



**Norwich Campus**  
**Annual Security Report**  
**2023**

**Contains Statistics for 2022-2021-2020**

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**Jeanne Clery Disclosure of Campus Security Policy  
and Campus Crime Statistics Act**

**Published 9/18/23**

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## **FOREWORD**

On behalf of the University Community, welcome to SUNY Morrisville! Our foremost concern is the safety and well-being of the students, faculty, staff, and visitors of SUNY Morrisville.

Located in scenic Central New York, SUNY Morrisville is a model of innovative applied education — a place where students begin crafting exciting careers through real-world experiences.

Morrisville's approximately 2,200 students and 480 faculty and staff, hail from diverse backgrounds across the state and around the globe, choose from more than 35 Associate Degree programs, 26 Bachelor's Degree programs, or 1 Master's Degree program that embrace agriculture, technology, business, social sciences and the liberal arts. Among them are strong programs in specialized areas such as renewable energy, environmental conservation, aquaculture, automotive technology, equine science, dairy management, nursing, wood technology, hospitality management and information technology.

The Norwich campus, located 30 miles south of Morrisville, also offers associate degree programs. The campus currently has approximately 125 commuter students and 26 faculty and staff.

As home of the Mustangs, SUNY Morrisville boasts 17 intercollegiate athletics programs which compete at the NCAA Division III level.

Established in 1908 as a college of agriculture, SUNY Morrisville became a founding member of the State University of New York (SUNY) in 1948.

## **THE CLERY ACT**

### **Jeanne Clery Act Overview**

The "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998," commonly referred to as the "Clery Act," requires institutions of higher education receiving federal financial aid to disclose information about crime on and around their campuses and policy statements that accurately reflect SUNY Morrisville's security policies, procedures and practices.

SUNY Morrisville publishes and distributes the Annual Security Reports for current and prospective students and employees by October 1<sup>st</sup> of each year. The report contains information on campus security and personal safety, including crime prevention, the New York State University Police at SUNY Morrisville law-enforcement authority, crime reporting policies, disciplinary procedures and other important matters about security on campus. It also contains statistics for the three previous calendar years broken down according to the geographic location of the occurrence of the offense. These locations are defined as the campus' "Clery Geography" under the Clery Act.

### **Clery Geography**

#### **On Campus**

Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls;

And

Any building or property that is within or reasonably contiguous to paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

#### **On Campus – Residence Halls**

"Dormitories or other residential facilities for students on campus" is a subset of the on-campus category. Institutions must disclose the total number of on-campus crimes, including those in dorms or other residential facilities for students on campus, and must also make a separate disclosure limited to the number of crimes occurring in student dorms or residential facilities on campus. As a subset, the number of crimes reported for dormitories or other residential facilities must be less than or equal to the number of reported crimes for the on-campus category.

#### **Non-campus Building or Property**

Any building or property owned or controlled by a student organization that is officially recognized by the institution;

Or

Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

### Public Property

All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

The Clery Act also requires that any incident that is unfounded must also be reported. An incident may be classified as unfounded only after investigation by a law enforcement agency. To classify an incident as unfounded there must be evidence that demonstrates the offense was not committed.

The Office of Student Rights and Responsibilities prepares the Annual Security Reports for both the Morrisville campus and Norwich campus by collecting the statistical information from the NYS University Police Department who also collects statistics from local municipal police departments (listed below), as well as from Campus Security Authorities (listed below). This information is integrated into a single document called the Annual Security Report and is posted on the SUNY Morrisville website accessible by multiple links, and provided in a hard copy document by request.

### **Local Reporting Municipal Police Departments**

New York State Police

Norwich Police Department

Chenango County Sheriff's Office

Oneida County Sheriff's Office

Madison County Sheriff's Office

Syracuse Police Department

### **Campus Security Authorities**

New York State University Police at SUNY Morrisville

Office of Student Rights and Responsibilities

Student Activities Office & Advisors of Clubs/Organizations

Director of Residence Life

Assistant Director of Residence Life

Area Coordinators

Head Resident Assistants

Resident Hall Assistants

Night Hosts

Director of Athletics, Coaches, Assistant Coaches, and Athletic Trainers

Professional Tutors

Academic Advisors

Director of the Educational Opportunity Program (EOP) and Counselors

Director of the Collegiate Science Technology Entry Program (CSTEP) and Counselors

Director of the SUNY Morrisville - Norwich Campus

### **Security of and Access to Campus Facilities**

Facilities and landscaping are maintained in a manner that minimizes hazardous conditions. New York State University Police Officers regularly patrol the campus and report malfunctioning lights and other unsafe physical conditions to the Physical Plant Department for correction. Other members of the College community are helpful when they report similar problems to the University Police at SUNY Morrisville or the Physical Plant at (315) 684-6065.

Registered campus organizations, student government, and College departments may use College property for non-academic College-related programs, activities and functions, subject to appropriate use considerations and the availability of space. Each request is reviewed on an individual basis.

The building is on an automatic timer system that unlocks and locks the entrances as set. All Faculty and Staff are provided keys into their respective work assigned building and/or their ID cards are programmed through a swipe card system to allow for access during locked hours.

### **New York State University Police Law Enforcement Authority and Jurisdiction**

The New York State University Police at SUNY Morrisville consist of sworn police officers, who are graduates of a 20-week training program. University Police operate 24 hours-per-day, 365 days a year and can be reached by calling (315) 684-6410. The department is an authorized terminal user of all local, regional, state and federal criminal justice information systems (e.g., wanted persons, DMV, stolen vehicles/property, criminal records, etc.). SUNY Morrisville employs police officers to deliver public safety services to the campus community. Police officers are armed, duly sworn police officers of the State of New York. SUNY Morrisville Police Officers possess the same authority and adhere to the same state-mandated standards as municipal police officers. Therefore, under New York law, SUNY Morrisville officers may enforce laws and make arrests anywhere in the state; however, they concentrate their efforts on the campus and the immediate surrounding area.

SUNY Morrisville officers may work in uniform or plain-clothes. They provide a full range of police related services, including: primary emergency responses; preventative patrols; investigation of observed, reported, or suspected crimes; enforcement of all applicable laws; follow-up and specialized criminal investigations; crime prevention; community liaison and relations; V.I.P./dignitary protection; special event security; traffic activities (enforcement and accident investigations).

Persons arrested by City of Norwich Police officers are processed in accordance with prevailing practices in Chenango County and within the City of Norwich, which can include: citation and release; booking into the Norwich City Jail or Chenango County Jail; filing of charges with, and prosecution through, the District Attorney's Office; and formal trial. Additionally, SUNY Morrisville Norwich Campus affiliates (student, faculty, staff) may be subject to additional (administrative/Code of Conduct) sanctions.

The Norwich Campus uses Securitas Security Services USA, Inc., a private security company, on Monday through Thursday, 12-6:30pm, and additional coverage for select on-campus activities. The scope of work is for monitoring of building activity through scheduled

observation, building walk through and documentation of activity logs. Securitas contact is Scott Stupski, Branch Manager, by phone (607) 235-2518, Extension 2, and through email at [scott.stupski@securitasinc.com](mailto:scott.stupski@securitasinc.com).

SUNY Morrisville has no officially recognized student organizations with non-campus locations, therefore, it does not monitor and record such locations.

### **Reporting of Criminal Actions and Emergencies**

SUNY Morrisville encourages every member of the community to report all crimes in an accurate and timely manner. SUNY Morrisville encourages every member of the campus community to report a crime immediately when the victim of a crime elects to, or is unable to, make such a report. All police/fire/medical emergencies should be reported immediately to the New York State University Police at SUNY Morrisville at 911.

SUNY Morrisville encourages every member of the community to report all crimes in an accurate and timely manner. SUNY Morrisville encourages every member of the campus community to report a crime immediately when the victim of a crime elects to, or is unable to, make such a report. All police/fire/medical emergencies should be reported immediately to the New York State University Police at SUNY Morrisville at (315) 684-6410.

In the event of an emergency the Norwich City Police operate 24 hours-per-day, 365 days a year and can be reached by calling (607) 334-2424 or by calling 911.

A land-line phone is provided for student use to make local calls. In case of an emergency, this telephone, located at the Information Desk and Welcome Desk in the main atrium at Roger W. Follett Hall – Norwich Campus can be used for emergency purposes. Emergency contact information is posted (taped to the desk) to provide access to the City of Norwich Police Department or other emergency personnel.

Crimes can also be reported personally to the New York State University Police office, 24 hours a day. The office is located in Brooks Hall, on State Route 20, Morrisville, NY across from the main campus.

### **Non-Emergency/Routine Business**

Non-emergency business may be reported by calling the New York State University Police at SUNY Morrisville at (315) 684-6410. When calling from an office on campus dial extension x6410. The City of Norwich Police Department operates 24 hours-per-day, 365 days a year and can be reached by calling (607)334-2424.

### **Confidential Reporting of Crimes**

Victims or witnesses may report crimes on a voluntary, confidential basis for inclusion in the Annual Security Report by mailing a written statement to the New York State University Police at SUNY Morrisville, Brooks Hall, Morrisville, New York 13408, or by calling the New York State University Police at SUNY Morrisville at (315) 684-6410.

The Silent Witness is a program to allow for the reporting of suspected criminal activity. Information submitted will be reviewed by University Police, and appropriate action will be taken as warranted. If you see a suspected crime occurring on campus and you would like to report it, please click the link for Silent Witness on the University Police web page and fill out the form. All information will be kept confidential.

The College encourages pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling to report crimes on a voluntary, confidential basis for inclusion in the report by mailing a written statement to the New York State University Police at SUNY Morrisville, Brooks Hall, Morrisville, NY 13408, or by calling the New York State University Police at SUNY Morrisville at (315) 684-6410.

### **Timely Warning Policy**

SUNY Morrisville is required to issue a timely warning for all CLERY Act crimes that occur anywhere in the CLERY reportable geography that are reported to campus security authorities or the local police agency that represents a serious or ongoing threat to the health or safety of students and/or employees. These warnings must be provided in a manner that is timely and will aid in the prevention of similar crimes. The NYS University Police Chief makes the determination when a timely warning is to be issued on a case by case basis after reviewing the facts surrounding a crime. Timely warnings are disseminated through electronic mail and the posting of bulletins at various locations on campus.

### **Campus Emergency Response**

The safety and security of the SUNY Morrisville community is the college's highest priority. To ensure this goal is met, the college takes a proactive approach to emergency planning so that it is prepared to respond quickly and appropriately in emergency situations.

The college has a comprehensive Emergency Response Plan. For security reasons, the plan is not posted on the Internet.

The Emergency Response Team meets frequently throughout the year to review safety and security issues, update the college's Emergency Response Plan, and participate in tabletop exercises. The Emergency Response Team is ready to be activated 24 hours a day, 7 days a week.

Upon the notification of an emergency the college's policy will first be to confirm the emergency and the nature and scope of the emergency. The Chief of University Police or designee is responsible for confirming the nature and scope of the emergency and conveying that information to the college President. The Chief, President, and Emergency response team will make a determination as to the level of response necessary.

SUNY Morrisville will "immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff" on campus (as defined in the Clery Act). Warnings may only be withheld if they would compromise efforts to contain the emergency.



In the event of a major emergency, or an event which poses a threat to students, employees, or others, a "Campus Alert Bulletin" will be prepared and distributed the following ways:

- [NY Alert](#) e-mail/text messaging/phone to any student or employee who has registered.
- Broadcast e-mail messages to all college e-mail addresses.
- [The SUNY Morrisville home page](#).
- Message on the main switchboard line
- Local and regional media - television, radio and newspapers
- Public Address systems on University Police cars and maintenance vehicles

NY Alert is an instant, mass notification system that enables students, employees and parents to receive emergency notifications and updates via SMS text messaging, voice message, e-mail and/or fax. This initiative is one component of the college's wide-reaching emergency communications strategy, with the goal of providing a safe and secure environment in which to work and live.

NY Alert is a completely voluntary service provided by the State of New York to all SUNY campuses. Information provided will be used for notification purposes only; no advertisements or non-emergency alerts will be sent. You must sign up for the service in order to receive alerts.

To sign up, go to [Web for Students](#) and sign in using your Morrisville ID and PIN. When you sign in to Web for Students, you will be prompted to click on the Emergency Alert Notification link. Choose "I would like to participate in this service." Follow the directions and submit your information.

Parents may receive NY Alert messages through student sign up. If you are a parent and would like to receive the alerts, have your student add your cell and/or email information to his/her account.

Faculty and staff should sign on to the [SUNY faculty/staff page](#). Log in with your Morrisville ID and password, and click on the "[SUNY Emergency Contact System](#)" link.

To keep information as current as possible, you will be asked to update your information once during the academic year. It will be necessary to complete this update if you wish to continue receiving alerts.

If you receive a NY Alert message, you should do the following:

- Read the message carefully - don't ignore it.
- Alert others. Whether you are in a residence hall, dining hall, classroom or office, let those around you know about the alert. It is important to help spread the word about any emergency.
- Follow all instructions carefully. The instructions will be direct and specific to the particular situation. If the situation requires it, additional messages will be transmitted to update you.

What emergencies will prompt a message?

- Bomb Threat - based on intelligence that indicates the threat is credible.
- Civil Disturbance - large group disrupting normal campus activities.
- Fire - large-scale fire to building(s), wildfires, local community or industry that endangers campus.
  - Hazardous Material - dangerous material, chemical, biological, nuclear spreading from a contained area.
  - Major Road Closing/Incident - unanticipated event that would disrupt safe passage to and from campus.
  - Medical Emergency - pandemic or an event with mass casualties.
  - Personal Safety - situations that include use of weapons, violence, perpetrator(s) at large, active shooter, hostage situation or missing persons. Any situation, on or off campus, that, in the judgment of the Chief Administrative Officer or designee, constitutes an on-going or continuing threat to person or property.
    - Suspicious Package - reasonable belief that a package may contain chemical, biological or nuclear substance that would cause harm to persons or property.
    - Utility Failure - a major disruption or damage to utilities including gas, electrical or water.
    - Weather - severe weather conditions to include flooding, snow/ice/cold, thunderstorm, wind, tornado or hurricane.

The College uses NY-ALERT as an emergency contact system designed to send e-mail, recorded voice, and text messages to multiple addresses and phone numbers, in response to any event or situation on the campus which poses a serious safety concern, including weather related class cancellations.

The system is tested each semester as scheduled by University Police. University Police keeps a written record of the description of the exercise used to conduct the test, the time and date the test was conducted, and whether or not the test was announced or unannounced previous to the scheduled date.

In an emergency situation, you will be asked to do one of the following:

#### Shelter in Place

- **University Police** will report to designated areas
- Everyone remain in current room
- Halls cleared – Go to the nearest supervised room
- Lock doors
- Continue normal classroom activity, BUT no one leaves the room until the code is cleared by the University Police. Listen for specific information and/or directions regarding the emergency (example- remain silent; check your email, etc.)

#### Lock Out

- **University Police** will report to designated areas
- Lock all exterior doors and verify all windows are locked
- Terminate all outside activities

- Entry to the building may be gained only on a one-on-one basis, and only through the main entrance. This applies to all staff, students, and community. (Please note that upon the directive of the Chief of Police the exterior doors may not open to anyone who is not already inside the building.
- Classroom activities continue as normal. A lockout continues until the code is cleared by the University Police.

#### Evacuation

- **EVACUATION** announced. **University Police** will report to designated area
    1. Stop all activities and listen for directions via announcement
    2. Give directions to students as directed by administration
    3. Cell phone use is not allowed unless **ABSOLUTE EMERGENCY**
  - **EXIT** according to evacuation procedure
    1. In an emergency, certain exits may be impassable
    2. Proceed to evacuation location **AS DIRECTED**
    3. Maintain control of all students in your care
    4. Watch for students who may stray
  - **STUDENTS** should remain silent at all times
  - **ATTENDANCE** must be taken before leaving and again at the evacuation site
- LISTEN** for further directions for re-entry or **OFF-SITE** evacuation

#### Lock Down

- **IMMEDIATELY** gather students from the hallways and restrooms into the nearest classroom or office
- **Lock** your classroom doors and move away from windows and doors- stay out of sight
- **Leave all lights off**
- **NO ONE** is to enter or leave your secured area under **ANY** circumstances
- **DO NOT** answer or communicate through your locked door
- **DO NOT** respond to a **FIRE ALARM** unless **IMMINENT** signs of fire are **OBSERVED** by **YOU**
- **Keep Quiet.** Do not talk within your secured area Accept only as absolutely necessary
- **IGNORE PA SYSTEM** after the code is called. **DO NOT** respond to the intercom or other announcements
  - **SILENCE ALL ELETRONIC DEVICES, INCLUDING CELLPHONES, AND DO NOT USE THEM**
  - Take attendance- Include all people in your room. Missing student(s) last known location should be noted.
  - **Lockdown will end ONLY when you are physically released from your room by law enforcement.**

#### General Prevention & Awareness Programs

A vital part of SUNY Morrisville is the education of students about safety precautions and to encourage and increase compliance with the criminal justice system. The prevention of crime provides the best measure of protection from crime. Therefore, the New York State University Police at SUNY Morrisville operates as a proactive crime prevention team that works closely

with the members of the community to make SUNY Morrisville a safer place to work, live and learn.

