities”. Our objective is to support the educational and vocational goals of students with disabilities at SUNY Niagara.

Registration with Accessibility Services is on a voluntary, self-identifying basis and is necessary to receive services. This process is confidential and requires certified documentation. If you anticipate using accommodations, it is important that you contact the Accessibility Services Office as soon as possible.

## **Immunization Policy**

In accordance with New York State Public Health Law 2165, it is the policy of SUNY Niagara to require all students who were born on or after January 1, 1957, to be immunized for measles, mumps and rubella. In addition, students are expected to provide proof or sign a waiver for meningitis prior to registration.

### **Purpose:**

The purpose of this policy and the Public Health Law is to eliminate outbreaks of measles, mumps and rubella among college and university students in New York State. Vaccine preventable disease outbreaks occurring on college campuses result in high cost to both student and institutions.

New York State Public Health Law also requires colleges to distribute information about meningococcal disease and vaccination to all students regardless of age. Each student is encouraged to carefully review the materials provided to them. Though meningococcal vaccination is highly recommended, students are not required to receive it, but they are required to fill out this online Meningitis Declination ONLY if declining the vaccine.

The only exception to these mandatory requirements is for students who are 100% online. These students do not need to provide immunization documentation.

A self-completed health history report is requested of all students. This report, and all medical information, is confidential information therefore not shared without consent. The health history form can be found in the folder sent with the "Acceptance Packet" from the Admissions Department upon the student's acceptance to SUNY Niagara.

### **Definitions:**

**Student** means anyone born on or after January 1, 1957.

**Attendance at a post-secondary institution** is defined as the physical presence of the student at the Sanborn campus, Niagara Falls Culinary Institute and/or any off-campus sites and shall begin on the first scheduled day of classes each semester.

**Acceptable proof of immunity for measles** means two doses of live vaccine, the first given on or after the first birthday and after January 1, 1968, and the second one after fifteen months of age. There must be an interval of at least 30 days between the first measles dose and the second dose of the vaccine. Serological proof (titre) is also acceptable as is a physician's statement of prior disease history.

**Acceptable proof of immunity to rubella** consists of one dose of live vaccine given on or after the first birthday and after 1968, or serological evidence of immunity for rubella.

An "acceptable proof of immunity for mumps" consists of immunization on or after the first birthday and after 1968, serological evidence of immunity, or physician's statement of disease history.

In case of Meningitis, the student is required to submit proof from a physician or Health department or by signing a waiver form provided by the Wellness Office at SUNY Niagara

In all cases, proof of immunity must be documented by one of the following:

- Physician's or Health Department record,
- High-school record, or
- Statement signed by the appropriate College Health Services official indicating that they have received the appropriate immunization on campus.

### **Exemption-Medical and Religious:**

If a licensed physician or nurse practitioner certifies in writing that one or more of the required immunizations may be detrimental to the student's health or is otherwise medically contradicted, the requirements for measles, mumps and rubella immunity shall be waived until such immunization is determined to no longer be detrimental to the student's health or otherwise medically contradicted.

The statement must specify those immunizations which may be detrimental and the length of time they may be detrimental. Students granted exemptions for religious or medical reasons will be required to sign a statement indicating that they have been advised that in the event of an outbreak of measles, mumps, or rubella on campus that they will be excluded from attending classes or activities at SUNY Niagara until two weeks after the outbreak. In most instances they will be allowed to return to campus immediately upon receiving the vaccine.

## **Enforcement of Requirements:**

Students new to the College will need to provide proof of immunity as part of the registration process. Students who are non-compliant to the Public Health Laws will be notified and will be de-registered for all on campus classes if they have not demonstrated compliance within 30 days from the beginning of the semester.

## **Reporting of Measles, Mumps, and Rubella and Outbreak Control Strategies**

In the event a student, staff member, or faculty is suspected of having measles infection, the Supervisor of the Health Services or the College nurse will notify the County Health Department immediately. Health Services will work with the Health Department to follow up with exposed close contact and implement outbreak control activities. Persons born before January 1, 1957, are considered immune from natural disease, but will be encouraged to obtain measles immunization.

