Hudson Valley Community College

80 Vandenburgh Avenue, Troy, New York 12180

MINUTES

The regular meeting of the Board of Trustees of Hudson Valley Community College was held on Tuesday, August 18, 2020 via remote meeting and live streamed for the public on the college's website at www.hvcc.edu.

PRESENT

Neil J. Kelleher, Chairman
Judith Breselor
William Fagan
Thomas P. Grant
William C. Jennings
Wayne Pratt
Brian Zweig

EXCUSED

none

ALSO PRESENT

Dr. Roger A. Ramsammy, President
George J. Raneri, Secretary to the Board
Suzanne Kalkbrenner, Assistant Secretary

J. Ashdown
J. Bourdeau
J. Brennan
L. Coplin
J. DiLorenzo
S. Ely
E. Hatter
P. Hill
D. Kennedy
E. Kiel
P. Klimkewicz
R. LaGatta
P. Myers
K. Paquette
K. Petley
R. Pinke
G. Ricci
D. Shoemaker
R. Wilson

Chairman Kelleher called the meeting to order at 5:08 p.m. in honor and memory of the Board's Vice Chairman, Dr. Joseph A, Kapp, who passed away on August 5, 2020.

MINUTES

Upon a motion by Mr. Pratt, seconded by Mr. Fagan, the following resolution was adopted unanimously.

Resolved, that the minutes of the regular meeting of the Board of Trustees, held on June 23, 2020, be and hereby are, approved.

RETIREMENT INCENTIVE

Upon a motion by Mr. Grant, seconded by Dr. Jennings, the following resolution was adopted unanimously.

Resolved, that the request to approve a 2020 Retirement Incentive Program for employees of Hudson Valley Community College and the Capital District Educational Opportunity Center, be, and hereby is, approved, as follows:

RESOLUTION APPROVING A 2020 RETIREMENT INCENTIVE PROGRAM FOR EMPLOYEES OF HUDSON VALLEY COMMUNITY COLLEGE AND THE CAPITAL DISTRICT EDUCATIONAL OPPORTUNITY CENTER

WHEREAS, on February 25, 2020, the Board of Trustees approved a Retirement Incentive Program for eligible employees of the Faculty Association who retire with an effective date

of retirement during the open period commencing on March 15, 2020 and ending on May 16, 2020; and

WHEREAS, the College and the Capital District Educational Opportunity Center wish to offer a Retirement Incentive Program for all eligible employees;

WHEREAS, eligible employees must be a minimum of fifty-five (55) years of age with twenty (20) years of consecutive full-time service at Hudson Valley Community College with a combined total of age and service totaling at least eighty (80) years; and

WHEREAS, eligible employees must notify the President of Hudson Valley Community College in writing of their irreversible intent to retire no less than twenty (20) days before the effective date of retirement; and

WHEREAS, eligible employees who retire under this incentive will follow the terms and conditions for retirement in accord with their respective Collective Bargaining Agreement; and

WHEREAS, the 2020 Retirement Incentive Program provides for a one-time payout of one half (1/2) of the employee's 2019/2020 regular annual salary (no overtime, overload, stipends or additional earnings) up to a maximum of $40,000, which may be paid by separate check OR added to an account (sick bank) for the purpose of payment of insurance premiums during retirement, and

WHEREAS, eligible employees may retire under the Retirement Incentive Program only during the open period, from July 1, 2020 through August 30, 2020, with the last date of employment no later than August 30, 2020, and

WHEREAS, any employees who have already elected to or participated in the Faculty Retirement Incentive offered this past spring are not eligible to participate in this Summer Incentive, and

WHEREAS, the College has allocated one million dollars for this incentive and will distribute based on a first-come first-served basis on date of written notification to the President of irrevocable intent to retire; now, therefore, be it

RESOLVED, that the request for approval of the Retirement Incentive Program commencing on July 1, 2020 and ending on August 30, 2020 and detailed above, be, and hereby is, approved.

CHANGES TO THE JUDICIAL SYSTEM

Upon a motion by Ms. Breselor, seconded by Mr. Fagan, the following resolution was adopted unanimously.

Resolved, that the request to approve changes to the college's Judicial System, as recommended by the Academic Senate and the President, be, and hereby are, approved, and attached hereto as Exhibit A.

TITLE IX GRIEVANCE PROCESS

Upon a motion by Mr. Pratt, seconded by Ms. Breselor, the following resolution was adopted unanimously.

Resolved, that the request to approve Title IX Grievance Process, as outlined in Exhibit B attached hereto and made a part hereof, subject to any future edits that may be deemed necessary by the President and college counsel, be, and hereby is, approved.

Upon a motion by Mr. Fagan, seconded by Dr. Jennings, the following resolution was adopted, with Mr. Pratt abstaining.

CAPITAL CONSTRUCTION—GENERAL CONSTRUCTION, MODIFICATION OF AWARD OF CONTRACT, LANG TECHNICAL BUILDING

Resolved, that the request for approval to modify the amount of the Bette & Cring, LLC, for General Construction for the Lang Technical Building from $920,000 to $1,040,000 for the renovation project entitled, "Guenther Enrollment Services Center, Lang Technical Building, and Fitzgibbons Health Technologies Center – Renovations," be, and hereby is, approved.

Upon a motion by Mr. Pratt, seconded by Mr. Fagan, the following resolution was adopted, with Mr. Pratt abstaining.

CAPITAL CONSTRUCTION—ASBESTOS ABATEMENT, AWARD OF CONTRACT, LANG TECHNICAL BUILDING

Resolved, that the request for approval of the award of contract for Asbestos Removal for the Lang Technical Building in the amount of $66,000 to Martin Environmental Services, Inc., for the renovation project entitled, "Guenther Enrollment Services Center, Lang Technical Building, and Fitzgibbons Health Technologies Center – Renovations," be, and hereby is, approved.

INFORMATION ITEMS

The following information items were noted:

INFORMATION ITEMS

A. 2020/2021 COLLEGE DEPARTMENT CHAIR MERIT RECOMMENDATIONS

In accord with Article XI-2 of the Collective Bargaining Agreement between the College and the Hudson Valley Community College Department Chairpersons Association, Department Chairperson merit recommendations effective September 1, 2020 are outlined below.

DEPARTMENT CHAIR	**Salary 9/1/20**
Craig D'Allaird, Engineering, Architecture, Construction & Mathematics	$75,000
George P. Raneri, Applied Technologies	$79,000
Ricky Thibodeau, Business, Computer Science & Criminal Justice	$75,000

B. DEPARTMENT CHAIRPERSONS

1. School of Business and Liberal Arts
   Casey Jakubowski, Department Chair,
   Liberal Arts and Individual Studies Advising,
   f/t appt., eff. 6/25/20 or thereafter — $55,000/yr +$9,661 stipend

C. FULL-TIME FACULTY

1. School of Health Sciences
   Laura Itskov, Instructor,
   Nursing,
   f/t temp. appt., eff. 9/1/20 — $48,981/yr

Coretta Killikelly, Instructor,
Nursing,
f/t temp. appt., eff. 9/1/20 $48,981/yr

D. CLASSIFIED STAFF

1. Student Affairs
Jared Daus, Program Assistant,
Financial Aid,
f/t appt., eff. 8/10/20 $19.0610/hr

E. PART-TIME FACULTY

1. Academic Affairs
Thomas Carrigan, Instructor,
Workforce Development,
p/t appt., eff. 7/16/20 $60.00/hr

2. School of Health Sciences
Shelby Hansen, Instructor,
Dental Hygiene,
p/t appt., eff. 9/1/20 $1,113/sch

Kayla Koehler, Instructor,
Dental Hygiene,
p/t appt., eff. 9/1/20 $1,113/sch

F. PART-TIME NON-TEACHING PROFESSIONALS

1. Student Affairs
Keith Danzy, Head Women's Basketball Coach,
Intercollegiate Athletics,
f/t temp. appt., eff. 6/24/20 or thereafter $6,500/yr

Steven Kuzman, Head Women's Tennis Coach,
Intercollegiate Athletics,
f/t temp appt., eff. 7/16/20 $4,500/yr

Robert Stranahan, Head Esports Coach,
f/t temp appt., eff. 8/6/20 $6,500/yr

G. RETIREMENTS: JULY 2020 RETIREMENT INCENTIVE

1. Karola Berg, Secretary II, Academic Affairs, eff. 8/28/20
2. Nancy Cole, Secretary I, School of Engineering and Industrial Technologies, eff. 8/28/20
3. Charmaine Darmetko, Secretary I, Institutional Services and Events, eff. 8/14/20
4. Kimberly Denue, Program Assistant, Community & Professional Education, eff. 8/21/20
5. Ann Evancoe, Associate Professor, Biology, Chemistry & Physics, eff. 8/28/20
6. Michael Gardner, Senior Stationary Engineer, Physical Plant, eff. 8/28/20
7. Suzanne Garhart, Associate Professor/Education Specialist, Individual Studies, eff. 8/28/20
8. Sandra Goyer, Program Assistant Academics III, Medical Imaging, eff. 8/14/20
9. Tanya Hicks, Data Analysis Coordinator I, Purchasing, eff. 8/28/20
10. Ruth Kennedy, Senior Account Clerk, Payroll, eff. 8/28/20
11. Debra Kowalski, Coordinator for External Programs, Workforce Development, eff. 8/29/20
12. James Macklin, Director of Planning and Research, eff. 8/28/20
13. Rebecca Maroncelli, Technical Assistant, Civil and Construction, eff. 8/21/20

14. Amy McEwing, Coordinator, School of Technology Academic Advisement Center, eff. 8/28/20
15. Shawn McLaughlin, Building Maintenance Worker, Physical Plant, eff. 8/21/20
16. Michael McMann, Building Maintenance Worker, Physical Plant, eff. 8/28/20
17. David Soldini, Associate Professor, Business Administration, eff. 8/30/20
18. Kathleen Sweener, Executive Director of Student Development and Wellness, eff. 8/29/20
19. Gary Terk, Special Assignment Custodial Worker, Physical Plant, eff. 7/31/20
20. Ann Marie Tinsley, Typist, Purchasing, eff. 8/28/20
21. Lisa Van Wie, Director of Financial Aid, eff. 7/17/20
22. Sherry Wait, Program Assistant Academics III, Office of the Dean of STEM, eff. 8/28/20
23. Robin Webbe, Systems & Network Specialist, Information Technology Services, eff. 8/28/20

H. RETIREMENT

1. Peter Gemellaro, Assistant Professor, Criminal Justice, eff. 8/14/20

I. RESIGNATIONS

1. Alice Broussard, Assistant Coordinator of Institutional Advancement, E.O.C., eff. 8/3/20
2. James Constanza, Project Manager, Workforce Development, eff. 7/15/20
3. Dominique Davis, Assistant to the Coordinator of Institutional Advancement, E.O.C., eff. 7/10/20
4. Brandon Flower, Technical Assistant, Planning and Research, eff. 8/21/20
5. Ashley McCarthy, Senior Clerk, Continuing Education, eff. 6/30/20
6. Robert Piano, Assistant Men's Basketball Coach, eff. 5/24/20
7. Michael Rodman, Assistant Football Coach, Intercollegiate Athletics, eff. 6/14/20

J. HVCC MONTHLY FINANCIAL REPORTS

1. 2019-2020 Fiscal Year Operating Budget Summary as of 7/31/2020
2. Capital Expenditures, July 2020 and cumulative

EXECUTIVE SESSION

Upon a motion by Dr. Jennings, seconded by Mr. Fagan, an executive session was called at 5:14 p.m. for the purposes of discussing personnel and collective bargaining matters.