SUNY Morrisville has a personal safety committee that specifically reviews current policies and procedures for:

- A. educating the campus community, including security personnel and those persons who advise or supervise students, about sexual assault
- B. educating the campus community about personal safety and crime prevention
- C. reporting sexual assaults and dealing with involved individuals during investigations
- D. referring complaints to appropriate authorities
- E. counseling involved individuals
- F. responding to inquiries from persons concerned about campus safety

The committee consists of a minimum of six members, at least half of whom are female, two students appointed by the Student Government Association, two faculty members appointed by the College Senate, and two individuals appointed by the President. The committee reports in writing, to the college President or chief administrative officer on its findings and recommendations at least once each academic year, and such reports shall be available upon request. For more information regarding the Personal Safety/Campus Security Committee, please contact the Chief of University Police at (315) 684-6410.

Campus safety is enhanced by strategically placed lighting and surveillance equipment around the campus.

Active Shooter training video is located on the New York State University Police website. This video is designed to educate the community about what to do if there is an active shooter on campus. University Police hold a tabletop exercise on active shooters once per year.

“Operation ID” is available to record serial numbers of personal property. Student, faculty and staff vehicles operated on campus require registration with the New York State University Police at SUNY Morrisville. Decals providing identification and parking lot designation are offered for a fee.

The Rape Aggression Defense (RAD) System provided by University Police is a program of realistic, self-defense tactics and techniques. The RAD system is a comprehensive course for women that begins with awareness, prevention, risk reduction and avoidance, while progressing on to the basics of hands-on defense training. RAD is not a martial arts program. Courses are taught by certified RAD Instructors and provide a workbook/reference manual. Effective options are taught to woman to empower them to take an active role in their own self-defense and psychological well-being. This program is offered twice yearly during the Fall and Spring semesters.

New York State University Police at SUNY Morrisville created the first Canine Unit in the department’s history. Canine Handler Officer Wright was respectively assigned canine Bruin, a one-year-old black German Shepherd who was put into service solely as an explosive’s detection canine. The New York State Police Canine Unit was chosen as the training agency, as it

possesses one of the most respected canine units in the United States and uses the "Baltimore Method." This method of training dictated that the canines be sociable, allowed to be in and around the general public, and reside in the handler's residence. The team is sent out on patrol regularly and receive re-certification bi-annually at the training facility.

Silent Witness is a program to allow for the reporting of suspected criminal activity. Information submitted will be reviewed by University Police, and appropriate action will be taken as warranted. There is a link on the website for reporting anonymously.

Students who were unable to attend Accepted Student Days or Welcome Week programming were emailed a link to complete an Online Orientation. The Online Orientation provides 7 modules introducing students to the many tools and resources needed to navigate their college career. These modules provide the flexibility for students to complete their orientation at their own pace and return at any time during their tenure at Morrisville. Topics covered include; campus technology resources, student success network, community standards & safety, campus life, health & wellness, and next steps. This orientation is done at the start of each semester.

SUNY Morrisville has designed numerous posters which are hung throughout the campus buildings to assist the campus in preventing victimization of specific types of crimes. These are reviewed for accuracy each semester and updated as necessary.

Awareness and education programs are offered community-wide and audience-specific to increase knowledge and promote awareness in the community as well as to provide resources available throughout the community around topics such as rape, acquaintance rape, dating violence, domestic violence, sexual assault, and stalking.

"Bystander Intervention" Step UP! presentations are offered starting welcome weekend and throughout the semester that every athlete and student leader is required to attend and all other community members are invited to attend. This is a prosocial behavior and bystander intervention program that educates students to be proactive in helping others. Students were also informed about bystander intervention and the theories behind the bystander steps. Each step is covered and students are given examples about being an active bystander and helping prevent crimes in the community while keeping themselves safe.

"Safe Zone" programming is facilitated to support the LGBTQ+ community. Program elements include sexual orientation, gender identity, gender expression, terminology used to describe these, how to create an inclusive campus space and how to support people coming out in the process.

Tabling events, bulletin boards, and use of social media are used to increase awareness throughout each semester by various departments on the campus.

All employees are required to complete annual training: Workplace Violence Prevention, Sexual Harassment Prevention, and Discrimination Prevention. These are offered through an online training system, as well as offered as in person programs annually. The Human Resources Office is responsible for tracking participants to ensure compliance.

The cooperation and involvement of students in a campus safety program is absolutely necessary to the complete well-being of the college community. Students are expected to assume responsibility for their own personal safety and the security of their personal belongings by taking simple, common sense precautions. Valuable items such as computers, iPods, Cell Phones, gaming consoles, cameras and televisions should be marked with engraving instruments provided by the New York State University Police Department at no charge.

Students, faculty, staff and visitors to campus are encouraged to report potential criminal actions, suspicious behaviors or any emergencies to the New York State University Police by telephone or in person.

### **Alcohol Policy**

SUNY Morrisville, in a compliant effort with the 1989 Drug-Free Schools and Campuses Amendment Act (U.S. Public Law 101-226), is committed to an environment that supports the academic success and the health of all students. The sale, purchase, distribution, possession and/or use of illicit drugs (defined below) or alcohol (except as permitted) is a violation of College regulations as well as State and Federal laws. Students and their guests are not allowed to possess or consume alcoholic beverages on College property or property operated for the benefit of the College. Exception to this policy is granted to the Morrisville Auxiliary Corporation. Upon approval by the College President, Vice President, or Office of Student Rights and Responsibilities, alcohol may be served at College sponsored events or specifically approved student functions in the College restaurant, the Copper Turret. These functions must be serviced by the Auxiliary Corporation and operated in accordance with Federal, State and local laws under the license obtained by the Auxiliary Corporation.

It is the policy of SUNY Morrisville that no employee shall use, sell, distribute, dispense, possess, or manufacture any alcoholic beverage or illegal drug on the job site, on SUNY Morrisville property (including property leased or rented by SUNY Morrisville), while on duty, in a State vehicle, a vehicle leased or rented for State business, or a private vehicle being used for State business during the employees' work hours. An exception to the provision regarding alcoholic beverage manufacture will be made for classes requiring such or providing instruction on such. In this case, the manufacturing of alcoholic beverages will be permitted on campus property only in the classroom or educational setting. No employee shall report for work unfit for duty at the beginning of a shift or upon returning from any break, lunch or rest period, as a result of consuming alcohol and/or illegal drugs. No employee notified of being in a safety sensitive position as defined by the OTETA shall report to work in a condition that violates the Act and the corresponding rules. This policy is meant to assist employees in guiding their conduct which will increase productivity at work, and protect co-workers and students. These efforts will contribute to a safer work and learning environment for the SUNY Morrisville community. See Appendix B.

It is the policy of Morrisville Auxiliary Corporation (MAC) to provide our employees and customers with a safe and productive workplace which is free of alcohol and drug abuse. MAC feels strongly that alcohol and drug abuse in the workplace can undermine individual performance, the security of other employees, and the company business. The establishment of a Drug-Free Workplace Policy is consistent with MAC's desired culture and is in the best interest of MAC. For these reasons MAC is implementing a Drug-Free Workplace Program which

applies to all employees as well as applicants for employment with MAC. Our policy formally states that the abuse of alcohol and/or illegal use of drugs by any of our employees while on MAC or College premises or on company business will not be tolerated.

**Description of Applicable Sanctions**

**Legal Sanctions**

1. *NYS Alcoholic Beverage Control (ABC) Law: Article 5 – Special Provisions Relating to Liquor and NYS Vehicle and Traffic (VAT) Law: Article 31 – Alcohol & Drug-related Offenses & Procedures (from New York State Legislature web site: <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>)*

<p><u>NYS ABC Law</u></p> <p><b>Special Provisions Relating to Liquor</b></p>		

		<p>suspended pending the completion of such treatment.</p> <p>In addition to these penalties, the court may suspend such person's license to drive a motor vehicle and the privilege of an unlicensed person of obtaining such license: 1<sup>st</sup> violation: a three-month suspension; 2<sup>nd</sup> violation: a six-month suspension; 3<sup>rd</sup> or subsequent violation: a one-year suspension or until the holder reaches the age of 21, whichever is the greater period.</p>
<p>§ 65-c. Unlawful possession of an alcoholic beverage with the intent to consume by persons under the age of 21 years.</p>	<p>No person under the age of 21 years shall possess any alcoholic beverage with the intent to consume such beverage.</p>	<p>A fine up to \$50 and/or completion of an alcohol awareness program and/or up to 30 hours of community service.</p>

## Health Risks

### Alcohol

**Short term:** Injuries, such as motor vehicle crashes, falls, drownings, and burns; Violence, including homicide, suicide, sexual assault, and intimate partner violence; Alcohol poisoning, a medical emergency that results from high blood alcohol levels; Risky sexual behaviors, including unprotected sex or sex with multiple partners. These behaviors can result in unintended pregnancy or sexually transmitted diseases, including HIV; Miscarriage and stillbirth or [fetal alcohol spectrum disorders \(FASDs\)](#) among pregnant women

**Long term:** High blood pressure, heart disease, stroke, liver disease, and digestive problems; Cancer of the breast, mouth, throat, esophagus, liver, and colon; Learning and memory problems, including dementia and poor school performance; Mental health problems, including depression and anxiety; Social problems, including lost productivity, family problems, and unemployment; Alcohol dependence, or alcoholism

## Drug and Alcohol Programs

### Students

**Off campus:** Family Counseling Services (Chemical Dependence Outpatient Services), Bridges (Madison County Council on Alcoholism), Alcohol Anonymous 24-hour hotline, Narcotics Anonymous Hotline



Employees

**On campus:** EAP (Employee Assistance Program)

**Off campus:** Family Counseling Services (Chemical Dependence Outpatient Services), Bridges (Madison County Council on Alcoholism), Alcohol Anonymous 24-hour hotline, Narcotics Anonymous Hotline

## **Disciplinary Sanctions**

1. **Legal:** The unlawful possession, use, or distribution of a controlled sub-stance or alcohol on the college premises or as a part of any college activity is prohibited. Students and employees who unlawfully manufacture, distribute, dispense, possess, or use a controlled substance or alcohol will be subject to disciplinary procedures consistent with applicable laws, rules, regulations, and collective bargaining agreements.
2. **Institutional:** The unlawful possession or use of any drug in any degree may result in sanctions as outlined in Article VI of the Student Handbook. Incidents are reviewed individually and students may be held accountable by both University Police and College Judicial Affairs for violations. Depending on severity and the circumstances of a case, College Judicial Affairs staffs have some discretion and options. Using their knowledge of a case and judgment, sanctions assigned are generally consistent with this progression:
  1. **First** offense. Student Development Module - A student may be directed to complete one or more development modules by a specific deadline. Campus Probation - A student placed on Campus Probation has been given notice that their actions are inappropriate within the College Community and they must act more responsibly in the future. The sanction emphasizes that future violations may result in more serious disciplinary.
  2. **Second** offense. Extended Campus Probation or College Probation. A student placed on College Probation is put on notice that their actions are of a serious nature within the College Community and they have jeopardized their privilege of attending SUNY Morrisville. Probation shall be for a designated period of time of no less than 6 months during which the student must demonstrate the willingness and ability to comply with College policies and the Student Code of Conduct. College Probation status may impact a student's ability to participate in college activities or programs, hold positions with campus offices and/or organizations, or run for or hold certain campus-wide leadership positions. Further violations of college policy or the code of conduct, may result in more severe sanctions, including suspension or expulsion from the College.
  3. **Third** offense. Depending on current disciplinary status could result in Residence Hall Expulsion and/or College Probation. Residence Hall Expulsion carries a ban from all Residence Halls and no refund of housing charges.

Sanctions can be assigned together and may deviate from this progression. SUNY Morrisville reserves the right to furnish written notification disclosing any violation involving the use or possession of alcohol or drugs to the parents and/or guardians of students who are under the age of 21 at the time of such notification.

## Where to Go for Help

The College encourages students to seek assistance if they or a friend have alcohol or other drug-related problems or questions from the following resources.

\* = Confidential assistance available.

### College:

* Student Health and Counseling Services Center 315-684-6078	Residence Life Staff - 315-684-6043
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### Beyond College:

* Alcoholics Anonymous (AA) - St. Joan of Arc 315-684-9551	* Narcotics Anonymous (NA) - St. Joan of Arc 315-684-9551
* Madison County Council on Alcoholism: Substance Abuse - 315-697-3947	* Madison County Mental Health Dept. (ADAPT Program) 315-363-2327

## **Drug Policy**

SUNY Morrisville, in a compliant effort with the 1989 Drug-Free Schools and Campuses Amendment Act (U.S. Public Law 101-226), is committed to an environment that supports the academic success and the health of all students. The sale, purchase, distribution, possession and/or use of illicit drugs (defined below) or alcohol (except as permitted) is a violation of College regulations as well as State and Federal laws. Students and their guests are not allowed to possess or consume alcoholic beverages on College property or property operated for the benefit of the College. Exception to this policy is granted to the Morrisville Auxiliary Corporation. Upon approval by the College President, Vice President, or Office of Student Rights and Responsibilities, alcohol may be served at College sponsored events or specifically approved student functions in the College restaurant, the Copper Turret. These functions must be serviced by the Auxiliary Corporation and operated in accordance with Federal, State and local laws under the license obtained by the Auxiliary Corporation.

It is the policy of SUNY Morrisville that no employee shall use, sell, distribute, dispense, possess, or manufacture any alcoholic beverage or illegal drug on the job site, on SUNY Morrisville property (including property leased or rented by SUNY Morrisville), while on duty, in a State vehicle, a vehicle leased or rented for State business, or a private vehicle being used for State business during the employees' work hours. An exception to the provision regarding alcoholic beverage manufacture will be made for classes requiring such or providing instruction on such. In this case, the manufacturing of alcoholic beverages will be permitted on campus property only in the classroom or educational setting. No employee shall report for work unfit for duty at the beginning of a shift or upon returning from any break, lunch or rest period, as a result of consuming alcohol and/or illegal drugs. No employee notified of being in a safety

sensitive position as defined by the OTETA shall report to work in a condition that violates the Act and the corresponding rules. This policy is meant to assist employees in guiding their conduct which will increase productivity at work, and protect co-workers and students. These efforts will contribute to a safer work and learning environment for the SUNY Morrisville community. See Appendix B.

It is the policy of Morrisville Auxiliary Corporation (MAC) to provide our employees and customers with a safe and productive workplace which is free of alcohol and drug abuse. MAC feels strongly that alcohol and drug abuse in the workplace can undermine individual performance, the security of other employees, and the company business. The establishment of a Drug-Free Workplace Policy is consistent with MAC’s desired culture and is in the best interest of MAC. For these reasons MAC is implementing a Drug-Free Workplace Program which applies to all employees as well as applicants for employment with MAC. Our policy formally states that the abuse of alcohol and/or illegal use of drugs by any of our employees while on MAC or College premises or on company business will not be tolerated.

Description of Applicable Sanctions

1. *NYS Penal Law: Article 222 - Offenses Involving Cannabis*; (from New York State Legislature web site: <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>)

<p><u>NYS Penal Law</u> <u>Offenses Involving cannabis</u></p>		
<p>§ 222.30 Criminal possession of cannabis in the third degree</p>	<p>Knowingly and unlawfully possesses cannabis and such cannabis weighs more than sixteen ounces; or concentrated cannabis and such concentrated cannabis weighs more than five ounces.</p>	<p><b>Class A misdemeanor:</b> imprisonment up to one year.</p>

second degree		parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 222.40 Criminal possession of cannabis in the first degree	Knowingly and unlawfully possesses cannabis and such cannabis weighs more than ten pounds; or concentrated cannabis and such concentrated cannabis weighs more than four pounds.	<b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.
§ 222.45 Unlawful sale of cannabis	Knowingly and unlawfully sells cannabis or concentrated cannabis.	A fine of not more than two hundred fifty dollars.
§ 222.50 Criminal sale of cannabis in the third degree	Knowingly and unlawfully sells more than three ounces of  cannabis or more than twenty-four grams of concentrated cannabis; or being twenty-one years of age or older, he or she knowingly and  unlawfully sells or gives, or causes to be given or sold, cannabis or  concentrated cannabis to a person less than twenty-one years of age	<b>Class A misdemeanor:</b> imprisonment up to one year.
§ 222.55 Criminal sale of cannabis in the second degree	Knowingly and unlawfully sells more than sixteen ounces  of cannabis or more than five ounces of concentrated cannabis; or being twenty-one years of age or older, he or she knowingly and  unlawfully sells or gives, or causes to be given or sold, more than  three ounces of cannabis or more than twenty-four grams of concentrated  cannabis to a person less than eighteen years of age selling, without consideration, one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of 2 g or	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.

	less); or one cigarette containing marihuana.	
§ 222.60 Criminal sale of cannabis in the first degree	Knowingly and unlawfully sells more than five pounds of cannabis or more than two pounds of concentrated cannabis.	<b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2nd time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2nd time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.
§ 222.65 Aggravated criminal sale of cannabis	Knowingly and unlawfully sells cannabis or concentrated cannabis weighing one hundred pounds or more.	<b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.

