NEW YORK LAW SCHOOL

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# Sexual Misconduct Policy


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## Section 1: Statement of Non-Discrimination

In compliance with federal, state, and local laws, New York Law School ("NYLS" or "the Law School") does not discriminate on the basis of race, color, religion, creed, national or ethnic origin, sex (including stereotypes), sexual orientation, gender (including gender identity), age, disability, pregnancy, marital status, parental status, or any other legally protected characteristic ("Protected Characteristics") in the administration of any of its educational programs and activities.

Specifically, in accordance with Title IX of the Education Amendments of 1972 ("Title IX"), NYLS does not discriminate on the basis of sex in its educational programs or activities or in any phase of employment. Inquiries concerning NYLS's application of Title IX may be referred to NYLS's Title IX Coordinator, Nina Jody, and Assistant Coordinator, Florence Hutner (together, "Co-Coordinators"), any member of the Title IX Board (as described below), and/or to the Department of Education, Office of Civil Rights ("OCR"), as identified in Section 3 below.

## Section 2: Scope of Policy

This Policy specifically prohibits sex-based misconduct, harassment, and violence in accordance with the definitions under Title IX, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), relevant provisions of the Violence Against Women Act, as reauthorized in 2013 and 2022 ("VAWA"), and New York Education Law Article 129-B, which each require that NYLS take specific steps to prohibit and address sex and gender-based harassment and misconduct, remedy its effects, and prevent its recurrence. In the event of conflict between State law, FERPA, or Title IX, NYLS acknowledges that it will comply with Title IX. Title IX and its associated regulations do not override any legal right of a parent, guardian, or other authorized legal representative to act on behalf of a complainant, respondent or other person.

NYLS has enacted this Sexual Misconduct Policy (the "Policy") to reflect and maintain its institutional values and community expectations, to provide fair and equitable procedures for determining when this Policy has been violated, and to provide recourse for individuals in response to violations of this Policy.

All other forms of discrimination, harassment, and retaliation based on other Protected Characteristics, including gender identity and sexual orientation, and some forms of discrimination, harassment, and retaliation based on sex, are addressed by NYLS's Employee or Student Anti-Discrimination and Anti-Harassment Policy. When a report is made that alleges conduct covered under this Policy, and conduct covered under the Employee or Student Anti-Discrimination and Anti-Harassment Policy, the Law School will work with both policies to address the complaint and will coordinate the investigation and resolution efforts. Questions about which policy governs a particular situation should be referred to the Title IX Co-Coordinators.

### A. Conduct Covered

This Policy prohibits all forms of sex-based misconduct, harassment, and violence in accordance with the definitions under Title IX, the Clery Act, relevant provisions of VAWA, and New York Education Law Article 129-B (collectively, "Sex-Based Misconduct"). Sex-Based Misconduct may include, but is not limited to:

- Discrimination on the basis of sex, including on the basis of pregnancy (or related conditions), parental, family, or marital status
- Domestic violence or dating violence
- Non-consensual sexual contact
- *Quid pro quo* sexual harassment
- Sexual assault
- Sexual exploitation
- Stalking
- Unwelcome conduct (as set forth in Sexual Harassment definition under Section 13)


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Sex-Based Misconduct can occur between supervisor/employee, co-workers, students/employees, students/students, faculty/students, and from people of the same or another sex. To operate educational programs and activities free from prohibited sex discrimination at all times, NYLS will take prompt and effective action to end any prohibited sex discrimination for which it has actual notice or knowledge, prevent its recurrence, and remedy its effects. This Policy also defines prohibited relationships of a sexual or intimate nature between individuals where one individual has power or authority over another. Sex-Based Misconduct undermines the character and purpose of NYLS and will not be tolerated.

Retaliation against an individual based in whole, or in part, on any individual's exercise of the individual's rights under this Policy is absolutely prohibited by NYLS and under federal, state, and local law. This Policy protects participation in an investigation into allegations of any of the conduct covered in this Policy; opposition to any conduct covered in this Policy; and encouragement of others to exercise their rights under this Policy.

### B. Persons Covered

This Policy applies to any individuals regularly or temporarily employed by, conducting business with, studying at, living at, visiting, or having any official capacity with NYLS or on its property ("Community Members"). Community Members include:

- Administrators
- Admitted students
- Adjunct, emeritus and visiting faculty
- Alumni
- Applicants
- Contractors
- Full-time faculty
- Senior Fellows
- Staff
- Students
- Student employees
- Supervising attorneys for NYLS clinical and other experiential learning programs
- Trustees
- Vendors
- Visitors/guests
- Volunteers

NYLS may be limited in what actions it may take when investigating or responding to a report if an accused person is not known to NYLS, not affiliated with NYLS, or is no longer affiliated with NYLS at the time a report of Sex-Based Misconduct is made. In such cases, NYLS will, to the best of its ability, conduct an inquiry, take steps to prevent the recurrence of such conduct to any Community Members, and remedy the effects, if appropriate. If one of the parties involved in a report is not affiliated with NYLS (i.e., if a student is participating in a joint program with another school), NYLS may cooperate with that institution or organization to complete an investigation.

### C. Locations Covered

This Policy applies to Sex-Based Misconduct that occurs:

- On-campus, including conduct which occurs on property owned or controlled by the Law School.


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- During NYLS education programs or activities (whether on-site or off-site) in the United States, including, but not limited to, NYLS-sponsored clinical or internship programs, and externship programs offered for academic credit. For the purpose of this Policy, "education program or activity" includes locations, events, or circumstances over which NYLS exercised substantial control over both the respondent and the context in which the Sex Based Misconduct occurred.
- In some circumstances, on social media and other online platforms, regardless of whether the misconduct is initiated on campus.

### D. Academic Freedom

Nothing in this policy shall abridge academic freedom or NYLS's educational mission. Prohibitions against discrimination and harassment do not extend to statements or written materials that are relevant and appropriately related to the subject matter of NYLS courses.

### E. Pregnancy and Related Conditions Modifications

NYLS will not discriminate against any student or employee based on their current, potential, or past pregnancy-related conditions. NYLS will provide reasonable modifications to ensure equal access to educational programs and activities if a modification is requested, consistent with any other NYLS policy governing disabilities and/or accommodations.

For violations of this Policy, reporters must notify the Title IX Co-Coordinators of conduct that reasonably may constitute discrimination on the basis of pregnancy or pregnancy related conditions, or as applicable, provide contact information for the Title IX Co-Coordinators and information about how to make a complaint.

## Section 3: Title IX Co-Coordinators and Title IX Hearing Board

### A. Title IX Co-Coordinators and Counsel

The Law School has designated Nina Jody '83 as NYLS's Title IX Coordinator and Counsel and Florence Hutner as Title IX Assistant Coordinator. The Title IX Co-Coordinators are responsible for:

- Ensuring compliance with Title IX.
- Overseeing anti-discrimination, harassment, and retaliation training and education as it relates to Sex-Based Misconduct.
- Overseeing and coordinating the response, investigation, and, when required, resolution of reports made under this Policy, free from conflict or bias.
- Coordinating the timely response to complaints under this Policy, and, if necessary, approving reasonable requests for extensions of time.
- Assisting with resolving any issues related to this Policy, including any barriers to reporting under this Policy.
- Ensuring appropriate action to eliminate the Sex-Based Misconduct, prevent its recurrence, and remedy its effects.

The Title IX Co-Coordinators and Counsel can be contacted by telephone, email, or in person during regular office hours:

**Nina Jody '83**
Title IX Coordinator and Counsel
New York Law School
185 West Broadway, Room C105, New York, NY 10013
T: 212.431.2344
E: **nina.jody@nyls.edu**


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**Florence Hutner**
Title IX Co-Coordinator
Senior Advisor, Office of Academic Affairs
Director of the CLE Office
New York Law School
185 West Broadway, Room E412, New York, NY 10013
T: 212.431.2876
E: **florence.hutner@nyls.edu**

Any inquiries concerning the Law School's application of Title IX and its implementing regulations may be referred to the Title IX Co-Coordinators, and/or to the Department of Education, Office of Civil Rights ("OCR"):

**U.S. Department of Education, Office of Civil Rights**
26 Federal Plaza
Suite 31-100
New York, NY 10278
T: 646.428.3800
E: **OCR.NewYork@ed.gov**

### B. Title IX Hearing Board

The Title IX Co-Coordinators are supported and assisted by the Title IX Board ("Board"). The Board consists of a group of NYLS faculty and administrators who are trained on issues related to this Policy. Members of the Board are responsible for:

- Reviewing investigation materials and determining violations of this Policy.
- Convening hearings, if appropriate.

The Title IX Co-Coordinators will direct and oversee the performance of the Board's duties, and the training of the Board's members. The Title IX Co-Coordinators will:

- Keep Board members informed of recent legal decisions and other related issues.
- Ensure that each member has been appropriately trained before serving and during their tenure on the Board.
- Ensure that Board members do not serve in conflicting roles by resolving questions or concerns regarding conflict of interest or bias. Any Board member having a real or perceived conflict of interest or bias under this Policy will be recused during the resolution of the complaint.

## Section 4: Reporting Prohibited Conduct

NYLS strongly encourages all individuals who believe they may be victims of sexual exploitation, stalking, domestic/sexual/dating violence, and/or sexual assault (as defined in Section 13) to seek assistance from a medical provider and/or law enforcement immediately after an incident.

NYLS also strongly encourages all such individuals to make a report of Sex-Based Misconduct to both NYLS and to local law enforcement, although neither is required. These reporting options are not mutually exclusive. Both internal and external reports may be made simultaneously. The procedures under this Policy may run concurrently with any criminal justice investigation and will only be subject to temporary delays at the specific request of law enforcement.


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### A. Emergency Reporting Options

If an individual has experienced sexual violence, their first priority should be to get to a place of safety and dial 911. They should also consider seeking any necessary medical attention as soon as possible. Sex-Based Misconduct that violates this Policy may also violate New York State or other applicable laws (Appendix C). Individuals can make a report to law enforcement at any time, and doing so does not preclude the individual from also making a report to NYLS. The best option to ensure the preservation of evidence and the timely investigation of concerns by local authorities is by making a prompt report to the police.

If requested, the Title IX Co-Coordinators can assist an individual with filing a police report, ensuring access to a sexual assault forensic examination, obtaining an Order of Protection or equivalent restraining order, and contacting and assisting local law enforcement if an Order of Protection is violated. Nothing in this Policy shall prohibit NYLS from initiating its own report to the police.

**NYPD Emergency:** 911

**NYPD Non-Emergency:**

**1st Precinct (Near Campus)**
T: 212.334.0611

**Rape Hotline**
T: 212.267.7273

**Nearest Hospital:**

**New York Presbyterian Lower Manhattan Hospital**
69 Gold Street (Emergency room; between Beekman Street and Spruce Street)
170 William Street
New York, NY 10038
T: 212.312.5070
T: 212.312.5094
T: 212.312.5000

**Campus Security Desk**
Law School Entrance, 185 West Broadway
T: 212.431.2123

### B. On-Campus Reporting Options

Any Community Member who wishes to report Sex-Based Misconduct ("Complainant") is encouraged to report directly to the Title IX Co-Coordinators, Campus Security, or another Institution Representative (see below). Reports may be made in person, in writing, by mail to the address listed in Section 3, or by telephone. Contact information for the Title IX Co-Coordinators is located in Section 3 above. Contact information for other individuals is listed below:

**Title IX Co-Coordinators**: See Section 3

**Campus Security**: 212.431.2123

**Any Institution Representative**: Any full-time faculty member, administrator or staff member, or NYLS Security Officer is an Institution Representative. See Section 13.