Persons who are susceptible to measles will be encouraged to obtain measles immunization immediately. In the event such persons continue to refuse immunization or are unable to receive immunizations, the College will exclude them from attendance at SUNY Niagara.

### **Rubella:**

In the event of a rubella outbreak on campus all females, student or staff, will be notified so that if they are pregnant they should notify their health care provider to determine their rubella immune status through serological results.

### **Institutional Responsibility:**

It is the role of Health Services personnel to evaluate documentation supplied by students to ensure that the documentation meets requirements set forth in this policy and to input data to student records.

### **Confidentiality:**

Student immunizations records contain information of a medical nature; and, therefore, must be considered confidential. Access is restricted to College employees whose job responsibilities require information from those records. Students wanting a copy of their records for their personal files or for transfer to another institution will be required to sign a release form prior to receiving the records.

## **Confidentiality of Student Records**

In accordance with the statutory requirements of the Family Education Rights and Privacy Act of 1974, students at SUNY Niagara are provided full access to their educational records, the right to challenge the content of such records and the right to limit transferability of such records without their consent. Details pertaining to the content and location of student records, as well as to procedures for action and hearings, can be obtained in the Records Office.

Written consent from a student is required before personally identifiable information can be released from an individual educational record in all cases except those specifically exempted by law.

There is certain directory information which the College may release without the student's permission: the student's name, address (including e-mail), telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, photograph, weight and height of members of the athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student. However, a student may prevent the release of such information by completing the appropriate form in the Enrollment Center, Records Office.

The full College policy and procedure for exercising student rights under this law are available from the Vice President of Student Services. Inquiries or complaints may be filed with the Family Educational Rights and Privacy Act Office, Department of Health and Human Services; 350 Independence Avenue, SW; Washington, DC 20201.

## **Tobacco Free Environment Policy**

SUNY Niagara is committed to improving the health of its employees through a comprehensive program that discourages the use of tobacco products on its property.

Effective September 1, 2010 the use, distribution, or sale of tobacco products, including any smoking device, or carrying of any lighted smoking instrument, in SUNY Niagara buildings or on SUNY Niagara premises is prohibited. This includes, but is not limited to all SUNY Niagara: sidewalks; parking lots, landscaped areas, recreational areas and buildings on any SUNY Niagara property and in SUNY Niagara owned, rented or leased vehicles, and at events on SUNY Niagara premises. Smoking materials must be extinguished prior to entering upon any SUNY Niagara property without exception. All tobacco products in use must be disposed of prior to entering upon any SUNY Niagara property or exiting a personal vehicle: Improper disposal includes: Spitting smokeless tobacco product; Littering (i.e. discarded cigarette butts, throwing or disposing of cigarette butts out of windows, leaving spit container).

For the purpose of this policy, "tobacco" is defined to include any cigarette, e-cigarette, cigar, pipe, bidi, clove cigarette, and any other smoking product; and smokeless or spit tobacco, also known as dip, chew, snuff or snus, in any form.

All SUNY Niagara employees, students, visitors and contractors are required to comply with this policy, which shall remain in force at all times.

Violations of this policy by students and employees will result in the action prescribed in the section below.

SUNY Niagara is committed to improving the health of its employees, students and visitors and acknowledges and supports the findings of the Surgeon General that tobacco use in any form, including exposure to secondhand smoke is a significant health hazard. SUNY Niagara further recognizes that environmental tobacco smoke has been classified as a Class-A carcinogen. In light of these health risks, and in support of a healthy learning/working environment, the college, through a comprehensive program, prohibits the use of tobacco products on its property.