1. *Summary of Federal Drug Law* (available at [http://www.dea.gov/druginfo/ftp\\_chart1.pdf](http://www.dea.gov/druginfo/ftp_chart1.pdf))

**Federal Trafficking Penalties for Schedules I, II, III, IV, and V (except Marijuana)**

Schedule	Substance/Quantity	Penalty	Substance/Quantity	Penalty
		<b>First Offense:</b> Not less than 5 yrs. and not more than 40 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine of not more than \$5 million if an individual, \$25 million if not an individual.  <b>Second Offense:</b> Not less than 10 yrs. and not more than life. If death or serious bodily injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual.		<b>First Offense:</b> Not less than 10 yrs. and not more than life. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine of not more than \$10 million if an individual, \$50 million if not an individual.  <b>Second Offense:</b> Not less than 20 yrs., and not more than life. If death or serious bodily injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.  <b>2 or More Prior Offenses:</b> Life imprisonment.
II	Cocaine Base 28-279 grams mixture		Cocaine Base 280 grams or more mixture	
I	Fentanyl Analogue 10-99 grams mixture		Fentanyl Analogue 100 grams or more mixture	
I	LSD 1-9 grams mixture		LSD 10 grams or more mixture	
II	PCP 10-99 grams pure or 100-999 grams mixture		PCP 100 grams or more pure or 1 kilogram or more	

		mixture	Fine of not more than \$20 million if an individual, \$75 million if not an individual.
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Substance/Quantity	Penalty
Any Amount of Other Schedule I & II Substances	<b>First Offense:</b> Not more than 20 yrs. If death or serious bodily injury, not less than 20 yrs. or more than Life. Fine \$1 million if an individual, \$5 million if not an individual. <b>Second Offense:</b> Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual.
Any Drug Product Containing Gamma Hydroxybutyric Acid	
Flunitrazepam (Schedule IV) 1 Gram	
Any Amount of Other Schedule III Drugs	<b>First Offense:</b> Not more than 10 yrs. If death or serious bodily injury, not more than 15 yrs. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual. <b>Second Offense:</b> Not more than 20 yrs. If death or serious injury, not more than 30 yrs. Fine not more than \$1 million if an individual, \$5 million if not an individual.
Any Amount of All Other Schedule IV Drugs (other than one gram or more of Flunitrazepam)	<b>First Offense:</b> Not more than 5 yrs. Fine not more than \$250,000 if an individual, \$1 million if not an individual. <b>Second Offense:</b> Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.
Any Amount of All Schedule V Drugs	<b>First Offense:</b> Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual. <b>Second Offense:</b> Not more than 4 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.

## Health Risks

<https://www.cdc.gov/marijuana/health-effects.html>

Marijuana	<p><b>Short term:</b> Problems with attention, memory, and learning, which can affect relationships and mood; Increased heart rate; Increase risk of bronchitis, cough and lung infections; Disorientation, unpleasant thoughts or feelings, anxiety, paranoia</p> <p><b>Long term:</b> Permanent problems with memory and learning; Increased risk of stroke and heart disease; Damage lung tissue and cause scarring; Temporary psychosis (not knowing what is real, hallucinations, and paranoia), schizophrenia, depression, anxiety, suicide</p>
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## Drug and Alcohol Programs

Students

**On campus:** RSAES in Counseling Services (Referral for Substance Assessment and Education Services)

**Off campus:** Family Counseling Services (Chemical Dependence Outpatient Services), Bridges (Madison County Council on Alcoholism), Alcohol Anonymous 24-hour hotline, Narcotics Anonymous Hotline

Employees

**On campus:** EAP (Employee Assistance Program)

**Off campus:** Family Counseling Services (Chemical Dependence Outpatient Services), Bridges (Madison County Council on Alcoholism), Alcohol Anonymous 24-hour hotline, Narcotics Anonymous Hotline

## Disciplinary Sanctions

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### Beyond College:

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* Madison County Council on Alcoholism: Substance Abuse - 315-697-3947	* Madison County Mental Health Dept. (ADAPT Program) 315-363-2327

## **Sexual and Interpersonal Violence**

Sexual and Interpersonal Violence Awareness Educational programs include primary prevention and awareness programs for all incoming students and new employees. These educational programs include a statement about prohibited behaviors and definition of crimes; definition of consent, domestic violence, dating violence, sexual assault, and stalking; safe and positive bystander intervention; information on risk reduction, including ways to recognize warning signs of abusive behavior; information about disciplinary procedures; and information about campus and local resources.

Awareness programs are community-wide or audience specific programs and initiatives that serve to increase knowledge and to promote shared information and awareness of resources. Specifically, at SUNY Morrisville, we provide:

- Training for hearing officers, staff, and Police on trauma-informed and victim-centered approaches, and collaboration and coordination of services
- Training for student group officers and leaders of Student Government related to sexual and interpersonal violence, including identifying behaviors and reporting
- Information tabling in the lobby and at campus events
- Bulletin boards, and use of social media to raise awareness

Bystander Intervention Bystander Intervention programs and trainings offer safe and positive options for individual(s) to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Training sessions include information on recognizing situations of potential harm, understanding institutional structures and cultural



conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

Specifically, at SUNY Morrisville, we use the Step Up! program for Bystander Intervention Training.

Ongoing Prevention and Awareness Campaigns include programming initiatives and strategies that are sustained over time.

These efforts include:

- SUNY affirmative consent definition posters
- Pop up Outreach program Emails to students and employees
- Campus websites include updates on policy and procedures
- One Love Foundation Program: [joinonelove.org](http://joinonelove.org)

Employee training

All SUNY Morrisville employees complete mandatory training: Workplace Violence Prevention, Sexual Harassment Prevention, and Discrimination Prevention. These are offered through an online training system, as well as offered as in person programs annually. The Human Resources Office is responsible for tracking participants to ensure compliance.

Departments that offer training educational programs related to personal safety and crime prevention, including sexual and interpersonal violence.

University Police 315-684-6410 - The mission of the University Police Department is to provide a safe campus environment and protect the lives and property of our students, employees and visitors. University Police officers provide educational programs on the topics of alcohol, drugs, personal safety, domestic violence, sexual assault prevention, theft prevention, and fire safety.

Student Health and Counseling Services 315-684-6078 - Health Promotion and Alcohol and Other Drug Education programs. The staff work to develop and maintain comprehensive and prevention programs. The staff present programs in residence halls, classrooms and to student groups on a variety of health topics. Training sessions are offered to students, faculty and staff on a variety of topics that relate to safety, response to incidents, and general wellbeing. When it is reported during a counseling session that the student has been a victim of a crime, counselors provide information and resources. Counselors will also inform students about options to report crimes to the appropriate authorities. Counselors collaborate with campus and community entities, provide consultation and participate in campus-wide committees.

Employees Human Resources 315-684-6038 - All employees are required to complete annual training offered through in person sessions and an online training system. All participants are tracked to ensure compliance for this training. Follow-up reminder memos are emailed to the participants and Supervisors/Department Chairs if any employee fails to complete the training.

SUNY Morrisville prohibits sexual assault, sexual harassment, stalking, domestic violence, dating violence or any form of interpersonal violence and encourages the reporting of these instances so that the college can investigate. The definitions used to determine sexual and interpersonal violence are listed below.

**Sexual assault** - New York State does not specifically define sexual assault. However, according to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape as used in the FBI's UCR program. If a student is found responsible it will result in suspension for a minimum of the remainder of the semester or a maximum of the remainder of the semester + 2 semesters or expulsion from SUNY Morrisville. It is assumed that the victim/survivor did not give affirmative consent.

**Rape** - The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

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

**Statutory Rape** - Sexual intercourse with a person who is under the age of consent in New York State (17 years is the age of consent in New York State.)

**Sex Offenses, Lack of Consent:** Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without affirmative consent of the victim.

**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."

- Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- When consent is withdrawn or cannot be given, sexual activity must stop.
- Consent cannot be given when a person is incapacitated. Incapacitation 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.

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

### **Dating Violence**

Any act of violence, including physical, sexual, psychological, and verbal committed by a person who is or has been in a social relationship of a romantic or intimate nature with the other party. The existence of such a relationship can be determined based on a consideration of the length of relationship, the type of relationship, or the frequency of interaction between the persons disclosed in the persons own statements.

### **Domestic Violence**

Any act of violence, including felony or misdemeanor crimes of violence committed by a person who is:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common with
- Cohabiting with or has cohabitated with the victim as a spouse, or person similarly situated as the spouse under the domestic or family violence laws of the jurisdiction in which it occurs
- By law, prohibited from the victim under the domestic or family violence laws of the jurisdiction in which it occurs
- By law, prohibited from the victim under the domestic or family violence laws of the jurisdiction in which it occurs

### **Sexual Assault (Please refer to the sexual violence response policy)**

Any physical sexual act or acts committed against another person without affirmative consent. If a student is found responsible it will result in suspension for a minimum of the remainder of the semester or a maximum of the remainder of the semester + 2 semesters or expulsion from SUNY Morrisville. It is assumed that the victim/survivor did not give affirmative consent.

### **Sexual harassment**

Unwelcome oral, written, graphic, electronic or physical conduct of a sexual nature which is so severe or pervasive that a reasonable person would find intimidating, hostile or offensive regardless if it effectively denies the individual reasonable access to institutional programs, activities, and resources.

### **Stalking**

Any unwelcome course of conduct directed at a specific person that would cause a reasonable person emotional distress and create safety concerns. Examples include, but are not limited to, repeatedly following such person, repeatedly communicating by any means with such person, any act directly, indirectly or through third parties by any action, method, device or means to follow, monitor, observe, surveil, threaten, communicate to or about a person.

In recent years, “Title IX” cases have become a shorthand for any campus disciplinary process involving sex discrimination, including those arising from sexual harassment and sexual assault. But under the Final Rule, SUNY Morrisville must narrow both the geographic scope of its authority to act under Title IX and the types of “sexual harassment” that it must subject to its

Title IX investigation and adjudication process. Only incidents falling within the Final Rule's definition of sexual harassment will be investigated and, if appropriate, brought to a live hearing through the Title IX Formal Grievance Policy: see Appendix C.

SUNY Morrisville remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule. For cases that do not fall within the Title IX geography, the Sexual Assault Response Policy (below) will be used.

The Title IX Coordinator also coordinates compliance with intersecting laws such as NYS Article 129A, NYS Article 129B, the Clery Act, Violence Against Women Act as well as other state and federal mandates, SUNY policies and SUNY Morrisville policies.

### **Sexual Assault Response Policy**

The State University of New York and SUNY Morrisville are committed to providing options, support and assistance to victims/survivors of these crime and violations regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, or criminal convictions, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad.

We are committed to providing a safe and secure environment in which all members are treated with dignity and respect. To that end, the college takes the strongest possible stance against sexual misconduct in all its forms, including sexual harassment, sexual assault, sexual violence or the use of coercion, intimidation or exploitation of others for sexual purposes. The college is actively engaged in educating its members about these vital issues and in providing timely support and assistance to victims of sexual assault.

Complainants have multiple options when reporting either Sexual Harassment or Sexual Assault to the representatives of SUNY Morrisville. They may choose to exercise one option or a combination of options.

#### **Option 1 Campus Judicial action**

- A representative of the Office of Student Rights and Responsibilities will explain the college Judicial process as outlined in the Student Code of Conduct. Contact: Coordinator of Student Rights and Responsibilities, Helyar Hall, SUNY Morrisville, Morrisville, N.Y., 315-684-6070

#### **Option 2 Criminal action**

- Legal options and support will be explained by New York State University Police (UP)

#### **Option 3 Title IX Formal Grievance Policy action**

- The formal Title IX Grievance procedure will be explained to you as detailed on the college website. Contact: Coordinator of Equity, Inclusion & Title IX, Helyar Hall 112A, SUNY Morrisville, Morrisville, N.Y. 13408, 315-684-6997
- Option 4 File a report with no action

SUNY Morrisville reserves the right to pursue code of conduct violations without the participation of complainants.

**Sex Offenses, Lack of Consent:** Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim. Definitions relating to this policy are below:

**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.”

- Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- When consent is withdrawn or cannot be given, sexual activity must stop.
- Consent cannot be given when a person is incapacitated. Incapacitation 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.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

**Burden of proof** in all cases is “the preponderance of the evidence standard” – whether it is “more likely than not” that the violation occurred. If the evidence presented meets this standard, then the accused must be found responsible.

**Sexual assault** - New York State does not specifically define sexual assault. However, according to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape as used in the FBI’s UCR program.

**Rape** - The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

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

**Statutory Rape** - Sexual intercourse with a person who is under the age of consent in New York State (17 years is the age of consent in New York State.)

**Sexual harassment** - unwelcome verbal or physical conduct of a sexual nature that is sufficiently severe or pervasive to effectively alter or deny the individual reasonable access to University resources or that such conduct creates an intimidating, hostile or sexually offensive environment for learning, working or living on campus.

### **Students' Bill of Rights**

The State University of New York and SUNY Morrisville are committed to providing options, support and assistance to victims/survivors of these crime and violations regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, or criminal convictions, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad. Can also be viewed on the website at: [http://www.morrisville.edu/student\\_life/judicialaffairs.aspx](http://www.morrisville.edu/student_life/judicialaffairs.aspx).

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

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Decide whether or not to disclose a crime or violation and participate in the College judicial process and/or criminal justice process free from pressure from the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institutional representatives as practicable and not be required to unnecessarily repeat a description of the incident.
8. Be free from retaliation by the institution, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the College judicial process including during all meetings and hearings related to such process;
11. Exercise civil rights and practice of religion without interference by the investigative, criminal Justice, or College judicial process of the institution.

In accordance with the above Students' Bill of Rights, reporting individuals shall have the right to pursue more than one of the options below at the same time, or to choose not to participate in any of the options below:

#### **I-Reporting:**

- New York State University Police, SUNY Morrisville at: 315-684-6410
- Coordinator of Equity, Inclusion & Title IX, Helyar Hall 112A, SUNY Morrisville, Morrisville, N.Y. 13408, 315-684-6997

- Coordinator of Student Rights and Responsibilities, Helyar Hall, SUNY Morrisville, Morrisville, N.Y., 315-684-6070
- New York State Police Troop D-Morrisville at 315-684-9550
- Madison County Sheriff's at 315-366-2311
- Chenango County Sheriff's at 607-334-2000

## **II- Resources:**

- Be notified of existing campus and community-based medical, counseling, mental health and student services for victims of sexual assault whether or not the assault is formally reported to campus or civil authorities;
- Use the SUNY SAVR site for access to resources at <https://www.suny.edu/violence-response/>;
- Have access to campus counseling;
- Be informed of and assisted in exercising:
  - To consult with a local rape crisis or local victim assistance organization
  - To have a representative of such organization accompany the victim through the examination:
    - Any rights to confidential or anonymous testing for sexually transmitted infections, HIV, and pregnancy,
    - Any rights to preventive measures such as emergency contraception or HIV prophylaxis,
    - Any rights that may be provided by law to obtain the communicable diseases test results of sexual assault suspects,
    - To be informed by law enforcement of the examination of the evidence kit or transfer of the evidence kit,
    - To be informed by law enforcement if the DNA from the kit matches existing DNA profiles (but this information can be delayed prior to arresting a suspect).
- Be informed of the possible availability of crime victim assistance compensation through the New York State Crime Victims Board;

## **III- Protection and Accommodations:**

- Be given written notice describing options to pursue a criminal complaint with the appropriate law enforcement agency, to pursue the SUNY Morrisville's judicial conduct process, or to pursue both processes simultaneously;
- Reports of sexual assault will be investigated and evaluated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported;
- Victims shall receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities;
- Victims shall receive full, prompt, and victim-sensitive cooperation of campus personnel with regard to obtaining, securing and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault;
  - Within 96 hours of an assault, you can get a Sexual Assault Forensic Rape Examination (commonly referred to as a rape kit) at a hospital. While there should

be no charge for a rape kit, there may be a charge for medical or counseling services of campus and, in some cases, insurance may be billed for services. Anyone using these resources may let hospital personnel know if they do not want their insurance policyholder to be notified about access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found here: [ovs.ny.gov/victim-compensation](http://ovs.ny.gov/victim-compensation), or by calling 1-800-247-8035.