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If a report of Sex-Based Misconduct is made to Campus Security or an Institution Representative, that individual is required to inform the Title IX Co-Coordinators of the report. This is true even if the complainant reports the Sex-Based Misconduct in confidence and requests confidentiality. See Section 4.C, Duty to Report.

Notice to the Title IX Co-Coordinators, or to an official with authority to institute corrective measure, charges NYLS with actual knowledge, and triggers its obligation to respond. Notice can include whenever the Title IX Co-Coordinators or Institution Representative: (1) witnesses Sex-Based Misconduct; (2) hears about Sex-Based Misconduct or receives Sex-Based Misconduct allegations from a complainant or a third party (e.g., a complainant's parent, friend, or peer); (3) receives a written or verbal complaint about Sex-Based Misconduct; or (4) receives notice by any other means.

If the accused individual is an employee of NYLS, individuals may report Sex-Based Misconduct to:

**NYLS Human Resources**
185 West Broadway, Office E613
T: 212.431.2131
E: **HumanResources@nyls.edu**

New York State law requires employers to adopt a sexual harassment prevention policy that includes a complaint form for persons to report alleged incidents of sexual harassment. If you believe that you have been subject to sexual harassment, or you have witnessed behavior that may violate this Policy, you may also complete the Sexual Harassment Complaint Form and submit it to the Title IX Co-Coordinators either in person or via email. Blank Sexual Harassment Complaint Forms can be found in the Office of Human Resources. If you are reporting more than one incident, please use a separate form for each incident. If the space provided below is insufficient, please staple additional pieces of paper to this form.

None of the above-referenced individuals can guarantee strict confidentiality; they will, however, maintain the individual's privacy to the greatest extent possible. The information an individual provides to a non-confidential resource will be relayed only as necessary for the Title IX Co-Coordinators to investigate and/or seek a resolution. See Section 4.D, Confidential and Anonymous Reporting Options.

### C. Duty to Report

All employees of NYLS who are considered to be Institution Representatives and who have actual knowledge of conduct that violates this Policy must notify a Title IX Co-Coordinator.

Although NYLS employees cannot guarantee confidentiality, they must maintain privacy to the greatest extent possible, and will only relay information to the Title IX Co-Coordinators as necessary to permit an investigation and/or seek a resolution. NYLS students – including student employees – are highly encouraged to report conduct which might be a violation of this policy to the Title IX Co-Coordinators, but do not have a duty under this policy to do so.

Failure to immediately notify the Title IX Co-Coordinators of conduct which may violate this Policy may impede the ability of the investigators to conduct an impartial, timely, and thorough review of the complaint and inhibit NYLS's ability to adhere to its obligation under the law. In addition to being subject to discipline if they engaged in Sex-Based Misconduct, NYLS will enforce sanctions, up to and including termination of employment, against employees who fail to report actual or potential violations of this Policy about which they had knowledge, who knowingly allow prohibited behavior to continue, or who engage in any retaliatory behavior.


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## D. Confidential and Anonymous Reporting

### 1. Confidential Reporting

Medical service providers and counselors, who serve the Law School in a privileged professional capacity are not bound by the requirement to inform the Title IX Co-Coordinators of a report of Sex-Based Misconduct. Information shared with these individuals is confidential, except as required by law. The following resources are made available by the Law School for confidential reporting:

- **NYLS students** who desire strict confidentiality may contact one of the professional counselors at Aetna Student Assistance Program. Call 877.351.7889, email **AskSAP@aetna.com**, or visit **www.aetnasap.com** and enter the school ID: NYLAW and your own password. Aetna provides off-site confidential counseling services to NYLS students.
- **Mount Sinai Beth Israel** is prepared to provide free medical services to NYLS students who have experienced sexual assault or intimate partner violence. Mount Sinai Beth Israel Victim Services Program offers: referrals to SAFE-certified Mount Sinai Health System and other NYC hospitals for advocate accompaniment and emergency medical care, individual trauma-focused therapy, crisis intervention and advocacy via confidential helpline, Office of Victim Services (OVS) compensation assistance (for medical costs, therapy, lost wages, etc.), assistance with safety planning, orders of protection, and shelter/housing referrals, criminal justice information & advocacy. Individuals can call the confidential helpline Monday through Friday, 9:00 am to 5:00 pm at 212.420.4516 or email VS@mountsinai.org or call Chloe Horowitz, LCSW, Enough is Enough Coordinator 646.398.3171, or email **chloe.horowitz@mountsinai.org**.
- **New York Presbyterian-Weill Cornell** provides free, confidential medical services to NYLS students who have experienced intimate partner/dating violence, sexual assault, harassment, stalking or family violence as well as free short-term trauma-based counseling, forensic and other services. Their Emergency Room is located at 525 East 68th Street, between York Avenue and the East River and offers 24/7 emergency care and support. You may contact Domestic and Other Violence Emergencies (DOVE) Program at 212.305.9060 or email **dove@nyp.org.** Individuals may also contact Ariana Montenegro, LMSW by email: **ZTL9002@nyp.org** or Sajada Bhuiyan, LCSW by email: **gix9003@nyp.org**, Enough is Enough Coordinators, or call 929.746.1211.
- **Wyckoff Hospital Medical Center, Violence Intervention and Treatment Program** is prepared to offer medical services to NYLS students and faculty members who have been the victims o sexual assault, domestic violence, and/or other related crimes. The program provides 24-hour emergency care that includes but is not limited to sexual assault forensic examinations, confidential crises intervention, counseling, referrals, and access to a Violence Intervention and Treatment Program Advocate to support the students and/or faculty members. Wyckoff Hospital is located at 374 Stockholm Street, Brooklyn, NY 11237. During business hours the Violence Intervention and Treatment Program can be contacted by phone at 718.963.7788 or contact Havann Brown, Program Manager at 718.906.3846, or email **HABrown@wyckoffhospital.org**.
- **Mental Health Services and Resources:** New York Law School has engaged with a clinical social worker and psychotherapist, Sophia Soloway, LCSW. Ms. Soloway is available to offer short-term counseling. This free and confidential service is offered by NYLS and does not require insurance. To make an appointment contact Ms. Soloway as **Sophia.Soloway@nyls.edu**, or call 917.232.8220.
- **Isabella Poloes, LMHC**: NYLS Counselor and Associate Director of Community Wellness & Support
  Ms. Poloes is available to meet with students by appointment and can be contacted at 212.431.2169 or by email at **Isabelle.poloes@nyls.edu**.

NYLS employees who desire strict confidentiality may contact one of the counselors at Espyr, available 24 hours a day, 7 days a week via phone at 866.570.3478 or at **care.espyr.com** (Password: COADV). Free counseling support is available for stress, marital and family problems, job related concerns, life transitions, work-life challenges, emotional issues, and other concerns. Employees have immediate access to counselors for in-the-moment support and guidance. Espyr offers up to six free sessions for assessment, short-term counseling, and referral. Telephonic, video, and in-person options are available. Espyr provides off-site, confidential counseling services to employees, their spouse/domestic partner, and dependents.


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Employees and their dependents also have access to digital cognitive-based therapy, a chat feature with an AI-based chatbot named Tess. Tess is a mental health chatbot that can coach users through a variety of stress or mental health situations by having text message conversations – similar to texting with a friend or coach. Just send a text to Tess: 442.245.8065, when prompted, reference "CoAdvantage" as the employer. Tess is built by clinical psychologists using real conversations to deliver proven cognitive-based therapy when a counselor isn't needed or is unavailable.
Some additional resources that may be consulted by NYLS students or employees who desire strict confidentiality are included in Appendix B.

NYLS visitors and other individuals who desire strict confidentiality may contact one of the resources described in Appendix B, other than the Student Assistance Program and Employee Assistance Program.

**2. Anonymous Reporting**

Anonymous reports may be made to Title IX Co-Coordinators per the information provided in Section 3. Individuals leaving an anonymous report should be aware that failure to disclose identifying information about the accused party, the victim of the Sex-Based Misconduct, or the facts and circumstances regarding the Sex-Based Misconduct severely limits the Law School's ability to respond and remedy the effects of the misconduct. Anonymous reports that provide enough information to constitute a criminal offense will be reported to Campus Security, less any identifying information regarding the complainant, for purposes of inclusion in the Annual Security Report and to assess for purposes of sending out a Timely Warning under the Clery Act.

## Section 5: Initial Procedure

NYLS has established the following procedures to provide Community Members the opportunity to seek redress from NYLS. These procedures are not intended to replace or replicate a formal judicial process but reflect NYLS's obligations under applicable laws. This initial procedure, the investigation and resolution procedures discussed below, and the sanctioning options and procedures included therein, will supersede any contrary procedure or provision of any other policies included in handbooks and manuals, including the Employee or Student Anti-Discrimination and Anti-Harassment Policy for the purpose of Sex-Based Misconduct only.

### A. Initial Meeting

As soon as possible upon receipt of a report of potential Sex-Based Misconduct, either directly from the Complainant or through a designated Institution Representative, one or both of the Title IX Co-Coordinators will conduct an initial meeting (the "Initial Meeting") with the Complainant.

At that meeting, the Title IX Co-Coordinators must address the following topics:

- Assess the Complainant's physical safety, and health and emotional needs.
- Notify the Complainant of the Students' Bill of Rights. See Appendix A, Students' Bill of Rights.
- Notify the Complainant of the Complainant's right to report or not report the incident to law enforcement, and to the extent practicable, assist the Complainant with locating criminal justice resources.
- Discuss NYLS's resolution processes.
- Notify the Complainant that their written consent is required to reveal certain Personally Identifiable Information (see Section 13), but that complete confidentiality may not be possible if NYLS is to remedy the complaint.
- If requested, assist the Complainant with ensuring access to a sexual assault forensic examination; obtaining an Order of


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Protection, or equivalent restraining order; and contacting and assisting local law enforcement if an Order of Protection is violated.

- Provide the Complainant with information about on- and off-campus support and reporting resources, including counseling, health care, mental health assistance, victim advocacy, legal assistance, and other available services.
- Provide the Complainant with information about the on-campus and off-campus resolution procedures, including the reporting process, interim remedies, the informal and formal resolution options, and other measures that can be taken regardless of whether the Complainant wishes to file a formal report with NYLS.
- Explain NYLS's policies regarding retaliation and amnesty for substance abuse.
- Explain mandated reporting requirements (including Clery Act requirements).
- The availability of, and the Complainant's preference for, supportive measures (detailed herein).

### B. Formal Complaint Determination

Based on the Initial Meeting, the Title IX Co-Coordinators may choose to dismiss the report if it is determined that the conduct alleged, even if proven, would not constitute discrimination under Title IX. Prior to dismissing the report after attending an initial meeting, the Title IX Co-Coordinators must make reasonable efforts to clarify the allegations made by the Complainant. Upon dismissing the report, the Title IX Co-Coordinators will send a written notice of dismissal, which will contain the Title IX Co-Coordinators' reasons, to the Complainant. The Complainant shall have the right to appeal from the Title IX Co-Coordinators' decision to dismiss the report or any allegation therein pursuant to Section 7, Appeal.

If the Title IX Co-Coordinators believe the conduct described in the report following the initial meeting could, if proven, constitute a violation of Title IX, they will seek permission from the Complainant to make a formal complaint ("Formal Complaint"). The Formal Complaint must be filed by the Complainant or signed by the Title IX Co-Coordinators and must request that NYLS investigate the Formal Complaint. Permission for a Formal Complaint may be given initially but can be withdrawn at any time.