## **1. Positive Reinforcement:**

As the primary purpose of this policy is to improve the health of employees and students, the college is committed to providing opportunities for persons to address their use of tobacco. The college prefers not to revert to negative means of enforcement and trusts that persons will comply voluntarily. To this end, the college will offer smoking cessation programs, provide educational materials, and generally seek to influence compliance in a positive manner. The College Wellness Center and the Health Education Center are available to all persons interested in seeking ways to address their use of tobacco.

## **2. Authority:**

- A. The enforcement of this policy is the responsibility of Public Safety personnel.
- B. Public Safety Officers are authorized to issue tickets for violations and control and regulate facilities use as prescribed in this policy.

## **3. Enforcement:**

- A. Visitors to the campus using tobacco will be asked to discard the tobacco product. Visitors failing to comply with the request will be escorted off campus.
- B. Organizations using college facilities will be given written notification that tobacco products are not permitted on campus and that they agree to publicize the college's policy in their notices.
- C. While the college hopes that it is not necessary to address violations, it is necessary to publicize the means by which it may be necessary to address violations by employees or students. The purpose, therefore, of the following systematic approach is to influence compliance with this policy in a positive manner while providing progressive steps leading to disciplinary action. Violations of this policy by students or employees, other than members of the Technical Support Personnel Association (TSPA), will be handled in a manner described below and are not subject to the disciplinary procedures outlined in a collective bargaining agreement or student code of conduct.

Members of the TSPA who violate the tobacco policy will be subject to the disciplinary procedures outlined in their collective bargaining agreement.

- 1st offense –\$25 fine
- 2nd offense – \$50 fine
- 3rd offense - \$100 fine
- 4th and subsequent offenses - \$200 fine

- D. Monies collected for violations of the tobacco policy will be used to support smoking cessation programs with any excess funds contributed to the SUNY Niagara Foundation's Unrestricted Fund.

## **4. Processing Of Violations:**

- A. Tobacco tickets will be issued for violations of this policy. A copy of the ticket issued to employees will be provided to the Human Resources Office for processing after the period of time for filing of an appeal has expired or upon denial of such appeal. Copies of



tickets issued to students will be provided to the Office of the Vice President of Student Services for processing after the period of time for filing of an appeal has expired or upon denial of such appeal.

- B. Upon receipt of the ticket by the applicable office, such office will issue the appropriate notice based on the number of offenses. Fines must be paid to the college's cashier's office within 30 days of receipt of the notice of the fine.

## **5. Appeals:**

- A. Alleged violators may appeal to the Chief of Campus Public Safety/Peace Officer for a brief adjudicative procedure within seven calendar days of the date of the citation. The Chief of Campus Public Safety/Peace Officer may void a ticket and not process it further.
- B. Appeals of the decision of the Chief of Campus Public Safety/Peace Officer are to be submitted to the Vice President of Administration within seven days of receipt of such decision. Written notification of the Vice President's decision shall be made within ten days of receipt of the appeal and such decision by the Vice President shall be final.

## **6. Unpaid Fines:**

If any fine remains unpaid, any or all of the following actions may be taken by the college:

- A. A hold may be placed on student transcripts.
- B. Registration for the following term may be delayed.
- C. The amount due as a result of fines due and payable may be deducted from paychecks of SUNY Niagara employees, including student workers, if not paid within 30 days of receipt of ticket by the Business Office.
- D. Outstanding fines may be referred to a collection agency

# **Workplace Violence Policy and Program**

## **1. Preamble:**

NYS Labor Law § 27-b and its implementing regulations in 12 NYCPR § 800.6 establish requirements for the creation of programs aimed at the prevention of Workplace Violence. This document addresses the potential for violence in the workplace and is designed to create and ensure a working environment where violence or threats of violence by any member of, or visitors to, the college community that could affect any employee are not tolerated and are dealt with in an appropriate and timely manner

## **2. Policy Statement:**

SUNY Niagara will not tolerate violent acts and threats of violence. As such, students, employees, volunteers, independent contractors, vendors, and visitors to the campus who commit, or threaten to commit, acts of violence are subject to disciplinary action and/or civil or criminal prosecution as appropriate.