Upon a motion by Dr. Jennings, seconded by Mr. Fagan, the executive session was ended at 5:25 p.m. and Chairman Kelleher opened the meeting.

SEPTEMBER MEETINGS

The annual meeting and monthly meeting of the Board of Trustees will be held on Tuesday, September 22, 2020.

Chairman Kelleher paid tribute to Dr. Kapp, noting that he was one of the Board's longest-serving members. He also remarked that Dr. Kapp was a lot more than a scientist and an engineer; that he was extremely loyal, dedicated to Hudson Valley, and a great friend who is sorely missed by everyone. President Ramsammy stated that he had been in touch with the Kapp family, and that they will come to a future Board meeting when the Board and the college formally honors Dr. Kapp.

ADJOURNMENT IN MEMORY OF DR. JOSEPH A. KAPP

Upon motion by Ms. Breselor, seconded by Dr. Jennings, the meeting was adjourned in memory of Dr. Joseph A. Kapp at 5:26 p.m.

Suzanne Kalkbrenner
Assistant Secretary to the Board of Trustees

Exhibit A, College Judicial System,
Approved by the Hudson Valley Community College Board of Trustees
August 18, 2020

ARTICLE I.
PREAMBLE

1.1 Hudson Valley Community College ("College") is primarily concerned with academic achievement, the personal integrity of its Students and the wellness and safety of the members of its community. In addition, the College is committed to preserving peace, supporting a moral and just climate, maintaining a community where people are treated with courtesy and respect, meeting its contractual obligations, and protecting its property and that of its community members. The College, therefore, has established this Code of Conduct to communicate its expectations of Students, Visitors, College Personnel and Organizations.

ARTICLE II.
PURPOSE AND INTENT

2.1 The purpose of the College having codes and adjudication procedures is to enforce standards of conduct and curtail inappropriate behavior, as well as to assist the individual in resolving problems in an institutionally acceptable manner. The adjudication procedure provides a framework for the review of the substance of any alleged violation of the Code of Conduct. The individual is not absolved of responsibility for his or her own behavior. Each individual is responsible for accepting the fact that rights come with concomitant responsibilities and that violations of the codes may result in discipline.

2.2 The Student is charged with the responsibility of becoming familiar with the College's codes and regulations and the procedures for enforcing them and acting accordingly.

ARTICLE III.
DEFINITIONS

3.1 **"Campus Judicial Coordinator"** means the Coordinator of the College Judicial System. This is the person appointed by the College who is charged with the responsibility of ensuring that the procedures provided herein are adhered to in the processing and adjudication of complaints under the Code of Conduct. Campus Judicial Coordinator may also mean a designee of that office. The Campus Judicial Coordinator may also act as an investigator in any case.

3.2 **"Code of Conduct"** means the list of prohibited conduct established by the College, as more fully set forth in Article V and VII herein, which includes behavior that violates the College's Academic Ethics, Computer Ethics, and Campus Regulations, and also includes the procedures for enforcing the Code of Conduct.

3.3 **"College"** means Hudson Valley Community College, with its main campus located at 80 Vandenburgh Avenue in Troy, New York.

3.4 **"College Premises"** means all buildings or grounds owned, leased, operated, controlled or supervised by the College, including any buildings or grounds that are located off campus.

3.5 **"College-sponsored activity"** means any activity, on or off campus, which is initiated, aided, authorized or supervised by the College.

3.6 **"College Official"** means any full-time or part-time administrator, security guard or Public Safety officer.

3.7 **"College Personnel"** means all employees of the College who work either on the campus or on other property used for educational purposes by the College.

3.8 **"Faculty Member"** means any full-time or part-time Faculty Member.

3.9 **"Organization"** means any group of individuals recognized or otherwise licensed by the College, which includes Student groups, Faculty groups or any group existing outside of the College community which seeks to utilize the College Premises for its own organizational purposes.

3.10 **"President"** means the President of the College.

3.11 **"Vice President" or "Vice President for Student Affairs"** means the Vice President for Student Affairs or their designee.

3.12 **"Student"** means a person, including College Personnel, either enrolled in or auditing credit or non-credit courses at the College, on either a full-time or part-time basis.

3.13 **"Investigator"** means the individual designated to investigate any allegation of a violation of this Code of Conduct.

3.14 **"Reporting Student"** means a Student who is the alleged victim of an act of domestic violence, dating violence, stalking or sexual assault, regardless of how the incident was reported to the College.

3.15 **"Responding Student"** means any Student who is accused of violating this Code of Conduct.

3.16 **"Respondent"** means any Student for whom probable cause has been found that he or she violated this Code of Conduct.

3.17 **"Visitor"** means any individual who is not a Student nor otherwise affiliated with the College, but who is on the College Premises for a legitimate purpose.

Reference to any "**Time Limits"**: Days shall be defined as any day the College is open for business and shall EXCLUDE Saturdays and Sundays, any holiday the College has published as "College Closed," and emergency closings. Time limits may be waived for just cause under conditions that are set forth under the procedure affected.

ARTICLE IV.
JURISDICTION

4.1 Generally, College jurisdiction and discipline will be applied to conduct which occurs on College Premises, during off-campus activities related to the College, or which violates federal, state or local laws on or off the College Premises. Jurisdiction and discipline may also be applied at the discretion of the College to conduct which occurs off campus and which adversely affects the College, the College community or the interests and mission of the College, or when required by law. Students are responsible for, and may be subject to discipline for, the conduct of their guests. The college will, generally, only take jurisdiction over cases that occurred within the last calendar year.

4.2 College disciplinary proceedings may be instituted against a Student or an Organization charged with conduct that potentially violates both the criminal law and the College's Code of Conduct (that is, if both possible violations result from the same factual situation) without regard to the pendency of civil or criminal litigation or criminal arrest and prosecution. Proceedings under this Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Temporary delays requested by external municipal entities while law enforcement gathers evidence may be granted, but temporary delays should not exceed 10 (ten) days, except when law enforcement specifically requests and justifies a longer delay. Determinations made or sanctions imposed under this Code of Conduct shall not be subject to change because criminal charges arising out of the same facts that indicated a violation of the College's Code of Conduct were dismissed, reduced, or resolved in favor of or against the criminal defendant. The College has the obligation to cooperate with all police authorities. When the protection of life and property and the regular, orderly operation of the College require it, the assistance of these agencies will be requested as a matter of policy.

4.3 Conduct proceedings are governed by the procedures set forth herein as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions. The processes herein will not be conducted by individuals with a legal conflict of interest.

This policy will not apply if the allegation is deemed covered by the HVCC Title IX Grievance Policy pursuant to Federal Law.

ARTICLE V.
CODE OF CONDUCT FOR CAMPUS REGULATIONS AND COMPUTER ETHICS

5.0 CAMPUS REGULATIONS FOR STUDENTS, VISITORS, COLLEGE PERSONNEL AND ORGANIZATIONS

The College is charged by its sponsoring agency and by the State University of New York to attain its stated objectives. To properly discharge these responsibilities and to ensure a desirable relationship with the community, as well as the protection of all Students, Visitors, guests, College Personnel, and Organizations, certain regulations have been established. Students enrolling in the College's education programs and Visitors, guests, College Personnel and Organizations that are associated with or use the College facilities do so subject to the Code of Conduct. In cases where there is an alleged violation of the Code of Conduct, it is the policy of the College to afford each Student and Organization associated with the College the right to adjudicate the allegation in accordance with the adjudication procedures as set forth in this Code of Conduct. However, in cases where the Campus Judicial Coordinator or their designee deems the conduct, condition, or infraction to be of such nature that the alleged violator poses a present or future threat to the health, safety and welfare of themselves or the College or its community, they may take immediate action to suspend the Student or disband any Organization associated with the College prior to the initiation of the formal adjudication procedures. Visitors, guests and

organizations not affiliated with the College, while subject to these regulations, do not have rights to adjudicate any decision made which results in their removal from the College Premises. Any Student or Organization upon which temporary action has been taken has the right to have that action reviewed by the Campus Judicial Coordinator or the Vice President for Student Affairs at any time.

Any individual who believes they are victim of a crime, has the right to make a report to the College's Public Safety department, local law enforcement, and/or State Police, or choose not to report; to report the incident to the College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College.

Adjournments and delays in Hudson Valley Community College's Judicial System to resolve criminal or civil cases will not, generally, be entertained. Hudson Valley Community College does assist and participate with local law enforcement, and records kept by the College may be exchanged with law enforcement in accordance with applicable laws.

PROHIBITED CONDUCT
5.1 BIAS RELATED INCIDENTS

General Policy: Many individuals become targets of hateful or harassing acts because others are unable to accept differences based on race, gender, sexual orientation, gender identity, religion, age, ethnicity, national origin or disability.

Hudson Valley Community College condemns such acts. At Hudson Valley Community College, a hateful incident directed at an individual or group, owing to their differences, is viewed as an attack on the entire College community, and such acts simply will not be tolerated.

Nature of Bias-Related Crimes/Incidents on College Campuses: While physical attacks and vandalism are rare on college campuses across the nation, demeaning, threatening or harassing comments, gestures, jokes, phone calls, electronic communications or e-mails are not uncommon. Some bias incidents that do not violate criminal law do violate the College's Code of Conduct prohibiting harassment and discrimination.