NYLS respects Complainants' wishes and autonomy by giving them the clear choice to file a Formal Complaint. Such decision will not impact a Complainant's ability to access supportive measures, as described below. If a Complainant declines to make a Formal Complaint, requests that the report remain confidential, and/or later withdraws permission for the Formal Complaint, the Title IX Co-Coordinators have the authority to proceed with an investigation if they determine that a failure to investigate does not adequately mitigate a potential risk of harm in the NYLS community.

To make this determination, the Title IX Co-Coordinators will weigh the request against the Law School's obligation to provide a safe, non-discriminatory environment for all members of its community. Factors that the Title IX Co-Coordinators **must** consider in determining whether to proceed against the Complainant's wishes are: the Complainant's request not to proceed with initiation of a Formal Complaint; the Complainant's reasonable safety concerns regarding initiation of a Formal Complaint; the risk that additional acts of Sex-Based Misconduct would occur if a Formal Complaint is not initiated; the severity of the alleged Sex-Based Misconduct, including whether the misconduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence; the age and relationship of the parties, including whether the Respondent is an employee of NYLS; the scope of the alleged Sex-Based Misconduct, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals; the availability of evidence to assist a decisionmaker in determining whether Sex-Based Misconduct occurred; and whether NYLS could end the alleged Sex-Based Misconduct and prevent its recurrence without initiating its Grievance Process. Factors that the Title IX Co-Coordinators **may** consider in determining whether to proceed against the Complainant's wishes include, but are not limited to: the accused's history of violent or similar behavior; escalation of previous behavior; risk that the accused will commit additional acts of violence; use of a weapon or force; involvement of a minor; whether the Law School possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group. If the Complainant declines to make a


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Formal Complaint, the Title IX Co-Coordinators may still be required to make certain disclosures pursuant to applicable law. See Section 11, Required Disclosures. If NYLS determines that it must investigate the report despite the Complainant's wishes not to file a Formal Complaint, it shall notify the Complainant and take necessary actions to protect and assist the Complainant.

If the Complainant permits a Formal Complaint to be filed or if the Title IX Co-Coordinators determine that proceeding with resolution procedures is necessary despite the lack of a formal complaint, the Title IX Co-Coordinators will proceed with the Law School's resolution procedures as described below. The succeeding process will be fair and impartial, and neither NYLS, nor any of its agents, will coerce or threaten a Complainant into filing a Formal Complaint.

The Title IX Co-Coordinators 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.

### C. Supportive Measures

Regardless of whether the Complainant desires to file a Formal Complaint, NYLS will offer free supportive measures to every alleged victim and alleged offender ("Respondent," and together with Complainant, the "Parties," or, individually "Party") of Sex-Based Misconduct. Such supportive measures are individualized services that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other Party, while designed to restore or preserve a Party's access to the school's education program or activity, ensure equal access to education and employment opportunities, protect safety, and deter Sex-Based Misconduct. These measures will be available regardless of whether the alleged victim wishes to proceed in an Informal or Formal Resolution, or whether the Respondent participates in same. Complainants and Respondents will have a say in NYLS's supportive measure to ensure that it best meets their needs.

### D. Advisor Information and Guidelines

Any individual being interviewed by the Investigators, including the Complainant and Respondent, has the right to be accompanied to any meeting or proceeding related to this resolution procedure by an advisor of their choice ("Advisor"). An Advisor is an individual who attends as a supportive presence. An Advisor may take notes and quietly confer with the individual being advised but may not speak on behalf of the individual or in any way disrupt any meeting or the resolution procedure, unless otherwise allowed as described herein. Individuals who may have factual information relevant to the Formal Complaint may not serve as Advisors. If an individual being interviewed wishes to have an attorney serve as their Advisor, they may retain counsel independently. Attorney-Advisors may participate in the resolution procedure to the same extent as other Advisors. If a Party does not have an Advisor present at the live hearing, NYLS will provide one, without fee or charge. Although the Parties are not required to choose an Advisor or to bring their Advisor to all meetings, utilizing the same Advisor throughout the process, unless there are extenuating circumstances, allows the process to move forward in the most efficient fashion. In the event that a Party wants to make a change to their Advisor, they must provide written notice to the Title IX Co-Coordinators. Although reasonable attempts will be made to schedule proceedings consistent with an Advisor's availability, the process will not be delayed to schedule the proceedings at the convenience of the Advisor.

If an Advisor fails to comply with the procedures set forth herein, including through a material breach of confidentiality or an improper disclosure of Personally Identifiable Information, NYLS reserves the right to exclude the Advisor from further participation in the process.

### E. Interim Measures Pending Resolution of the Formal Complaint

The Dean, in coordination with the Title IX Co-Coordinators, may take action to deal with situations of an emergency nature


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posing a threat to the safety or health of the Law School community or the integrity of its programs. Such emergency action may include suspension of a student, faculty member, or staff member for a period of time deemed appropriate by the Dean. The Dean will determine whether and which emergency action is required, and they shall inform the Title IX Co-Coordinators, who shall then proceed according to the provisions of this Policy.

Based upon the nature of the Formal Complaint, NYLS may impose immediate temporary restrictions ("Interim Measures") after a Formal Complaint has been made, including, but not limited to:

**Students**

- Assistance with housing relocation
- Changes in work schedule
- Changing or modifying schedules
- Interim suspension
- Leave of absence
- No contact orders
- Other campus access restrictions
- Providing academic services (including tutoring)
- Providing alternate course completion options
- Providing an escort to ensure safe movement on campus
- Any other remedy that can be tailored to the individuals and which reasonably helps to achieve the goals of this policy.

**Graduates**

- No contact orders
- Other campus access restrictions
- Providing an escort to ensure safe movement on campus
- Any other remedy that can be tailored to the individuals and which reasonably helps to achieve the goals of this policy.

**Faculty/Staff/Employees**

- Changing or modifying work or teaching schedules
- Interim suspension
- Leave of absence
- No contact orders
- Other campus access restrictions
- Providing an escort to ensure safe movement on campus
- Any other remedy that can be tailored to the individuals and which reasonably helps to achieve the goals of this policy.

Requests for specific Interim Measures may be discussed with the Title IX Co-Coordinators and/or the Dean, but remain at the sole discretion of NYLS. The Title IX Co-Coordinators may recommend to the Dean specific Interim Measures based on the Parties' relationship with NYLS, the factual circumstances surrounding the Formal Complaint, any measures requested by either Party, and any other factors that the Title IX Co-Coordinators determine are relevant. The Title IX Co-Coordinators will notify each Party in writing of any Interim Measure to be imposed.

Both the Respondent and Complainant (or alleged victim, if different from the Complainant) may request an institutional review


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of the need for and terms of any Interim Measure or modification that directly affects them, and to submit evidence in support of or in opposition to such Interim Measures.

With respect to Interim Suspensions, both the Respondent and Complainant shall be given the opportunity, upon request, for an institutional review of the need for and terms of an interim suspension, and to submit evidence in support of such request.

With respect to No Contact Orders, should the situation warrant, such orders shall require that the Respondent leave a public area if in the same area as a Complainant, without contacting the Complainant. Both the Respondent and the Complainant shall be given the opportunity, upon request, to seek a prompt institutional review of the need for and terms of a No Contact Order, and to submit evidence in support of such request.

If requested, NYLS can assist the individual with filing a police report, ensuring access to a sexual assault forensic examination, obtaining an Order of Protection or equivalent restraining order; and contacting and assisting local law enforcement if an Order of Protection is violated. Individuals who are the subject of an Order of Protection shall have an opportunity to (1) receive a copy of the order of protection when received by the Law School; (2) meet or speak with a Law School 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; and (3) receive an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension. While NYLS may explain such an order and its practical impact, the Law School cannot provide legal advice to individuals who are the subject of an Order of Protection under this Policy.

Interim Measures imposed on the Respondent are not determinations of guilt. Failure to adhere to the parameters of any Interim Measures is a violation of the NYLS Code of Academic Responsibility and may lead to additional disciplinary action.

Non-student respondents who present a continuing threat to the health and safety of the community shall be subject to Interim Measures in accordance with applicable collective bargaining agreements and other rules and policies of the Law School.

## Section 6: Resolution of the Formal Complaint

### A. Investigation Process

NYLS is obligated to investigate all Formal Complaints. At all points up until a final determination, there is a presumption of innocence for the Respondent. At all times during the Grievance Process (as defined herein), the burden of gathering evidence and the burden of proof remains on NYLS.

#### 1. Notification of Investigation

The Title IX Co-Coordinators shall concurrently notify the Parties of the decision to proceed with the Formal Complaint in writing within two business days of the Initial Meeting (the "Notification of Investigation").

The Notification of Investigation must contain: a brief description of the factual allegations (identities of the parties involved in the incident, if known, the conduct allegedly constituting the violation of the Policy, including a reference to the specific provisions of a Law School policy or code of conduct alleged to have been violated, and in what manner, and possible sanctions); the approximate date, time and location of the alleged violation, if known; notice of NYLS's Complaint Reporting, Investigation, Hearing, and Corrective Action process ("Grievance Process"); a statement that the Respondent is presumed not responsible for the alleged conduct, that a determination regarding responsibility is made at the conclusion of the Grievance Process, and that the Respondent may be entitled to supportive measures (as described above); a statement informing the Parties and their Advisors of their rights to inspect and review inculpatory and exculpatory evidence; a statement that retaliation is prohibited; and notice to the Parties of any provision of any NYLS policy that prohibits knowingly making


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false statements or knowingly submitting false information during the Grievance Process. If NYLS expands the scope of its investigation at any point, it will provide written notice of the additional allegations. The Notification of Investigation shall inform the Parties of their right to bring an Advisor to meetings; state that if either Party wishes to have an attorney serve as an Advisor, he or she may retain counsel independently; and include the language in Section 5.D of this Policy, Advisor Information and Guidelines. The Notification of Investigation shall further state that behavior that violates this Policy may also violate criminal law and that either Party may seek advice from independently retained legal counsel. The Title IX Co-Coordinators should attempt to meet with the Respondent within three business days from the date of the Notification of Investigation to provide the Respondent with the Students' Bill of Rights and other similar procedural and resource information as was provided to the Complainant during the Initial Meeting, and to answer any of the Respondent's procedural questions. If the Respondent is unable to meet or does not respond to the Title IX Co-Coordinators within three business days, the Title IX Co-Coordinators will mail or email the Respondent the required information.

**2. Prohibition Against Conflicts of Interest**

The Title IX Co-Coordinators, all Investigators (as defined below), and the members of the Board must be impartial. Within three business days from the date of the Notification of Investigation, either Party may object, in writing, to anyone's involvement based on a real or perceived bias or a conflict of interest. The Title IX Co-Coordinators will refer the objection to the Board to determine whether the allegation of bias or conflict is sustained (or, in the case of an allegation of bias or conflict of interest on behalf of a member of the Board, the Title IX Co-Coordinators will make this determination). The Title IX Co-Coordinators, all Investigators, and the members of the Board may also voluntarily recuse themselves at any point in the process if it appears that they may have a real or perceived conflict of interest. If they voluntarily recuse themselves, or if the Title IX Co-Coordinators or Board determines that someone has a real or perceived bias or conflict, that individual will be recused from the individual's responsibilities for the Formal Complaint in question and be replaced by the Senior Associate Dean for Academic Affairs for the remainder of the Grievance Process.

Further, all complaints shall be investigated and adjudicated by individuals who receive annual training in such investigations, the effects of trauma, and the rights of the Respondent, or by similarly-qualified or experienced external investigators. All training materials will be provided upon request.

**3. Informal Resolution**

Recognizing that a wide spectrum of behaviors can constitute violations of this Policy, the Title IX Co-Coordinators may, at any time prior to the Report and Decision (described herein), offer Informal Resolution, such as mediation, in appropriate circumstances, that does not require a full investigation and adjudication for Sex-Based Misconduct. Informal Resolution is not available if such a process would conflict with federal, state, or local law.