To protect the campus community from potential harm and violence, the College prohibits any weapon capable of causing bodily harm at a time and place that manifests intent to harm or intimidate another person or warrants alarm for personal safety from being in the workplace.

Employees of the college, town, state, or federal government who at the time are engaged in law enforcement activities are exempt from this prohibition.

In the event of a situation in which there is imminent danger, persons should call 911 and then call Public Safety at 716 614-6400 or ext. 6400 (Sanborn) or 716 210-2555 or ext. 2555 (NFCI). If required, the Emergency Response Plan (see Critical Incident Response Plan under Security/Safety on the College's FYI page) and/or the Timely Warning Policy will be implemented. Employees affected by an incident or know of someone who has been involved in an act of violence shall immediately report it to their supervisor or to Human Resources. Supervisors who receive such reports should contact Human Resources for further help and advice. Students affected by an incident or know of someone who has been involved in an act of violence, shall immediately report it to Public Safety.

The College does not discriminate against victim(s) of violence, or those who report such violence, regardless of severity. Retaliation against anyone who has reported a violation or is involved in an investigation is prohibited and should be reported to Human Resources immediately.

This policy is not intended to replace the College's policy on Hate Crimes (see College Policy Manual). In the event an incident covered by the Workplace Violence policy is also considered a Hate Crime, both procedures will be adhered to.

### 3. Workplace Violence Program:

#### A. Definitions:

- **Workplace** is defined as any location away from an employee's domicile, permanent or temporary, where an employee performs any work-related duty in the course of his or her employment with the College.
- **Workplace Violence** is defined as any physical assault or acts of aggressive behavior occurring where a public employee performs any work-related duty in the course of his or her employment.
  - For purposes of this policy, workplace violence includes such conduct as:
    - Verbal or physical threats of physical injury.
    - Intentional displays of force that cause an employee to fear bodily harm.
    - Intentional and wrongful physical contact, without consent, that results in injury.
    - Stalking an employee with the intent to cause fear of physical harm, if such stalking arose in the course of employment.
    - Any other behavior that causes others to feel unsafe including such things as usage of the internet or other electronic media for these purposes (cyber-bullying or cyber-stalking) including but not limited to harassing, teasing, intimidating, or threatening another person by sending or posting inappropriate and hurtful e-mail messages, instant messages, text messages, digital pictures or images, or website postings, including blogs.
- **Imminent Danger** is defined as any condition or practice in any place of employment such that a danger exists that could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through other enforcement procedures.

- For purposes of this policy, **acts of harassment** are generally covered by other College policies as well as the New York Penal Law (see SUNY Policy Manual on harassment). Individuals who feel they have been harassed are advised to seek guidance and information from Human Resources, Student Services, or any member of the College Community they feel comfortable approaching

## **B. Responsibilities**

- The Vice President of Administration has overall responsibility for the implementation of the Workplace Violence Program and for responding to the recommendations on the management and implementation of this policy from the Risk Assessment Team.
- The Assistant Vice President of Human Resources/Title IX Coordinator is responsible for ensuring this policy is distributed to the campus community through appropriate channels and to all new employees.
- Supervisors are responsible for ensuring all members of their staff including volunteers are aware of this policy.
- Employees are responsible for being familiar with and adhering to this policy.
- Students are responsible for acting in accordance with the Student Code of Conduct.
- The Business Services department is responsible for informing vendors of this policy.
- Vendors are responsible for adherence to this policy to include communicating such policy to their employees/representatives.
- Every member of the campus community (employees, students, volunteers, and visitors) is expected to report any incident to the appropriate official immediately.

## **C. Risk Assessment Team**

A Risk Assessment Team is formulated to implement a Workplace Violence Program and respond to incidents.