- To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.
- Campus personnel shall take reasonable and necessary actions to prevent further unwanted contact of the alleged victim by the alleged violator including issuing “No contact” orders in writing to all parties involved in a reported sexual assault;
- Be given written notice of options for and provided assistance in changing academic and living situations if such changes are reasonably available (The campus will promptly review existing interim measures or accommodations). The parties can submit evidence to support their request.

#### **IV – Administrative Measures**

- Both the reporting person and the respondent will be treated equally to ensure that both have equal rights and access to their education and resources.
- Emergency removal of the respondent will be reviewed in accordance with the emergency removal process.
- Residence Hall Relocation will be considered.

#### **Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases**

The health and safety of every student at the State University of New York and its State-operated and community colleges is of utmost importance. SUNY Morrisville recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. SUNY Morrisville strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to SUNY Morrisville officials or law enforcement will not be subject to 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.

The survivors’ personally identifiable information will be kept confidential and will maintain as confidential any accommodations or protective measures provided to the survivor so long as it does not impair the ability to provide such measures. Personally identifiable information about



victims will not be included in any publicly available record-keeping, including the reporting and disclosure of crime statistics.

The College will provide written notification to survivors regarding rights and options, including: available campus and off-campus services such as victim advocacy, counseling, health, mental health, legal assistance, visa and immigration assistance; available and applicable institutional disciplinary procedures, and an explanation of those procedures; confidentiality in protective measures and Clery reporting and disclosure; and reasonable and available options and assistance with changing academic, living, transportation, and working situations, regardless of whether they choose to report the crime to law enforcement.

No member of the college community shall retaliate, intimidate, threaten, coerce or otherwise discriminate against a person who files a complaint, serves as a witness, or assists or participates in a proceeding in any manner. Participants who experience retaliation should report incidents promptly.

Survivors' have control of the choices they can make. You don't have to report the assault to anyone if you don't want to. You can report it to a select group of confidential resources like counselors, rape crisis centers, or clergy. If you report it to another college employee, they have an obligation to contact University Police to officially record that a report was received. The matter will be investigated sufficiently to develop a thumbnail sketch of the reported situation to determine if there could be serious risk of further harm to you or members of the community.

The following are recommendations to assist you:

- Do not blame yourself. Sexual assault is *never* the survivor's fault.
- Go to a safe location.
- If you are injured, seek medical attention immediately.
- Do *not* shower, bathe, or douche. The only way medical evidence can be collected is if it is left intact.
- Contact one or more of the resources listed in the table.

If a friend has been assaulted or raped:

- Listen and be supportive.
- Let your friend make her or his own choices.
- Encourage your friend to immediately contact one of the sexual assault resources listed below.
- Stay with your friend during interviews and examinations if she or he wants you to do so.
- Take care of yourself. You may need to talk with someone about how this has affected you.

Resources listed in this section are available for you while at SUNY Morrisville. This is not an exhaustive list:

## COMMUNITY RESOURCES

SUNY Morrisville Norwich Campus and City of Norwich	
City of Norwich Fire & EMS Department	607-334-3411
UHS Chenango Memorial Hospital	607-337-4111
Title IX Coordinator, Morrisville Campus, Miguel Pereira	315-684-6997
New York State Police: Norwich	607-334-3296

**Chenango County Local Resources** (<http://ccspc.webs.com/resources>)

24 hours a day, 7 days a week:

- Mobile Crisis Assessment Team (MCAT) 877-369-6699 or 844-732-6228
- UHS Comprehensive Psychiatric Emergency Program (CPEP) 800-451-0560
- National Suicide Prevention Lifeline 800-273-TALK (8255) / TTY line: 800-799-4889

Monday - Friday 9:00 AM - 5:00 PM:

- Catholic Charities of Chenango County 607-334-8244
- Chenango County Behavioral Health Services 607-337-1600

Hotlines for other issues:

- National Domestic Violence Hotline 800-799-7233 / TDD: 800-787-3224
- NY State Domestic Violence Hotline English: 800-942-6906/Spanish: 800-942-6908
- National Child Abuse Hotline 800-422-4453
- NY State Central Register (to report child abuse) 800-342-3720
- National Parent Helpline (for parents looking for emotional support) 855-427-2736

Police Departments:

- Chenango County Sheriff's Office 607-334-4040 or 607-334-2000  
279 County Route 46, Norwich

\* Any urgent need for police, fire, or ambulance should be made by calling 911, who will in turn dispatch the appropriate agencies to assist.

Emergency Medical Services/Ambulance:

- Superior Ambulance Service, Inc. 607-772-1456
- City of Norwich Fire & EMS Department 607-334-3411
- Cooperstown Medical Transport 607-433-0000

\* Any urgent need for police, fire, or ambulance should be made by calling 911, who will in turn dispatch the appropriate agencies to assist.

Counseling/Advocacy:

- Catholic Charities of Chenango County 607-334-8244
- Chenango County Behavioral Health Service 607-337-1600
- Alcoholics Anonymous 607-722-5983
- Chenango County Drug & Alcohol 607-337-1680
- Opportunities for Chenango 607-334-7114
- Legal Aid Society of Mid-NY Helpline 877-777-6152
- Professional Counseling Center

Denise Spagnola, LCSW-R, CASAC, SAP, BCPCC  
Motivational interviewing therapist/trainer; Chemical Dependency Therapist  
(Accepts all major health insurance, Medicaid, Medicare)  
114 Genesee St.  
New Hartford, NY 13413  
(315) 733-0520  
despag@peoplepc.com

\*\*\*SUNY SAVR can be accessed 24 hours per day. Wherever you are located, for instant anonymous access to campus and community resources and important policies in over 120 languages go to <https://www.suny.edu/violence-response/>. Search by campus, zip code, or map location for the resources closest to you.

**Institutional Disciplinary Procedures**

The institutional disciplinary procedure for cases of domestic violence, dating violence, sexual assault, and stalking are the same for any other violation of the Student Code of Conduct. All proceedings must be prompt, fair, and impartial from initial investigation to final result. A proceeding is defined as “all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings or hearings.” The college will conduct a timely review of all complaints of domestic violence, dating violence, sexual assault, and stalking. Absent extenuating circumstances, review and resolution is expected to take place within sixty (60) calendar days from receipt of the complaint. Extension of all deadlines and time requirements may be extended for good cause as determined by the Office of Student Rights and Responsibilities. Both the respondent and the complainant will be notified in writing of the delay, the reason for the delay, and provided the date of the new deadline or event. An appeal of the results must be submitted within 5 days of receipt of the written result. Absent extenuating circumstances, decisions on appeals are typically issued within 5 days of the appeal proceeding. The burden of proof used in all cases is “the preponderance of the evidence.” Put another way, “whether it is more likely than not” that the violation occurred. If the evidence presented meets this standard, then the accused must be found responsible.

A student will receive written notification of the time and place of a hearing at least ten (10) days before the hearing, unless the student charged waives the 10-day minimum notification period. Whenever possible, written notification will be accomplished by personal delivery by a staff member. Methods of delivery may include one or more of the following: handing a notice to the student, delivery to the campus mailbox, E-mail as an attachment to the student’s college e-mail account. If a student cannot be found with reasonable diligence, delivery may be accomplished by sliding the notice under the door of the student’s on-campus room, or through the U.S. mail to

the student's off campus address. Phone calls, voice mail messages and fax transmissions are occasionally used to reinforce the notification process. These methods will be considered reasonable and sufficient methods of providing notification. Students are responsible for effectively monitoring their college e-mail account and mailbox. The Office of Student Rights and Responsibilities within 24-hours after the hearing concludes, or the next business day if the hearing concludes on a Friday, will communicate the findings to the accused parties and any College official who is determined to have a legitimate interest in the result. In cases involving sexual misconduct violations as well as dating violence, domestic violence, rape, and stalking, both the complainant and accused shall receive simultaneous notice of the results and sanctions imposed (and the rationale for the result and sanctions), as well as notice of the appellate procedures available, and any possible changes to the result that may occur before it becomes final.

Hearings shall be conducted by a judicial body according to the following guidelines:

- a) Hearings shall be closed to the public.
- b) Admission of any person to the hearing shall be at the discretion of the judicial body.
- c) In hearings involving more than one accused student, the judicial officer, at her/his discretion may permit the hearings concerning each student to be conducted separately.
- d) All parties have the right to be assisted by one advisor of their choice, at their own expense. (Ex: advisors may be a parent, attorney, etc.) Witnesses cannot act as advisors. The complainant and/or the accused student are responsible for presenting her/his own case. A student can quietly confer with their advisor during the hearing provided it does not interfere with the process. A student may request one 10-minute recess to speak with their advisor in private. Advisors may not actively participate in the hearing or interfere with the process. In cases that meet Title IX criteria, Advisors will conduct the cross-examination portion of the hearing. (If a party does not have an advisor, SUNY Morrisville will provide one for the cross-examination portion of the hearing. Parties cannot conduct the cross examination themselves.) Should an advisor interfere after being warned, the board chair will direct the advisor to immediately leave the hearing room.
- e) Conduct meetings below the judicial board level may be conducted without an advisor.
- f) Students that require any accommodations for the hearing process should inform the judicial Officer immediately so that all reasonable attempts to meet the requested accommodation can be made prior to the scheduling of the judicial hearing. (Ex: interpreter or language translator services for language barriers.)
- g) The complainant, the accused student, and the judicial body shall have the privilege of requesting witness participation and all are, subject to questioning by the judicial body. It is the student's responsibility to provide witness names and contact information to the judicial officer in writing at least 48 hours prior to the scheduled judicial hearing. It is the responsibility of the students to invite their witnesses to the hearing by providing them with the date, time, and location of the hearing.
- h) In all cases, the evidence in support of the charges shall be presented and considered. Pertinent records, exhibits, and/or written statements may be accepted as evidence for consideration by a judicial body at the discretion of the judicial body. All evidence must

be submitted by all parties no later than 24 hours in advance of the scheduled judicial hearing.

- i) All procedural questions are subject to the final decision of the judicial body with consult from the Office of Student Rights and Responsibilities hearing Administrator.
- j) After a hearing, the judicial body shall determine by majority vote, whether the student has violated the Student Code of Conduct as charged.
- k) The judicial body shall deliberate and reach its finding in closed executive session. The judicial body's determination shall be made on the basis of whether or not there is a preponderance of evidence which supports the finding of a violation, indicating that it is more likely than not that the accused student violated the Student Code of Conduct.
- l) All hearings, pre-hearing conferences, conduct meetings, and witness and party interviews may be audio recorded by the college judicial staff and maintained on a campus computer, server, or other storage medium consistent with retention practices for other documents in an investigation or conduct file. Only college judicial affairs staff may record the proceedings. No other recordings are permitted. Such recordings often contain personally identifiable and sensitive information about participants. Deliberations are not recorded. Judicial recordings shall be the exclusive property of the College. The Office of Student Rights and Responsibilities Office shall make arrangements for an accused student to have access to the recording for filing an appeal.
- m) If any party disrupts a hearing (by shouting, repeatedly interrupting others, or verbally or physically threatening individuals involved in the hearing, etc.), the presiding hearing officer has the right to remove the disruptive individual from the hearing after he or she fails to heed a warning. The hearing may continue in the absence of any removed party, or it may need to be rescheduled at the discretion of the Office of Student Rights and Responsibilities.
- n) If a student accused of violating College Policy fails to attend a scheduled hearing, the hearing may be held in the student's absence, and the student will be assumed to have entered a claim of Not Responsible to each charge, but forfeited her/his ability to present information or otherwise participate on her/his behalf. Findings and sanctions, if applicable, will be based on the evidence and not upon the accused student's failure to appear. If the judicial officer learns that the student's failure to appear is for good cause, the judicial officer may grant a new hearing. Otherwise, the decision of the hearing shall stand. Title IX cases will be heard according to the same absentia policy except SUNY Morrisville will provide an advisor to conduct the cross-examination portion of the hearing. Failure of the accused student to respond to the Judicial Office's correspondence will not prevent adjudication of the incident.
- o) Except in the case of a student charged with failing to obey the summons of a judicial body or hearing officer, no student may be found to have violated another part of the Student Code of Conduct solely because the student failed to appear before the judicial body. Upon receiving notification of the scheduled hearing date and time, the accused student or the claimant may request a one-time delay no later than 48 hours prior to the hearing.
- p) An accused student who withdraws from the college shall not be exempt from the disciplinary process for violations which took place prior to withdrawal. The judicial process may be initiated regardless of a student's current enrollment status. This includes conduct which occurs before classes begin or after classes end as well as during the

academic year and during periods between terms of actual enrollment. A hold may be placed on the student's account while the disciplinary review is pending. If a student leaves or attempts to withdraw from the College, the College may still proceed with disciplinary action. Should suspension or expulsion take place following the disciplinary process, these sanctions supersede a withdrawal from the College. Please note that disciplinary expulsions or suspensions result in 100% liability for all semester charges.

- q) Sanctions commence and terminate as specified by the assigning judicial body. The judicial body has flexibility to determine when the sanction is to begin and end within reason. Students who are separated (temporarily suspended, suspended for a period of time, or expelled permanently) from the College through the college judicial process have lost their student status for the time specified, unless their student status is restored through the college judicial process. Separated students are not permitted to attend classes, build their co-curricular transcript, travel on any college related trips, participate in intercollegiate athletics or intramurals, and to attend any events held on college property or property operated for the benefit of the college. While students who are separated by the college judicial process may be eligible to transfer earned credits to another institution, they are not permitted to complete coursework or transfer credits back to Morrisville State. At the discretion of the assigning college judicial body, separated students who are eligible to receive earned credits at the time of separation, may be permitted to complete coursework and/or receive earned credits. Separated students are not permitted to transfer credits back to SUNY Morrisville. Should a student who has completed degree requirements be charged with a violation of the Student Code of Conduct prior to commencement or the conferral of the degree, they are ineligible to graduate until the college judicial process is completed. In Title IX cases, a transcript notation will be placed on the students record as per the Title IX rules and regulations.

#### Due Process

Students should expect that disciplinary proceedings throughout the Judicial Process will be handled fairly. All SUNY Morrisville students accused of violating the Student Code of Conduct shall be granted the following due process rights:

1. A student has the right to have an advisor present at a hearing.
2. A student has the right to receive written notification of the time and place of a hearing at least ten (10) days before the hearing, unless the student charged waives the 10-day minimum notification period. Notification shall be electronically through Maxient via the student's college email.
3. A student has the right to request a one-time delay that, if reasonable, will be granted by the Office of Student Rights and Responsibilities or designee and to allow delays mutually agreed upon by all parties. In all instances of a delay being granted, written notification of the delay and the reason for the delay will be given to the complainant and respondent.
4. A student has the right to review a copy of the written report(s) in redacted form, supporting the allegations involved. This information shall be made available for review in the Office of Student Rights and Responsibilities office or hearing room upon request of students involved in a hearing.

5. A student with good reason has the right to object to a judicial board member or hearing officer who is serving in the capacity of judicial body. The Office of Student Rights and Responsibilities will determine the validity of the objection and designate a replacement.
6. A student has the right not to present information against her/himself.
7. A student has the right to hear and respond to information presented against her/him. This includes the right to appropriately question available parties in person or indirectly through appropriate technology. In Title IX cases questioning must be done through the advisor for each party. No direct questioning of the other parties is allowed.
8. A student has the right to present information and witnesses on her/his own behalf.
9. A student has the right to written notification of the results of a hearing after the hearing. In Title IX cases both the complainant and the respondent are entitled to simultaneous notification of the results. If the victim is deceased the college reserves the right to disclose the results to the next of kin.
10. A student has the right to appeal the outcome of an Administrative or Judicial Board hearing. Appellate Board decisions are final. In Title IX cases both the accused and the complainant have the right to appeal the outcome of a hearing. Appeal process will be followed and all appeal decisions are final.

#### Possible Sanctions

When an individual is found responsible for sexual assault the following sanctions are available:

- **College Expulsion (No Refund, Possible Loss of Grades for the Semester, Possible Transcript Notation)**

A student expelled may no longer attend classes or be on College property or property operated for the benefit of the College for any reason. Reinstatement or readmission is not possible. No refunds are allowed for a student who has been disciplinarily expelled.