Prior to initiating the Informal Resolution process, the Title IX Co-Coordinators will provide to both Parties a written notice disclosing: the allegations; the requirements of the Informal Resolution process including the circumstances under which it precludes the Parties from resuming a Formal Complaint arising from the same allegation; that any Party has the right to withdraw from Informal Resolution at any time; the potential terms that may be requested or offered during Informal Resolution, including notice that any agreement reached during Informal Resolution will be binding only on the Parties; and any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared.

Participation in the Informal Resolution process is entirely voluntary. All Parties must agree to use the Informal Resolution process through voluntary, informed, written consent. If appropriate and agreed to by all Parties, the Title IX Co-Coordinators will initiate the Informal Resolution process within five business days from the date of the Parties' agreement (i.e., the last date on which any Party indicates the Party's agreement).


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The nature of Informal Resolution is flexible, but in general, the Parties meet together with the Title IX Co-Coordinators or another trained designated mediator to discuss the incident(s) that led to the Formal Complaint and potential resolutions. While fault is not determined in the Informal Resolution process, the goal of Informal Resolution is for the Parties to agree on a solution or resolution together. Such resolutions may include a permanent no-contact order, academic reassignment, a written apology, community service, or other alternate resolutions. Any agreement between the Parties will be reduced to writing and signed by both Parties. If the Title IX Co-Coordinators and the Parties reach agreement, the matter will be closed. The Informal Resolution procedure must conclude within 15 business days from the date of the Parties' written consent to the Informal Resolution process, unless all Parties, including the Title IX Co-Coordinators, agree to an extension of time. After the time for Informal Resolution has expired, including any agreed-upon extensions, the Title IX Co-Coordinators shall initiate an Investigation (see below) regarding any unresolved allegations in the Formal Complaint.

Any Party, including the Title IX Co-Coordinators, may elect to end Informal Resolution and proceed to the next step of the Grievance Process at any time prior to agreeing to a resolution during the Informal Resolution process. If Informal Resolution is ended by request or because the time for Informal Resolution expires, and the next step is initiated, any information obtained during Informal Resolution may be used in the subsequent process.

**4. Formal Resolution: Investigation Procedure**

Within five business days from the Notice of Investigation, the Title IX Co-Coordinators will appoint a two-person investigative team ("Investigators"). The Title IX Co-Coordinators can serve as the Investigators, select the Investigators from faculty trained on Title IX Investigations, or may retain experienced external investigators to conduct the investigation. All Investigators must be trained on Title IX.

The goal of the Investigators is to conduct a thorough investigation of the allegations in the Formal Complaint to determine whether any conduct alleged in the Formal Complaint warrants moving forward to the Board (the "Investigation"). The Investigation must include interviewing the Complainant and Respondent; it may also include interviewing other relevant witnesses or individuals with relevant information, including witnesses identified or requested by the Complainant and Respondent. All Parties will have an equal opportunity to offer witnesses and other evidence during the investigation, and to present evidence and testimony at a hearing (if a Hearing is required as provided for herein), and have access to a full and fair record of any such hearing, which shall be preserved and maintained for at least seven years from such a hearing and may include a transcript, recording or other appropriate record. The Investigators will interview the Complainant, the Respondent, and any witnesses in separate, private sessions. The Investigators will provide the Parties and witnesses with reasonable written or electronic notice of any and all meetings, interviews, or hearings that require their attendance, which will include the date, time, location, participants, and purpose.

The Investigators shall have access to all potentially relevant documents, whether inculpatory or exculpatory. The Investigators will request and review any relevant evidence such as emails, text messages, videos, and photographs. The Investigators may also choose to interview witnesses not identified by the Parties, or to request relevant evidence that was not presented to them. The Parties must cooperate with the Investigators by providing any additional information that the Investigators may request, however, Parties have the right to request that the Investigators exclude from evidence their own prior sexual history with persons other than the other party, or their own mental health diagnosis and/or treatment. The Investigators must not request, and the Parties have no obligation to provide, evidence protected under a privilege recognized by federal or state law unless such privilege is waived, medical records of any Party or witness unless expressly granted permission in writing, or evidence relating to a Complainant's sexual interests or prior sexual conduct unless it is offered to prove someone other than the Respondent committed the alleged conduct or is evidence about specific incidents that demonstrate consent to the alleged misconduct.

The Investigators will maintain notes of each witness interview and will maintain a file of all documentary evidence reviewed during the Investigation (the "Investigation File"). The Title IX Co-Coordinators may redact sensitive information that is not directly relevant to the questions raised in the Investigation.

Neither Party is prohibited from discussing or sharing information relating to the Formal Complaint with others who may


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support them or assist them in the matter, however, they must make reasonable steps to protect the privacy of the Parties and witnesses involved during the pendency of the investigation.

The Investigation must be concluded within 20 business days from the date of the Notification of Investigation. The Title IX Co-Coordinators may grant a reasonable extension of time upon request from the Investigators. The Investigators should periodically check in with the Title IX Co-Coordinators during the course of the Investigation to update the Title IX Co-Coordinators on the progress of the Investigation.

**5. Inspect and Review Evidence Collected and Investigation Report**

Within five business days following the conclusion of the Investigation, the Investigators will provide both Parties and their Advisors an equal opportunity to inspect and review the preliminary investigation report and any evidence obtained as part of the Investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which NYLS does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source.

The Parties will have 10 business days to submit a written response to NYLS, which the Investigator will consider prior to the finalization of the investigation report ("Investigation Report").

Within 10 business days of receiving, reviewing and considering the Parties' written response, the Investigators will finalize the Investigation Report, which will fairly summarize the relevant evidence. At least 10 business days prior to the Hearing (if a Hearing is required as provided for herein), the Investigator will send to each Party and their Advisors the finalized Investigation Report, in electronic format or hard copy, for their review and written response. The final Investigation Report, and any written responses, will be kept in the Investigation File.

**6. Dismissal of the Formal Complaint**

At the conclusion of the Investigation, and after the Parties have been given the opportunity to respond to the final Investigation Report, the Title IX Co-Coordinators must dismiss the Formal Complaint if the conduct alleged, even if proved, would not constitute Sexual Harassment (as defined in 34 C.F.R. § 106.30 of the Title IX Final Regulations); did not occur in NYLS's education program or activity; or did not occur against a person in the United States. They may dismiss the Formal Complaint, or any of the allegations therein, if the Complainant notifies the Title IX Co-Coordinators in writing that they would like to withdraw the Formal Complaint or any allegations therein; if the Respondent is no longer enrolled or employed by NYLS or cannot be identified and continuing the hearing process would not be able to provide the Complainant with any additional relief; or if specific circumstances prevent NYLS from gathering evidence sufficient to reach a determination as to the Formal Complaint or any allegations therein. Note that the conduct may be in violation of other NYLS policies and may be reviewed and/or investigated under their respective, separate protocols.

Upon dismissing the Formal Complaint, the Title IX Co-Coordinators will promptly send a written notice of dismissal, which will contain the Title IX Co-Coordinator's reasons, simultaneously to the Complainant and the Respondent.

Either Party has the right to appeal from the Title IX Co-Coordinators' decision to dismiss the Formal Complaint or any allegation therein pursuant to Section 7, Appeal.

## B. Hearing Process

**1. The Hearing**

If the Title IX Co-Coordinators do not dismiss the Formal Complaint, the Title IX Co-Coordinators shall send the Formal


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Complaint to a Hearing in front of the Board ("Hearing"). The Board must select a date for such Hearing (which must be at least 10 days after the Parties receive the finalized Investigation Report). The Title IX Co-Coordinators will simultaneously notify each Party (in person, by mail, or by email) within one business day that a Hearing is being convened and the date of the Hearing. In preparation for the Hearing, the Board will receive a copy of the Investigation Report and the Parties' responses to the Investigation Report, if any.

Any witness, including the Complainant and Respondent have the right to be accompanied to the Hearing by an Advisor of their choice (see Section 5.D, Advisor Information and Guidelines). In any Hearing before the Board, the Board may question the Parties and other witnesses, and may request and/or accept evidence. All Parties will have an equal opportunity to offer witnesses and other evidence. The Parties are allowed to cross-examine each other and each Party's witness; however, only Advisors will be allowed to ask these questions through cross-examination. The cross-examination can include questions challenging credibility, but it must be oral and in real-time. If a Party does not have an Advisor present at the live hearing, NYLS will offer to provide one, without fee or charge. This Advisor may, but is not required to be, an attorney. This Advisor has the same right to conduct a cross-examination. No Advisor may serve as a witness. The Board will arrange for an audio, audiovisual recording, or transcript of the Hearing to be created; no other individual may record the Hearing. To the extent practicable, the Hearing should be held in one business day.

Prior to the answer of any question, the Board must first determine whether the question is relevant and explain to the Advisor any decision to exclude a question as not relevant. Questions and evidence about a Complainant's prior sexual behavior are deemed irrelevant, unless they are offered to prove that someone other than the Respondent committed the alleged Sex-Based Misconduct or offered to prove Consent.

If a Party or witness does not submit to cross-examination at the live hearing, the Board cannot rely on any statement of that Party or witness in reaching a determination of responsibility. However, the Board cannot draw an inference about the determination of responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer a question.

The Board will use its best efforts to ensure the appearance of witnesses and the production of documents relevant to any matter before it. NYLS will cooperate with the Board and will use sanctions at its disposal in ensuring the appearance of witnesses and the production of documents in all proceedings before the Board.

Hearings are closed to the public. Witnesses (other than the Complainant, the Respondent, and their Advisors, as discussed below) are not permitted to observe the Hearing before or after their questioning, but will be able to see all participants during their testimony. The Title IX Co-Coordinators may remove any individual from the Hearing who is disrupting the proceeding or is not abiding by the rules of the Hearing.

The Complainant and Respondent (and their Advisors) may, if they choose, observe the proceeding; neither Party is required to be present for the hearing, other than to provide relevant testimony. Upon timely request by either Party, the Title IX Co-Coordinators may, in their discretion, accommodate concerns for a Party's personal safety, well-being, and/or fears of confrontation during the Hearing by permitting the use of available technology to conduct the hearing while allowing the Complainant and Respondent to be in separate rooms.

**2. The Board's Determination**

At the conclusion of the Hearing, the Board will deliberate in private to determine if there was a violation of this Policy. The Board will consider all relevant evidence, including the Investigators' Report and the events of the live hearing in making its objective determination. The Board's deliberations will not be recorded. The Board shall determine whether a violation of this Policy occurred under the "preponderance of the evidence" standard. Under this standard, it must be more likely than not that a violation of the Policy occurred. Based on this standard, the Board may find the Respondent responsible for a violation of this Policy or not responsible, based on a majority vote.

After deliberations, the Board shall prepare a written determination regarding responsibility (the "Report and Decision"). The


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Report and Decision will include; identification of the allegations potentially constituting a violation of this Policy; a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with the Parties or witnesses, site visits, methods used to gather other evidence, and hearings held; findings of fact supporting the determination; a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions NYLS imposes on the Respondent; whether remedies designed to restore or preserve equal access to NYLS's education program or activity will be provided by NYLS to the Complainant; and NYLS's procedures and permissible bases for the Complainant and Respondent to appeal. Whether or not the Board determines that a violation occurred, the Title IX Co-Coordinators, within one business day of the date of the Report and Decision, must deliver the Report and Decision to the Parties simultaneously, either in person, by mail, or by email. If there is a finding that the Respondent violated the policy, the Board will determine sanctions or remedies consistent with Section 8. The Board's determination regarding responsibility becomes final either on the date that NYLS provides the Parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

**3. Investigation File**

The Investigation File will be comprised of the Formal Complaint, the Investigators' Report, the Parties' written responses, if any, any interview notes or evidence considered by the Board in making its determination, any recording of the Hearing (if applicable), the Report and Decision (if applicable), any materials regarding an appeal, as described below (if applicable), and all materials required to be in the Investigation File pursuant to prior sections. The Title IX Co-Coordinators will maintain the Investigation File. The Title IX Co-Coordinators may redact sensitive information that is not directly relevant to the questions raised in the Investigation or Hearing, or may reflect Personally Identifiable Information.