Definitions:
Hate Crime: In general, a hate crime is a crime of violence, property damage, or threat that is motivated in whole or in part by an offender's bias regarding race, gender, sexual orientation, gender identity, religion, age, ethnicity, national origin or disability.

Hate or Bias Incidents: Hate or bias incidents involve behavior that is motivated by bias based on race, religion, ethnicity, national origin, gender, gender identity, disability, or sexual orientation. Unlike hate crimes, these incidents do not involve criminal conduct such as assault, threat, or property damage. Degrading comments motivated by bias are often considered to be bias incidents. Hate or bias incidents may also be violations of other

prohibited conduct set forth in this Code of Conduct, such as harassment, disorderly conduct or sexual harassment.[i]

Any individual who believes they may be the victim of a bias-related crime or incident, or that they may be a victim of domestic violence, dating violence, stalking or sexual assault, is directed to refer to the College's Anti-Discrimination and Enough is Enough policies.

5.2 SEXUAL VIOLENCE AND DOMESTIC VIOLENCE

Hudson Valley Community College respects the freedom of all Students to learn in an environment free of harassment, intimidation or violence in any form. The College supports victims of sexual assault, stalking, dating violence and domestic violence by strictly enforcing its Code of Conduct against offenders, and by providing support services to victims. These incidents will not be tolerated on College Premises and must be investigated if they allegedly occur between one or more Students enrolled at the College while off campus as well. For a complete description of College Policy, please refer to the SaVE Provisions of the Violence Against Women Act in the following section of the catalog.

Domestic Violence is defined by Hudson Valley Community College as any act which would constitute a violation of the penal law, including, but not limited to: loud disruptive arguing; threats of violence; assaults; harassment, including through social media or electronic communication; any non-consensual sexual activity; damaging property; theft; unwanted physical activity of any kind; stalking; or any other unwanted or unwelcomed activity if the incident occurs between spouses, intimate partners, former spouses or former intimate partners.

Dating Violence is defined by Hudson Valley Community College as any act as articulated above that occurs between individuals who are or were engaged in a social relationship of a romantic or intimate nature.

Sexual Assault is defined by Hudson Valley Community College as physical sexual act or acts committed against another person without consent. Sexual assault is an extreme form of sexual harassment. Sexual assault includes what is commonly known as "rape" (including what is commonly called "date rape" and "acquaintance rape"); fondling; statutory rape; and incest. The age of consent in New York State is 17 years old; any consensual or non-consensual sexual contact with a minor under the age of 17 is considered statutory rape in New York State.

Stalking is defined by Hudson Valley Community College as intentionally engaging in a course of conduct, directed at a specific person, that is likely to cause a reasonable person to fear for his or her safety or the safety of others. Examples include, but are not limited to, repeatedly following such person(s); repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s), and that serve no legitimate purpose; and repeatedly communicating by any means, including electronic means, with such person in a manner likely to intimidate, annoy, or alarm them. Such acts may be considered stalking by the

College at any time, but particularly when there has been clear communication that this contact is unwanted.

Affirmative Consent is defined by Hudson Valley Community College as a knowing, informed, voluntary and mutual decision among all participants to engage in sexual activity. Affirmative Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate Affirmative Consent. The definition of Affirmative Consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

Affirmative Consent must be clear and unambiguous. Seeking and securing Affirmative Consent is the responsibility of the person(s) initiating each specific sexual act, regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Affirmative Consent to any sexual act or prior consensual sexual activity, between or with any party, does not constitute Affirmative Consent to any other sexual act. Affirmative Consent may be initially given, but withdrawn at any time. When Affirmative Consent is withdrawn or cannot be given, all sexual activity must stop. Affirmative Consent cannot be given when a person is incapacitated and thus cannot knowingly choose to participate in sexual activity. Incapacitation occurs when an individual lacks the ability to fully and knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary); lack of consciousness or being asleep; being involuntarily restrained; if any of the parties are under the age of 17; or if and individual otherwise cannot provide Affirmative Consent. Affirmative Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

Victims of Sexual Violence, Domestic Violence or Dating Violence should seek immediate assistance. Counseling and support services can be accessed by contacting the appropriate Campus Judicial Coordinator or Title IX Coordinator. Assistance and counseling services may also be obtained by contacting:

Department of Public Safety by dialing 911 from any campus phone or by calling (518) 620-7210 from any cell phone or off-campus phone.

College Health Services (518) 629-7468

College Wellness Center (518) 629-7320

Rensselaer County 24-Hour Rape Crisis Center at Samaritan Hospital, Troy, NY (518) 271-3257 or

Sexual Assault and Crime Victim's Assistance at Samaritan Hospital, Troy, NY (518) 271-3639

By contacting any local law enforcement agency or hospital emergency room.

An order of protection may be obtained through a local criminal court if a criminal charge is pending, or through family court if the incident occurred between family members or

intimate partners. On-campus directives to stay away or limit contact may be obtained through the Campus Judicial Coordinator or their designee.

5.3 OTHER PROHIBITED CONDUCT

5.3.1 The obstruction or disruption of any College function or activity, including the classroom instructional environment, administration of the parking program, or service functions and activities is prohibited. This includes obstruction of the free flow of pedestrian or vehicular traffic, or the free access to, or exit from any part of the College Premises, as well as the unauthorized use or occupation of College buildings or College Premises.

5.3.2 Harassment of a Student or Students, Faculty Member, other College Personnel, College Official, Visitor, or the College as an institution by Student or Students, or by a non-Student or non-Students, is prohibited. Harassment includes any threat, in any way expressed or implied, to a person or property, or any obstruction or attempted obstruction of any individual's authorized movement on the College Premises. Harassment may also include the persistent use of abusive or offensive language, or any language or action that may promote physical violence or physical or psychological intimidation.

5.3.3 The display of any inflammatory or incendiary signs, posters, or banners, or the distribution of literature which encourages or promotes any actions that are prohibited under these Campus Regulations or the College Code of Conduct.

5.3.4 No firearms of any kind (including pellet guns, BB guns, handguns, and rifles), explosives (including firecrackers and fireworks), live ammunition of any kind, noxious bombs, or any other devices which are illegal under city, town, county, state or federal ordinance or law may be brought, possessed, or used on College Premises. Duly authorized peace officers or police officers are exempted.

5.3.5 No cutting instruments, knives, or blades, nor any other weapon, is allowed on College Premises, except folding pocket knives two inches or under or those instruments needed for legitimate school purposes.

5.3.6 Possession, transportation, and/or the use of any illegal drug on College Premises is prohibited.

5.3.7 (a) No alcoholic beverage may be brought, possessed, or consumed on College Premises. The President of the College is the only person who can approve events at which alcoholic beverages can be consumed on campus. Information regarding alcohol or drug abuse or addiction treatment can be obtained through the Wellness Center.

(b) No person who may appear to be intoxicated or affected by an illegal drug is allowed on the College Premises.

5.3.8 Gambling of any kind is prohibited.

5.3.9 Unauthorized use of the College's duplicating or reproduction equipment, public address systems, buildings, grounds, offices, email or radio station is prohibited. Authorization for such use may be granted only by the College President or their designee.

5.3.10 Any and all official information related to the College and its operation shall be transmitted to news media only through the College's Communications and Marketing Office. Arrangements for reporters and/or radio or television station representatives to report or televise events on College Premises shall be made only by the Communications and Marketing Office. Any other arrangements are unauthorized, and the College reserves the right to bar or remove unauthorized news media representatives from the College Premises.

5.3.11 Defacing, damaging, or maliciously destroying the property of the College, or of any Faculty, other College Personnel, or Student, is prohibited.

5.3.12 Student Identification: All Students and College Personnel are required to obtain and carry College identification cards at all times and to present them upon request to any College Official or Faculty Member. Other identification must be shown if such a request is made and the person questioned does not have an ID card in his/her possession. Loss of an ID card must be reported to the Department of Public Safety immediately.

(a) All Visitors must be on the College Premises for a legitimate purpose. Visitors should request temporary Visitor Identification Cards and temporary parking permits at the Department of Public Safety. The College reserves the right to determine whether the purpose of the visit is legitimate. If it is not, Visitors will be asked to leave and those individuals or organizations that invited unapproved Visitors may be sanctioned.

(b) Visitors are required to park in designated lots and show identification when requested to do so by the Department of Public Safety, security or administrative officers. Failure to do so or to leave when requested will result in such Visitors being considered as trespassers subject to arrest.

5.3.13 Disorderly or unlawful behavior is prohibited and may be prosecuted by the College under this procedure, whether or not such behavior is the subject of prosecution in any civil or criminal court.

5.3.14 Reckless or intentional actions which endanger the mental or physical health of Students, Faculty or other College Personnel are prohibited. The forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization is prohibited.

5.3.15 Threats of harm to the safety or security of the College or the College community are prohibited whether made in person, online, via social

media or in any way that causes alarm to any member of the College community. Inciting others toward acts of violence is prohibited.

5.3.16 Hudson Valley Community College is a smoke-free campus. Chewing tobacco or using any product or similar product or device, such as pipes, cigars or cigarettes, or personal vaporizers, is prohibited on College Premises and in vehicles on College Premises, and in buildings, grounds or vehicles owned, leased, operated, controlled or supervised by the College, including any buildings or grounds located off campus. The use or possession of marijuana on College Premises is strictly prohibited.

5.3.17 False alarms, bomb scares, or any form of false reporting submitted to any law enforcement or College agency involving alleged incidents or occurrences on College Premises is prohibited.

5.3.18 Unlawful behavior that is motivated in the selection of the victim or commission of an offense by a perception regarding race, color, national origin, ancestry, gender, religion, religious practice, age, disability, sexual identity, or sexual orientation is prohibited and may result in the imposition of more severe penalties.

5.3.19 Certain violations of the Academic Code of Ethics at the discretion of the Vice President for Student Affairs can be pursued as violations of Campus Regulations and the College Code of Conduct.

5.3.20 Willfully failing to comply with the directives of College Personnel is prohibited. Students must comply with any and all directives to meet with Investigators and must comply with the directives of Public Safety officers at all times.

5.3.21 Intentionally furnishing the College with false information is prohibited.

5.3.22 Any activity that would be a violation of any federal, state or local statute is prohibited on College Premises.

5.3.23 Self-propelled vehicles on Campus: Skateboarding, roller skating, rollerblading, or the use of foot-operated recreational scooters is prohibited on College Premises. Bicycles are permitted on College roadways and in College parking areas but must be walked on College walkways and sidewalks. The College reserves the right to determine the use of other devices or self-propelled vehicles on College Premises.