- **College Suspension (No Refund, Possible Loss of Grades for the Semester, Possible Transcript Notation)**

Removal from the campus for a specified period of time before being allowed to seek readmission. A student suspended is not allowed to attend classes, build their co-curricular transcript, travel on any college related trips, participate in any type of athletic practice or competition, including intramurals, and are not allowed to attend any campus events or events held on campus during the specified period of time.

- **Residence Hall Ban (Entire Residence Hall System)**

A student who is banned from the Residence Hall system is not permitted to live in or visit any Residence Hall.

- **Residence Hall Expulsion**

A student who is expelled from the Residence Hall system is not permitted to live in or visit any Residence Hall. Students expelled from the Residence Halls for disciplinary reasons are not eligible for a refund.

- **Residence Hall Suspension (No Refund for the Semester)**

A student who is suspended from the Residence Halls is not permitted to live in or visit the Residence Hall system for a specified period of time. Once the suspension period is over, the student may reapply for housing.

When an individual is found responsible for dating violence or domestic violence, sexual harassment, or stalking the following sanctions are available:

- **College Expulsion (No Refund, Possible Loss of Grades for the Semester, Possible Transcript Notation)**

A student expelled may no longer attend classes or be on College property or property operated for the benefit of the College for any reason. Reinstatement or readmission is not possible. No refunds are allowed for a student who has been disciplinarily expelled.

- **College Suspension (No Refund, Possible Loss of Grades for the Semester, Possible Transcript Notation)**

Removal from the campus for a specified period of time before being allowed to seek readmission. A student suspended is not allowed to attend classes, build their co-curricular transcript, travel on any college related trips, participate in any type of athletic practice or competition, including intramurals, and are not allowed to attend any campus events or events held on campus during the specified period of time.

- **Residence Hall Ban (Entire Residence Hall System)**

A student who is banned from the Residence Hall system is not permitted to live in or visit any Residence Hall.

- **Residence Hall Expulsion**

A student who is expelled from the Residence Hall system is not permitted to live in or visit any Residence Hall. Students expelled from the Residence Halls for disciplinary reasons are not eligible for a refund.

- **Residence Hall Suspension (No Refund for the Semester)**

A student who is suspended from the Residence Halls is not permitted to live in or visit the Residence Hall system for a specified period of time. Once the suspension period is over, the student may reapply for housing.

- **Stayed College Expulsion**

A student placed on stayed college expulsion is being given one last chance to comply with the Student Code of Conduct and college policies. During the period of time on this sanction, the student must not be found responsible for any violations of the student code of conduct or the student may be subject to immediate activation of the expulsion.

- **Stayed College Suspension**

A student placed on stayed college suspension is being given the chance to finish their current semester before serving their suspension for a specified period of time. No refunds are allowed for a student who has been disciplinarily suspended so the student is given an opportunity to complete the semester so it is not lost. During the period of this sanction the student must not be



found responsible for any violations of the student code of conduct or the student may be subject to immediate activation of the suspension.

- **Stayed Residence Hall Expulsion**

A student placed on stayed residence hall expulsion is being given one last chance to comply with the Student Code of Conduct and college policies. During the period of this sanction the student must not be found responsible for any violations of the student code of conduct or the student may be subject to immediate activation of the expulsion from the Residence Halls.

- **College Probation**

A student placed on College Probation is put on notice that their actions are of a serious nature within the College Community and they have jeopardized their privilege of attending SUNY Morrisville. Probation shall be for a designated period of time of no less than 6 months during which the student must demonstrate the willingness and ability to comply with College policies and the Student Code of Conduct. College Probation status may impact a student's ability to participate in college activities or programs, hold positions with campus offices and/or organizations, or run for or hold certain campus-wide leadership positions. Further violations of college policy or the code of conduct, may result in more severe sanctions, including suspension or expulsion from the College.

- **Residence Hall Ban (From a Specific Residence Hall or Portion Thereof)**

A student whose privileges to enter a specific Residence Hall (or portion thereof) have been revoked is no longer permitted to live in or enter that facility (or portion thereof) for any reason. If they violate this directive, they will be subject to arrest for trespassing as appropriately defined in Article 140 through 140.17 of the New York State Penal Law.

- **Residence Hall Ban (All but Current Residence Hall)**

A student is only allowed to enter the Residence Hall in which they live. They are not permitted to enter any other Residence Halls without authorization from the Office of Residence Life. If they are found responsible for violating this sanction, they may be subject to arrest for trespassing as appropriately defined in Article 140 through 140.17 of the New York State Penal Law.

- **Residence Hall Relocation**

A student who is relocated to another Residence Hall is not permitted to live in or enter their former Residence Hall after relocation without authorization from the Office of Residence Life.

- **Apology Letter**

A student may be required to complete a letter of apology by an imposed deadline.

- **Behavioral Contract**

When a student is required to abide by written agreement that outlines specific behavioral restrictions, requirements, and resources that the student has agreed to as a condition to their continuation as a student.

- **Campus Probation**

A student placed on Campus Probation has been given notice that their actions are inappropriate within the College Community and they must act more responsibly in the future. Campus Probation will be for a designated period of time no more than 6 months. Further violations of college policy or the student code of Conduct, may result in more severe sanctions, including college probation, suspension or expulsion from the Residence Hall system or suspension or expulsion from the College.

- **Community Service**

A student may be required to abide by a community service assignment with specific service requirements and completion deadline.

- **Financial Restitution**

A student may be required to make reimbursement for damages by a specified deadline as long as there are no criminal charges filed.

- **Letter of Warning**

A student given a letter of warning has been received written notification that their behavior was inconsistent with College rules and regulations.

- **Student Development Module**

Students may be directed to complete development modules by a specific deadline. Failure to complete the sanction will result in the student being charged and found responsible for Failure to Comply which will result in 2 months being added to the other sanctions assigned.

- **Verbal Warning**

A student may receive a verbal warning at the discretion of staff when their behavior is inconsistent with College rules and regulations but not deemed serious enough to warrant further action.

- **Emergency Removal**

An emergency removal is an administrative action and does not effectuate, in any way, a pre-judging of the allegations against the respondent, who is entitled to a presumption of non-responsibility pending the completion of a College Judicial Board hearing.

An emergency removal enables the institution to respond quickly to an emergency. An institution may remove a respondent on an emergency basis whether a grievance process is underway or not. An emergency removal is not limited to instances where the complainant has reported an alleged sexual assault or rape, but could also be justified to address alleged severe, pervasive and objectively offensive verbal or online sexual harassment. The identification of an immediate risk situation is not limited to the details of the alleged sexual harassment incident itself, but may also evaluate and respond to a respondent's related post-incident actions or behaviors.

- **No Contact Order (With another Person)**

A No Contact Order is an Administrative action directed to parties of an incident to refrain from any form of contact or communication with the specified party. This is a campus order valid on

university property only. Prohibited contact includes but is not limited to: electronic, oral, or written to include email, texts, etc. This extends to all actions which may occur as a result of “third parties” (friends, family members, or acquaintances) acting on your behalf.

- **Temporary College Suspension**

A student may be temporarily suspended from SUNY Morrisville pending a College Judicial Board hearing. Temporary suspension means that they are banned from College property, or property operated for the benefit of the College, until disposition of the charges against them. Students placed on temporary suspension are to contact the Office of Student Rights and Responsibilities (315-684-6070) with questions about College rules, regulations, and the hearing process within three (3) days. A student who has been temporarily suspended is responsible for contacting faculty/staff regarding any absence, commitments on Campus, or course work. “Student Status” is frozen. Students who are suspended are not allowed to build their co-curricular transcript, travel on any college related trips, participate in any type of athletic practice or competition, including intramurals, and are not allowed to attend any campus events or events held on campus. In rare cases when a student must be temporarily suspended from the college prior to a college judicial board hearing, the Office of Student Rights and Responsibilities in consultation with the Provost, may remove the suspension prior to the judicial board hearing. Students are not permitted to withdraw while charges of the Student Code of Conduct are pending resolution in a college judicial board hearing. The campus will promptly review existing temporary suspensions at a party’s request, including requests to modify the terms or discontinue it. Parties can submit evidence to support their request.

- **Restorative Justice Process**

After review of the relevant facts in a given case, the reviewer(s) may decide to recommend that a case be handled through a restorative justice process instead of the judicial process. Restorative justice brings students together in small groups, empowers them to resolve conflicts and focuses on the needs of all involved. It is a non-judicial process used to deal with incidents where harm has been done to a person or community. It focuses on repairing that harm and restoring the balance of relationships among members of a community. Participation is voluntary and the person who did the harm has to accept responsibility for what they did.

- **No College Judicial Action**

After review of the relevant facts in a given case, the reviewer(s) may decide that no College Judicial action is necessary.

- **Pending College Judicial Action**

When students depart from the College with a College Judicial case pending, the case may remain “open” or under investigation. A hold will be placed on the students record and the student may not be allowed to return to the College until the case has been adjudicated through the College Judicial system.

For more information, review the Code of Conduct, <https://www.morrisville.edu/handbook/conduct>.

## **Employee Policies**

DRUG FREE WORKPLACE POLICY – Appendix B

TITLE IX FORMAL COMPLAINT GRIEVANCE POLICY – Appendix C

SEXUAL HARASSMENT PREVENTION POLICY- Morrisville State College Policy # 2101 – Appendix D

SEXUAL AND ROMANTIC RELATIONSHIP POLICY – Appendix E

## **Location of Registered Sex Offender Information**

The State of New York requires sex offenders to register with the Police Department or Sheriff's Department in the jurisdiction in which they reside. The State makes this information available to law enforcement agencies. This information is available to the public at the local police department. For information on sex offender registration go to [www.criminaljustice.ny.gov](http://www.criminaljustice.ny.gov) or contact the University Police at SUNY Morrisville located in Brooks Hall or call (315) 684-6410.

## **Disclosure of Crime Log Information**

The New York State University Police at SUNY Morrisville maintains a daily crime log that contains specified information about any and all reported crimes that occur within the patrol jurisdiction. The daily crime log can be viewed at the New York State University Police at SUNY Morrisville located in Brooks Hall. Certain information may be withheld from the crime log under specified circumstances, primarily information that would jeopardize the success of an investigation or the safety of a person involved in the investigation. The New York State University Police at SUNY Morrisville makes the crime log for the most recent 60-day period open to public inspection during normal business hours, while crime logs containing material more than 60 days old are retained for seven years for public inspection upon two days' notice.

## **Missing Student Policy and Procedure**

It is the policy of SUNY Morrisville to treat all reports of missing students as serious incidents and to investigate such reports completely. SUNY Morrisville University Police will thoroughly investigate all reports of missing students, treating every report as one where the person reported missing may be at risk, until significant information to the contrary is confirmed. The College encourages timely reporting of missing students to New York State University Police by all members of the SUNY Morrisville Community, to assist in locating students who are reported missing, and to comply with federal law as stated in the Missing Person Procedures of the Higher Education Opportunity Act 488(3) HEA section 485U1.

## **Response and Investigation**

**Missing student:** When a report of a missing student is received by SUNY Morrisville or local police agencies (i.e., NYS Police, Madison County Sheriff's Office), the receiving department will conduct a preliminary investigation in order to verify the complaint relating to the reported missing student. If the student's absence is verified, the incident will be reported and shared between departments. Both departments will continue the investigation to locate the missing student. If, after further investigation the missing student is not located, both departments will

determine the most efficient manner of continuing the investigation. In any event, information relating to any report of a missing student shall be shared by both parties no later than twelve (12) hours from the time of the initial report. If the missing student is located or returns to SUNY Morrisville at any time after the matter has been reported, each party shall notify the other immediately.

### **Reporting Missing Students**

A student may be considered to be missing if the student's absence is contrary to his or her usual pattern of behavior and unusual circumstances may have caused the absence. Such circumstances could include, but are not limited to: (1) absence from multiple classes; (2) indicators that a student may be a victim of foul play; (3) expressed suicidal thoughts; (4) indicators of drug dependency; (5) indicators that the student may be in a life-threatening situation or has been with persons who may endanger his or her welfare. SUNY Morrisville University Police suggests to all members of the SUNY Morrisville community that if there is a possibility that a student is missing, consult University Police as soon as possible, by calling 911.

Any College employee who receives information indicating that a student may be missing must report this information to University Police immediately whether the student is a resident or non-resident student. Any student, who believes that another student is missing, is encouraged to notify University Police as soon as possible. University Police will investigate all incidents of reported missing students and will exhaust all leads to locate resident students (those who live in on-campus facilities). In situations where the student is a non-resident (resides off campus), University Police will help notify the proper law enforcement agency in the jurisdiction where the student resides or was last seen and assist with the investigation. This notification will be done within 24 hours of receiving a credible report. Nothing in this policy requires the University Police to wait 24 hours before reporting to the law enforcement agency with jurisdiction. Upon receiving a report of a missing student, and conducting a preliminary check of the student's room and other areas on campus the student may frequent, University Police will notify the Provost and the Vice President of Student Affairs.

### **Procedures for Reporting a Missing Person/Student on the Norwich Campus:**

A SUNY Morrisville employee, student or other member of the college community receiving information regarding an alleged missing person/student should immediately report it to the University Police Department by doing one of the following:

Call (315) 684-6410, Norwich Campus staff (607) 334-5144 and Norwich City Police (607) 334-2424 or 911.

### **Procedures for reporting a missing person/student off campus in proximity to the Norwich Campus, call either:**

NYS Police (607) 334-3296 or 911

Chenango County Sheriff's Department (607) 334-2000

In the event that a student under the age of 18 years old is reported missing, his/her parents or legal guardian will be notified.

Efforts will be made to ensure confidentiality of missing person reports.

### **Emergency Contact Information**

At the beginning of each academic semester, all students will be notified of the following:

1. The student will have the opportunity to identify a contact person or persons whom will be notified within 24 hours of the determination by law enforcement that the student is missing;
2. This contact information will be confidential and will be accessible only to authorized university officials and it will not be disclosed except to law enforcement personnel involved in a missing persons investigation;
3. For students who are 18 years of age or older, this notification to the designated emergency contact person will be notified within but no later than 24 hours after the student is determined to be missing. Students who are under 18 years of age and not emancipated, the Dean of Students and/or University Police must notify the student's custodial parent or guardian within 24 hours of the determination that the student is missing and will also notify the student's designated emergency contact person.

### **Annual Fire Safety Report**

The Higher Education Opportunity Act (HEOA) requires two safety-related requirements for the institutions that participate in the federal student financial aid programs which follow:

1. **Fire Log:** Institutions must keep a fire log that states the nature of the fire, date, time and general location of each fire in on-campus student housing facilities. SUNY Morrisville complies with this rule by including all fire related incidents in the University Police Blotter. To view the most recent seven (7) days of information please contact University Police located in Brooks Hall at (315) 684-6410. The public can also view the most recent 60 days of fire related incidents by contacting the Office of Environmental Health and Safety located in Brooks Hall at (315) 684-6410.
2. **Annual Fire Safety Report:** Institutions with on-campus student housing must publish annually a fire safety report that provides information on campus fire safety practices and standards. SUNY Morrisville complies with this regulation by including all fire related incidents at on-campus student housing facilities as part of the *Annual Security & Fire Safety Report*. Information contained in this annual fire safety report includes: number and causes of fires at all on-campus student housing facilities, number of fire-related deaths; related injuries; value of fire related property damage; information on fire evacuation procedures; fire safety education and training programs; fire systems in each student housing facility; number of regular mandatory fire drills; and Fire Safety Policies for on-campus student housing facilities. The public can also view the annual fire safety report by contacting the Office of Environmental Health and Safety located in Brooks Hall building at (315) 684-6410.

### **Morrisville Main Campus Annual Security Report**

Institutions with more than one campus must comply independently with all of the CLERY Act and the fire and safety related HEA requirements. For the purpose of these requirements, a **separate campus** must meet the following requirements:

- Your institution owns or controls the site
- The site is not reasonably geographically contiguous with the main campus
- The site has an organized program of study

- There is at least one person on site acting in an administrative capacity

Under these requirements, the main campus of SUNY Morrisville must publish their own Annual Security Report as a separate campus.

Each semester, an e-mail notification is made to all enrolled students, faculty, and staff that provides the Annual Security Report, Norwich Annual Security Report, and Annual Fire Safety Report as attachments. The email also provides the link to the website to access these reports.

Anyone wishing to receive a hard copy of any of these Annual Reports, are invited to please stop by New York State University Police located in Brooks Hall or the Office of Student Rights and Responsibilities located in Helyar Hall, Morrisville, NY 13408. If you would like to request that a copy be mailed to you, please call (315) 684-6070.