### **Composition:**

- Vice President of Administration
- Chief of Campus Public Safety/Peace Officer
- Assistant Director of Human Resources
- Two members from the Campus Safety Advisory Committee
- Director of Student Housing Village
- Student Government Member
- Other individuals as deemed appropriate by each situation

### **Purpose:**

- Ensure the workplace hazard assessment is conducted annually
- Institute engineering controls to better protect employees and students
- Ensure minutes of meetings, incident reports, workplace surveys and planned corrective action, and disciplinary action reports are documented and maintained on file
- Ensure the necessary assessment and awareness training and education is provided  
Annually review the hazard assessment survey and incidents of violence and make

- recommendations for changes to this policy or program.
- Be involved in situations as dictated by the degree and nature of the circumstances

#### **D. Investigations of Allegations of Violence or Threat of Violence**

- Allegations of violence or threats of violence will be investigated in a timely and thorough manner depending on the circumstances of the reported allegations.
- Investigations will be conducted confidentially to the extent that only those parties who have a definite need to know or be involved in the investigation will be included.

#### **E. Hazard Evaluation and Assessment**

- The College's Campus Safety Advisory Committee will conduct the hazard assessment survey of college facilities and grounds annually and make recommendations to the Risk Assessment Team. The hazard assessment survey shall become a written record used by the risk assessment team to develop a plan to reduce and eliminate identified hazards.
- Employees wishing to file a complaint when they believe a serious violation of this workplace violence program exists or that a workplace violence danger is imminent may file a written complaint to the Assistant Vice President of Human Resources/Title IX Coordinator or Campus Security.

#### **F. Annual Training**

- Training on workplace violence prevention is required for all employees at the time of hire and annually thereafter.
- Re-training of affected employees is required when significant changes to the workplace violence program occur and at least annually if no changes occur.

#### **G. Assistance and Support**

- The College will provide assistance and support to members of the college community as needed and as appropriate following a workplace violence incident or where there is a concern regarding the potential for workplace violence.
  - The College's Wellness Center is available to assist students or employees who have been a victim of an act of violence.
  - The Human Resources office is available to assist persons needing guidance regarding any problematic employee behavior.
  - The Office of the Vice President of Student Services is available to assist persons needing guidance regarding any problematic student behavior

#### **H. Sanctions**

- Each situation is different and will be handled on a case-by-case basis.
- Appropriate disciplinary measures will be in accordance with the provisions of the Student Code of Conduct, relevant collective bargaining agreements, or conditions of employment as applicable.

- Determination of any action that involves someone other than a student or employee will be made after consultation with relevant agencies, companies, or departments by the College.

## **Notice of Non-Discrimination**

Pursuant to SUNY Niagara (SUNY Niagara) policy, the College is fully committed to fostering a diverse community of outstanding faculty, staff, and students, as well as ensuring equal educational opportunity, employment, and access to services, programs, and activities without regard to an individual's race, color, national origin, religion, creed, age, disability, sex, gender identity, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. Employees, students, applicants, and other members of the College community (including but not limited to vendors, visitors, and guests) may not be subjected to harassment that is prohibited by law, treated adversely, or retaliated against based upon a protected characteristic.

SUNY Niagara's policy is in accordance with federal and state laws and regulations prohibiting discrimination and harassment. SUNY Niagara does not discriminate on the basis of race, color, national origin, disability, political belief, age, religion, sex, gender identity, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence status, or prior arrests and criminal convictions, in acceptance for or provision of services, employment or treatment, in its educational and other programs and activities. These laws include Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964 as Amended by the Equal Employment Opportunity Act of 1972, the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 and the New York State Human Rights Law. These laws prohibit discrimination and harassment, including sexual harassment and sexual violence. Under other provisions of applicable law, SUNY Niagara does not discriminate on the basis of sexual orientation.

If you believe you have been discriminated against or if you feel you have been retaliated against for opposing unlawful discriminatory practices, you should contact: Assistant Vice President of Human Resources in A263

You may also be able to file a complaint with the State Division of Human Rights.