Upon request, the Parties and their Advisors may review the Investigation File. Given the sensitive nature of this information, the Title IX Co-Coordinators will provide this information in a secure manner (e.g., by providing a hard copy to be reviewed in a location designated by the Title IX Co-Coordinators).

The Investigation File will be kept for at least seven years.

## Section 7: Appeal

Both Complainant and Respondent have a limited right to appeal from the Title IX Co-Coordinators' decision to dismiss the Formal Complaint or the Board's final determination ("Appeal"). Either Party may submit a written appeal to the Title IX Co-Coordinators within 10 business days of the date of the Title IX Co-Coordinators' decision to dismiss the Formal Complaint or the Board's issuance of the Report and Decision. An Appeal shall be based only on: procedural irregularity that affected the outcome of the matter; the discovery of new, relevant evidence that was not available during the Grievance Process and which could affect the outcome of the case; and/or that the Title IX Co-Coordinators, Investigators, and/or Board had a conflict of interest or bias that affected the outcome of the matter.

The Party who submits the appeal will be the "Appellant" and the other Party will be the "Appellee." Upon receiving an Appeal, the Title IX Co-Coordinators shall, within three business days of receiving the Appeal, convene an Appeal Panel to review the appeal. The Appeal Panel will consist of three administrators who oversee the Law School's academics, administration and/or operations (i.e., Senior Associate Dean for Academic Affairs, Senior Vice President, and Chief Financial Officer). Members of the Board, the Investigators, the Title IX Co-Coordinator may not serve on the Appeal Panel. Both Parties will have three business days to object to any member of the Appeal Panel based on a real or perceived bias or conflict of interest. If an objection is sustained, the Title IX Co-Coordinators shall replace any member of the Appeal Panel determined to have such a conflict of interest or bias with another similarly situated individual. Both Parties will have five business days from the submission of an Appeal to submit a written response in support of, or challenging, the particular outcome.


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Appeals are not intended to be a full rehearing of the Formal Complaint. The Appeal Panel will have the opportunity to review the Investigation File. The appealed determinations are presumed to have been decided reasonably and appropriately. The Appellant carries the burden of proof to demonstrate that the original determination, or any of its components per the above, were improper. The Appeal Panel shall determine, by a simple majority vote, whether it believes a violation of the Policy occurred.

Within 10 business days of receipt of all written statements and conducting its review, the Appeal Panel will issue a written decision describing the result of the Appeal and the rationale for the result (the "Appeal Decision"). The Appeal Decision is final and is not subject to further appeal. A copy of the Appeal Decision will be provided to the Parties simultaneously, sent to the Title IX Co-Coordinators and made a part of the Investigation File.

## Section 8: Sanctions and Remedies

In addition to taking disciplinary action against the Respondent per the Report and Decision, or the Appeal Decision, effective corrective action may require alternative remedies for the Complainant and/or Respondent. NYLS may take continuing steps to ensure that it is meeting the needs of the Complainant, preventing the recurrence of Sex-Based Misconduct, and remedying the effects of any Sex-Based Misconduct by, for example, issuing a permanent no contact order, providing continuing access to counseling services, and any other appropriate ongoing remedies, including but not limited to the remedies discussed in Section 5.E, Interim Measures.

If the Respondent is found to have violated the Policy, NYLS will issue sanctions commensurate with the violation(s). The Board will oversee the sanctioning process.

Either or both Parties may submit a statement regarding their view of the appropriate sanction or remedy ("Impact Statement") to the Board within five business days of notification of the Report and Decision or Appeal Decision. Impact Statements will become part of the Investigation File and will be maintained by the Title IX Co-Coordinators. The Board will review the Investigation File, including any Impact Statements, in assessing the appropriate sanction, and will make a determination regarding the appropriate sanction within three days after the time to submit Impact Statements has expired.

The Board has the discretion to implement a variety of sanctions consistent with the severity of the violation, the Respondent's prior history, the Respondent's role within NYLS, and sanctions assigned to other individuals with similar violations. Past findings of domestic violence, dating violence, stalking, or sexual abuse may be considered when evaluating sanctions.

The Respondent must be informed in writing of the sanction and the rationale for the sanction within one business day of the sanction determination. The Complainant will concurrently be informed in writing of the finalization of the sanctioning process, and, to the extent that such disclosure would be reasonable and permissible, will be informed of the final sanction.

### A. Students

All sanctions as to students will be noted in the student's academic file, along with a concise written statement as to the circumstances. The statement shall be written by the Dean of the Law School. Such file notation shall include an indication as to whether the statement should be made available to employers, employment screening groups, and similar entities in the future. Should the Respondent seek admission to a bar of any jurisdiction, information about proceedings or sanctions under this policy will be reported to the appropriate committee of that jurisdiction in accordance with the jurisdiction's requirements. Certain sanctions for students may also be subject to transcript notation. See Section 8.G.

Any current or future student found to have violated this Policy may also be required to complete non-disciplinary, educational initiatives designed to educate the student. Sanctions for students may include, but are not limited to, one or more of the following:


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- Warning, with appropriate documentation of the circumstances
- Restitution
- Probation, for a time certain, with terms and conditions set forth by the Board as to termination of probation
- Suspension, for a time certain
- Revocation of admission (if the individual is an admitted student)
- Removal from a journal or other student organization, or from a leadership position within such organization
- Revocation or non-renewal of credits for participation in a journal or other student organization
- Expulsion, with or without terms and conditions as to any application for re-admission
- Withholding of degree.

### B. Graduates

Sanctions for graduates may include, but are not limited to, one or more of the following:

- Warning
- Restitution
- Revocation of degree
- Persona non grata order
- In the case of a graduate not yet admitted to practice, the Law School may withhold certification of the student to the appropriate bar admission entity
- In the case of a graduate already admitted to practice, the Law School may notify the appropriate bar disciplinary entity of the proceeding outcome.

### C. Staff, Independent Contractors, Visitors, and Other Individuals

All sanctions as to staff will be noted in the employee's file, along with a concise written statement as to the circumstances. The statement will be written by the Dean of the Law School. Such notation shall include an indication as to whether the statement should be made available to future employers and the like, and as to whether such notation shall be expunged at a specified later date.

Sanctions for staff, independent contractors, visitors, and other individuals may include, but are not limited to, one or more of the following (consistent with state and local law, collective bargaining agreement and any other existing contract):

- Warning, with appropriate documentation of the circumstances
- Restitution
- Suspension, with or without pay, for a time certain
- Probation, for a time certain, with terms and conditions set forth by the Board as to termination of probation
- Denial or limitation of future increases in salary, benefits, perquisites, and the like, upon specified terms and conditions
- Reduction in grade or position
- Transfer to another position
- Termination of employment
- Persona non grata order.


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### D. Non-Tenured and Non-Long-Term Contract Faculty

All sanctions as to non-tenured faculty will be noted in the faculty member's file, along with a concise written statement as to the circumstances. The statement will be written by the Dean of the Law School. Such notation shall include an indication as to whether the statement should be made available to future employers and the like, and as to whether such notation shall be expunged at a specified later date.

Sanctions for non-tenured and non-long-term contract faculty may include, but are not limited to, one or more of the following (consistent with state law and any existing contract with the faculty member):

- Warning, with appropriate documentation of the circumstances
- Restitution
- Suspension, with or without pay, for a time certain, under stated terms and conditions
- Probation, for a time certain, with terms and conditions set forth by the Board as to termination of probation
- Denial or limitation of future increases in salary, benefits, perquisites, courses, summer teaching assignments, research grants, and the like, upon specified terms and conditions
- Reduction in position
- Termination of employment.

### E. Tenured and Long-Term Contract Faculty

All sanctions as to tenured and long-term contract faculty will be noted in the faculty member's file, along with a concise written statement as to the circumstances. The statement will be written by the Dean of the Law School. Such notation shall include an indication as to whether the statement should be made available to future employers and the like, and as to whether such notation shall be expunged at a specified later date.

Sanctions for tenured and long-term contract faculty may include, but are not limited to, one or more of the following (consistent with state law and any existing contract with the faculty member):

- Warning, with appropriate documentation of the circumstances
- Restitution
- Suspension, with or without pay, for a time certain, under stated terms and conditions, to the extent permissible under the Standards and Procedures for Tenure, Promotion and Reappointment ("Tenure Rules")
- Probation, for a time certain, with terms and conditions set forth by the Board as to termination of probation, to the extent permissible under the Tenure Rules
- Reduction in grade or position, to the extent permissible under the Tenure Rules
- Denial or limitation of future increases in salary, benefits, perquisites, courses, summer teaching assignments, research grants, and the like, upon specified terms and conditions
- Termination of employment, to the extent permissible under the Tenure Rules. In such case, the Board shall recommend to the Law School that it commence a proceeding pursuant to Article IX of the Tenure Rules.

### F. Failure to Comply with Investigation or Sanctions

If an individual fails to comply with the procedures in this Policy, including through a material breach of confidentiality, improper disclosure of Personally Identifiable Information, or by a refusal to abide fully with any assigned sanctions, NYLS reserves the right to bring additional charges of misconduct against the individual. The Title IX Co-Coordinators are responsible for interpreting and applying this provision.


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### G. Transcript Notation Requirement and Appeal Procedure

Students suspended or expelled for committing an act of sexual assault, domestic violence, dating violence, stalking or a "violent crime," as defined by the Clery Act, will have a notation placed on their transcript as follows: "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." A transcript notation will not be removed prior to one year after conclusion of the suspension. Expulsion notations will not be removed in any case. If a finding of responsibility is later vacated for any reason, a corresponding transcript notation will be removed.

If a student who has been charged with a violation withdraws from NYLS while charges are pending and declines to complete the disciplinary process, the following notation will be placed on the student's transcript: "withdrew with conduct charges pending."

Suspension and expulsion transcript notations are applied at the conclusion of the conduct proceedings and appeals processes. If a student withdraws with charges pending, but conduct proceedings are nonetheless completed, any final transcript notation will be based on the outcome of those proceedings. A student who withdraws from NYLS prior to an outcome of a pending conduct case should understand that the investigation and proceeding may continue, even without their participation. Pending completion of those proceedings, the transcript will carry the above withdrawal notation.

Transcript notations for a suspended student are required by law to remain on the transcript for a period of at least one year following completion of the suspension. By law, expulsion notations are not subject to removal. By NYLS policy, a withdrawal notation will remain on a transcript for at least one year following the withdrawal. Subject to these minimum periods, a student may request to have a suspension/withdrawal transcript notation removed by submitting a petition in writing to the Title IX Co-Coordinators, who will share the request with the Dean. The petition must contain the rationale for requesting removal of the notation and documentation of the successful completion of any terms imposed in the underlying conduct proceeding.

The Title IX Co-Coordinators and the Dean will make all decisions about notation removal. Petitions will be reviewed and a decision will be provided in writing, generally within 30 days of submission. A student may submit multiple petitions, however, the time period between such petitions will be considered in evaluating the merits of the petition.