Anyone wishing to receive a hard copy of the Norwich Annual Security Report, please stop by the SUNY Morrisville Norwich Campus Administration Office, located on the second floor at Roger W. Follett Hall, 20 Conkey Avenue, Norwich, NY 13815. If you would like to request that a copy be mailed to you, please call (607) 334-5144.

You may review the statistics contained in the Annual Security Report by accessing the U.S. Department of Education's website at <http://surveys.ope.ed.gov/campussafety>.

**2022 CLERY Statistics**

Part I – Primary Crimes											Part II – Arrests and Referrals						
	Criminal Homicide		Sex Offenses									Arrests and Referrals					
	Murder and Non-negligent Manslaughter	Negligent Manslaughter	Rape	Fondling	Incest	Statutory Rape	Robbery	Aggravated Assault	Burglary	Motor Vehicle Theft	Arson	Drug Arrests	Drug Referrals	Alcohol Arrests	Alcohol Referrals	Weapon Arrests	Weapon Referrals
On Campus – Residence Hall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
On Campus – Non-Residence Hall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total On Campus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Non-Campus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Public Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

There were no Unfounded Crimes for 2022.



**2022 CLERY Statistics Continued**

Part III - Hate Crimes														Part IV				
	Criminal Homicide		Sex Offenses											Criminal Incidents				
<u>Hate Crime Category Legend:</u> R=Race, G=Gender, REL=Religion, SO=Sexual Orientation, E=Ethnicity, NO=National Origin, GI=Gender Identity, D=Disability	Murder and Non-negligent Manslaughter	Negligent Manslaughter	Rape	Fondling	Incest	Statutory Rape	Robbery	Aggravated Assault	Burglary	Motor Vehicle Theft	Arson	Larceny/Theft	Simple Assault	Intimidation	Destruction/Damage/Vandalism of Property	Stalking	Dating Violence	Domestic Violence
On Campus – Residence Hall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
On Campus – Non-Residence Hall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total On Campus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Non-Campus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Public Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

There were no Unfounded Crimes for 2022.

**2021 CLERY Statistics**

Part I – Primary Crimes											Part II – Arrests and Referrals						
	Criminal Homicide		Sex Offenses									Arrests and Referrals					
	Murder and Non-negligent Manslaughter	Negligent Manslaughter	Rape	Fondling	Incest	Statutory Rape	Robbery	Aggravated Assault	Burglary	Motor Vehicle Theft	Arson	Drug Arrests	Drug Referrals	Alcohol Arrests	Alcohol Referrals	Weapon Arrests	Weapon Referrals
On Campus – Residence Hall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
On Campus – Non-Residence Hall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total On Campus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Non-Campus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Public Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

There were no Unfounded Crimes for 2021.

**2021 CLERY Statistics Continued**

Part III - Hate Crimes														Part IV				
	Criminal Homicide		Sex Offenses											Criminal Incidents				
<b><u>Hate Crime Category Legend:</u></b> R=Race, G=Gender, REL=Religion, SO=Sexual Orientation, E=Ethnicity, NO=National Origin, GI=Gender Identity, D=Disability	Murder and Non-negligent Manslaughter	Negligent Manslaughter	Rape	Fondling	Incest	Statutory Rape	Robbery	Aggravated Assault	Burglary	Motor Vehicle Theft	Arson	Larceny/Theft	Simple Assault	Intimidation	Destruction/Damage/Vandalism of Property	Stalking	Dating Violence	Domestic Violence
On Campus – Residence Hall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
On Campus – Non-Residence Hall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total On Campus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Non-Campus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Public Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

There were no Unfounded Crimes for 2021.

**2020 CLERY Statistics**

Part I – Primary Crimes										Part II – Arrests and Referrals							
	Criminal Homicide		Sex Offenses								Arrests and Referrals						
	Murder and Non-negligent Manslaughter	Negligent Manslaughter	Rape	Fondling	Incest	Statutory Rape	Robbery	Aggravated Assault	Burglary	Motor Vehicle Theft	Arson	Drug Arrests	Drug Referrals	Alcohol Arrests	Alcohol Referrals	Weapon Arrests	Weapon Referrals
On Campus – Residence Hall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
On Campus – Non-Residence Hall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total On Campus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Non-Campus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Public Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

There were no Unfounded Crimes for 2020.

**2020 CLERY Statistics Continued**

Part III - Hate Crimes														Part IV				
	Criminal Homicide		Sex Offenses											Criminal Incidents				
<u>Hate Crime Category Legend:</u> R=Race, G=Gender, REL=Religion, SO=Sexual Orientation, E=Ethnicity, NO=National Origin, GI=Gender Identity, D=Disability	Murder and Non-negligent Manslaughter	Negligent Manslaughter	Rape	Fondling	Incest	Statutory Rape	Robbery	Aggravated Assault	Burglary	Motor Vehicle Theft	Arson	Larceny Theft	Simple Assault	Intimidation	Destruction/Damage/Vandalism of Property	Stalking	Dating Violence	Domestic Violence
On Campus – Residence Hall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
On Campus – Non-Residence Hall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total On Campus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Non-Campus	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Public Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

There were no Unfounded Crimes for 2020.

## **APPENDIX A-Legal Definitions**

**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.

- Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- When consent is withdrawn or cannot be given, sexual activity must stop.
- Consent cannot be given when a person is incapacitated. Incapacitation 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.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

**Burden of proof** in all cases is “the preponderance of the evidence” – whether it is more likely than not that the violation occurred. If the evidence presented meets this standard, then the accused must be found responsible.

**Sexual assault** - New York State does not specifically define sexual assault. However, according to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape as used in the FBI's UCR program.

**Rape** - The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

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

**Statutory Rape** - Sexual intercourse with a person who is under the statutory age of consent in New York State (17 years is the age of consent in New York State.)

**Sexual harassment** - Unwelcome verbal or physical conduct of a sexual nature that is sufficiently severe or pervasive to effectively alter or deny the individual reasonable access to

University resources or that such conduct creates an intimidating, hostile or sexually offensive environment for learning, working or living on campus.

**Aggravated assault** - An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. Simple assaults are excluded.

**Arson** - Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

**Burglary** - The unlawful entry of a structure to commit a felony or a theft. Attempted forcible entry is included.

**Crime** - An act or the commission of an act that is forbidden or the omission of a duty that is commanded by a public law and that makes the offender liable to punishment by that law.

**Criminal Offense** - An infraction of law.

**Dating Violence** – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

**Domestic Violence** – A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of victim, by a person with whom the victim shares a child in common, by a person who is cohabitation with or has cohabitated with, the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime occurred.

**Drug Abuse Violations** - Violations of State and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (ex: morphine, heroin, codeine); marijuana; synthetic narcotics (ex: Demerol, methadone); and dangerous nonnarcotic drugs (ex: barbiturates, Benzedrine).

**Hate Crimes** - A hate crime, also known as a bias crime, is a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim.

**Larceny – Theft** – The unlawful taking, carrying, leading or riding away of property from the possession or constructive possession of another.

**Liquor Law Violations** - The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to

commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

**Motor Vehicle Theft** - The theft or attempted theft of a motor vehicle. A motor vehicle is self-propelled and runs on the surface and not on rails. Motorboats, construction equipment, airplanes, and farming equipment are specifically excluded from this category.

**Murder and Non-negligent Manslaughter** - The willful (non-negligent) killing of one human being by another.

**Non-campus** - Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by the school that is used in direct support of or in relation to the institution's education purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

**On-campus** - Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to the institution's educational purposes. These buildings include residential halls, any building or property that is owned by the institution but controlled by another person, those frequently used by students and those that support institutional purposes such as a food or retail vendor.

**Public Property** – All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

**Robbery** - The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Simple Assault** – Unlawful physical assaults by one person upon another where no weapon is displayed by the offender, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

**Stalking** - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or that would make a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress.

**Weapons Possession** - The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned.



## **APPENDIX B - Employee DRUG-FREE WORKPLACE POLICY**

The College, in compliance with the Federal Drug-Free Workplace act of 1988 and the DrugFree Schools and Communities Act of 1989, had adopted the following policy, which must be adhered to as a condition of employment:

A. Policy: The unlawful possession, use, or distribution of a controlled sub-stance or alcohol on the college premises or as a part of any college activity is prohibited. Employees who unlawfully manufacture, distribute, dispense, possess, or use a controlled substance or alcohol will be subject to disciplinary procedures consistent with applicable laws, rules, regulations, and collective bargaining agreements. Furthermore, on-the-job impairment from alcohol or controlled substances is prohibited.

B. Guidelines and Procedures: 1. Any college employee convicted of a criminal drug statute violation occurring in the workplace must provide written notification to his/her supervisor of the conviction within five (5) days after the conviction. As required by the Federal Drug-Free Workplace Act of 1988, the college will inform contracting or granting agencies of such convictions within ten (10) days after receiving notice of conviction. 2. Within 30 days of having received notification of an employee's conviction for a workplace drug statute violation, the college will take appropriate action up to and including termination or may require an employee to participate satisfactorily in an approved drug abuse assistance or rehabilitation program. 3. The college will make a good faith effort to maintain a drug/alcohol-free workplace. That effort will include drug awareness education programs, an Employee Assistance Program to assist employees seeking treatment and rehabilitation programs, and the implementation and strict enforcement of this policy.

## **APPENDIX C - TITLE IX FORMAL COMPLAINT GRIEVANCE POLICY**

### **Introduction**

#### **What is the purpose of the Title IX Formal Complaint Grievance Policy?**

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access our educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 that:

- Defines the meaning of "sexual harassment" (including forms of sex-based violence)
- Addresses how this institution **must** respond to reports of misconduct falling within that definition of sexual harassment, and
- Mandates a grievance process that this institution **must** follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment.

Based on the Final Rule, SUNY Morrisville will implement the following Title IX Formal Complaint Grievance Policy, effective August 14, 2020.

#### **How does the Title IX Formal Complaint Grievance Policy impact other campus disciplinary policies?**

In recent years, "Title IX" cases have become a short-hand for any campus disciplinary process involving sex discrimination, including those arising from sexual harassment and sexual assault. But under the Final Rule, SUNY Morrisville must narrow both the geographic scope of its authority to act under Title IX and the types of "sexual harassment" that it must subject to its Title IX investigation and adjudication process. **Only** incidents falling within the Final Rule's definition of sexual harassment will be investigated and, if appropriate, be brought to a live hearing through the Title IX Formal Complaint Grievance Policy defined below.

SUNY Morrisville remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule.

Specifically, our campus has the following policies:

#### **A Sexual Assault Response Policy:**

The State University of New York and SUNY Morrisville are committed to providing options, support and assistance to victims/survivors of these crime and violations regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, or criminal convictions, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad. We are committed to providing a safe and secure environment in which all members are treated with dignity and respect. To that end, the college takes the strongest possible stance against sexual misconduct in all its forms, including sexual harassment, sexual assault, sexual violence or the

use of coercion, intimidation or exploitation of others for sexual purposes. The college is actively engaged in educating its members about these vital issues and in providing timely support and assistance to victims of sexual assault.

**Sex Offenses, Lack of Consent:** Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.

**Definitions relating to this policy are below:**

**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.”

- Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- When consent is withdrawn or cannot be given, sexual activity must stop.
- Consent cannot be given when a person is incapacitated. Incapacitation 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.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

**Burden of proof** in all cases is “the preponderance of the evidence standard” – whether it is “more likely than not” that the violation occurred. If the evidence presented meets this standard, then the accused must be found responsible.

**Sexual assault** - New York State does not specifically define sexual assault. However, according to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape as used in the FBI’s UCR program.

**Rape** - The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

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

**Statutory Rape** - Sexual intercourse with a person who is under the age of consent in New York State (17 years is the age of consent in New York State.)

**Sexual harassment** - unwelcome verbal or physical conduct of a sexual nature that is sufficiently severe or pervasive to effectively alter or deny the individual reasonable access to University resources or that such conduct creates an intimidating, hostile or sexually offensive environment for learning, working or living on campus.

## Students' Bill of Rights

The State University of New York and SUNY Morrisville are committed to providing options, support and assistance to victims/survivors of these crime and violations regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, or criminal convictions, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad. Can also be viewed on the website at: [http://www.morrisville.edu/student\\_life/judicialaffairs.aspx](http://www.morrisville.edu/student_life/judicialaffairs.aspx).

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the College judicial process and/or criminal justice process free from pressure from the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institutional representatives as practicable and not be required to unnecessarily repeat a description of the incident.
8. Be free from retaliation by the institution, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the College judicial process including during all meetings and hearings related to such process;
11. Exercise civil rights and practice of religion without interference by the investigative, criminal Justice, or College judicial process of the institution.

In accordance with the above Students' Bill of Rights, reporting individuals shall have the right to pursue more than one of the options below at the same time, or to choose not to participate in any of the options below:

### **I-Reporting:**

- Resident Assistants and Resident Hall Directors
- New York State University Police, SUNY Morrisville at: 911
- Title IX Coordinator, Miguel Pereira, located in Helyar, 1st floor, SUNY Morrisville, Morrisville, N.Y. 13408, 315-684-6997 or via email at [pereirma@morrisville.edu](mailto:pereirma@morrisville.edu)
- Shannon Wiley, Interim Coordinator of Student Rights and Responsibilities, Helyar Hall, SUNY Morrisville, Morrisville, N.Y., 315-684-6070; [wileysl@morrisville.edu](mailto:wileysl@morrisville.edu)
- Norwich campus, Patricia Davis, Student Services Advisor, Roger W. Follett Hall, Norwich, NY, 13815, 607- 334-5111, or via email at [davispm@morrisville.edu](mailto:davispm@morrisville.edu)
- New York State Police Troop D-Morrisville at 315-684-9550
- Madison County Sheriff's at 315-366-2311

### **II- Resources:**

- Be notified of existing campus and community-based medical, counseling, mental health and student services for victims of sexual assault whether or not the assault is formally reported to campus or civil authorities;
- Use the SUNY SAVR site for access to resources at <https://www.suny.edu/violence-response/>;
- Have access to campus counseling;
- Be informed of and assisted in exercising:
  - Any rights to confidential or anonymous testing for sexually transmitted infections, HIV, and pregnancy,
  - Any rights to preventive measures such as emergency contraception or HIV prophylaxis,
  - Any rights that may be provided by law to obtain the communicable diseases test results of sexual assault suspects;
- Be informed of the possible availability of crime victim assistance compensation through the New York State Crime Victims Board;

### **III- Protection and Accommodations:**

- Be given notice describing options to pursue a criminal complaint with the appropriate law enforcement agency, to pursue the SUNY Morrisville’s judicial conduct process, or to pursue both processes simultaneously;
- Reports of sexual assault will be investigated and evaluated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported;
  - Victims shall receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities;
  - Victims shall receive full, prompt, and victim-sensitive cooperation of campus personnel with regard to obtaining, securing and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault;
  - Campus personnel shall take reasonable and necessary actions to prevent further unwanted contact of the alleged victim by the alleged violator including issuing “No contact” orders in writing to all parties involved in a reported sexual assault;
  - Victims shall be notified of the options for and assisted in changing academic and living situations if such changes are reasonably available (The campus will promptly review existing interim measures or accommodations). The parties can submit evidence to support their request.

#### **A Sexual Harassment Prevention Policy:**

The State University of New York College of Agriculture and Technology at Morrisville, heretofore referred to as SUNY Morrisville, is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of SUNY Morrisville’s commitment to a discrimination-free work environment. Sexual harassment is against the law<sup>1</sup> and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with SUNY Morrisville. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

#### **Policy:**

1. SUNY Morrisville’s policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with SUNY Morrisville. In the remainder of this document, the term “employees” refers to this collective group.

2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who is determined to have engaged in behavior which would violate this policy may be subject to disciplinary measures, up to and including termination of employment.
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports sexual harassment, provides information, or otherwise participates in any investigation of a sexual harassment complaint. SUNY Morrisville will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of SUNY Morrisville who is determined to have engaged in retaliation may be subject to disciplinary measures, up to and including termination of employment.
4. All employees, paid or unpaid interns, or non-employees working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, the Title IX Coordinator or Affirmative Action Officer. All employees, paid or unpaid interns or nonemployees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
5. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject SUNY Morrisville to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who are determined to have engaged in sexual harassment, including managers and supervisors who engage are determined to have engaged in sexual harassment or who allow such behavior to continue, are in violation of this policy and may be subject to discipline.
6. All reports and/or complaints of harassment, including sexual harassment, will be taken seriously and dealt with promptly.) In cases where an investigation is warranted, SUNY Morrisville will keep the investigation confidential to the extent possible. In cases where an investigation confirms a violation of this policy, appropriate corrective action will be taken. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
7. All employees are encouraged to report any harassment or behaviors that violate this policy. SUNY Morrisville will provide all employees a complaint form for employees to report harassment and file complaints.
8. Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of, to the Title IX Coordinator or Affirmative Action Officer.
9. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

### **What Is “Sexual Harassment”?**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient’s job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment. Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

### **Examples of sexual harassment**

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - o Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee’s body or poking another employee’s body;
  - o Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - o Requests for sexual favors accompanied by implied or overt threats concerning the target’s job performance evaluation, a promotion or other job benefits or detriments;
  - o Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person’s sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people’s ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - o Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual’s sex, sexual orientation, gender identity and the status of being transgender, such as:

- o Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform the job;
- o Sabotaging an individual’s work;
- o Bullying, yelling, name-calling.

