

## SEXUAL VIOLENCE RESPONSE POLICY

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

### Reporting

To disclose *confidentially* the incident to an individual who by law may maintain confidentiality, and can assist in obtaining services contact:

- Counseling Office (518) 562-4199
- Health Services (518) 562-4129 (available part-time)

To disclose *confidentially* the incident and obtain services from the New York State, New York City, or county hotlines: <http://www.opdv.ny.gov/help/dvhotlines.html>. Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages: <http://www.opdv.ny.gov/help/index.html> or call 1-800-943-6906. Assistance may also be obtained through the following:

- SurvJustice: <http://survjustice.org>
- LegalMomentum: <https://www.legalmomentum.org/>
- NYSCASA: <http://www.nyscasa.org/crisiscenter/clinton-county-crisis-centers/>
- NYSCADV: <http://www.nyscadv.org/>
- Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>
- GLBTQ Domestic Violence Project: <http://www.glbtqdv.org/>
- RAINN: <https://www.rainn.org/get-help>
- Safe Horizons: <http://www.safehorizon.org/>

*Note: Hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide information to the campus. Reporting individuals are encouraged to additionally contact a campus confidential or private resource so that the campus can take appropriate action in these cases.*

To disclose an incident to one of the college officials who can offer **privacy** and can provide information about remedies, accommodations, evidence preservation, and how to obtain resources contact one of the following:

- John Borner, Title IX Coordinator & Dean of Student Affairs: (518) 562-4121
- Mary Blaine, Assistant Title IX Coordinator, (518) 562-9131

These officials will also provide the information contained in the Students' Bill of Rights, including the right to choose when and where to report, to be protected by the institution from retaliation, and to receive assistance and resources from the institution. These college officials will disclose that they are private and not confidential resources, and they may still be required by law and college policy to inform other college officials about the incident, including but not limited to the Title IX Coordinator. They will notify reporting individuals that the criminal justice process uses different standards of proof and evidence than internal procedures, and questions about the penal law or criminal process should be directed to law enforcement or the District Attorney

To file a criminal complaint with local law enforcement and/or state police:

- Plattsburgh Police: (518) 563-3411
- New York State Police: (518) 563-3761
- State Police 24-hour hotline to report sexual assault on a New York College Campus: 1-844-845-7269
- To receive assistance by initiating legal proceedings in family court or civil court: 518-562-4121
- To file a report of sexual assault, domestic violence, dating violence, and/or stalking, and/or talk to the Title IX Coordinator for information and assistance. Reports will be investigated in accordance with Clinton Community College policy and the reporting individual's identity shall

remain private at all times if said reporting individual wishes to maintain privacy. If a reporting individual wishes to keep his or her identity anonymous, he or she may call 518-562-4199 to discuss the situation and available options or go on-line to:

<http://www.clinton.edu/StudentServices/Content-docs/dc/5607/gid/22/document.cml>

When the accused is an employee, a reporting individual may also report the incident to the Office of Human Resources, room 223, in the Moore Building at 518-562-4137 or may request that one of the above referenced confidential or private employees assist in reporting to Employee Relations or Human Resources. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the college, college officials will, at the request of the reporting individual, assist in reporting to the appropriated office of the vendor or affiliated entity and; if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and college policy. An individual may withdraw a complaint or withdraw from the Clinton Community College process at any time.

Every college shall ensure that, at a minimum, at the first instance of disclosure by a reporting individual to a college representative, the following information shall be presented to the reporting individual:

- You have the right to make a report to local law enforcement, and/or State Police or choose not to report.
- You have the right to report the incident to your institution and be protect by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.

### **Resources**

To obtain effective intervention services contact:

- Counseling and Advisement: 518-562-4199 (no cost involved)
- Health Office: 518-4129 (no cost involved)
- Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Testing for STIs and emergency contraception is available at Sexual Assault services:

518-825-6277

<http://www.plannedparenthood.org/north-country/sexual-assault-services-2368.htm>

Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found at:

[http://www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf)

or by calling: 1-800-247-8035

Options are explained here:

<http://www.ovs.ny.gov/helpforcrimevictims.html>.