## Section 9: Additional Rights and Applicable Statutory Provisions and External Remedies

Sex-Based Misconduct is not only prohibited by NYLS but is also prohibited by state, federal, and, where applicable, local law. Aside from the process described in this Policy, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

### A. State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to discrimination, harassment, including sexual harassment, and retaliation and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court. Complaints with DHR may be filed any time within one year (or, in some instances, three years) of the discrimination, harassment, including sexual harassment, or retaliation. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court. Complaining internally to NYLS does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment. You do not need an attorney to file


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a complaint with DHR, and there is no cost to file with DHR. DHR will investigate your complaint and determine whether there is probable cause to believe that harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination harassment, including sexual harassment, or retaliation is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the discrimination, harassment, including sexual harassment, or retaliation, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines. DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call 718.741.8400 or visit: **www.dhr.ny.gov/**. Contact DHR at 888.392.3644 or visit **dhr.ny.gov/complaint** for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### B. Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal antidiscrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination, harassment, including sexual harassment, or retaliation has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court. The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC. An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 800.669.4000 (TTY: 800.669.6820), visiting their website at **www.eeoc.gov** or via email at **info@eeoc.gov.** If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### C. Local Protections

Many localities enforce laws protecting individuals from harassment, including sexual harassment, retaliation, and discrimination. An individual should contact the county, city, or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of discrimination, harassment, including sexual harassment, or retaliation with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, NY; call 311 or 212.306.7450; or visit **www.nyc.gov/html/cchr/html/home/home.shtml**.

### D. Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime.

### E. Judicial Forums

In addition to notifying the local police department, or the government agencies listed above, employees can also file a complaint in federal or state court under federal and/or state anti-discrimination and anti-harassment laws.

### F. Family Educational Rights and Privacy Act


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The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"). The privacy of an individual's medical and related records may be protected by the Health Insurance Portability and Accountability Act ("HIPAA"), excepting health records protected by FERPA. Similarly, access to an employee's personnel records may be restricted by applicable New York and federal law.

While there are certain limitations on privacy, all information obtained during the course of the resolution procedure will be protected from public release until the appeals panel makes a final determination, unless otherwise required by law. The Law School generally will not release the names of the Complainant or Respondent to the general public without express written permission or absent another exception consistent with the law, including FERPA and the Clery Act. Further, to the extent that it is practical and permissible by law, the Law School will maintain records created under this Policy in a manner which excludes Personally Identifiable Information on victims. Note, however, that NYLS does not place restrictions on the right of Parties to disclose the outcome of matters resolved under these procedures.

## Section 10: Special Reporting Considerations

### A. Amnesty for Alcohol and/or Drug Use

The health and safety of every student at the NYLS is of utmost importance. NYLS 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. NYLS strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to NYLS officials or law enforcement will not be subject to NYLS'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.

### B. Public Awareness Events

Consistent with guidance from the Office for Civil Rights of the Department of Education, public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, or other forums in which community members disclose incidents of Sex-Based Misconduct do not initiate the Law School's Title IX obligations, including employees' duty to report incidents or the Law School's obligation to investigate reports of sexual harassment or sexual violence, unless the report indicates an imminent and serious threat to the health or safety of a Law School Community Member. Such events may, however, inform the need for campus-wide educational and prevention efforts, and the Law School may implement broad community initiatives in response to such events where appropriate.

### C. Reports Involving Minors

Under New York law, Law School employees must make a mandatory report of suspected child abuse and neglect, including sexual assault when that individual, in their professional capacity or within the scope of their employment, has knowledge of or observes a minor under the age of 18 whom the individual knows or reasonably suspects has been the survivor of child abuse or neglect. All Law School employees are required to immediately report any suspected child abuse and neglect to the Title IX Co-Coordinators and the Chief of Building Operations and Security. In addition to notifying these individuals, any individual can make a direct report to 911 if a child is in immediate danger, or to the Child Protection Hotline at 800.342.3720.

The source of abuse does not need to be known in order to file a report. NYLS will report all suspected child abuse and neglect,


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including sexual assault, to law enforcement and/or the New York State Office of Children and Family Services ("OCFS"). It is not the responsibility of any employee, student, or volunteer to investigate suspected child abuse.

### D. Malicious Allegations

False and malicious reports of Sex-Based Misconduct can place a permanent stigma on members of the NYLS community, regardless of the ultimate outcome of any investigation. Accordingly, NYLS prohibits malicious allegations of Sex-Based Misconduct. If at any point during the investigation or resolution process it appears reasonably likely that a Complainant, witness, or other individual acted in bad faith, deliberately and knowingly filed a false report or complaint, or provided false testimony, such individuals may be subject to discipline. Note that a decision that an individual did not violate the Policy, by itself, will not be treated as a malicious allegation; only information provided in bad faith or which the individual reasonably knows to be false will be determined to be a malicious allegation.

### E. Retaliation

NYLS will not tolerate retaliation, as defined in Section 13. Retaliation is prohibited by federal, state, and local laws, and this Policy. No person covered by this policy shall be subject to adverse actions because the person reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint, or testifies or assists with any proceeding under the law. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (i.e., threats of physical violence outside of work hours). An individual reporting Sex-Based Misconduct is entitled to protection from any form of retaliation, including by their peers, following a report or provides information about suspected sexual harassment that is made in good faith, even if the report is later not proven. NYLS will take immediate and responsive action to any report of retaliation, initiate Grievance Process, and will pursue disciplinary action as appropriate.

Any employee may pursue any charge of discrimination or harassment with the New York State Division of Human Rights ("DHR"), the New York City Commission on Human Rights ("CHR"), and/or the federal Equal Employment Opportunity Commission ("EEOC"), as appropriate. It is unlawful to retaliate against any employee for opposing the practices prohibited by the EEOC or comparable state or local agency, or for filing a complaint with, or for otherwise participating in, an investigation, proceeding, or hearing conducted by the DHR, CHR, or EEOC. Any employee who retaliates against anyone involved in a sexual harassment investigation or court proceeding will be subject to discipline, up to and including termination of employment.

## Section 11: Required Disclosures (Clery Act)

In compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) the Law School records and reports certain information about campus safety, including the number of incidents of certain crimes on or near campus, some of which constitute sexual and gender-based misconduct investigated under these procedures. The Title IX Co-Coordinators works in collaboration with Campus Security to ensure such incidents are captured for statistical reporting purposes while protecting the identity of the victim of such crimes. These notifications may include the classification and location of the reported crime but do not identify the students involved. The Clery Act also requires the Law School to issue a


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"timely warning" when it receives a report of certain crimes that pose a serious or continuing threat to the community. NYLS may disclose aggregate information regarding incidents investigated and related outcomes. Such reports will not contain Personally Identifiable Information.

## Section 12: Prevention and Awareness Programming and Training

As part of its commitment to the prevention of Sex-Based Misconduct, NYLS offers education and awareness programs. Incoming students and new faculty and staff receive prevention and awareness programming as part of their orientation, and all students, faculty, and staff, including the Title IX Co-Coordinators, receive ongoing training and related programs on an annual basis. For a description of NYLS's Sex-Based Misconduct prevention and awareness programs, contact the Title IX Co-Coordinators.

## Section 13: Prohibited Conduct Definitions and Related Terms

The following definitions of relevant terms apply throughout the Policy for the purpose of this Policy only:

**Complainant** is an individual who is alleged to be the victim of Sex-Based Misconduct under this Policy.

**Confidentiality** generally means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual.

The confidentiality of information shared by an individual with designated campus or community professionals generally is governed by New York law, including restrictions on disclosure of information by mental health providers, ordained clergy, rape crisis counselors, and attorneys, all of whom have legally-protected confidentiality. These individuals are generally prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others.

**Consent** under this policy means affirmative consent. Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

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

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

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

**d.** Consent cannot be given when 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.

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

**f.** When consent is withdrawn or can no longer be given, sexual activity must stop.

**Dating Violence** means violence by a person who has been in a social romantic or intimate relationship with the Complainant (victim). 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.


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**a.** Dating violence can be a single act or a pattern of behavior in relationships. Dating violence includes the use or threat of physical force or restraint carried out with the intent of causing pain or injury to another within a dating relationship. Dating Violence may also include taking away a person's cell phone during an argument so the person cannot call a friend or the police for help, or threatening to self-harm if another does not do what is asked. Dating violence does not include acts covered under the definition of Domestic Violence.

**b.** Examples of dating violence may include, but are not limited to: slapping, kicking, pinching, biting, pulling hair, punching, threatening to hit, harm, or use a weapon on a partner or a partner's family, hurting or threatening to hurt a partner's pet or children.

**Discrimination** is the adverse treatment of another individual on the basis of a Protected Characteristic (as defined in the Anti-Discrimination and Anti-Harassment Policy) including the use of facially neutral employment policies or practices which disproportionately disadvantage individuals on the basis of a Protected Characteristic. It occurs when one experiences negative or adverse conduct based on characteristics protected in this Policy and/or applicable local, state, and federal laws, where such conduct has the effect of denying or limiting one's ability to benefit from and fully participate in educational programs or activities or employment opportunities.

**Domestic Violence** includes assorted violent misdemeanor and felony offenses committed by: a current or former spouse or intimate partner of the victim; a person with whom the victim shares a child in common; a current or former cohabitant who is or has previously been in an intimate relationship with the victim; a person similarly situated to a spouse under domestic or family violence law; or anyone else protected under domestic or family violence law.

Domestic violence may include emotional abuse, psychological abuse, or economic abuse. Domestic violence can be a single act or a pattern of behavior in relationships. Examples of behaviors that may constitute domestic violence include, but are not limited to: hitting, punching, pinching, slapping, choking, violating a protective order, or harming a person's children or animals.

**Formal Complaint** means a document filed by a complainant or signed by the Title IX Co-Coordinator(s) alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator under 34 CFR § 106.8(a), and by any additional method designated by the recipient. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party under this part or under § 106.45, and must comply with the requirements of this part, including §106.45(b)(1)(iii).

**Harassment** is certain unwelcome conduct on the basis of a Protected Characteristic (see section 1). It includes, but is not limited to, subjecting an individual to humiliating, offensive, abusive or threatening conduct that creates an intimidating, hostile or abusive work, residential or academic environment; alters the conditions of employment; or unreasonably interferes with an individual's academic or work performance on the basis of that individual's Protected Characteristic. Harassment includes communicating, sharing or displaying written or visual materials; making verbal comments; or engaging in physical conduct that is demeaning or derogatory to a person because of a Protected Characteristic. Whether or not conduct is Harassment will depend on the totality of the circumstances, including the frequency and severity of the discriminatory conduct; whether the conduct is physically threatening or humiliating, or a mere offensive utterance; and whether the conduct unreasonably interferes with the alleged victim's employment, academic or residential environment.

Discriminatory harassment includes but is not limited to: epithets or slurs; negative stereotyping; denigrating jokes; and display or circulation in the working, learning, or living environment (including electronic transmission) of written or graphic material.

See "Sexual Harassment," listed below, for information on Sexual Harassment.


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**Incapacitation** under this Policy includes, but is not limited to, lack of consciousness, being asleep, being involuntarily restrained, or otherwise being unable to Consent. Indicators of incapacitation include slurred speech, bloodshot or unfocused eyes, unsteady gait (needing assistance walking or standing), vomiting, concern expressed by others about the individual, expressed memory loss, or disorientation.

**Institution Representative** is any employee who has been given the duty of reporting incidents of Sex-Based Misconduct to the Title IX Co-Coordinators or other appropriate designee. Any full-time faculty member, administrator, full-time regular staff member, or NYLS Security Officer is an Institution Representative Examples of employees who are not Institution Representatives include, but are not limited to: Adjunct Faculty; Dining Services Employees; Temporary Employees; Student Employees; and Contract Employees other than Security Officers.