5.3.24 Violation of published College policies or regulations is prohibited, including, without limitation, violation of the following:
(a) Parking and traffic regulations
(b) Smoke-free policy
(c) Alcohol and drug policy
(d) Any other published College policies, rules and regulations, including those related to the entry into and/or use of College rooms, buildings, grounds, and facilities.

Any retaliatory action of any kind taken against a person seeking redress under these procedures is prohibited and shall be regarded as a separate and distinct cause for complaint under these procedures.

GOOD SAMARITAN POLICY: The health and safety of every Student at Hudson Valley Community College is of utmost importance. Hudson Valley Community College recognizes that Students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence occurs, including but not limited to domestic violence, dating violence, stalking, or sexual assault, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages Students to report any act of violence, including domestic violence, dating violence, stalking, or sexual assault, to College Officials. A bystander acting in good faith or a reporting individual acting in good faith who discloses any incident of violence, domestic violence, dating violence, stalking or sexual assault to College Officials or law enforcement will not be subject to College Code of Conduct disciplinary action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the act of violence, domestic violence, dating violence, stalking or sexual assault.

Hudson Valley Community College supports Students who reach out for assistance in the case of a medical emergency and supports the Student who is helped. Therefore, a Student or Student Organization will not be subject to disciplinary sanctions related to their own violation of College Code of Conduct alcohol and/or drug use or possession policies, on or off campus, when seeking medical treatment for:

- **Themselves or;**
- **Any other Student who is in immediate medical need or;**
- **Any Student who is the recipient of the emergency medical help, particularly if the Student is seeking medical help for any Student who is the victim of a crime.**

The College strongly encourages bystanders to respond to potentially dangerous situations by reporting the incident promptly, without fear of reprisal. However, if the circumstances dictate, the College reserves the right to notify parents of Students under the age of 21, or to encourage counseling for Students at any time if the well-being of the Student is at risk.

5.4 COMPUTER ETHICS POLICY

Hudson Valley Community College seeks to provide computer users with state-of-the-art computing facilities and to keep the number of restrictions on individuals to a minimum, while maintaining excellent service for all users, Students in pursuit of their academic goals, Faculty, and other College Personnel to conduct assigned work activity. To assist the

College in achieving these objectives, users themselves must observe reasonable standards of behavior in the use of these facilities and maintain an atmosphere of civility, mutual respect and high ethical standards.

PROHIBITED CONDUCT

5.4.1 No attempt will be made to modify or destroy system software components such as operating systems, compilers, utilities, applications or other software residing on any College computer, except the user's own files.

5.4.2 No attempt will be made to electronically transmit or post any material which is sexually explicit, hateful, harassing or deemed prohibited.

5.4.3 No attempt will be made to access, read, modify or destroy files belonging to another user without complete authorization from that user to do so.

5.4.4 No attempt will be made to connect to or use College computers with a user ID which was not assigned to the user by the College. Use of another person's user ID or password is prohibited. Allowing another individual to use one’s user ID or password is prohibited.

5.4.5 No attempt will be made to gain access to a password belonging to another person or place a password other than the user’s own in a file on a College computer. In addition, no attempt will be made to install, run or place software designed for this purpose on any College computer.

5.4.6 No attempt will be made to bypass or otherwise defeat system security to gain access to programs, files or other computer data or to install, run or place software designed for this purpose on any College computer.

5.4.7 No attempt will be made to copy, store, post or distribute computer software, files or any other material in violation of trademark, copyright or confidentiality laws or when the user does not have a legal right to do so.

5.4.8 No attempt will be made to interfere with proper operation of a computer or interfere with another person's use of a computer, including for example, the electronic transmission or posting of files or programs containing viruses, or any other content intended to interfere with proper operation of a computer.

5.4.9 No attempt will be made to impersonate any person, including other Students, Faculty or other College Personnel. No attempt will be made to disguise the origin of any electronically transmitted or posted material. No attempt will be made to make unauthorized use of someone else’s electronic signature.

5.4.10 No unauthorized attempt will be made to use, modify, connect or disconnect computer equipment, peripherals, communication equipment and cables.

5.4.11 No unauthorized attempt will be made to use any College computer to electronically transmit chain letters, junk mail, pyramid schemes or any other unsolicited mass mailings to multiple recipients with the exception of Faculty and other College Personnel conducting College business and Students completing required College course assignments.

5.4.12 No unauthorized attempt will be made to connect to and/or gain access to information being transported by computer networks, or to install, run or place software designed for this purpose on any College computer. Installation or use

of any network communication software not approved by the College is prohibited.

5.4.13 No user will make their password known to anyone other than an employee of the College authorized to assist College Personnel or Students with computer-related problems.

5.4.14 No food or drink is permitted in any computer classroom or computer learning center, with the exception of the Computer Cafe.

5.4.15 Users of College computers will comply with all local, state, federal and international laws relating to the use of computers and any other electronic communication services provided by the College.

5.4.16 Use of College computers for commercial, business purposes or personal profit is prohibited without specific authorization from the College for such use. Commercial or business purposes includes advertising the sale of goods and services not directly related to Hudson Valley Community College or College-based Organizations.

5.4.17 Use of College computers to falsify or modify documents in a manner which is unauthorized, is a violation of the rights of owners, is a violation of copyright laws, or is not properly attributed is prohibited.

5.4.18 Use of College computers and network services for local or remote game playing is prohibited unless specifically required as part of a course in which a Student is currently registered or a Faculty Member is currently teaching. In addition, the installation, uploading, downloading or storage of any game software on College computers is prohibited.

5.4.19 Use of College computers and network services for IRC (Internet Relay Chat) or any other form of interactive chat communication is prohibited except for use by College Personnel in counseling, scheduling or admissions, or where specifically required for communication as part of a course in which a Student is currently registered or a Faculty Member is currently teaching.

5.4.20 Web site services for the entire College community are provided on a centralized server by the Information Technology Services office. Use of any other College computer for the purpose of serving a website is prohibited.

ARTICLE VI.
PROCEDURE FOR PROCESSING COMPLAINTS INVOLVING ALLEGED VIOLATIONS OF CAMPUS REGULATIONS AND COMPUTER ETHICS.

6.1 If a Student is disruptive in class or on the College Premises or is believed to be in violation of any College Regulation or the College Code of Conduct, Faculty or other College Personnel may remove the Student from class or from the location of the disruption. The Faculty Member or other College Personnel may either direct the Student to see the Department Chair or another appropriate member of the College community, or to meet with the Faculty Member or other College Personnel, the Campus Judicial Coordinator, or the Department of Public Safety before returning to class or the location, or allow the Student to return the following day, at the discretion

of the Faculty Member or other College Personnel who witnessed the incident or oversees the department.

6.2 Campus Regulations for Students, Visitors, and Organizations - In cases of alleged violations of Computer Ethics and/or Campus Regulations, any Faculty, other College Personnel or Student shall notify the College's Department of Public Safety or the Campus Judicial Coordinator and the complaint shall be processed consistent with the procedures set forth in Article VII.

6.3 All formal charges must be submitted in writing.

6.4 It is strongly recommended that any party exercising their rights under this system or any party accused of violating any of the College Codes of Conduct consult with the Campus Judicial Coordinator as soon as possible so rights, remedies and procedures can be explained.

6.5 The Reporting Student shall meet with the Campus Judicial Coordinator or other appointed Investigator within five (5) days of receiving notice of an investigation.

6.6 The Campus Judicial Coordinator or other appointed Investigator will conduct an investigation. They may also meet with the Reporting Student, Public Safety officers and/or any witnesses on or off campus, review and collect evidence, and perform other duties they may deem necessary to complete the investigation at their discretion.

6.7 In any case where there has been an allegation of domestic violence, dating violence, stalking or sexual assault, the case will be responded to promptly and it will be investigated and adjudicated in an impartial and thorough manner by individuals who receive annual training in sexual assault, domestic violence, dating violence and stalking. Both the Reporting and Responding Students are entitled to be accompanied by advisors in keeping with the parameters of §9.2 at every stage of the proceeding.

6.8 If, at the conclusion of the investigation, it is determined that cause exists to believe the accused individual did violate one or more provisions of the Campus Regulations and/or Computer Ethics, or the College Code of Conduct, the Campus Judicial Coordinator may impose one or a combination of the following sanctions:

- 6.8.1 Letter of Warning
- 6.8.2 Letter of Warning to be placed in an individual's permanent record file for a stated period of time
- 6.8.3 Restitution
- 6.8.4 Community Service
- 6.8.5 Counseling Services provided by the College
- 6.8.6 Mandatory Course requirements (in civility, human relations, anger management, race or gender relations or a similar course designed to raise consciousness or awareness)
- 6.8.7 Disciplinary Removal from a Curriculum
- 6.8.8 Disciplinary Probation
- 6.8.9 Disciplinary Suspension (Current or deferred, subject to conditions)
- 6.8.10 Disciplinary Dismissal

6.8.11 Disciplinary Expulsion – Termination of Student status without the possibility of readmission

6.8.12 Restricted Access to classrooms or buildings

6.8.13 Restricted Access to or loss of Computer Accounts

6.8.14 Transcript Notation: Pursuant to statute, Hudson Valley Community College must note the transcript of any individual found to have committed any act of Homicide, Sexual Offenses, Robbery, Aggravated Assault, Burglary, Motor Vehicle Thefts, Arson, Possession or Use of Weapons, Drug Abuse violations or Liquor Law violations, as well as any act of larceny, simple assault, intimidation, destruction or vandalism of property that is designated at as Hate Crime. Definitions used for these acts can be found in the FBI Uniform Crime Reporting Handbook. If a Student is suspended for any of the aforementioned acts, the transcript will be noted, "Suspended after a finding of responsibility for a Code of Conduct violation" and shall remain noted for a minimum of one (1) year after the conclusion of the suspension. If a Student is expelled for any of the aforementioned acts, the transcript will be noted, "Expelled after a finding of responsibility for a Code of Conduct violation" and that notation cannot be removed. If a Student withdraws from classes during the disciplinary process, the transcript will be noted, "Withdrew with Code of Conduct charges pending."