### **Protection and Accommodations**

The following protections and accommodations are available to an individual reporting the offenses described in this policy:

- Individuals reporting offenses described in this policy will be provided written information about the importance of evidence preservation, how and to who to report these crimes, options about involving law enforcement and campus authorities, and assistance in notifying law enforcement if the reporting individual chooses, as well as, the option to decline to notify authorities. Reporting individuals also will be provided information in writing about rights and institutional responsibilities regarding no contact orders, orders of protection, or other available applicable options.

- When the accused is a student, to have the college issue a “No Contact Order” consistent with college policy and procedure, meaning that continuing to contact the protected individual is a violation of college policy subject to additional conduct charges; if the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person. Both the accused/respondent and reporting individual may request a prompt review of the need for a terms of “No Contact Order”, consistent with college policy. Parties may submit evidence in support of their request.
- To have assistance from college officials in initiating legal proceedings in family court or civil court, including but not limited to obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.
- To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a college official who can explain the order and answer questions about it, including information from the Order about the accused’s responsibility to stay away from the protected person(s); that the burden does not rest on the protected person(s).
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- To have assistance from Campus Security in effecting an arrest when an individual violates an Order of Protection or, if outside of New York State, an equivalent protective or restraining order within the jurisdiction of Campus Security or, if outside of the jurisdiction or if Campus Security does not have arresting powers to call on and assist local law enforcement in effecting an arrest for violating such an order.
- When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subject to interim suspension pending the outcome of a conduct process. Parties may request a prompt review of the need for the terms of an interim suspension.
- When the accused is not a student but is a member of the college community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and College policies and rules.
- When the accused is not a member of the college community, to have assistance from Campus Security or other college officials in obtaining a persona non grata letter, subject to legal requirements and college policy.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Parties may request a prompt review of the need for and terms of any interim measures and accommodations that directly affect them. While reporting individuals may request accommodations through any of the offices referenced in this policy, the following offices can serve as a point to assist with these measures:

**John Borner, Title IX Coordinator 518-562-4121**

**Mary Blaine, Assistant Title IX Coordinator (518) 562-4131**

### **Student Conduct Process**

Conduct proceedings are governed by the procedures set forth in the Student Handbook, as well as, Federal and New York State law, including the due process provisions of the United States and New York State Constitutions.

Throughout conduct proceedings, the respondent and the reporting individual will have the same opportunity to be accompanied by an advisor of their choice who may assist and advise the parties throughout the conduct process and any related hearings or meetings. Participation of the advisor in any proceeding is governed by Federal law and the Student Code of Conduct.

The right to prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training

in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made, and other issues related to sexual assault, domestic violence, dating violence, and stalking.

The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.

The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Accused individuals will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions.

The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days, except when law enforcement specifically requests and justifies a longer delay.

The right to offer evidence during an investigation and to review available relevant evidence in the case file.

The right to present evidence and testimony at a hearing, where appropriate.

The right to a range of options for providing testimony via alternative arrangements, including telephone/video conferencing or testifying with a room partition.

The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in college disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanctions.

The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present.

The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanction(s).

The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.

The right to written or electronic notice about the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceedings. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.

Access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest.

The right to have access to full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five (5) years. Records can be located in the Dean of Student Affairs Office, room 231 in the Moore Building, call 518-562-4130 for information.

The right to choose whether to disclose or discuss the outcome of a conduct hearing.

The right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination, unless otherwise required by law.

### **Options for Confidentially Disclosing Sexual Violence**

The State University of New York and Clinton Community College want you to get the information and support you need regardless of whether you would like to move forward with a report of sexual violence to campus officials or to police. You may want to talk with someone about something you observed or experienced, even if you are not sure that the behavior constitutes sexual violence. A conversation where questions can be answered is far superior to keeping something to yourself. Confidentiality varies, and this document is aimed at helping you understand how confidentiality applies to different resources that may be available to you. In this document:

- Privileged and Confidential Resources
- Non-Professional Counselors and Advocates
- Privacy versus Confidentiality
- Requesting Confidentiality: How the College Will Weigh the Request and Respond
- Public Awareness/Advocacy Events
- Anonymous Disclosure
- Institutional Crime Reporting

### **Privileged and Confidential Resources**

Individuals who are **confidential** resources will not report crimes to law enforcement or college officials without your permission, except for extreme circumstances, such as a health and/or safety emergency. At Clinton Community College this includes:

- The Counseling and Advisement Office: 518-562-4199
- Health Services: 518-562-4197 (weekdays 10am to 2pm when classes are in session)

Off-campus options to disclose sexual violence **confidentially** include:

- Off-campus counselors and advocates. Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency at <http://nyscasa.org/>. Provide specific names if possible, contact information, and information about office, such as whether it provides compensation to victims/survivors of crimes or helps replace property lost or damaged during the crime

*Note: These outside options do not provide any information to the campus*

Off-campus healthcare providers:

- Champlain Valley Physicians Hospital  
75 Beekman Street  
Plattsburgh, NY 12901  
518-562-7370
- Planned Parenthood  
66 Brinkerhoff  
Plattsburgh, NY 12901  
518-561-4430
- Sexual Assault Toll-free Hotline  
1-877-212-2323

Medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. More information may be found here:

[http://www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf) or by calling

1-800-247-8035.

Options are explained here: <http://www.ovs.ny.gov/helpforcrimevictims.html>

Note that even individuals who can typically maintain confidentiality, are subject to exceptions under the law, which can include:

- when an individual is a threat to him or herself
- when an individual is a threat to others
- or the mandatory reporting of child abuse.

### **Non-Professional Counselors and Advocates**

Non-professional counselors and advocates can also assist you without sharing information that could identify you. At Clinton Community College this includes members of the Counseling and Advisement Office. These individuals will report the nature, date, time, and general location of an incident to the College's Title IX Coordinator, but will consult with you to ensure no personally identifying details are shared without your consent. These individuals are not considered confidential resources as discussed above.

### **Privacy versus Confidentiality**

Even College offices and employees who cannot guarantee *confidentiality* will maintain your *privacy* to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible under the law for tracking patterns and spotting systemic issues. The College will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

### **Requesting Confidentiality: How Clinton Community College Will Weigh the Request and Respond**

If you disclose an incident to a college employee who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality or do not consent to the institution's request to initiate an investigation, the Title IX Coordinator must weigh your request against our obligation to provide a safe, non-discriminatory environment for all members of our community, including you.

We will assist you with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of your reporting choices.

While reporting individuals may request accommodations through several college officials, the following office can serve as a primary point of contact to assist with these measures:

#### **Office of the Title IX Coordinator – 518-562-4121.**

We also may take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify you or the situation you disclosed.

We may seek consent from you prior to conducting an investigation. You may decline to consent to an investigation, and that determination will be honored unless the College's failure to act does not adequately mitigate the risk of harm to you or other members of the college community. Honoring your request may limit our ability to meaningfully investigate and pursue conduct action against an accused individual. If we determine that an investigation is required, we will notify you and take immediate action as necessary to protect and assist you.

When you disclose an incident to someone who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality, the College will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- Whether the accused has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation, such as a situation that previously involved sustained stalking, the increased risk that the accused will commit additional acts of violence;
- Whether the accused used a weapon or force;

- Whether the reporting individual is a minor; and
- Whether we possess other means to obtain evidence, such as, security footage, and whether the report reveals a pattern of perpetration at a given location or by a particular group.

If the College determines that it must move forward with an investigation, the reporting individual or victim/survivor will be notified and the College will take immediate action as necessary to protect and assist them.

### **Public Awareness/Advocacy Events**

If you disclose a situation through a public awareness event such as “Take Back the Night”, candlelight vigils, protests or other public events, the College is not obligated to begin an investigation. The College may use the information you provide to inform the need for additional education and prevention efforts.

### **Anonymous Disclosure**

The Hotline is for crisis intervention, resources and referrals and is not a reporting mechanism. New York State Hotline for Sexual Assault and Domestic Violence: 1-877-212-2323.

### **Institutional Crime Reporting**

Reports of certain crimes occurring in certain geographic locations will be included in the Clinton Community College Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the reporting individual or victim/survivor. The College is obligated to issue timely warnings of Clery Act crimes occurring within a relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the reporting individual or victim/survivor). A reporting individual will never be identified in a timely warning.

The Family Education Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, (2) when the student is a dependent on either parents’ prior year federal income tax return. Generally, the College will not share information about a report of sexual violence with parents without the permission of the reporting individual.,