**Non-Consensual Sexual Activity** includes any sexual contact (as defined below), however slight, with an object or bodily part, by a person upon another person that is without affirmative Consent (as defined above).

**Personally Identifiable Information** is information that would tend to reveal identity of the individual.

**Privacy** under this Policy generally means that information related to a report of Sex-Based Misconduct will only be shared with a limited circle of individuals who "need to know" in order to assist in the assessment, investigation, or resolution of the report. While not bound by confidentiality generally, the Law School will be discreet and respect the privacy of all individuals involved in the process. No information shall be released from a proceeding to enforce this Policy except as required or permitted by law and NYLS policy.

**Respondent** is an individual who has been reported to be the perpetrator of the Sex-Based Misconduct under this Policy.

**Retaliation** under this Policy means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, 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 Policy, including in an informal resolution process, in grievance procedures, and in any other actions taken by a recipient.

**Sex Stereotype** occurs when someone has a preconceived idea about how someone should be, act, or behave on the basis of that person's sex. Examples of sex stereotypes include treating someone differently (including harassing behaviors) because they don't act masculine or feminine enough based on predetermined ideas of what it means to be either masculine or feminine and expecting that someone's attire will confirm to stereotypical dress standards.

**Sex or Gender-Based Discrimination** refers to the disparate treatment of a person or group because of that person's or group's sex, sexual orientation, actual or perceived gender, gender identity, or gender expression.

**Sex-Based Misconduct** is conduct that constitutes a violation of this Policy. NYLS has designated different types of prohibited conduct as well as procedures that correspond best with NYLS's different constituencies. Conduct that constitutes prohibited conduct is set forth and defined herein. Sex-Based Misconduct will be investigated and adjudicated pursuant to the applicable procedural pathway.

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


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**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.

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

**Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following:

- An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8) , or "stalking" as defined in 34 U.S.C. 12291(a)(30)

**Sexual Misconduct** is a broad term which incorporates a range of behaviors including sexual assault, sexual harassment, domestic violence, dating violence, stalking, and any other conduct of a sexual nature that is non-consensual, or has the purpose or effect of threatening, intimidating, or coercing a person.

Much sexual misconduct includes non-consensual sexual contact, but this is not a necessary component. For example, threatening speech that is sufficiently severe or pervasive to constitute sexual harassment will constitute sexual misconduct. Making photographs, video, or other visual or auditory recordings of a sexual nature of another person without consent constitutes sexual misconduct, even if the activity documented was consensual. Similarly, sharing such recordings or other sexually harassing electronic communications without consent is a form of sexual misconduct. All members of our community are protected from sexual misconduct, and sexual misconduct is prohibited regardless of the sex of any party involved.

**Sexual Violence** involves sexual contact perpetrated against an individual's will, without valid consent, or when an individual is incapable of giving consent. Examples of sexual violence include sexual assault, dating violence, or domestic violence.

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

## Appendix A: Students' Bill of Rights

All students have the right to:

1. Make a report to local law enforcement and/or state police;

2. Have disclosures of domestic violence, dating violence, stalking, sexual assault, and sexual harassment treated seriously;

3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by NYLS;


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4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be presumed not responsible for any alleged conduct or have any final determination made until the conclusion of the Grievance Process;
6. Be treated with dignity and to receive from NYLS courteous, fair, and respectful health care and counseling services, where available;
7. 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;
8. Describe the incident to as few NYLS representatives as practicable and not be required to unnecessarily repeat a description of the incident;
9. Be protected from retaliation by NYLS, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of NYLS;
10. Access to at least one level of appeal of a determination;
11. Be accompanied by an advisor of choice who may assist and advise a Complainant, reporting individual, or accused through the judicial or grievance process including during all meetings and hearings related to such process and if a party does not have an advisor to have one provided by NYLS free of charge; and
12. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

## Appendix B: List of Resources for Support

Below is a list of reporting, care, and support options, with accompanying contact information.

### A. Medical and Counseling Assistance

If you believe you have experienced an assault—remember, it is not your fault. If you experience sexual assault, the following guidance is important to consider:

**1. Safety First**

Get to a safe place. After experiencing a traumatizing event such as sexual assault, it can be important to find a place where you feel comfortable and safe from harm. This location could be: your home, a friend's home, a local hospital, Campus Security, or a Police station.

If you have been assaulted, consider visiting an ER (where you will likely find staff such as Sexual Assault Nurse Examiners, who are trained in working with individuals who experience sexual violence). Medical professionals can help you check for injuries, be screened and educated regarding sexually transmitted infections or pregnancy, and to collect evidence.

Evidence collection in NYC does not require you to file a police report, but preserving evidence allows you options. For the purposes of evidence collection, it is recommended that you avoid eating/drinking, showering, brushing your teeth, or changing your clothes. Even if you have done any of these things, evidence can still be collected and it remains important that you seek medical attention. You may wish to bring a change of clothes with you (or have a friend bring you a change of clothes) when you do seek medical attention.


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Following these steps promptly after an incident can be very helpful in later criminal proceedings and/or in seeking a civil order of protection. The medical treatment resources listed below can provide treatment for injuries and for potential exposure to sexually transmitted diseases. They also provide emergency contraception and other health services. They can assist in preserving evidence of documenting any injuries, including by helping find a Sexual Assault Nurse Examiner, who is specially trained to collect evidence.

**2. On-Campus Medical Resources**

**Mount Sinai Beth Israel** is prepared to provide free medical services to NYLS students who have experienced sexual assault or intimate partner violence. Mount Sinai Beth Israel Victim Services Program offers: referrals to SAFE-certified Mount Sinai Health System and other NYC hospitals for advocate accompaniment and emergency medical care, individual trauma-focused therapy, crisis intervention and advocacy via confidential helpline, Office of Victim Services (OVS) compensation assistance (for medical costs, therapy, lost wages, etc.), assistance with safety planning, orders of protection, and shelter/housing referrals, and criminal justice information and advocacy. Individuals can call the confidential helpline Monday through Friday, 9:00 am to 5:00 pm at 212.420.4516, or email **VS@mountsinai.org** or call Chloe Horowitz, LCSW, Enough is Enough Coordinator, 646.398.3171, or email **Chloe.horowitz@mountsinai.org**.

**New York Presbyterian-Weill Cornell** provides free, confidential medical services to NYLS students who have experienced intimate partner/dating violence, sexual assault, harassment, stalking or family violence, as well as free short-term trauma-based counseling, forensic and other services. Their Emergency Room is located at 525 East 68th Street, between York Avenue and the East River and offers 24/7 emergency care and support. You can contact the Domestic and Other Violence Emergencies (DOVE) Program at 212.305.9060 or email **Dove@nyp.org**. Individuals may also contact Ariana Montenegro, LMSW by email email **ZTL9002@nyp.org** or Sajada Bhuiyan, LCSW by email **gix9003@nyp.org**, Enough is Enough Coordinators, or call 929.746.1211.

**Wyckoff Heights Medical Center, Violence Intervention and Treatment Program** is prepared to offer medical services to NYLS students and faculty members who have been the victims of sexual assault, domestic violence, and/or other related crimes. The program provides 24-hour emergency care that includes but is not limited to sexual assault forensic examinations, confidential crises intervention, counseling, referrals, and access to a Violence Intervention and Treatment Program Advocate. Wyckoff Hospital is located at 374 Stockholm Street, Brooklyn, NY 11237. During business hours the Violence Intervention and Treatment Program can be contacted by phone at 718.963.7788 or contact Havann Brown, Program Manager at 718.906.3846, or email **HABrown@wyckoffhospital.org**.

**3. Mental Health Services and Resources**

NYLS has engaged with a clinical social worker and psychotherapist, **Sophia Soloway, LCSW.** Ms. Soloway is available to offer short-term counseling. This free and confidential service is offered by NYLS and does not require insurance. To make an appointment contact Ms. Soloway at 917.232.8220, or email **sophia.soloway@nyls.edu**. NYLS students who desire strict confidentiality may contact one of the professional counselors at:

**Aetna Student Assistance Program (SAP):** This free and confidential student counseling service is available to all students, 24 hours a day. Contact 877.351.7889, email **AskSAP@aetna.com**, or visit **www.aetnasap.com** and enter our school ID: NYLAW and your own password. Aetna provides off-site confidential counseling services to NYLS students.

**Isabella Poloes, LMHC:** NYLS Counselor and Associate Director of Community Wellness & Support
Ms. Poloes is available to meet with students by appointment and can be contacted at 212.431.2169 or by email at **Isabelle.poloes@nyls.edu**.

**Insurance-Based Outside Counseling*:*** If you feel that you would benefit from ongoing counseling services, contact your insurance carrier to obtain a list of mental health practitioners in the area. Many practitioners are able to offer services remotely. There may be a cost to you for such services.


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**Employee Assistance Program (EAP):** The free of charge EAP is offered through our human resources vendor Co-Advantage, in partnership with Espyr; Employees can call Espyr directly at 1-866-570-3478. To access Espyr's website, visit NYLS's HR Self-Service Center on the portal at **go.nyls.edu**, then "Staff Resources" → "Human Resources" → "Employee Assistance Program."

**4. Manhattan-based Hospitals with free of charge SAFE (Sexual Assault Forensic Examiner) Centers**

New York Presbyterian – Columbia
622 W. 168th St.

Harlem Hospital
506 Malcolm X Blvd. at W. 135th St.

Metropolitan Hospital Center
1901 1st Ave. at 96th St.

New York-Presbyterian- The Allen Pavilion
5141 Broadway at W. 221th St.

New York-Presbyterian – Weill Cornell
525 E. 68th St. at York Ave.

Search for **additional SAFE-designated hospitals**.

### B. Off-Campus Resources

**Crime Victims Treatment Center of St. Luke's Roosevelt Hospital (CVTC)**

CVTC provides respectful treatment of survivors of family and intimate partner violence, sexual assault, childhood sexual abuse, and other forms of violence and crime. CVTC services are free of charge.

**St. Luke's (Mt. Sinai) Emergency Medical Services**

As the first hospital in New York to establish a specialized, highly acclaimed free treatment service for victims of sexual assault, they have Sexual Assault Forensic Examiner ("SAFE") examiners available 24 hours a day. SAFE examiners devote their full attention to the victim's needs, and only with the victim's consent, collect evidence that can be used to prosecute the crime.

**Anti-Violence Project (AVP)** is a New York based resource.

AVP provides free and confidential assistance to thousands of lesbian, gay, bisexual, transgender, queer, and HIV-affected (LGBTQH) people each year from all five boroughs of New York City through direct client services and community organizing and public advocacy. Find more information or reach their bilingual (English/Spanish) hotline at 212.714.1141.

**NYC Family Justice Centers:** The Family Justice Centers are run by the Mayor's Office to End Domestic and Gender-Based Violence. There is one such office in each of the five boroughs. Find more information at https://www.nyc.gov/site/ocdv/programs/family-justice-centers.page, or call the City's 24-hour Domestic Violence Hotline, 800.621.HOPE (4673) for immediate safety planning, shelter assistance, and other resources. TTY: 800.810.7444.

**Sanctuary for Families**, PO Box 1406, Wall Street Station, 212.349.6009

Annually, Sanctuary for Families serves more than 10,000 individuals who experience some form of domestic violence, sex trafficking, and related forms of gender violence. Its free services include: counseling, legal assistance, crisis and temporary shelter, community education, and advocacy, among others.