**Who can be a target of sexual harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

**Where can sexual harassment occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

**Retaliation**

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.”

Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed;
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful.

**Reporting Sexual Harassment**

Preventing sexual harassment is everyone’s responsibility. SUNY Morrisville cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or nonemployee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager, the Title IX Coordinator or the Affirmative Action Officer. Anyone who witnesses or becomes aware of potential instances of



sexual harassment should report such behavior to a supervisor, manager, the Title IX Coordinator or the Affirmative Action Officer.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

### **Supervisory Responsibilities**

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the Title IX Coordinator or the Affirmative Action Officer.

Supervisors and managers who are determined to have engaged in sexual harassment, who fail to report suspected sexual harassment, or who otherwise knowingly allow sexual harassment to continue are in violation of this policy and may be subject to disciplinary action, up to and including termination.

Supervisors and managers determined to have engaged in retaliation may be subject to disciplinary measures, up to and including termination of employment.

### **Complaint and Investigation of Sexual Harassment**

All reports and/or complaints of harassment, including sexual harassment, will be taken seriously and dealt with promptly. In cases where an investigation is warranted, SUNY Morrisville will keep the investigation confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. SUNY Morrisville will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations will be conducted by the Title IX Coordinator, the Affirmative Action Officer or a designee of the institution and should be done in accordance with the following steps:

- Upon receipt of complaint, the Title IX Coordinator, the Affirmative Action Officer or a designee of the institution will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the

complainant), as appropriate. If complaint is verbal, encourage the individual to complete the “Complaint Form” in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.

- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - o A list of all documents reviewed, along with a detailed summary of relevant documents;
  - o A list of names of those interviewed, along with a detailed summary of their statements;
  - o A timeline of events;
  - o A summary of prior relevant incidents, reported or unreported; and
  - o The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the reporting individual and respondent of the final determination in writing and work with Human Resources and appropriate supervisors to implement any necessary corrective actions.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

### **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by SUNY Morrisville but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at SUNY Morrisville, 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. In addition to those outlined below, employees in certain industries may have additional legal protections. Union employees at SUNY Morrisville should consult with their union representative for additional details.

#### **New York State Division of Human Rights (DHR)**

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 sexual harassment, 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 of the harassment. 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 an HRL complaint in state court.

Complaining internally to SUNY Morrisville 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 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 sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment 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 harassment, 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](http://www.dhr.ny.gov). Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://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.

### **United States Equal Employment Opportunity Commission**

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 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 Page 8 of 8 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 1-800-669- 4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto: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.

### **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment 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 sexual harassment 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, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

### **Contact the Local Police Department**

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime, thus you may wish to contact the local police department.

A Sexual and Romantic Relationship Policy:

#### **Summary**

When faculty, staff and students exercise power and authority over other faculty, staff and students whether due to current supervisory, instructional, or other professional responsibility, or perceived influence or control over an educational or work experience, a power imbalance is created, which may impede the real or perceived freedom of the faculty, student or employee not to enter into a sexual or romantic relationship or to terminate or alter that sexual or romantic relationship. To address this power imbalance, the State University of New York (“the State University” or “SUNY”) Board of Trustees is requiring all SUNY campuses (State-operated campuses, community colleges, and statutory colleges) to adopt by March 1, 2019 a Sexual and Romantic Relationship policy, which must include specific elements enumerated below.

#### **Policy**

On or before March 1, 2019, each SUNY campus and System Administration shall individually develop, with input from appropriate members of their workplace and campus communities, including local governance, a sexual or romantic relationship policy which shall be widely disseminated to their respective communities, and which will, at a minimum:

- Apply to all faculty, students and staff (campuses shall further define whether students who are also employees are categorized for purposes of the policy as a student or staff);
- Prohibit any sexual or romantic relationships between faculty or staff members and students if there is an existing supervisory, evaluative or instructional relationship, unless the relationship is disclosed and supervision, evaluation or instruction is terminated in accordance with the policy;
- Require for sexual or romantic relationships between faculty or staff where there is a supervisory or reporting relationship between the participants that each employee inform an appropriate campus entity (which may be a supervisor, or the Director of Human Resources or equivalent, or, at the campuses’ option, the Title IX Officer or Coordinator) of such relationship;
- Require that for sexual or romantic relationships in the workforce (including for student-teaching assistants or graduate student teachers) alternative supervisory roles be created to ensure that supervisors in a consensual romantic or sexual relationship with an employee be removed from any evaluation of the employee, and from any activity or decision that may appear to reward, penalize, or otherwise affect the employment status of the employee;
- Make allowances for pre-existing relationships or marriages provided that the relationship is reported as required herein and that alternative supervisory relationships be established; and

- Require that discipline be imposed for any individual failing to follow the terms of the policy, up to and including termination.

A Student Code of Conduct:

The Student Code of Conduct defines certain behavior by students as a violation of campus policy, including:

**Sexual assault** - New York State does not specifically define sexual assault. However, according to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape as used in the FBI's UCR program. If a student is found responsible it will result in suspension for a minimum of the remainder of the semester or a maximum of the remainder of the semester + 2 semesters or expulsion from SUNY Morrisville. It is assumed that the victim/survivor did not give affirmative consent.

**Rape** - The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

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

**Statutory Rape** - Sexual intercourse with a person who is under the age of consent in New York State (17 years is the age of consent in New York State.)

**Sexual Harassment-** Unwelcome verbal or physical conduct of a sexual nature that effectively denies reasonable access to institutional resources, employment, academic performance or participation in institutional programs or activities and creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive.

**Stalking-** Any unwelcome course of conduct directed at a specific person that would cause emotional distress and effectively denies reasonable access to institutional resources, employment, academic performance or participation in institutional programs or activities and creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive.

**Unlawful Dissemination or Publication of an Intimate Image-** The intentional unlawful sharing of an image, of another person who is identifiable from the image or from information displayed in connection with the image, that are created under circumstances when the person depicted had a reasonable expectation that the image would remain private and the actor knew or reasonably should have known the person depicted intended for an image to remain private, regardless of whether the actor was present when an image was created, with intent to cause harm to the emotional, financial or physical welfare of that person. This includes sexually intimate images, created during the course of an intimate relationship, distributed without the depicted person's prior knowledge or without their consent.

**Assault, Abuse, Fighting-** Includes threatening or abusive conduct such as but not limited to the use of physical means to initiate or resolve conflict in retaliation or response to verbal provocation when retreat or withdrawal is a viable option, intentionally or recklessly causing physical harm to a person, intentionally or recklessly threatening or causing reasonable apprehension of such harm, the use of self-defense spray in an offensive manner, and holding someone against his or her will. For ease of reference, specific violations are offered in detail below.

**Dating Violence (Subcategory to Assault, Abuse, Fighting, and covered by the CLERY Act)-** This occurs when a person who is or has been in a social relationship of a romantic or intimate nature with the victim AND where the existence of such a relationship can be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

**Domestic Violence (Subcategory to Assault, Abuse, Fighting, and covered by the CLERY Act)-** Includes felony or misdemeanor crimes of violence committed by a person who is:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common with

- Cohabiting with or has cohabitated with the victim as a spouse, or person similarly situated as the spouse under the domestic or family violence laws of the jurisdiction in which it occurs
- By law, prohibited from the victim under the domestic or family violence laws of the jurisdiction in which it occurs

To the extent that alleged misconduct falls outside the Title IX Formal Complaint Grievance Policy, or misconduct falling outside the Title IX Formal Complaint Grievance Policy is discovered in the course of investigating covered Title IX misconduct, the institution retains authority to investigate and adjudicate the allegations under the policies and procedures defined above.

The elements established in the Title IX Formal Complaint Grievance Policy under the Final Rule have no effect and are not transferable to any other policy of the College except as narrowly defined in this Policy. This Policy does not set a precedent for other policies or processes of the College and may not be cited for or against any right or aspect of any other policy or process.

### **How does the Title IX Formal Complaint Grievance Policy impact the handling of complaints?**

Our existing Title IX office and reporting structure remains in place. What has changed is the way our Title IX office will handle different types of reports as detailed in full throughout Section 2.

## **Section 2: The Title IX Formal Complaint Grievance Policy**

### **General Rules of Application**

#### **Effective Date**

The Title IX Formal Complaint Grievance Policy will become effective on August 14, 2020, and will only apply to sexual harassment alleged to have occurred on or after August 14, 2020. Incidents of sexual harassment alleged to have occurred before August 14, 2020, will be investigated and adjudicated according to the process in place at the time the incident allegedly occurred.

#### **Revocation by Operation of Law**

Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require the elements of this policy, this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Formal Complaint Grievance Policy be revoked in this manner, any conduct covered under the Title IX Formal Complaint Grievance Policy shall be investigated and adjudicated through policies in place prior to August 14, 2020.

### **Non-Discrimination in Application**

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

## **Definitions**

### **Covered Sexual Harassment**

For the purposes of this Title IX Formal Complaint Grievance Policy, "covered sexual harassment" includes any conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity;
3. Sexual assault (as defined in the CLERY Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;
4. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the CLERY Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
5. Domestic violence (as defined in the VAWA amendments to the CLERY Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under New York domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of New York.
6. Stalking (as defined in the VAWA amendments to the CLERY Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

Note that conduct that does not meet one or more of these criteria may still be prohibited under the above reference policies.

### **Consent**

For the purposes of this Title IX Formal Complaint Grievance Policy, "consent" 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.”

- Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- When consent is withdrawn or cannot be given, sexual activity must stop.
- Consent cannot be given when a person is incapacitated. Incapacitation 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.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- 

Please note this is the same definition of consent used in the Sexual Assault Response Police found at <https://www.morrisville.edu/contact/offices/university-police/title-ix> and the Student Code of Conduct, found at <https://www.morrisville.edu/handbook/policies/sexual-assault-response>.

### **Education Program or Activity**

For the purposes of this Title IX Formal Complaint Grievance Policy, SUNY Morrisville’s “education program or activity” includes:

- Any on-campus premises
- Any off-campus premises that SUNY Morrisville has substantial control over. This includes buildings or property owned or controlled by a recognized student organization.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of SUNY Morrisville’s programs and activities over which the SUNY Morrisville has substantial control.

### **Formal Complaint**

For the purposes of this Title IX Formal Complaint Grievance Policy, “formal complaint” means a document – including an electronic submission - filed by a complainant with a signature or other indication that the complainant is the person filing the formal complaint, or signed by the Title IX Coordinator, alleging sexual harassment against a respondent about conduct within SUNY Morrisville’s education program or activity and requesting initiation of the procedures consistent with the Title IX Formal Complaint Grievance Policy to investigate the allegation of sexual harassment.

### **Complainant**

For the purposes of this Title IX Formal Complaint Grievance Policy, Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy.

### **Relevant evidence and questions**

“Relevant” evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.

“Relevant” evidence and questions do not include the following types of evidence and questions, which are deemed “irrelevant” at all stages of the Title IX Formal Complaint Grievance Process:

- Evidence and questions about the complainant’s sexual predisposition or prior sexual behavior unless:
  - They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
  - They concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent.
  - Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege. (*e.g., attorney-client privilege*)
- Any party’s medical, psychological, and similar records unless the party has given voluntary, written consent.

### **Respondent**

For the purposes of this Title IX Formal Complaint Grievance policy, Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this policy.

### **Privacy vs. Confidentiality**

References made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to *privacy* mean SUNY Morrisville offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. SUNY Morrisville will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

### **Disability Accommodations**

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

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

### **Making a Report Regarding Covered Sexual Harassment to the Institution**

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail,

using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator:

Name: Miguel Pereira

Title: Title IX Coordinator

Office Address: Helyar Hall

Email Address: pereirma@morrisville.edu

Telephone Number: 315-684-6997

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

### **Confidential Reporting**

The following Officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this policy:

- Title IX Coordinator or designee

### **Non-Investigatory Measures Available Under the Title IX Formal Complaint Grievance Policy**

#### **Supportive Measures**

Complainants (as defined above), who report allegations that could constitute covered sexual harassment under this policy, have the following right to receive supportive measures from SUNY Morrisville regardless of whether they desire to file a complaint, which may include:

- Use the SUNY SAVR site for access to resources at <https://www.suny.edu/violence-response/>;
- Have access to campus counseling;
- Be informed of and assisted in exercising:
  - To consult with a local rape crisis or local victim assistance organization
  - To have a representative of such organization accompany the victim through the examination:
  - Any rights to confidential or anonymous testing for sexually transmitted infections, HIV, and pregnancy,
  - Any rights to preventive measures such as emergency contraception or HIV prophylaxis,
  - Any rights that may be provided by law to obtain the communicable diseases test results of sexual assault suspects,
  - To be informed by law enforcement of the examination of the evidence kit or transfer of the evidence kit,
  - To be informed by law enforcement if the DNA from the kit matches existing DNA profiles (but this information can be delayed prior to arresting a suspect).
- Be informed of the possible availability of crime victim assistance compensation through the New York State Crime Victims Board;
- Campus personnel shall take reasonable and necessary actions to prevent further unwanted contact of the alleged victim by the alleged violator including issuing "No contact" orders in writing to all parties involved in a reported sexual assault;

- Be notified of the options for changing academic and living situations if such changes are reasonably available (The campus will promptly review existing interim measures or accommodations). The parties can submit evidence to support their request.

### **Emergency Removal**

SUNY Morrisville retains the authority to remove a respondent from SUNY Morrisville's program or activity on an emergency basis, where SUNY Morrisville (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal.

If SUNY Morrisville determines such removal is necessary, the respondent will be provided notice and an opportunity to challenge the decision immediately following the removal.

### **Administrative Leave**

SUNY Morrisville retains the authority to place a non-student employee respondent on administrative leave during the Title IX Formal Complaint Grievance Process, consistent with the Employee handbook.

## **The Title IX Formal Complaint Grievance Process**

### **Filing a Formal Complaint**

The timeframe for the Title IX Formal Complaint Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) calendar days after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of SUNY Morrisville including as an employee. For complainants that do not meet this criterion, the College will utilize existing policies listed above and if a complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine if a Formal Complaint is necessary. SUNY Morrisville will inform the complainant of this decision in writing, and the complainant need not participate in the process further but will receive all notices issued under this Policy and Process.

Nothing in the Title IX Formal Complaint Grievance Policy prevents a complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

### **Multi-Party Situations**

The institution may consolidate Formal Complaints alleging covered sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of covered sexual harassment arise out of the same facts or circumstances.

### **Determining Jurisdiction**

The Title IX Coordinator will determine if the instant Title IX Formal Complaint Grievance Process should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in {institution's} education program or activity; and
4. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

If all of the elements are met, SUNY Morrisville will investigate the allegations according to this Grievance Process.

### **Allegations Potentially Falling Under Two Policies:**

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

### **Mandatory Dismissal**

If any one of these elements are not met, the Title IX Coordinator will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Formal Complaint Grievance Policy. Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

### **Discretionary Dismissal**

The Title IX Coordinator may dismiss a Formal Complaint brought under the Title IX Formal Complaint Grievance Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- The respondent is no longer enrolled or employed by {the institution}; or,
- If specific circumstances prevent {the institution} from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any party may appeal a dismissal determination using the process set forth in "Appeals," below.

### **Notice of Dismissal**

Upon reaching a decision that the Formal Complaint will be dismissed, the institution will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties through their institutional email accounts. It is the responsibility of parties to maintain and regularly check their email accounts.

### **Notice of Removal**

Upon dismissal for the purposes of Title IX, SUNY Morrisville retains discretion to utilize the above-mentioned policies to determine if a violation has occurred. If so, SUNY Morrisville will promptly send written notice of the dismissal of the Formal Complaint under the Title IX Formal Complaint Grievance Process and removal of the allegations to the other policy.

### **Notice of Allegations**

The Title IX Coordinator will draft and provide the Notice of Allegations to any party to the allegations of sexual harassment. Such notice will occur as soon as practicable, after the institution receives a Formal Complaint of the allegations, if there are no extenuating circumstances.

The parties will be notified by their institutional email accounts if they are a student or employee, and by other reasonable means if they are neither.

The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above, and will issue a Notice of Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.