6.8.15 Any other sanction uniquely designed for the particular infraction.

6.9 The sanction imposed shall constitute a final resolution of the matter unless the Respondent submits a request for a Hearing through the office of the Campus Judicial Coordinator as set forth in Article IX within five (5) days from the date the sanction was imposed. The Campus Judicial Coordinator may also defer the imposition of any sanction and refer any matter directly to a Review Board pursuant to Article IX.

6.10 During the pendency of any proceeding under the Code of Conduct, whether a sanction was imposed or whether the sanction was deferred for a Review Board, the Campus Judicial Coordinator may impose an interim sanction or accommodation or have the Respondent removed from the College Premises and enforce the restraint of the Respondent's access to the College Premises in whole or in part, until their presence is required for the adjudication of the case if they view the violation as jeopardizing property of the College or another person, or the individual's safety or welfare, or the physical or emotional safety or welfare of others, or the orderly operation of the College. Temporary sanctions, removals or accommodations or the lack thereof may be reviewed by the Vice President of Student Affairs. Either the Responding Student or the Reporting Student may request a review and may submit evidence on behalf of their position.

6.11 Disciplinary suspension, dismissal, or expulsion from the College will most likely be imposed for, among others, the following: (1) Bias or Hate-related incidents (2) Sexual Assault (3) permitting or engaging in hazing (4) setting fires or intentionally causing a false fire alarm (5) possession of or threats involving weapons or explosives

(including knives and firearms) (6) possession or sale of illegal drugs (7) physical abuse, violence, or threats directed toward anyone on the College Premises or any member of the College community, on or off College Premises (8) serious forms of computer misconduct (9) repeated violations of the College Code of Conduct.

ARTICLE VII.
CODE OF CONDUCT FOR ACADEMIC ETHICS

ACADEMIC ETHICS

Hudson Valley Community College expects all members of the College community to conduct themselves in a manner befitting the tradition of scholarship, honor and integrity. They are expected to assist the College by reporting suspected violations of academic integrity to appropriate Faculty and/or other College Personnel. These guidelines define a context of values for individual and institutional decisions concerning academic integrity. It is every Student's responsibility to become familiar with the standards of academic ethics at the College. Claims of ignorance, unintentional error, or academic or personal pressures do not excuse violations.

PROHIBITED CONDUCT

The following is a list of the types of behavior that breach the College Code of Conduct for Academic Ethics guidelines and are therefore unacceptable. Commission of such acts, or attempts to commit them, fall under the term Academic Dishonesty and each is considered a serious offense, which carries severe penalties ranging from a warning to expulsion from the College. No set of guidelines can, of course, define all possible types or degrees of Academic Dishonesty; thus, the following descriptions should be understood as examples of infractions rather than an exhaustive list. Individual Faculty Members and the College Committee on Ethics and Conduct will continue to judge each case according to its particular circumstance. While Faculty Members are encouraged to distinguish between a Student's unintentional failure to follow the Code of Conduct for Academic Ethics and an intentional violation of that Code, particularly in cases of suspected plagiarism, the responsibility for the integrity of work ultimately lies with the Student.

7.1 **PLAGIARISM.**

A Student is guilty of plagiarism any time they attempt to obtain academic credit by presenting someone else's ideas as their own without appropriately documenting the original source. Appropriate documentation requires credit to the original source in a current manuscript style (e.g., MLA or APA) that is appropriate to the assignment and the discipline. While Faculty Members are encouraged to distinguish between a Student's unintentional failure to follow the current conventions of the appropriate manuscript style and a blatant act of plagiarism, the responsibility for the integrity of work ultimately lies with the Student. Examples of someone else's ideas may include the following:

Language, words, phrases, symbols
Style (written, oral or graphic presentation)
Data, statistics, including laboratory assignments

Evidence, research
Computer programs, creative projects, artwork
Intellectual ideas such as theories and lectures
Web sites, digital forms of communication such as email, chat room, and instant messaging
Photographs, video, audio

7..2 **CHEATING ON EXAMINATIONS.**

A Student is guilty of cheating any time they attempt to give or receive unauthorized help before, during, or after any type of examination. Examples of unauthorized help include the following:

Collaboration of any sort during an examination (unless specifically approved by the instructor)
Collaboration before an examination (when such collaboration is specifically forbidden by the instructor)
The use of notes, books, or other aids (e.g., cell phones, computers or other electronic devices) during an examination (unless permitted by the instructor)
Arranging for another person to take an examination in one's place
Looking on someone else's examination during the examination period
The unauthorized discussion of test items during the examination period
The passing of any examination information to Students who have not yet taken the examination

There should be no conversation while any type of examination is in progress unless specifically authorized by the instructor.

7..3 **MULTIPLE SUBMISSION.**

Submitting all or some portion of the same work for credit more than once, without the prior explicit consent of the instructor to whom the material is being (or has in the past been) submitted.

7.4 **FORGERY.**

Imitating another person's signature or mark on academic or other official documents (e.g., the signing of a Faculty Member's name to a College document).

7.5 **IMPERSONATION.**

Assuming someone else's identity and/or pretending to be someone else for the purpose of gaining academic credit.

7.6 **SABOTAGE.**

Destroying, damaging, or stealing of another's work or working materials (e.g., lab experiments, computer programs, term papers, or projects). Sabotage also includes logging into another's computer account to revise or delete any file or folder.

7.7 **UNAUTHORIZED COLLABORATION.**

Collaborating on projects, papers, or other academic exercises

deemed inappropriate by the instructor(s). Although the usual Faculty assumption is that work submitted for credit is entirely one's own, standards on appropriate and inappropriate collaboration vary widely among individual Faculty. Faculty Members are expected, therefore, to establish explicit expectations and standards. Students who want to confer or collaborate with one another on work receiving academic credit should make certain of the instructor's expectations and standards.

7.8 **FALSIFICATION.**
Misrepresenting materials or fabricating information in an academic exercise or assignment, including laboratory assignments (e.g., the false or misleading citation of sources, the falsification of experiments or computer data, etc.). Falsification also includes falsely claiming to have completed work during an internship or apprenticeship.

7.9 **MISUSE OF LIBRARY OR COMPUTER RESOURCES.**
Removing uncharged materials from the Library Building, defacing or damaging materials, intentionally displacing or hoarding materials within the Library Building for one's unauthorized private use, or other abuse of reserve-book privileges. Or, without authorization, using the College's or another person's computer accounts, codes, passwords, or facilities; damaging computer equipment; or interfering with the operation of the computer system of the College. The College and Information Technology Services have established specific rules governing the use of computing facilities, which appear under Computer Ethics.

ARTICLE VIII.
INFORMAL PROCEDURES FOR PROCESSING VIOLATIONS OF THE CODE OF ACADEMIC ETHICS

8.1 **Academic Ethics**
A Student shall inform the Faculty Member responsible for the course or program when they acquire knowledge of violations of the Academic Ethics Code. Any College Official or Faculty Member of a course or program for which they are responsible who has information that a Student may have violated the Academic Ethics Code may follow the procedures established in this Article VIII. The Chair of the Department responsible for the course may act on behalf of a Faculty Member.

8.2 **Single Violation**
When a Faculty Member suspects that a violation of the Academic Ethics Code has occurred, the Faculty Member shall take appropriate action. If the Faculty Member is not the instructor for the course involved, the appropriate Faculty Member should be notified immediately. Prior to imposing a sanction, the appropriate Faculty Member shall notify the Student as soon as possible regarding the alleged violation and proposed sanction. If the Student wishes to dispute either the allegation or the sanction, they shall immediately contact the Faculty Member to discuss the matter. If the Faculty Member finds probable cause that the Student did violate one or more of

the provisions of the Academic Ethics Code, the Faculty Member may impose one (1) or a combination of the following sanctions:

8.2.1 Warning without further penalty

8.2.2 Retaking a test/examination; redoing a written assignment or laboratory assignment

8.2.3 Lowering a grade on a project, written assignment, laboratory assignment, or test/examination

8.2.4 Issuing a failing grade on a project, written assignment, laboratory assignment, or test/examination

8.2.5 Lowering a final course grade

8.2.6 Issuing a failing grade for the course (may not be used in cases of unintentional plagiarism)

8.2.7 Removal from a course (Academic Withdrawal), course of study, major or program, with the approval of the Department Chair

8.2.8 Imposing a penalty uniquely designed for the particular infraction

If, after the imposition of the sanction, the Student wishes to further dispute either the violation or the sanction, the Student may submit a request for a Hearing through the office of the Campus Judicial Coordinator as set forth in Article IX within ten (10) days from the date the Faculty Member informed the Student of the violation and sanction. The Faculty Member is expected to inform the Student of the right to a hearing through the office of the Campus Judicial Coordinator if the sanction is unacceptable or if the Student insists they are not responsible.

8.3 **Reporting**

Whenever a Faculty Member sanctions a Student for a violation of the Academic Ethics Code, the Faculty Member is expected to notify the Campus Judicial Coordinator, copying in the Department Chair, of the course and the Student's program, advising that office of the Student's name, violation, and the sanction imposed.

8.4 **Multiple Violations**

In the event a Student violates the Academic Ethics Code more than once, either within a single course or across multiple courses, the Vice President for Student Affairs or the Campus Judicial Coordinator may initiate proceedings under Article VII to impose additional disciplinary sanctions, including removal from degree or certificate Program, suspension or expulsion from the College, or any other sanction available under Article VI and under the process therein. The provisions of this article do not preclude a Faculty Member or the Department Chair from pursuing additional sanctions under Article VIII against Students who have committed multiple violations, including removal from a course (Administrative Withdrawal), course of study, major or program, with the approval of the Department Chair.

ARTICLE IX.
HEARING PROCEDURES UNDER THE CODE OF CONDUCT

9.1 In the event the Respondent timely files a written request for a Review Board hearing ("Hearing"), ten (10) days after receiving notice of any sanction or finding of a violation of the Academic Ethics Code or five (5) days after receiving notice of any sanction or finding of the Campus Regulations Code, or if the matter is immediately referred for a Review Board hearing by the Campus Judicial Coordinator, the procedure set forth in this Article IX shall apply to any alleged violation of the Code of Conduct.

9.2 Use of and Responsibility for Obtaining and Compensating an Advisor
During the Hearing, an advisor may be allowed, but such advisor must be individually obtained and compensated by the person(s) involved. An advisor may be a parent or child of the Responding Student, a spouse or partner, a member of the College community, or any individual of the Student's choosing.