**Safe Horizon**, 2 Lafayette Street, 3rd Floor, 800.621.4673


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Through its 57 programs, Safe Horizon provides free assistance to those who have experienced domestic and intimate partner violence, child physical and sexual abuse, human trafficking, stalking, youth homelessness, and other violent crimes. Its free services include: counseling, legal representation, and housing and employment assistance, among others.

Other helpful external resources include:

- NYC Alliance Against Sexual Assault
- Support Orthodox Victims of Rape and Incest (SOVRI) Sexual Abuse Helpline (in conjunction with The Beth Israel Victim Services Program): 212.844.1495
- **Rape, Abuse, and Incest National Network**
- Rape, Sexual Assault, and Incest Hotline: 212.227.3000 (24 hours a day)
- Bronx Rape Crisis Program: 718.933.1000
- Brooklyn Rape Crisis Program: 718.827.4700
- Queens Rape Crisis Program: 718.291.2555
- Staten Island Rape Crisis Program: 718.720.2591

**Note: all rape crisis program services are free of charge**

- New York State Office of Victim Services: provides reporting individuals with information on sexually transmitted infections, sexual assault forensic examinations, and other resources; see **https://ovs.ny.gov/**.

### C. Legal Resources

The New York District Attorney's office offers centralized information about options and resources, including information about protective orders, related to domestic violence. Please visit: **www.manhattanda.org/victim-resources/domestic-violence/**.

A note about protective orders: In Manhattan, the Family Justice Center or the District Attorney's office assist with the process of seeking an Order of Protection. Campus Security or the Title IX Co-Coordinators can provide assistance in accessing these resources. The Law School will assist in appropriate planning, as it may relate to access to campus or related protections, for any individual who obtains an Order of Protection and shares it with Campus Security.

## Appendix C: New York State Criminal Definitions

The Violence Against Women Act (VAWA) also requires NYLS to include certain New York State criminal definitions in its Annual Security Report and also requires that these definitions be provided in other materials disseminated by the Law School, such as this Policy. Summaries of and citations to relevant New York definitions are set forth below.[1] Ultimately, a prosecutor will determine whether an act meets the criminal standard under applicable law.

**Consent**[2]: Lack of consent results from: forcible compulsion; or incapacity to consent; or where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct. Where the offense charged is rape in the third degree, a criminal sexual act in the third degree, or forcible compulsion in circumstances under which, at the time of the act of intercourse, oral sexual conduct, or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such

[1] For purposes of enforcing the expectations and requirements of this Policy, sexual and gender-based misconduct are defined in Section 13 of this Policy. The definition listed here applies to New York state criminal laws.
[2] The Law School defines consent as affirmative consent consistent with N.Y. Educ. Law § 6441 as described in Section 13 of this Policy.


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act under all the circumstances. A person is incapable of consent when he or she is: less than 17 years old; or mentally disabled; or mentally incapacitated; or physically helpless; or committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital; a local correctional facility; the office of children and family services and in residential care; a client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree, aggravated sexual abuse in the fourth degree as defined in section or sexual abuse in the third degree and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination; a resident or inpatient of a residential facility operated, licensed or certified by (i) the office of mental health; (ii) the office for people with developmental disabilities; or (iii) the office of alcoholism and substance abuse services; or detained or otherwise in the custody of a police officer, peace officer, or other law enforcement official, and the actor is an individual and/or employee of such entity described in the statute acting under the circumstances described in the statute. (See NY Penal Law, §130.05)

**Consent, abbreviated**: Clear, unambiguous, and voluntary agreement between the participants to engage in specific sexual activity.

**Dating Violence**: New York State does not specifically define "dating violence." However, under New York Law, intimate relationships are covered by the definition of domestic violence when the crime is committed by a person in an "intimate relationship" with the victim. See "Family or Household Member" for definition of "intimate relationship."

**Domestic Violence**: An act which would constitute a violation of the penal law, including, but not limited to, acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted murder, criminal obstruction or breaching of blood circulation, strangulation, identity theft, grand larceny, or coercion; and such acts have created a substantial risk of physical or emotional harm to a person or person's child; and are alleged to have been committed by a family member. The victim can be anyone over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of the act. (See NY Social Services Law, §459-A)

**Family or Household Member**: Persons related by consanguinity or affinity; persons legally married to one another; persons formerly married to one another regardless of whether they still reside in the same household; persons who have a child in common regardless of whether such persons are married or have lived together at any time; unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation. Intimate relationship status shall be applied to teens, lesbian/gay/bisexual/transgender, and elderly individuals, current and formerly married and/or dating heterosexual individuals who were, or are in an intimate relationship. (See NY Social Services Law, §459-A)

**Parent**: means natural or adoptive parent or any individual lawfully charged with a minor child's care or custody. (See NY Social Services Law, §459-A)

**Sexual Assault**: New York State does not specifically define sexual assault. However, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape.

**Sex Offenses; Lack of Consent**: Whether or not specifically stated, it is an element of every sexual act committed without consent of the victim. (See NY Social Services Law, §130.05(1))

**Sexual Misconduct**: When a person engages in vaginal, oral, or anal sexual contact with another person without such person's consent; or engages in sexual conduct with an animal or a dead human body. (See NY Penal Law, §130.20)

**Rape in the Third Degree**: When a person engages in vaginal, oral, or anal sexual contact with another person who is incapable of consent by reason of some factor other than being less than 17 years old; being 21 years old or more, engages in such sexual contact with another person less than 17 years old; or engages in such sexual contact with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent. (See NY Penal Law, §130.25)


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**Rape in the Second Degree**: When a person being 18 years old or more, engages in vaginal, oral, or anal sexual contact with another person less than 15 years old; or engages in such sexual contact with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense to the crime of rape in the second degree that the defendant was less than four years older than the victim at the time of the act. (See NY Penal Law, §130.30)

**Rape in the First Degree**: When a person engages in vaginal, oral, or anal sexual contact with another person by forcible compulsion; or who is incapable of consent by reason of being physically helpless; or who is less than 11 years old; or who is less than 13 years old and the actor is 18 years old or more. (See NY Penal Law, §130.35)

**Criminal Sexual Act in the Third Degree**: When a person engages in oral or anal sexual conduct with a person who is incapable of consent by reason of some factor other than being less than 17 years old; being 21 years old or more, with a person less than 17 years old; with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent. (See NY Penal Law, §130.40)

**Criminal Sexual Act in the Second Degree**: When a person engages in oral or anal sexual conduct with another person and is 18 years or more and the other person is less than 15 years old; or who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense that the defendant was less than four years older than the victim at the time of the act. (See NY Penal Law, §130.45)

**Criminal Sexual Act in the First Degree**: When a person engages in oral or anal sexual conduct with another person by forcible compulsion; who is incapable of consent by reason of being physically helpless; who is less than 11 years old; or who is less than 13 years old and the actor is 18 years old or more. (See NY Penal Law, §130.50)

**Forcible Touching**: When a person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire; or subjects another person to sexual contact for the purpose of gratifying the actor's sexual desire and with intent to degrade or abuse such other person while such other person is a passenger on a bus, train, or subway car operated by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions. It includes squeezing, grabbing, or pinching. (See NY Penal Law, §130.52)

**Persistent Sexual Abuse**: When a person commits a crime of forcible touching, or second or third degree sexual abuse within the previous ten-year period, has been convicted two or more times in separate criminal transactions for which a sentence was imposed on separate occasions of one of the above mentioned crimes or any offense defined in this article, of which the commission or attempted commission thereof is a felony. (See NY Penal Law, §130.53)

**Sexual Abuse in the Third Degree**: When a person subjects another person to sexual contact without the latter's consent. For any prosecution under this section, it is an affirmative defense that such other person's lack of consent was due solely to incapacity to consent by reason of being less than 17 years old; and such other person was more than 14 years old and the defendant was less than five years older than such other person. (See NY Penal Law, §130.55)

**Sexual Abuse in the Second Degree**: When a person subjects another person to sexual contact and when such other person is incapable of consent by reason of some factor other than being less than 17 years old; or less than 14 years old. (See NY Penal Law, §130.60)

**Sexual Abuse in the First Degree**: When a person subjects another person to sexual contact by forcible compulsion; when the other person is incapable of consent by reason of being physically helpless; or when the other person is less than 11 years old; or when the other person is less than 13 years old, and the actor is 21 years or older. (See NY Penal Law, §130.65)

**Aggravated Sexual Abuse**: For the purposes of these sections, conduct performed for a valid medical purpose does not violate the provisions of these sections.

**Aggravated Sexual Abuse in the Fourth Degree**: When a person inserts a foreign object in the vagina, urethra, penis, rectum, or anus of another person and the other person is incapable of consent by reason of some factor other than being less than 17 years old; or inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than 17 years old. (See NY Penal Law, §130.65-A)


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**Aggravated Sexual Abuse in the Third Degree**: When a person inserts a foreign object or a finger in the vagina, urethra, penis, rectum, or anus of another person by forcible compulsion or when the other person is incapable of consent by reason of being physically helpless; when the other person is less than eleven years old; or when the other person is less than thirteen years old and the actor is eighteen years of age or older. When a person inserts a foreign object in the vagina, urethra, penis, rectum, or anus of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated. (See NY Penal Law, § 130.66)

**Aggravated Sexual Abuse in the Second Degree**: When a person inserts a finger in the vagina, urethra, penis, rectum, or anus of another person causing physical injury to such person by forcible compulsion; or when the other person is incapable of consent by reason of being physically helpless; or when the other person is less than 11 years old. (See NY Penal Law, §130.67)

**Aggravated Sexual Abuse in the First Degree**: When a person inserts a foreign object in the vagina, urethra, penis, rectum, or anus of another person by forcible compulsion or when the other person is incapable of consent by reason of being physically helpless; or when the other person is less then eleven years old. (See NY Penal Law, § 130.70)

**Stalking in the Fourth Degree**: When a person intentionally, and for not legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct is likely to cause reasonable fear of material harm to the physical health, safety, or property of such person, a member of such person's immediate family, or a third party with whom such person is acquainted; or causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning, or initiating communication or contact with such person, a member of such person's immediate family, or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or is likely to cause such person to reasonably fear that his or her employment, business, or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct. (See NY Penal Law, § 120.45)

**Stalking in the Third Degree**: When a person commits the crime of stalking in the fourth degree against three or more persons in three or more separate transactions, for which the actor has not been previously convicted; or commits the crime of stalking in the fourth degree against any person, and has previously been convicted, within the preceding 10 years of a specified predicate crime and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or with an intent to harass, annoy, or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment, or death of such person or a member of such person's immediate family; or commits the crime of stalking in the fourth degree and has previously been convicted within the preceding 10 years of stalking in the fourth degree. (See NY Penal Law, § 120.50)

**Stalking in the Second Degree**: When a person: commits the crime of stalking in the third degree and in the course of and furtherance of the commission of such offense displays, or possesses and threatens the use of a firearm, pistol, revolver, rifle, shotgun, machine gun, electronic dart gun, electronic stun gun, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slungshot, shirken, "Kung Fu Star," dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapon; or displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or commits the crime of stalking in the third degree against any person, and has previously been convicted, within the preceding 5 years, of a specified predicate crime, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree; or being 21 years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury, or death; or commits the crime of stalking in the third degree, against 10 or more persons, in 10 or more separate transactions, for which the actor has not been previously convicted. (See NY Penal Law, § 120.55)

**Stalking in the First Degree**: When a person commits the crime of stalking in the third degree or stalking in the second degree and, in the course and furtherance thereof, he or she intentionally or recklessly causes physical injury to the victim of such crime. (See NY Penal Law, § 120.60)