NYS Division of Human Rights  
Walter Mahoney State Office Building  
65 Court St. Suite 506  
Buffalo, NY 14202  
**Phone:** 716-847-7632  
**Email:** [InfoBuffalo@dhr.state.ny.us](mailto:InfoBuffalo@dhr.state.ny.us)

## **Anti-Bullying Policy**

### **1. Purpose:**

Bullying can foster a climate of fear and disrespect which seriously impairs the physical and psychological health of its victims and creates conditions that negatively affect any learning and working environment. SUNY Niagara ("College") is committed to maintaining high standards for behavior where every member of the College community conducts himself/herself in a manner

which demonstrates proper regard for the rights and welfare of others. This Anti-Bullying Policy, therefore, seeks to educate the College community about bullying, and to promote civility and respect among all its members, including the College's trustees, administration, faculty, staff, students, contractors, consultants and vendors.

## 2. Definition:

Bullying is defined as the aggressive and hostile acts of an individual or group of individuals which are intended to humiliate, mentally or physically injure or intimidate, and/or control another individual or group of individuals.

Such aggressive and hostile acts can occur as a single, severe incident or repeated incidents, and may manifest in the following forms:

- a. **Physical Bullying** includes pushing, shoving, kicking, poking, and/or tripping another; assaulting or threatening a physical assault; damaging a person's work area or personal property; and/or damaging or destroying a person's work product.
- b. **Verbal/Written Bullying** includes ridiculing, insulting or maligning a person, either verbally or in writing; addressing abusive, threatening, derogatory or offensive remarks to a person; and/or attempting to exploit an individual's known intellectual or physical vulnerabilities.
- c. **Nonverbal Bullying** includes direct threatening gestures toward a person or invading personal space after being asked to move or step away.
- d. **Cyberbullying** is defined as bullying an individual using any electronic form, including, but not limited to, the Internet, interactive and digital technologies, or mobile phones.
- e. **Racist Bullying** is defined as racial taunts, graffiti or gestures; refusal to work with another because they are of a different culture.
- f. **Sexual Bullying** is defined as unwanted physical contact or sexually abusive comments.
- g. **Homophobic (Gender and Sexual Orientation) Bullying** is defined as bullying usually aimed at gay, lesbian, bisexual and transgender people or those with gay, lesbian, bisexual or transgender relatives/friends; the use of generic insults relating to gender and/or sexual orientation.
- h. **Stalking** is defined as continued unwanted attention through: Personal contact (directly with you or through your friends and family); telephone calls; letters; e-mails; text messages; internet chat rooms.

## 3. Bullying Prohibited:

- a. Bullying is strictly prohibited on any College property; at any College function, event or activity; or through the use of any electronic or digital technology, whether or not such use occurs on College property.
- b. This policy shall apply to all College trustees, administration, faculty, staff, students, contractors, consultants and vendors.
- c. Any case of bullying suspected to be of a criminal nature shall be referred to local law enforcement authorities.

## 4. Reprimand or Criticism:

Bullying shall not include circumstances wherein:

- a. A supervisor or any person with supervisory authority reports and/or documents an employee's unsatisfactory job performance and the potential consequences for such performance;
- b. A faculty member or academic program personnel advise a student of unsatisfactory academic work and the potential for the course failure or dismissal from the program; or
- c. A faculty member or academic program personnel advise a student of inappropriate behavior that may result in disciplinary proceedings.

## **5. Procedures for Reporting Bullying:**

### **A. Reporting Bullying by Students**

- Complaints alleging students bullying other students, employees, contractors, consultants or vendors should be reported immediately to the Office of Campus Public Safety & Security.
- Any such complaints will be forwarded to the Vice President of Student Services for investigation, in accordance with the procedures set forth in the Student Code of Conduct and Student Conduct Process.