Reporting Students of sexual assault, domestic violence, stalking or dating violence are also entitled to an advisor. In these situations, advisors may participate in the process on behalf of both the Responding Student and the Reporting Student at every stage of the proceeding, including initial meetings with the Department of Public Safety, any Investigator, the Campus Judicial Coordinator, and any on-campus service provider.
Advisors and individuals entitled to advisors may remain during the entire hearing. However, advisors may only act in an advisory capacity. No advisor represents a Student or any party at a disciplinary hearing. The advisor can pass notes to or speak quietly to the Student but cannot speak directly to the review board or give evidence or testimony to be taken into the record unless otherwise mandated by law.

9.3 The Campus Judicial Coordinator, once advised by a Respondent that a Hearing has been requested, shall immediately notify the Committee on Ethics and Conduct and an impartial Review Board will be convened.

9.4 Within twenty (20) days of the notification, a Hearing shall be held. Reasonable requests for adjournments will be entertained and schedules will be accommodated to the extent possible.

9.5 The Review Board will be comprised of three members of the Ethics and Conduct Committee. It shall not contain more than one (1) College Administrator, one (1) Faculty Member, one (1) Non-Teaching Professional or one (1) Union member and shall always contain one (1) Student. If the dispute arose from a particular department, no individual from that department is permitted to sit on the Review Board.

9.6 One of the members of the Review Board shall be designated as Chairperson and shall have the responsibility of reporting the decision of the Review Board to the appropriate College Official in writing.

9.7 The Respondent, the Reporting Student, any Faculty Member who has imposed a sanction, and any Investigator shall be notified of the time, date and location of the hearing and shall have access to the case file for review. If any of the parties listed above would like to have other witnesses come on their behalf, that party should

notify those witnesses of the time, date and location of the hearing. If the Respondent does not appear for the Review Board Hearing and was properly notified of its date, time and place, the Respondent shall be deemed to have forfeited their right to a Hearing and the sanction imposed by the Campus Judicial Coordinator or Faculty Member shall be automatically upheld unless the sanction would warrant a mandated transcript notation. In that event, the Hearing will be conducted without the presence of the Respondent, who will be deemed to have waived their appearance.

9.8 The Review Board shall not be bound by the technical rules of evidence, but may hear and receive any reports, documents, testimony, evidence or other information which is relevant and material to the issues; however, an individual's prior sexual conduct with other persons or prior mental health history is always irrelevant in the case of an allegation of sexual assault. Prior disciplinary records or prior criminal records of the Respondent may be admitted as to the sanction, if they are relevant to the facts at hand. The weight to be given to any evidence shall be determined solely by the Review Board.

9.9 The Review Board adjudication shall be transcribed or taped and those witnesses appearing before the Review Board shall be sworn.

9.10 Only the primary parties in interest, Reporting Students (and their advisors, if any), the transcriber, the members of the Review Board, an Investigator, if any, and the Campus Judicial Coordinator shall be present throughout the Hearing. The Hearing shall be conducted in private. The College reserves the right to ask any participant in the Review Board Process to be removed from a hearing if they cannot maintain order and respect for the proceedings and procedures herein.

9.11 Conduct of the Hearing

9.11.1 The Campus Judicial Coordinator or any party may provide to the Review Board and to the accused copies of documents to be considered by the Review Board in advance of the Hearing to the extent possible, but no party shall be limited to such documents. A Reporting Student shall also be entitled to those documents if they are introduced into evidence.

9.11.2 The Chairperson will read the accusation and the sanction.

9.11.3 Each party may make an opening statement, beginning with the individual bringing the charge.

9.11.4 The Investigator, whether it be (a) a Faculty Member or (b) a College Official who has found cause of a violation of the Code of Academic Ethics, or the Campus Judicial Coordinator, or another Investigator who has found cause that a Student or Organization has violated Campus Regulations or the College Code of Conduct, will read, summarize, or identify all of the material information which has been submitted. They may testify to their findings or present further information and present witnesses. A Reporting Student may testify by alternative means available to ensure their safety and confidentiality.

9.11.5 The presenting party, the Respondent and any Reporting Student, as well as the members of the Review Board, may ask questions of any witness. Alternative means for the asking of questions may be arranged in accordance with relevant state and federal law, College policy, or practicality. After the submitted materials and evidence have been read, the Respondent will have the opportunity to refute or explain the materials or evidence or add information. The Respondent may choose to remain silent and not make any statements or participate in the discussion. The Respondent may call witnesses.

9.11.6 The presenting party, the Respondent, and the Reporting Student may make a final statement.

9.11.7 The Chairperson will conclude the Hearing when he or she is satisfied that all information has been submitted.

9.11.8 The Review Board will then convene in closed session and consider only information presented at the Hearing. If necessary, the Review Board may adjourn and reconvene, ask for further documentation, or call or recall witnesses with the assistance of the Campus Judicial Coordinator, if required.

9.11.9 If the Review Board finds that a preponderance of the evidence confirms the infraction did occur, it shall state so in its written opinion.

9.11.10 If the Review Board finds the preponderance of the evidence shows the infraction did occur, the sanction imposed must be upheld unless clear and convincing evidence shows that it is arbitrary or capricious. If the sanction is found to be arbitrary or capricious, the new sanction imposed must be based on substantial evidence in the record, and the rationale shall be included in their opinion.

9.11.11 The decision of the Review Board as to whether a preponderance of the evidence showed the alleged infraction occurred and whether the sanction imposed is valid shall be made based on the information presented at the Hearing. The decision shall be in writing and delivered to the Campus Judicial Coordinator, who will forward it to the presenting party, the Responding party and the Reporting Student either personally or through their advisor.

ARTICLE X.
APPEALS

10.1 Within seven (7) days of the delivery of the decision of the Review Board, the presenting party, the Responding Student or the Reporting Student may appeal the decision, in writing, and submit the appeal to the Campus Judicial Coordinator. An appeal may be taken from either the finding or from the sanction imposed.
An appeal may be made on any of the following grounds:
1. A procedural error occurred which affected the outcome of the case.

2. Newly discovered evidence has materialized that would have affected the outcome of the case.
3. The finding of the Review Board was arbitrary or capricious.

10.2 They will forward the appeal to the other party or parties and any Reporting Student, any of whom may submit a written response which must be received within three (3) days of the receipt of the appeal. The opposing party is under no obligation to respond to an appeal.

10.3 Within seven (7) days of receiving the appeal, the Campus Coordinator will present it to an Appellate Board which will be comprised of three members of the Ethics and Conduct Committee. No member of the Appellate Board may have any conflict of interest in hearing the appeal. No member of the original Review Board may sit on the Appellate Board.

10.4 The Appellate Board, after receipt of such appeal, shall make a final adjudication and determination in the matter based solely on the record and the written appeal and responses. The Appellate Board may either amend the decision of the Review Board if they find their decision to have been arbitrary or capricious, or they may return the matter to the Review Board if they have found that newly-discovered evidence should be considered or if they have found a procedural error that must be corrected.

10.5 The Responding individual, the presenting Faculty Member or College Official, as well as any Reporting Student, shall be notified of the final decision as permitted by law. There shall be no further appeals.

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[i] **Applicable Laws and Criminal Penalties for Bias and Hate Related Crimes. The federal government and more than 40 states, including New York, have hate crime statutes.**

1) Federal Laws

a) 10 USC 245 Hate Crimes Prevention Act of 1999-This act prohibits persons from interfering with and individual's federal right (e.g. voting or employment) by violence or threat of violence due to his or her race, color, religion, or national origin. This act allows for more authority for the federal government to investigate and prosecute hate crime offenders who committed their crime because of perceived sexual orientation, gender identity, gender or disability of the victim. It also permits the federal government to prosecute without having to prove that the victim was attacked because he or she was performing a federally protected activity.

b) Violent Crime Control and Law Enforcement Act of 1994-A part of the 1994 Crime Act, the Hate Crime Sentencing Enhancement Act provides for longer sentences where the offense is determined to be a hate crime. A longer sentence may be imposed if it is proven that a crime against a person or property was motivated by "race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation."

c) 28 USC 534 Crime Statistics act of 1990-this act requires the Department of Justice to collect data on hate crimes. Hate crimes are defined as "manifest prejudice based on race, religion, sexual orientation or ethnicity." These statistics are compiled by the FBI using the Uniform Crime Reporting system. The Crime Act of 1994 also requires the FBI to collect data on hate crimes based on disability.

2) New York State Law

a) Hate Crimes act of 2000, Penal Law Art 485-This law enhances criminal penalties for a long list of enumerated crimes when perpetrators intentionally select a target based on the victim's actual or

perceived race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation. The law also requires the state to collect, analyze and annually report on data regarding hate crimes throughout the state.

b) **NY Civil Rights Law § 40-c-Prohibits discrimination or harassment based on race, creed, color, national origin, sex, or disability. Violation of this provision shall constitute a Class A misdemeanor and subjects the perpetrator to a civil action brought by the victim for damages.**

c) **New York Penal Law § 240.30- Covers aggravated harassment against a person "because of a belief or perception regarding a person's race, color, national origin, ancestry, gender, religion, religious practice, age sexual orientation, regardless of whether the perception is correct."**

NYS Penal Law § 240.31- Enhances penalty for aggravated harassment.

Exhibit B, HVCC Title IX Grievance Process
Approved by the Hudson Valley Community College Board of Trustees
August 18, 2020

TITLE IX GRIEVANCE PROCESS:

Hudson Valley Community College and Title IX of the Educational Amendments of 1972 prohibits any discrimination on the basis of sex in any educational program receiving federal assistance. This prohibition bars any form of sexual harassment or sexual violence that interferes with a student's ability to equally access our educational programs and opportunities.

If you feel you are the victim of a crime, you have the right to make a report to Public Safety, local law enforcement, and/or state police or choose not to report; to report the incident to the college; to be protected by the college from retaliation for reporting the incident and to receive assistance and resources from the college.

If you feel you have been discriminated against on the basis of sex at Hudson Valley Community College due to any incident of sexual harassment, dating violence, stalking or sexual assault, please take advantage of our grievance process. This grievance process is applicable regardless of the sex, sexual orientation, gender identity, gender expression, or any other protected classes covered by federal or state law of the Complainant, Respondent, or any Witness. If your situation does not fit the definitions of this process, please consult the Judicial System in the online catalog as many acts that do not technically meet the definitions below will still be violations of our Campus Regulations at Hudson Valley Community College or contact the Title IX Coordinator.