### **Contents of Notice**

The Notice of Allegations will include the following:

- Notice of the institution's Title IX Formal Complaint Grievance Process hyperlink to a copy of the process.
- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source;

### **Ongoing Notice**

If, in the course of an investigation, the institution decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise covered "sexual harassment" falling within the Title IX Formal Complaint Grievance Policy, the institution will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means.

The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

### **Advisor of Choice and Participation of Advisor of Choice**

SUNY Morrisville will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally.

SUNY Morrisville has a long-standing practice of requiring students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process as per standard policy and practice of SUNY Morrisville.

SUNY Morrisville will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for all parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

SUNY Morrisville's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this Policy, and SUNY Morrisville cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee.

SUNY Morrisville will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of Choice, and may offer the party the opportunity to obtain a different Advisor of Choice or utilize one provided by SUNY Morrisville.

### **Notice of Meetings and Interviews**

SUNY Morrisville will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

### **Delays**

Each party may request a one-time delay in the Grievance Process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties.

For example, a request to take a five day pause made an hour before a hearing for which multiple parties and their advisors have traveled to and prepared for shall generally not be granted, while a request for a five day pause in the middle of investigation interviews to allow a party to obtain certain documentary evidence shall generally be granted.

The Title IX Coordinator or designee shall have sole judgment to grant further pauses in the Process.

## **Investigation**

### **General Rules of Investigations**

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations.

SUNY Morrisville and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of this Policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from SUNY Morrisville and does not indicate responsibility.

SUNY Morrisville cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. SUNY Morrisville will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

### **Inspection and Review of Evidence**

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

1. Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility;
2. inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.
3. All parties must submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins.

The institution will make available the evidence for each party and each party's advisor, if any, to inspect and review. The Institution is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.



The parties will have ten (10) calendar days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing the Investigative Report.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

**Inclusion of Evidence Not Directly Related to the Allegations:**

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will not be disclosed, or may be appropriately redacted before the parties' inspection to avoid disclosure of personally identifiable information of a student. Any evidence obtained in the investigation that is kept from disclosure or appropriately redacted will be documented in a "privilege log" that may be reviewed by the parties and their advisors, if any.

**Investigative Report**

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence, and will provide that Report to the parties at least ten (10) business days prior the hearing for each party's review and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant.

**Hearing**

**General Rules of Hearings**

SUNY Morrisville will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing.

The live hearing may be conducted with all parties physically present in the same geographic location, or, at SUNY Morrisville's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. This technology will enable participants simultaneously to see and hear each other. At its discretion, SUNY Morrisville may delay or adjourn a hearing based on technological errors not within a party's control.

All proceedings will be recorded through audio recording. That recording or transcript will be made available to the parties for inspection and review upon request.

**Continuances or Granting Extensions**

SUNY Morrisville may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, SUNY Morrisville will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

**Participants in the live hearing**

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

#### Complainant and Respondent (The Parties)

- The parties cannot waive the right to a live hearing.
  - The institution may still proceed with the live hearing in the absence of a party, and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a “statement” by that party.
  - For example, A verbal or written statement constituting part or all of the sexual harassment itself is not a “prior statement” that must be excluded if the maker of the statement does not submit to cross-examination about that statement. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint.
- SUNY Morrisville will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party’s participation.
- If a party does not submit to cross-examination, the decision-maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a “statement” by that party.
- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party’s absence from the live hearing or refusal to answer cross examination or other questions.

#### The Decision-maker

- The hearing body will consist of a decision-maker.
- No member of the hearing body will also have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case, nor may any member of the hearing body serve on the appeals body in the case.
- No member of the hearing body will have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
- The parties will have an opportunity to raise any objections regarding a decision-maker’s actual or perceived conflicts of interest or bias at the commencement of the live hearing.

#### Advisor of choice

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
- The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the institution will select an advisor

to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.

- The advisor is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The advisor is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf.
- If neither a party nor their advisor appear at the hearing, SUNY Morrisville will provide an advisor to appear on behalf of the non-appearing party.

#### Witnesses

- Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation.
- If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing.

#### **Hearing Procedures**

For all live hearings conducted under this Title IX Formal Complaint Grievance Process, the procedure will be as follows:

- Decision-maker will open and establish rules and expectations for the hearing;
- The Parties will each be given the opportunity to provide opening statements;
- Decision-maker will ask questions of the Parties and Witnesses;
- Parties advisor will be given the opportunity for live cross-examination after Decision-maker conducts its initial round of questioning; During the cross-examination, the decision-maker will have the authority to pause cross-examination at any time for the purposes of asking decision-maker's own follow up questions; and any time necessary in order to enforce the established rules of decorum.
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Decision-maker. A Party's waiver of cross-examination does not eliminate the ability of the Decision-maker to use statements made by the Party.

#### **Live Cross-Examination Procedure**

Each party's advisor will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

Before any cross-examination question is answered, the decision-maker will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by the decision-maker may be deemed irrelevant if they have been asked and answered.

#### **Review of Recording**

The recording of the hearing will be available for review by the parties upon request, unless there are any extenuating circumstances. The recording of the hearing will not be provided to parties or advisors of choice.

### **Determination Regarding Responsibility**

#### **Standard of Proof**

SUNY Morrisville uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Policy occurred.

### **General Considerations for Evaluating Testimony and Evidence**

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision-maker.

Decision-makers shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a complainant, respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances. Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a party or witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

The Final Rule requires that SUNY Morrisville allow parties to call "expert witnesses" for direct and cross examination. SUNY Morrisville does not provide for expert witnesses in other proceedings. While the expert witness will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.

The Final Rule requires that SUNY Morrisville allow parties to call character witnesses to testify. SUNY Morrisville does not provide for character witnesses in other proceedings. While the character witnesses will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford very low weight to any non-factual character testimony of any witness.

The Final Rule requires that SUNY Morrisville admit and allow testimony regarding polygraph tests (“lie detector tests”) and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

Where a party or witness’ conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the {Decision-maker} may draw an adverse inference as to that party or witness’ credibility.

### **Components of the Determination Regarding Responsibility**

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institution email account, or other reasonable means as necessary. The Determination will include:

1. Identification of the allegations potentially constituting covered sexual harassment;
2. 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 parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section of the policy, if any, the respondent has or has not violated.
5. For each allegation:
  - a. A statement of, and rationale for, a determination regarding responsibility;
  - b. A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the respondent; and
  - c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient’s education program or activity will be provided by the recipient to the complainant; and
6. The recipient’s procedures and the permitted reasons for the complainant and respondent to appeal (described below in “Appeal”).

### **Timeline of Determination Regarding Responsibility**

If there are no extenuating circumstances, the determination regarding responsibility will be issued by SUNY Morrisville within ten (10) calendar days of the completion of the hearing.

### **Finality**

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed

consistent with the procedures and timeline outlined in “Appeals” below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

### **Appeals**

Each party may appeal (1) the dismissal of a formal complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal within five (5) calendar days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution’s own procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal. If a party appeals, the institution will as soon as practicable notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals should be typed and submitted in electronic form.

Appeals will be decided by an Appeal Decision-making Body of 3 people who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter.

Outcome of appeal will be provided in writing simultaneously to both parties, and include rationale for the decision. Decisions of the Appeal shall be final.

### **Retaliation**

SUNY Morrisville will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Formal Complaint Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute or as required by law, or to carry out the purposes of and including the conduct of any investigation, hearing, or judicial proceeding under this Title IX Formal Complaint Grievance Policy.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Title IX Formal Complaint Grievance Policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment.

## **APPENDIX D - Employee SEXUAL HARASSMENT PREVENTION POLICY**

The State University of New York College of Agriculture and Technology at Morrisville, heretofore referred to as SUNY Morrisville, is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of SUNY Morrisville's commitment to a discrimination-free work environment. Sexual harassment is against the law<sup>1</sup> and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with SUNY Morrisville. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

### **Policy:**

1. SUNY Morrisville's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with SUNY Morrisville. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who is determined to have engaged in behavior which would violate this policy may be subject to disciplinary measures, up to and including termination of employment.
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports sexual harassment, provides information, or otherwise participates in any investigation of a sexual harassment complaint. SUNY Morrisville will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of SUNY Morrisville who is determined to have engaged in retaliation may be subject to disciplinary measures, up to and including termination of employment.
4. All employees, paid or unpaid interns, or non-employees working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, the Title IX Coordinator or Affirmative Action Officer. All employees, paid or unpaid interns or nonemployees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
5. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject SUNY Morrisville to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who are determined to have engaged in sexual harassment, including managers and supervisors who engage are determined to have engaged in sexual harassment or who allow such behavior to continue, are in violation of this policy and may be subject to discipline.
6. All reports and/or complaints of harassment, including sexual harassment, will be taken seriously and dealt with promptly.) In cases where an investigation is warranted, SUNY Morrisville will keep the investigation confidential to the extent possible. In cases where an investigation confirms a violation of this policy, appropriate corrective action will be taken. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.



7. All employees are encouraged to report any harassment or behaviors that violate this policy. SUNY Morrisville will provide all employees a complaint form for employees to report harassment and file complaints.
8. Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of, to the Title IX Coordinator or Affirmative Action Officer.
9. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

#### What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex.

Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient’s job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

#### Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee’s body or poking another employee’s body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.

- Unwanted sexual advances or propositions, such as:
  - o Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
  - o Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - o Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
  - o Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - o Sabotaging an individual's work;
  - o Bullying, yelling, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity."

Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;

- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful.

### Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. SUNY Morrisville cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or nonemployee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager, the Title IX Coordinator or the Affirmative Action Officer. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, the Title IX Coordinator or the Affirmative Action Officer.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

### Supervisory Responsibilities

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the

Title IX Coordinator or the Affirmative Action Officer.

Supervisors and managers who are determined to have engaged in sexual harassment, who fail to report suspected sexual harassment, or who otherwise knowingly allow sexual harassment to continue are in violation of this policy and may be subject to disciplinary action, up to and including termination.

Supervisors and managers determined to have engaged in retaliation may be subject to disciplinary measures, up to and including termination of employment.

### Complaint and Investigation of Sexual Harassment

All reports and/or complaints of harassment, including sexual harassment, will be taken seriously and dealt with promptly. In cases where an investigation is warranted, SUNY Morrisville will keep the investigation confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. SUNY Morrisville will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations will be conducted by the Title IX Coordinator, the Affirmative Action Officer or a designee of the institution and should be done in accordance with the following steps:

- Upon receipt of complaint, the Title IX Coordinator, the Affirmative Action Officer or a designee of the institution will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
  - Request and review all relevant documents, including all electronic communications.
  - Interview all parties involved, including any relevant witnesses;
  - Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
    - o A list of all documents reviewed, along with a detailed summary of relevant documents;
    - o A list of names of those interviewed, along with a detailed summary of their statements;
    - o A timeline of events;
    - o A summary of prior relevant incidents, reported or unreported; and
    - o The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the reporting individual and respondent of the final determination in writing and work with Human Resources and appropriate supervisors to implement any necessary corrective actions.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

#### Legal Protections And External Remedies

Sexual harassment is not only prohibited by SUNY Morrisville but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at SUNY Morrisville, 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.

In addition to those outlined below, employees in certain industries may have additional legal protections. Union employees at SUNY Morrisville should consult with their union representative for additional details.

#### New York State Division of Human Rights (DHR)

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 sexual harassment, 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 of the harassment. 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 an HRL complaint in state court.

Complaining internally to SUNY Morrisville 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 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 sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment 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 harassment, 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](http://www.dhr.ny.gov). Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://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.

#### United States Equal Employment Opportunity Commission

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 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 Page 8 of 8 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 1-800-669- 4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto: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.

#### Local Protections

Many localities enforce laws protecting individuals from sexual harassment 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 sexual harassment 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, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

#### Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime, thus you may wish to contact the local police department.

## **APPENDIX E – SEXUAL AND ROMANTIC RELATIONSHIP POLICY**

### **Rationale:**

The State University of New York College of Agriculture and Technology at Morrisville, heretofore referred to as SUNY Morrisville, is strongly committed to being a community that promotes the exchange of ideas, builds mutual trust and respect, encourages communication, and reduces misunderstandings. This policy addresses situations that may lead to a breakdown of trust and respect resulting from sexual and amorous relationships. The college recognizes that the decision to engage in such relationships is a personal one. Nonetheless, to fulfill its legal and ethical obligations and commitment to promoting equal employment and educational opportunity and a safe and welcoming community for students and employees, the college states the following:

### **Policy:**

1. The Sexual and Romantic Relationship Policy applies to all employees, faculty, students, and staff. For the purposes of this policy, students who are employees of the campus, are subject to adherence and are categorized as employees.
2. Romantic or sexual relationships between employees and students over whom the employee has current supervisory, instructional, or other professional responsibility are discouraged, however, should such a relationship develop, it must be disclosed so that appropriate measures may be taken to remove the reporting relationship.
3. Consensual relationships between college employees and all students are strongly discouraged.
4. Sexual or romantic relationships between faculty or staff where there is a supervisory or reporting relationship between the participants must be reported to the appropriate campus entity. At SUNY Morrisville, faculty or staff engaged in a sexual or romantic relationship where this is a supervisory or reporting relationship must report their relationship to their appropriate supervisor and/or human Resources.
5. For sexual or romantic relationships in the workforce (including for student-teaching assistants or graduate student teachers) appropriate action will be taken upon a report of such a relationship. Appropriate action may involve the transfer of either the supervisor or employee, reassigning the responsibility to evaluate the employee to a different supervisor, or other actions deemed necessary and in the best interest of all parties.
6. Provisions will be made for pre-existing relationships or marriages where a potential supervisory relationship may develop. However, those pre-existing relationships should be revealed to the appropriate supervisor and/or human resources for review. Appropriate action may involve the transfer of either the supervisor or employee, reassigning the responsibility to evaluate the employee to a different supervisor, or other actions deemed necessary and in the best interest of all parties.
7. Individuals determined to be in violation of this policy may face disciplinary action, up to and including termination.

### **Elaboration:**

The college strives to create a welcoming environment for all employees, students, and visitors. It is the policy of the college to provide an environment where employees and students are free from harassment, including sexual harassment. When a party in a position of authority induces another to enter into a non-consensual relationship, the harm to the individuals and institution is

clear. Some relationships that are consensual may also be problematic. This policy addresses specific romantic and/or amorous situations between fellow employees; employees and students; and other sexual and romantic relationships where a supervisory or evaluative role could exist that could lead to a breakdown in mutual trust and respect and could result in a hostile working or learning environment.

#### Sexual and Romantic Relationships between Employees and Students

Sexual and romantic relationships between employees and students may be detrimental to the learning environment at the college. These relationships exceed professional, collegial, or academic partnerships. They are problematic because of the unequal status of the parties and the real or perceived conflict of interest, particularly when the employee has supervisory, instructional, or other professional responsibility over the student. This imbalance makes it difficult or impossible for the student to genuinely consent to entering into an amorous or sexual relationship and may impede the real or perceived freedom of the student to terminate or alter the relationship. All of these factors negatively impact the student's ability to benefit from the college.

The relationship may also negatively affect others in the classroom, department, office, team, or unit. It may create a real or perceived impropriety, sense of favoritism, loss of objectivity, and a conflict of interest in any supervisory, instructional, or other professional role. If a conflict of interest arises, the employee may also be in violation of the New York Public Officers Law, Section 74 "Code of Ethics". The relationship may damage the credibility or reputation of the employee, the department, or the college as a whole and may expose individuals or the institution to legal action and liability.

#### Sexual and Romantic Relationships between Employees

Relationships of a romantic and/or sexual nature between members of the College community other than students can present a conflict of interest in violation of the New York Public Officers Law responsibility for, the other.

Many of the concerns about intimate relationships between faculty members or employees and students also apply to relationships between supervisors and employees they supervise. Those relationships therefore are strongly discouraged. Supervisors shall disclose any such relationships to their supervisors in order to avoid or mitigate conflicts of interest in connection with the supervision and evaluation of the employees with whom they have an intimate relationship. Mitigation may involve the transfer of either the supervisor or employee, reassigning the responsibility to evaluate the employee to a different supervisor, or other appropriate action.

For purposes of this section, supervising an employee means supervising in an employment setting, including hiring, evaluating, assigning work, or making decisions or recommendations that confer benefits such as promotions, raises or other remuneration, or performing any other function that might affect employment opportunities.

Procedure:



It is the responsibility of the employee to disclose the relationship to their supervisor, Human Resources or the Affirmative Action Officer and to remove themselves from situations violating this policy. Employees found to be in violation of this policy may face disciplinary action, up to and including termination. Compliance with this policy does not protect any individual from a complaint of sexual harassment or discrimination. All such complaints will be addressed as outlined in the College's Discrimination Complaint Procedure.