### **B. Reporting Bullying by Employees**

- Complaints alleging College employees bullying other employees, students, contractors, consultants or vendors, should be reported immediately to the Assistant Vice President of Human Resources.
- In accordance with College policy, the Human Resources Office will review the complaint, conduct an investigation, and recommend appropriate disciplinary action.
- Complaints involving bullying by persons not identified in subparagraphs (1) and (2), herein, should be reported to the College President.
- Any inquiries regarding reporting alleged violations of this policy may be directed to the Vice President of Student Service, Assistant Vice President of Human Resources, or College President.

## **6. Disciplinary Action:**

Violations of this policy shall be considered misconduct, and violators will be subject to disciplinary action in accordance with College policy, the applicable collective bargaining agreements, and the Student Code of Conduct and Student Conduct Process.

## **7. Education/Prevention:**

- a. This policy shall be disseminated through inclusion in the Faculty/Staff Handbook, College Policy Manual, the Student Handbook, and on the College's FYI page.
- b. The Office of Student Services and Wellness Center will facilitate anti-bullying workshops and seminars throughout the academic year to provide continuing education for students.

- c. The Human Resources Department will facilitate anti-bullying training for College employees.

## **8. Other Remedies:**

Nothing contained herein shall preclude or limit any right, remedy or cause of action provided under any other College policy or any local, state or federal ordinance, law or regulation, including, but not limited to, Title VII or the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 or the Rehabilitation Act of 1964, or the Americans with Disabilities Act of 1990.

## **9. Anti-Bullying Policy Background:**

Bullying is a long-standing problem throughout the country. With the proliferation of the use of electronic means of communication, bullying has transformed from a predominately school-based issue among youth to a broader societal problem affecting both youth and adults.

Researchers have demonstrated that bullying has long-term consequences. Furthermore, bullying now goes beyond the classroom to the internet, athletic teams, college campuses, work places, and amongst the general public.

Victims of cyber-bullying suffer very real and serious harm as a result of these incidents, often showing signs of depression, anxiety, social isolation, nervousness when interacting with technology, low self-esteem, declining school and work performance, hyper-vigilance, nightmares, changed eating and sleeping habits, and fear for their safety.

Cyber-bullying has been shown to cause significant psychological trauma to the victims. In some cases, victims attempt or commit suicide due to, in part, the cyber-bullying they have endured.

When a college develops an anti-bullying policy, the existence of this policy will ensure that the college will continue to maintain an environment of respect and consideration for others. This means that the anti-bullying policies will apply to everyone on campus, including all students, faculty, staff, contractors, vendors and administrators.

Most colleges in the United States do not have anti-bullying policies written in their college handbooks. People who engage in bullying may not realize how much distress they cause to the person who is being victimized. At least if an anti-bullying policy did exist on campus – then all students, faculty, and administrators would take comfort in realizing that their colleges are seriously interested in the welfare of all who work at and attend their college.

## **Equal Opportunity Statement of Policy**

SUNY Niagara does not discriminate and prohibits harassment or discrimination related to any protected category including creed, ethnicity, citizenship, national origin, sex, gender, pregnancy, disability, marital status, political or social affiliation, age, race, color, veteran status, military status, religion, sexual orientation, domestic violence status, genetic information, gender identity, gender expression or perceived gender.



# Policy of Non-Discrimination on the Basis of Disability/Clery

## 1. Clery Statement:

Students can access the [Annual Security Report \(ASR\)](#) for SUNY Niagara (CY 2023) or by accessing the [Consumer Information Webpage](#). The ASR contains information on campus security policies and certain campus crime statistics. Crime statistics are reported in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. A hard copy of the ASR can be obtained by contacting the Public Safety Department at 716-614-6400. You may find additional information at <https://ope.ed.gov/campussafety/>.

©2024/2025  
SUNY Niagara  
Student Services  
3111 Saunders Settlement Road

Sanborn, New York 14132-9460  
Phone: (716) 614-6240 • Fax: (716) 614-6825

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