TITLE IX COORDINATOR:
Sandra J. McCarthy, JD

24 hour hotline:	(518) 257-2089
24 hour email:	s.mccarthy@hvcc.edu
Office Hours:	M-Th 1:30-5:30
	F: 9-12
Office phone:	(518) 629-4816
Office location:	CTR 293

* Reports may also be received by email or phone anonymously.

I. TIME LIMITS:

All days shall be counted as days the college is in session and shall exclude Saturdays, Sundays, holidays and both the winter and summer recess. However, every effort will be made to expedite disputes even over the winter or summer recess if evidence is available and this grievance procedure can be followed without prejudice to either the complainant or the respondent.

Any time frames articulated in this grievance process may be extended for good cause upon written notice to both the complainant and the respondent. Brief good cause adjournments will most like be afforded in cases where a party, a party's advisor or a witness is unavailable, if requested by law enforcement or if necessary to accommodate a party's disability. However, time frames will generally only be extended for 10 days.

II. DEFINITIONS:

1) *Actual knowledge* of sexual harassment on the part of the college means actual notice to the Title IX Coordinator or another official of the college who has the authority to institute corrective measures on the part of the college.

2) *Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. This individual may also be referred to as the reporting student.
3) *Consent* is defined by Hudson Valley Community College using the NYS definition of consent found in EDU 129B.

   Affirmative Consent is defined by Hudson Valley Community College as a knowing, informed, 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.

   Affirmative consent must be clear and unambiguous. Seeking and having consent accepted is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act. 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 and thus cannot knowingly choose to participate in sexual activity. Incapacitation occurs when an individual lacks the ability to fully and knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness or being asleep, being involuntarily retrained, if any of the parties are under the age of 17, or if and individual otherwise cannot sent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
4) *Formal Complaint* means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the college investigate the allegation of sexual harassment. At the time of the filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the college. A formal complaint must be filed with the Title IX Coordinator in person, by mail or by electronic mail, by using the contact information above. The complaint must contain the complainant's physical or digital signature, or otherwise indicate that the complaint is the person filing the formal complaint. The Title IX Coordinator is not the complainant at any time, even if s/he files the compliant on behalf of the complainant.
5) *Respondent* is an individual who has been purported to be the perpetrator of conduct that could constitute sexual harassment. This individual may also be referred to as the responding student.
6) *Sexual harassment* is conduct perpetrated on the basis of sex that satisfies one or more of the following:
   a. An employee of the college conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct; or
   b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the college's educational program or activity; or
   c. Sexual assault, dating violence, domestic violence or stalking:
      i. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse by persons who are dating.

ii. Domestic Violence includes a felony or misdemeanor crime of violence committed by:
    1. A current or former spouse or intimate partner of the victim; or
    2. A person with whom the victim shares a child in common; or
    3. A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; or
    4. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the New York State, or
    5. 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 State.

iii. Sexual Assault is rape, fondling, incest or statutory rape or any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent as defined above.
    1. 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.
    2. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim as defined above, 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.
    3. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
    4. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent in the State of New Yorkxz.

iv. Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to-
    1. Fear for the person's safety or the safety of other; or
    2. Suffer substantial emotional distress.
    - Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through other parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
    - Reasonable person means a reasonable person under similar circumstances and with similar identifiers to the victim.
    - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

7) *Supportive Measures* means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the college's educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the college's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modification of work or class schedules, campus

escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The college will endeavor to maintain as confidential any supportive measures provided to the complainant or the respondent, to the extent that maintaining such confidentiality would not impair the ability of the college to provide the supporting measures. All supportive measures shall be provided free of charge.

8) *Decision Maker* is the individual or Review Board that hears the evidence and makes the decision. The Decision Maker may be single individual or a Review Board.
9) *Relevant evidence and questions* are evidence and questions that tend to make an allegation more or less likely to be true and cannot include evidence and questions about the complainant's sexual predisposition or prior sexual behavior unless (1) they are offered to show that someone other than the respondent committed the act or (2) they include only activities between the complainant and the respondent and are introduced regarding the element of consent. Evidence that seeks the disclosure of information protected by any legally-recognized privilege without the consent of the protected party is not relevant. Evidence or material that is repetitive, prejudicial or incendiary may also be deemed irrelevant.
10) *Educational Program or Activity* is an activity that occurs on campus premises or on any off campus premises if the buildings or property are owned or controlled by the college or a recognized student organization. Activity can also include use of the computers, internet networks, digital platforms and computer hardware or software owned or operated by the college.

III. COLLEGE REPONSE TO SEXUAL HARASSMENT:

Anytime the college has actual knowledge of sexual harassment, the college will promptly respond. The college will advise the complainant of this grievance process and offer the complainant and the respondent appropriate supportive measures. If the complainant chooses not to file a formal complaint, supportive measures will still be offered.

Retaliation for the filing of a Title IX grievance is strictly prohibited. The college, nor any other person, may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or 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. Such actions will result in further conduct charges either under this part or under the Judicial System.

GOOD SAMARITAN POLICY: The health and safety of every Student at Hudson Valley Community College is of utmost importance. Hudson Valley Community College recognizes that Students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence occurs, including but not limited to domestic violence, dating violence, stalking, or sexual assault, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages Students to report any act of violence, including domestic violence, dating violence, stalking, or sexual assault, to College Officials. A bystander acting in good faith or a reporting individual acting in good faith who discloses any incident of violence, domestic violence, dating violence, stalking or sexual assault to College Officials or law enforcement will not be subject to College Code of Conduct disciplinary action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the act of violence, domestic violence, dating violence, stalking or sexual assault.

Hudson Valley Community College supports Students who reach out for assistance in the case of a medical emergency and supports the Student who is helped. Therefore, a Student or Student Organization will not be subject to disciplinary sanctions related to their own violation of College Code of Conduct alcohol and/or drug use or possession policies, on or off campus, when seeking medical treatment for:

- Themselves or;
- Any other Student who is in immediate medical need or;
- Any Student who is the recipient of the emergency medical help, particularly if the Student is seeking medical help for any Student who is the victim of a crime.

The College strongly encourages bystanders to respond to potentially dangerous situations by reporting the incident promptly, without fear of reprisal. However, if the circumstances dictate, the College reserves the right to notify parents of Students under the age of 21, or to encourage counseling for Students at any time if the well-being of the Student is at risk.

IV. RESPONSE TO FORMAL COMPLAINTS:

The filing of a formal complaint is a prerequisite to the college's formal response as articulated below. However, if a formal complaint is not filed the college may still proceed against an individual if another appropriate disciplinary process is applicable. The college will generally proceed on any Title IX Grievance if the alleged behavior occurred in the last calendar year but reserves the right to proceed on older allegations, particularly if the alleged behavior could be construed as an ongoing situation or a course of conduct.

Emergency Removal: The college may remove a respondent from its educational program or activity on an emergency basis provided that an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of a student or other individual arising from the allegations of sexual harassment justifies removal. A respondent who has been removed on an emergency basis may challenge that emergency removal.

Administrative Leave: The college may place any non-student employee on administrative leave during the pendency of the grievance process.

Service: Service of any documents or notices under these provisions shall be made by HVCC email even if it is also made by another method. The date of service shall be the date of personal service or the date of email transmission.

1) Complainants and Respondents shall be treated equitably. Remedies that that are designed to restore or preserve equal access to education at the college will be imposed and/or sanctions will be imposed on a respondent only after a determination has been made that the respondent is responsible for the sexual harassment alleged. This does not prohibit the college from offering supportive measures to either the complainant or the respondent regardless of the outcome of any disciplinary action.
2) Upon receipt of a formal complaint, the college will provide written notice of the allegation and the commencement of an investigation to the parties who are known. The notice must include a copy of this grievance procedure, the date, time, and location of the alleged sexual harassment and sufficient detail as to the conduct alleged and the identities of the parties for the respondent to understand the allegation.
3) Complainants and Respondents are entitled to have advisors. Advisors can be anyone of the student's choice and can be present at any meeting or hearing.

4) All complaints shall be thoroughly investigated by an impartial investigator. All evidence, both inculpatory and exculpatory, will be evaluated and credibility determinations will be made regardless of the person's status as complainant, respondent or witness.
5) All investigators, Title IX Coordinators, and Decision Makers shall be free of bias and conflicts of interest and shall be trained on the definition of sexual harassment, how to conduct an investigation, this grievance procedure and how to maintain impartiality and make decisions free of prejudgment or bias.
6) All Decision Makers will be trained on all relevant issues including but not limited to technological issues and the relevance of questions and answers including that evidence regarding a complainant's sexual predisposition or prior sexual behavior is not relevant unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct or to prove consent.
7) All investigators will be trained on how to conduct impartial investigations and how to weigh the relevance of evidence and how to create a report that fairly summarizes the evidence.
8) Any respondent in the grievance process is entitled to the presumption of 'not responsible' until found responsible in this grievance process.
9) The burden of collecting evidence will rest with the college. The college may not access, consider, disclose or otherwise use a party's records retained by a physician, psychiatrist, psychologist or other professional subject to privilege without the express consent of the party.
10) Either party has an equal opportunity to present witnesses, experts and any other evidence they wish to have considered by the investigator.
11) Investigations should be concluded within 90 days of the receipt of the formal grievance except in unusual circumstances. Once an investigation is complete, the investigator will provide the report to each party and each party's advisor. The report will contain all evidence in the possession of the college, whether inculpatory or exculpatory. Each party shall have 10 days to inspect the report and the evidence in the possession of the college. Each party may file a written response to the report within those 10 days and may submit any additional proof. No party shall be allowed to duplicate, photograph, remove or otherwise preserve evidence provided in this report or the report itself. Any documents provided to the parties or their advisors shall be returned without duplication, preservation, photography or any other manner of maintenance by the party, witness, advisor, decision maker, investigator or any other individual. The college will maintain the only record of the contents of the investigative file. Either party, advisor or third person may add additional materials to the investigative packet during this 10 day review. It is expected that absent extraordinary circumstances, all evidence either party will submit at the hearing will be contained in the investigative packet.
12) Pursuant to statute, a complaint must be dismissed if it does not meet the definition of sexual harassment as articulated in Section II, Paragraph 6, if it did not occur within the United States or on college grounds or if did not occur within the college's educational program or activity. However, that conduct may still constitute a violation of Campus Regulations and may be pursued by the college under the Judicial System. The college may dismiss a complaint if the complainant formally withdraws or becomes so uncooperative that the college is prevented from meaningfully gathering evidence or if the respondent is no longer employed at the college or is no longer a student* (Please refer to Section V, Paragraph 22 for an explanation of mandatory transcript notations for students who withdraw with conduct actions pending). The dismissal of a complaint may be appealed as articulated below.
13) An investigative report may include conclusions and/or recommendations of the investigator or others relevant to the case.

V. THE INFORMAL RESOLUTION:

At any time, upon the written consent of both parties, the parties may engage in an informal resolution process with the assistance of the Title IX Coordinator, the investigator and/or other relevant members of the college community. At any time during the informal resolution process either party may request the matter be restored to the formal grievance process provided a formal written agreement has not yet been executed to resolve the matter. An informal resolution is not available when a student has filed a Title IX grievance against any employee.

VI. THE HEARING PROCESS:

The college adopts the SUNY model decorum policy for Title IX hearings.

1) During the hearing process and the investigative process, supportive measures to the complainant and the respondent may continue.
2) Until a finding is made by the decision maker, the respondent is entitled to a presumption of 'not responsible'.
3) In any allegation against a staff or faculty member, the Decision Maker shall be a single individual or board of up to three qualified members appointed by the Director of Human Resources.
4) In any allegation against a student, the Decision Maker shall be a Review Board. The Review Board will be composed of up to 3 members of the college community who have been trained pursuant to statute. A Review Board may also contain a trained professional from an outside agency.
5) Hearings will be attended by the Campus Judicial Coordinator, the Title IX Coordinator and the Title IX Investigator. The roles of Campus Judicial Coordinator and Title IX Coordinator may be absorbed by the same individual provided they remain impartial and free of bias or conflicts of interest. At certain times, the roles of Campus Judicial Coordinator, Title IX Coordinator and Title IX Investigator may be absorbed by the same individual provided they remain impartial, and free of bias or conflicts of interest. The Review Board Members or other Decision Maker, the parties, their advisors and a stenographer, when appropriate, will also be present during the entire hearing. Decision Makers and any college appointed advisors shall be free of bias and shall receive proper training. Witnesses will be called individually and cannot be present during the entire hearing. Hearings cannot have any other spectators present pursuant to 20 USC 1232g and 34 CFR part 99. Neither the Title IX Coordinator nor the investigator can act as Decision Maker in the same case but will be present at any hearing.
6) A Review Board presentation or a presentation to another Decision Maker will occur with 10 days of the expiration of the inspection period. Decisions will be rendered within 10 days of the presentation. All parties and their advisors will be advised of the time, date and location of the hearing.
7) Any witnesses or evidence that the Investigator will not be presenting but which either party feels may be relevant to the finding, shall be the responsibility of the party to present and should have been included in the investigative packet during the review period.
8) All hearings should be recorded by a stenographer or electronic recording. Technical difficulties may result in an alternative record of the hearing.
9) All evidence in the possession of the college will be available to the parties for the hearing.
10) If a Complainant or a Respondent cannot afford an advisor at the hearing, the college shall provide an advisor free of charge.

11) Any party or witness may appear in a separate room or separate location using available technology provided they are subject to simultaneous cross-examination.

CONDUCT OF THE HEARING:

12) The complainant and the respondent may each make an opening statement.
13) The investigator will present the investigative report which may include documents, statements and other physical, testimonial or demonstrative evidence. It may also include treatise evidence and other expert testimony when relevant. The investigator may be asked questions by either advisor or the Decision Maker(s). The investigator may make conclusions or recommendations to the Decision Maker or share the recommendations or conclusions of other relevant individuals. However, ultimately, conclusions are made by the Decision Maker.
14) The investigator may call witnesses.
15) The investigator will ask the witnesses questions. Each of the advisors and the Decision Maker(s) may ask the witnesses questions.
16) The complainant may testify. The complainant will be cross-examined by the advisor to the respondent and by the Decision Maker(s). Decision Maker(s) will determine the relevance of any questions including whether the questioning is prohibited by Section IV, paragraph 6 or if it is subject to privilege or other legal protection and other issues of relevance before any question is answered by a complainant.
17) The complainant may introduce any other documents or call other witnesses that were not introduced by the Investigator. These witnesses will be questioned by the advisors and by the Decision Maker(s).
18) The respondent may also testify. The respondent will be cross-examined by the advisor to the complainant and by the Decision Maker(s). Decision Maker(s) will determine the relevance of any questions including whether the questioning is subject to privilege or other legal protection and other issues of relevance before any question is answered by the respondent.
19) The Decision Maker may also call witnesses if it feels the witness is necessary to understand the issues presented in the case.
20) Though statements made by parties or witnesses cannot be relied on by the Decision Maker if the party or witness will not submit to cross-examination, no adverse inference will be drawn from the party or witnesses' refusal to submit to cross-examination.
21) If, after a review of the evidence the Decision Maker finds that a preponderance of the evidence does show that the respondent committed an act of sexual harassment, dating violence, domestic violence, stalking or sexual assault within the college's definitions of those terms, they will proceed to impose a sanction. The Decision Maker may take into consideration any sanction recommended by the Title IX Coordinator, Investigator, the complainant, an expert or any other relevant person or witness in determining the sanction. If the Decision Maker finds that a preponderance of the evidence does not show that the respondent committed an act of sexual harassment, domestic violence, dating violence, stalking or sexual assault within the college's definitions of those terms, the Title IX grievance will be dismissed. If the Decision Maker dismisses the grievance but finds another violation of the Code of Conduct (Campus Regulation, Computer Ethics Violation or Academic Ethics Violation) occurred, they may proceed to impose a sanction in keeping with the Judicial System.
22) Sanctions imposed in a Title IX proceeding may be punitive but also must be primarily fashioned to restore the complainant's ability to access their education, free of sexual harassment.
23) Such remedies or sanctions could include:
    a. Dismissal from the college*; and/or

b. Suspension from the college for 10 days, 20 days, 30 days or 60 days or 1 semester, 2 semesters, 3 semesters, 4 semesters or 5 semesters*; and/or
c. Removal from a course, course of study or major; and/or
d. Removal from a club or organization; and/or
e. Removal from a work study or other employment position at the college; and/or
f. Complete denial of access to college buildings, locations, or areas for a period of 1 day through 4 years; and/or
g. Complete denial of access to college sponsored activities or programs for a period of 1 day through 4 years; and/or
h. The writing of essays; and/or
i. Community Service; and/or
j. Letters of Apology; and/or
k. Financial Restitution.

*Transcript Notation. Pursuant to statute, HVCC must note the transcript of any individual found to have committed any act of homicide, sexual offenses, robbery, aggravated assault, burglary, motor vehicle thefts, arson, possession or use of weapons, drug abuse violations or liquor law violations as well as any acts of larceny, simple assault, intimidation, destruction or vandalism of property that is designated at as Hate Crime. Definitions used for these acts can be found in the FBI Uniform Crime Reporting Handbook. If a student is suspended for any of the aforementioned acts, the transcript will be noted, "Suspended after a finding of responsibility for a code of conduct violation" and shall remain noted for a minimum of 1 year after the conclusion of the suspension. If a student is expelled for any of the aforementioned acts, the transcript will be noted, "Expelled after a finding of responsibility for a code of conduct violation" and that notation cannot be removed. If a student withdraws from classes during the disciplinary process, the transcript will be noted, "Withdrew with conduct charges pending."

24) Within 10 days of the close of all proof, the Decision Maker will publish its written decision to the Title IX Coordinator. The Title IX Coordinator will disseminate the decision simultaneously to each of the parties and to their advisors. The Title IX Coordinator shall be responsible to ensure that any disciplinary sanctions are imposed on the respondent. Supportive measures continue to be available to the respondent and the complainant regardless of the outcome of any hearing when possible.
25) The decision shall be in writing and shall contain:
    a. A statement of the conduct committed that was alleged to have been sexual harassment.
    b. A brief 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.
    c. Findings of fact supporting the determination.
    d. Conclusions regarding whether a preponderance of the evidence demonstrated the respondent did or did not commit the act(s) of sexual harassment or any other violations of the Code of Conduct (either Campus Regulations, Computer Ethics or Academic Ethics).
    e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed and how the remedies are designed to restore or preserve equal access to the college for the complainant.
    f. The decision need not be unanimous but the minority may write its own decision.

g. The decision of the Decision Maker is final only after the time to file an appeal is exhausted or the parties have completed the college's appeal process.

VII. APPEALS

1) Both parties have an equal opportunity to appeal a determination of a Decision Maker or the dismissal of a Title IX grievance.
2) An appeal may be filed on any of the following grounds:
    a. A procedural irregularity affected the outcome of the matter; and/or
    b. New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or
    c. The Title IX Coordinator, investigator or Decision Maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and/or
    d. The finding was against the clear weight of the evidence; and/or
    e. The sanction was disproportionate to the seriousness of the infraction.
3) Once an appeal is filed, the other party shall be notified. Appeals shall be in writing and shall specifically state the grounds. Appeals may be dismissed if they do not state grounds. The other party may file objections to the appeal. Appeals must be received by the Title IX Coordinator within 7 days of the delivery of the decision. Objections must be filed within 7 days of the service of the appeal on the opposing party.
4) Appeal Decision Makers shall be comprised of a board of up to 3 individuals if the respondent is a student and a board of up to 3 individuals or a single individual if the respondent is an employee. No Appeal Decision Maker shall have a conflict of interest or bias and cannot be the Title IX Coordinator, the Investigator, or any of the original Decision Maker(s). Decision Maker(s) for appeals will receive training as described in Section IV, Paragraphs 5 and 6 and may include members from inside or outside the HVCC community..
5) A written decision will be rendered by an Appeal Decision Maker within 10 days of receiving the appeal and objections. The written decision will state whether the appellant has shown by clear and convincing evidence that one of the criteria in Paragraph 2 of this Section exists. The Decision should state the appeal ground or grounds that was considered and the rationale for granting or denying the appeal based on each of the grounds considered. The Appeal Decision Maker should remit the matter for the error to be corrected whenever possible. If a sanction is modified or if any other determination is made by the Appeal Decision Maker, that rationale shall be stated in the written opinion and shall be based on substantial evidence in the record. If it is found that the sanction was disproportionate to the seriousness of the infraction, the Appeal Decision Maker may impose a greater or lessor sanction. The written decision will be provided to the Title IX Coordinator who will simultaneously distribute it to both parties and the advisors of the parties.
6) There are no further remedies available at the college for the resolution of this complaint.